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Hearing children in family proceedings: Denmark

1. General Obligation to hear children

Art. 2(1) of the Danish Act on Parental Authority and Contact provides that decisions must be made from the perspective of the child's interests and needs (CEFL, 2005, p. 8). The Danish Act on Social Services affords children the right to be heard in judicial proceedings depending on their age and maturity. Children as young as 12 years of age have the right to complain in cases of fostercare (Børnerådet, 2016, p. 1; Sigvardt, 2016).

2. Minimum age

- According to article 34 in the Danish Act on Parental Authority and Contact, the child must be heard in a case of custody, resident or contact with the parent that do not have the custody of the child or if shared custody the parent who do not have the residence. The age of the child is not regulated by the law (Sigvardt, 2016). However, according to the remarks from the parliament to this legislation, a child should be heard directly if it is of the age of 7 (if a child under the age of 7 is mature enough, he or she would also be heard) or older – unless it would be damaging for the child – in that case the institutions such as daycare centres, schools etc, should be heard or an examination of the child should be made by a child psychologist. If the case goes to court, similar rules follow by the Danish civil act. The conversation with the child must be held not by the judge but by a child psychologist and can be held in the present of the judge. The same situation appears if the ruling of court or an agreement made by the parent need to be brought in front of the bailiffs court /enforcement court.

Children that are put into foster care (Danish Act on Social Service) will also be heard in the understanding that they always get interviewed by a social worker. The legislations on family cases are wide and detailed, but all the laws underline that the child should be heard either directly or by gathering information regarding the child from relevant sources or by examination made by child psychologists and all decisions must be made from the perspective of the child's interests and needs (Sigvardt, 2016).

- Schmidt (2014, p. 30), judge in Denmark, adds that the court will seek to talk to children from 6 years onwards, unless a hearing would damage the child.



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3. Who hears the child?

- Section 16 of the Danish child abduction Act (DICAA) requires the child to be heard. According to the Danish civil act the child must be mature enough to participate in a conversation with the socialworker or the child expert to be heard directly – if not the child's perceptive must be regarded by gathering the information in another way (Sigvardt, 2016).
- According to the Danish civil act (Art. 537) a social worker or a child expert must be present at the hearing. The hearing takes the form of a conversation. In complex cases, it is also possible to involve an expert who may also hear the child alone (CEFL, 2005, p. 25). Parents are not present at the hearing (Schmidt, 2014, p. 30).

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

- An enquiry as to whether a child objects to return under Art. 13(2) of the Hague Convention will be made by the judge or a child expert (psychologist), who also assess the child's maturity (Danish Ministry of Justice, 2010, p. 17; Country Profile, 2011).
- There is no possibility to appoint a guardian ad litem (Country Profile, 2011).

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

- The Brussels IIbis regulation is not applicable in Denmark. The Hague Convention on Child Abduction has been implemented through the Danish International Child Abduction Act (DICAA). DICAA addresses Denmark's obligations according to the Hague Convention on Child Abduction and the 1980 European Convention on Custody of Children. In section 10, this law provides that return may be refused when a child objects to being returned and has attained an age and a degree of maturity at which it is appropriate to take account of its views (European Parliament Study, 2013, p. 134).
- In its concluding observations of 2011, the UNCRC is concerned that there is insufficient clarity about the rights of the child to be heard in administrative and legal proceedings (p. 7).

7. Legal sources on hearing the child

- Danish Act on Social Services



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- Danish Act on Parental Authority and Contact, Art. 2(1), Art. 29 & Art. 34.
- Sections 10 and 16 of the Danish child abduction Act (DCAA)
- Danish Civil Act, Art. 537

8. Sources in literature

- [Børnerådet \(National Council for Children\)](#), 2016
- [CEFL](#), 2005
- [Concluding Observations UNCRC](#), 2011
- [CRIN](#), 2013
- [Danish Ministry of Justice](#), 2010
- [European Parliament Study](#), 2013
- [Hague Convention Country Profile](#) section 10.4 (last updated April 2011)
- [Schmidt](#), 2014
- Contact person for Denmark: Mrs. Lene Sigvardt