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Hearing children in family proceedings: Poland

1. General Obligation to hear children

- Poland has implemented a general statutory provision to fulfill the right of the child to be heard (CRIN, 2015, p. 12; CEFL, 2005, p. 19), guaranteed by the Constitution in Art. 72(3). There is a legal obligation to ensure children are heard in the most favourable settings and under the most suitable conditions, having regard to their age, maturity and level of understanding (FRA, 2015b, p. 5).
- Children's views must be considered and, insofar as possible, be given priority (Ballesteros et al., 2013). The family court may order the presence of a person under parental authority or under guardianship (Art. 574 Polish Code of Civil Procedure) (CEFL, 2005).

2. Minimum age

No minimum age (FRA, 2015a, p. 42). Children can be heard if their maturity, development and health enable them to participate in the proceedings, but maturity is not defined (FRA, 2015a, p. 40). It depends on the court and on specific judges whether the practice of hearing children is fully implemented. Judges quite often do not hear children or use indirect hearing methods through expert teams (psychologists) to hear children (Swaczyna, 2016).

3. Who hears the child?

- The child is heard by the judge (Country Profile, 2011), often in the presence of a psychologist (Swaczyna, 2016).
- The legal obligation to obtain a comprehensive understanding of the child and assess their legal, psychological, social, emotional, physical and cognitive situation via multidisciplinary cooperation is usually implemented (FRA, 2015b, p. 5).
- The child's maturity is assessed by the Court (Polish Ministry of Justice, 2010, p. 6). It is possible, but not obligatory, to base this assessment on a psychologist's opinion (Swaczyna, 2016).
- Family divisions can be created within district courts for cases concerning family law (FRA, 2015a, p. 39).

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



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- There is no concentrated jurisdiction in Poland (Polish Ministry of Justice, 2010, p. 3).
- 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?)

It is possible to provide evidence through video recordings in family law proceedings (FRA, 2015a, p. 41). In practice, however, this is rarely used (Swaczyna, 2016).

6. Other relevant matters

- 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). Despite this training, many judges are still uncomfortable to hear children – a feeling that is only changing slowly (Swaczyna, 2016).
- Screens, separate rooms and child-friendly facilities with technological equipment exist (FRA, 2015b, p. 6).
- The legal obligation to ensure that children are informed in the most appropriate way, having regard to their age, maturity and level of understanding and any communication difficulties they may have, including provisions for specifying the responsible authority, person, time, consent and format of the information provided is implemented (FRA, 2015b, p. 7).
- The latest concluding observations of the UNCRC (2015) do not refer to the child's right to be heard.

7. Legal sources on hearing the child

- Constitution Art. 72(3)
- Code of Civil Procedure Art. 574 (11.2) and Art. 216(1)

8. Sources in literature

- [Ballesteros et al.](#), 2013, pp. 181-1923
- [CEFL](#), 2005
- [CRIN](#), 2015
- [FRA](#), 2015a
- [FRA](#), 2015b



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- [Hague Convention Country Profile](#) section 10.4 (published 2011)
- [Polish Ministry of Justice](#), 2010
- [UNCRC Concluding Observations](#), 2015
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