



Co-funded by the  
European Union

# Hearing children in family proceedings: Greece

## 1. General Obligation to hear children

The right of the child to be heard is a principle of family law (CEFL, 2005, p. 6) and one of the conditions to determine the child's interests (Tsouka, 2016). The right to be heard is protected in several major acts, including the Civil Code, Civil Procedure Code and Criminal Code. Art. 1511 para. 3 Greek CC provides that the child should be heard and its opinion should be taken into consideration on every decision pertaining to parental care and relating to its interests, provided that the child is sufficiently mature (i.e. capable of conceptualizing his/her interests) (CEFL, 2005, p. 6). The obligatory character of the child's hearing in this article has been subject to debate. As Prof. Tsoukas (2016) explains, "the wording of the relevant solutions leaves no doubt that there is indeed an obligation of such content. At the same time however it is at the free assessment of the court to decide if the child concerned disposes of the necessary maturity to be heard. This view is confirmed by the relevant case law: according to several decisions the obligation of the child's hearing is not unconditional – it depends on the child's maturity, as estimated by the court. As the latter is judged as of factual nature, the court is not obliged to specially justify its decision, which, for this same reason, is not subject to the review of the higher courts, i.e. by courts of appeal and by the Greek Supreme Court. At the same time even if the child has been heard, his opinion does not bind the court. Nor at this case the decision is controlled by higher courts."

Psarra (2016) added that the ratification of the UN Convention on the Rights of the Child implies that the Convention is part of national law.

## 2. Minimum age

The child's maturity is related to age, but not determined by it and thus investigated in each case (CEFL, 2005, p. 6).

## 3. Who hears the child?

- The judge can either hear the child directly, or use a report prepared by an independent expert (Country Profile, 2012).
- According to Art. 612(2) Greek CCP, the judge should hear the child during the (main) proceedings to determine the child's interests, provided the child is sufficiently mature. The communication between the judge and the child takes place without the presence of any other person, unless the court decides otherwise.



Co-funded by the  
European Union

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

- Whether the child is heard is at the discretion of the judge or competent authority hearing the case (Country Profile, 2011).
- The possibility to appoint a guardian ad litem does not exist (Country Profile, 2011).

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

No specific elements to be mentioned.

#### 6. Other relevant matters

- The UNCRC expresses concern about existing provisions of legislation on the views of the child is rarely used by the courts, mainly because of a lack of awareness, which means that children's views are not taken into account (2012, p. 7).
- Courts do not need to justify explicitly why the child has not been heard: when the child is not heard, it is assumed that the court has determined that the child was not sufficiently mature in order to form an opinion on the issue in question. In this way the importance of hearing the child is hampered (CEFL, 2005, p. 30).

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

- Civil Code Art. 1511(3)
- Code of Civil Procedure Art. 612
- Criminal Code

#### 8. Sources in literature

- [Ballesteros et al](#), 2013, pp. 181-192
- [CEFL](#), 2005
- [Concluding Observations UNCRC](#), 2012
- [Hague Convention Country Profile](#) section 10.4 (published 2011)
- Contact person for Greece: Chrysafo Tsouka; Maria Psarra