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# Hearing children in family proceedings: Czech Republic

## 1. General Obligation to hear children

- The UN Convention on the Rights of the Child, and more specifically Art. 12, is a general obligation for Czech authorities.
- Children's right to be heard is recognized in several national legal acts (e.g. most relevant here are the Civil Code section 867, Act on Social and Legal Protection of Children section 8/2,3, the Civil Procedure Code section 100/3), which ensure that the opinion as well as wishes and feelings of the child are taken into consideration by the relevant authorities.
- The requirement to hear the child's voice is taken up in the Czech Civil Code. Before making a decision that affects the interests of a child, a court shall provide the child with the necessary information in order for the child to form his or her own opinion and communicate it. If a court finds that children are unable to properly receive the information or form their own opinion or communicate it, the court shall inform and hear a person who is able to protect the interests of the child; this person's interests must not be in conflict with the interests of the child. Children over twelve years of age are presumed to be able to receive the information, form their own opinion and communicate it. The court pays due attention to the opinion of the child (Zavadilova, 2017).

## 2. Minimum age

Yes. Twelve years is presumed the age for the ability of a child to be able to receive information, form his or her own opinion and communicate it (Civil Code, Section 867/2).

## 3. Who hears the child?

As a rule, the child shall be heard by the court (i.e. by the judge in the court hearing) . The law, however, allows also for other forms of determination of child's opinion – through the representative of the child, through an expert evidence or through a competent social worker (Zavadilova, 2017). The court will assess the child's maturity, if needed with the assistance of a psychologist or social worker (Czech Office for International Legal Protection of Children, 2010, p. 14; Country Profile, 2011). The expert report is not binding (CEFL, 2005, p. 25).

## 4. Specific rules for hearing children in child abduction cases?



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- According to the Country Profile (2011), children are heard in every case of return proceedings. They are always represented by a guardian ad litem.
- There is concentrated jurisdiction in the Czech Republic (Czech Office for International Legal Protection of Children, 2010, p. 10).
- If the child objects under Art. 13(2) of the Hague Convention, their objection is usually taken into account when they are 12 years or older (Czech Office for International Legal Protection of Children, 2010, p. 14).

### **5. Cross-border element (i.e. hearing a child who is abroad in second-chance procedure Brussels IIbis?)**

No information available

### **6. Other relevant matters**

In its concluding observations of 2011, the UNCRC expresses concern about the fact that the views of children are not taken into account in matters such as custody and/or withdrawal from existing family environment (p. 7).

### **7. Legal sources on hearing the child**

Civil Code section 867, Act on Social and Legal Protection of Children section 8/2,3, the Civil Procedure Code section 100/3

### **8. Sources in literature**

- [Ballesteros et al.](#), 2013, pp. 181-192
- [CEFL](#), 2005
- [Concluding Observations UNCRC](#), 2011
- [Czech Office for International Legal Protection of Children](#), 2010
- [European Commission](#), 2015
- [Hague Convention Country Profile](#) section 10.4 (published 2011)
- Contact person for Czech Republic: Marta Zavadilova