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# Hearing children in family proceedings: Finland

## 1. General Obligation to hear children

- Finland has implemented a general statutory provision to fulfill the right of the child to be heard (FRA, 2015b, p. 5).
- The constitution states that the right to be heard (not specifically for children) must be laid down by an act. A number of statutory laws recognize the right of the child to be heard. These laws provide for procedural safeguards rather than for general recognition of the right to be heard (Ballesteros et al., 2013). Such laws include the Child Welfare Act and the Administrative Procedure Act (UNCRC, 2011, p. 6).
- Children do not have full legal capacity: in both civil and administrative procedures, the legal guardian, custodian or other legal representative of the child is entitled to represent to child and shall be heard on their behalf. A child over 15 has the right to be heard independently as well (CRIN, 2013, p. 2). Children may be heard in person if that is necessary for settling the case and it is estimated that a hearing would not cause significant harm (CRIN, 2013, p. 13).

## 2. Minimum age

There is no minimum age to hear children. Maturity plays a crucial role: if the child is mature, his/her view must be taken into account in custody or visitation cases, even if the parents disagree with those views (FRA, 2015a, p. 40).

## 3. Who hears the child?

- The child's views are ascertained by a social welfare official or by the Court.
- The Court assesses the child's maturity on the basis of their age and other circumstances known to the Court, including a report by the social welfare authorities (Finnish Ministry of Justice, 2010, p. 15).

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

- Finland has concentrated all cases in 1 court, i.e. the Court of Appeal in Helsinki (Finnish Ministry of Justice, 2010, p. 10).
- Whether the child is heard is at the discretion of the judge, when the child is presumed to have attained such a degree of maturity that it is appropriate to take their opinion into account (Country Profile, 2011). When a child objects return



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under Art. 13(2) of the Hague Convention, the courts assess whether the child concerned is able to form an independent opinion on the return and whether the opinion is firm, based on sound reasons and come up without any undue influence (Finnish Ministry of Justice, 2010, p. 15).

- Other than e.g. in access cases, hearing children directly in Court in return proceedings is rare (Country Profile, 2011).
- It is not possible 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**

- In its Concluding Observations of 2011, the UNCRC is concerned that only children above 15 have the right to be heard individually by the Court. The Committee is also concerned about the insufficient use of alternative ways to hear children who have reached the age of 12 outside of the courtroom, and that they may be compelled to attend oral hearings (p. 6).
- 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).
- Finland has implemented procedures to provide support to a child before, during and after civil proceedings. Screens, separate rooms and child-friendly facilities with technological equipment exist (FRA, 2015b, p. 6).

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

- Child Welfare Act (section 86)
- Administrative Procedure Act

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

- [Ballesteros et al.](#), 2013, pp. 181-192
- [CEFL](#), 2005
- [Concluding Observations UNCRC](#), 2011
- [CRIN](#), 2013



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- [Finnish Ministry of Justice](#), 2010
- [FRA](#), 2015a
- [FRA](#), 2015b
- [Hague Convention Country Profile](#) sections 10.4 and 17.3 (last updated May 2011)
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