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# Hearing children in family proceedings: Malta

## 1. General Obligation to hear children

The constitution refers to the right to be heard in terms of freedom of expression, but does not specifically mention children. A number of statutory laws reflect children's right to be heard, but these laws provide for procedural safeguards rather than for general recognition of the right to be heard (Ballesteros et al., 2013).

However, it is court practice that in issues concerning children the Court appoints a Child Advocate to listen to the child alone. Afterwards the Child Advocate draws up a report with recommendations. However, the Court is not bound by the child advocate's recommendations.

## 2. Minimum age

In all cases where the outcome has a direct impact on the present and/or future well being of the child, children above 14 have the right to be heard by the court (Laws of Malta, Chapter 16, Article 6A and Article 131(4)). Where the child is younger this does not signify automatic exclusion from a hearing but inclusion is at the discretion of the court (Farrugia, 2005, p. 2). The court, after hearing the parents and the child if the latter has reached the age of fourteen years, shall make those suggestions which it deems best in the interest of the child and the unity of the family (Farrugia, 2005, p. 12).

As stated court indeed hears children below the age of 14 years at its discretion in separation cases and in custodial cases have been heard.

## 3. Who hears the child?

The child is heard by the Court (Judge) in camera or by the Child Advocate

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

- Hearing the child in return proceedings is at the discretion of the court or competent authority hearing the case (Country Profile, 2011).



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- The possibility to appoint a guardian ad litem does not exist in Malta (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

The role of the child advocate is to draw up recommendations after hearing the child. Its role is not to represent the child. In Malta we do not have a guardian ad litem.

## 7. Legal sources on hearing the child

Laws of Malta, Chapter 16, Article 6A and Article 131(4)

## 8. Sources in literature

- [Ballesteros et al.](#), 2013, pp. 181-192
- [Farrugia](#), 2005
- [Hague Convention Country Profile](#) section 10.4 (last updated July 2011)
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