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Hearing children in family proceedings: Hungary

1. General Obligation to hear children

Children's right to be heard is guaranteed by the Child Protection Act, a major legal act that expressly states that children have the right to be heard in all matters affecting them and their opinion has to be taken into account (Ballesteros et al., 2013).

Under the new Civil Code, children should be heard if they are considered to be able to judge the situation (UNCRC, 2014). The child hearings in civil procedures are regulated by section 65/A and 65/B of the Act III of 1952 on the Code of Civil Procedure.

2. Minimum age

- A minor capable of forming his/her views, should be heard. The court is obliged to hear children over 14. Children below 14 can be heard if they are capable of judgment and if the child demands it. The Civil Procedure Act contains special provisions for the case when minors are heard as interested parties by the court in proceedings related to parental rights or the placement of the minor (Section 65/A of the Civil Procedure Act). In such cases, children can ask to be heard (Section 74 of the Family Act) (CRIN, 2014). If children below age 14 ask to be heard, they are considered to be motivated and must be heard (CEFL, 2005, p. 9). However, in its concluding observations of 2014, the UNCRC is concerned that "under the Family Act, children below the age of 14 years do not have an automatic right to be heard in decisions related to their custody, and that in practice, children below the age of 14 are heard only as an exception, even in divorce and child custody cases" (2014).
- Welfare authorities can hear children from 12 onwards (CEFL, 2005, p. 33).

3. Who hears the child?

- It is up to the discretion of the court to decide if the child is heard by the judge or by experts. Usually, the judge responsible for the case holds the hearing for the children. Involved parties and their legal representatives are excluded from the hearing, however, according to the law, they are entitled to propose questions to the children (the proproctor may also ask them direct questions). The judge responsible for the case decides whether a question is appropriate to ask.



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- The judge talks to the child in an informal way. When the judge hears the child, the child's appointed guardian ad litem is present as well (Hungarian Ministry of Public Administration and Justice, 2010, p. 18; Section 74 of the Code of Civil Procedure).
- The circumstances in which children should be heard are regulated in detail by the law. The law sets out that the hearing should be held in the appropriate atmosphere, questions and instructions must be formulated in a manner for the child to understand such questions and instructions (Section 65/B of the Civil Procedure Act).

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

- Hearing the child in return proceedings is at the discretion of the judge or competent authority (Country Profile, 2011).
- In child abduction cases, children from the age of 5 are heard, in each case the child's maturity is assessed (Hungarian Ministry of Public Administration and Justice, 2010, p. 18).

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

There are more than 50 child hearing rooms in Hungary. The child hearing rooms have been furnished according to the opinion of the judges involved in the children's hearing, and with the help of a child psychologist.

7. Legal sources on hearing the child

- Child protection act (which article?)
- Civil code (which article?)
- Section 65/A and 65/B of the Civil Procedure Act
- Section 74 of the Family Act

8. Sources in literature

- [Ballesteros et al.](#), 2013, pp. 181-192



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- [CEFL](#), 2005
- [Concluding Observations UNCRC](#), 2014
- [CRIN](#), 2014
- [Hungarian Ministry of Public Administration and Justice](#), 2010
- [Hague Convention Country Profile](#) section 10.4 (last updated April 2011)
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