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# Hearing children in family proceedings: Luxembourg

## 1. General Obligation to hear children

The Civil Code (Art. 388) provides that children who are capable of discernment, have a right to be heard, unless this is against their interests. The Act on Court Hearings Involving Children adds that children may request a hearing which the judge cannot refuse. A child can be heard alone or in the presence of their lawyer or a person of their choice (CRIN, 2014, p. 2; Luxembourg State Report, §86 & §145).

## 2. Minimum age

Children capable of discernment can be heard (CRIN, 2014, p. 9). No reference to a minimum age could be found.

## 3. Who hears the child?

- In child abduction cases, the child is heard by the judge. The judge also decides on the child's maturity (Parquet Général de Luxembourg, 2010, p. 12). In cases where a child should be protected from a hearing by the judge, it is also possible that the judge appoints an expert to conduct the hearing (CRIN, 2014, p. 9).
- The child may choose a person to be present at the hearing. If this choice is against the child's interests, the Court may appoint another person. The hearing is held in private (CRIN, 2014, p. 2; Art. 388 CC).

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

- There is no concentrated jurisdiction, but the number of judges dealing with these cases is very limited (Parquet Général de Luxembourg, 2010, p. 8).
- When mature adolescents express objective reasons opposing their return under Art. 13(2) of the Hague Convention, the judge has to take their opinion into account (Parquet Général de Luxembourg, 2010, p. 12).
- A guardian ad litem can be appointed to represent the child's interests in case of conflict of interests between them and their legal representatives (Act of 5 June 2009 on court hearings involving children and the defence of their interests; Luxembourg State Report, 2012, §85).



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## 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

No other relevant matters.

## 7. Legal sources on hearing the child

- Act of 5 June 2009 on court hearings involving children and the defence of their interests
- Art. 388 Civil Code

## 8. Sources in literature

- [CRIN](#), 2014
- [Luxemburg State Report to the UNCRC](#), 2012
- [Parquet Général de Luxembourg](#), 2010
- Contact person for Luxembourg: Séverine Menetrey