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Hearing children in family proceedings: Estonia

1. General Obligation to hear children

- Estonia has implemented a general statutory provision to fulfill the right of the child to be heard (FRA, 2015b, p. 5). Hearing a child is regulated by the Civil Procedure Code (Estonian Ministry of Justice, 2010, p. 16).
- Sectoral legislation recognizes the right to be heard. These laws provide for procedural safeguards rather than for general recognition of the right to be heard (Ballesteros et al., 2013).

2. Minimum age

- In matters pertaining to a child, the court hears a child of at least 10 years of age in person unless otherwise provided by law. The court may also hear a younger child (Einula, 2016).
- However, according to FRA (2015a, p. 49), hearing children generally tends to be avoided.

3. Who hears the child?

- The court hears a child in his or her usual environment if, in the opinion of the court, this is necessary in the interests of the matter. If necessary, a child is heard in the presence of a psychiatrist, psychologist or social worker. The court may also permit other persons to be present at the hearing of a child unless the child or his/her representative objects to it (Einula, 2016).
- A social worker, psychologist and the judge decide on the child's maturity (Estonian Ministry of Justice, 2010, p. 16).
- The legal obligation to obtain a comprehensive understanding of the child and assess their legal, psychological, social, emotional, physical and cognitive situation via multidisciplinary cooperation is usually implemented (FRA, 2015b, p. 5).

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

- According to the Estonian Country Profile (2015), children are always heard in return proceedings. They are always appointed a guardian ad litem to represent their best interests.



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- The social workers may speak with the child and ask for his/her opinion if the child is mature enough, while the proceedings for voluntary return are taking place. The child is appointed a representative on state legal aid for the court proceedings, who can be in contact with the child and in addition to the representative's opinion about the case, present the court with the child's opinion. In addition, the judge may meet with the child and ask for his/her opinion in person. A child who is mature and old enough and who has strong and reasonable objections against return, will usually be followed (Estonian Ministry of Justice, 2010, p. 16).
- It is possible to provide evidence through video recordings in family law proceedings (FRA, 2015a, p. 41).

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

- Training is provided to professionals having direct contact with children in communicating with them at all ages and stages of development, as well as with children in situations of particular vulnerability. The legal obligation to provide such training is implemented (FRA, 2015b, p. 5).
- Hearing of a child shall be denied only with good reason. If a child is not heard due to the reason that the delay would damage the child's interests, the child shall be heard afterwards at the earliest opportunity (Einula, 2016).

7. Legal sources on hearing the child

- Estonia has implemented a general statutory provision to fulfill the right of the child to be heard (FRA, 2015b, p. 5). Hearing a child is regulated by the Civil Procedure Code (Estonian Ministry of Justice, 2010, p. 16).
- Sectoral legislation recognizes the right to be heard. These laws provide for procedural safeguards rather than for general recognition of the right to be heard (Ballesteros et al., 2013).

8. Sources in literature

- [Ballesteros et al.](#), 2013, pp. 181-192
- [Estonian Ministry of Justice](#), 2010
- [European Commission](#), 2015
- [FRA](#), 2015a



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- [FRA, 2015b](#)
 - [Hague Convention Country Profile](#) section 10.4 (last updated September 2015)
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