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Hearing children in family proceedings: Sweden

1. General Obligation to hear children

The child's right to be heard is a fundamental principle in Swedish family law (CEFL, 2005, p. 9). The laws provide for procedural safeguards rather than for general recognition of the right to be heard (Ballesteros et al., 2013). In assessing questions concerning custody, residence and contact, regard shall be made to the wishes of the child, taking into account the child's age and maturity (Chapter 6 Sec. 2a Swedish Children and Parents Code). Furthermore, in decisions concerning the child's personal affairs, the person with custody of the child shall, in keeping with the increasing age and maturity of the child, also take the child's views and wishes increasingly into account (Chapter 6 Sec. 11 Swedish Children and Parents Code) (CEFL, 2005, p. 9). Children also have a right to be heard in measures undertaken by the social services (Ballesteros et al., 2013; CEFL, 2005, p. 35).

2. Minimum age

- Children must be heard unless the court decides it would be improper with regard to age and maturity (section 17 of the Implementation Act). It is only children under six who are generally not heard (Country Profile, 2011).
- The underlying ideology is that the child is the expert of his or her own situation, all the more so with increasing age and maturity. From this, it follows that very small children are not considered to be able to have clear opinions. Mature children, on the other hand, exercise a considerable autonomy to participate in the decision-making in other respects (CEFL, 2005, p. 9).

3. Who hears the child?

Taking account of the child's wishes does not imply the child must be heard directly (CEFL, 2005, p. 35). Generally, someone appointed by the Social Authorities hears the child (Country Profile, 2011) and then reports the child's views and feelings to the court. This may be done through a video (CRIN, 2014, p. 12). However, the usual procedure is that the Social Authorities provide the court with a written report containing the child's views and the Social Authorities' assessment (Children and Parents Code, Chapter 6 section 19; Blixt, 2016). When the situation so requires and it is clear a direct hearing won't harm the child, the child may exceptionally also be heard in Court (Chapter 6 Sec. 19 Swedish Children and Parents Code) (CEFL, 2005, p. 35).



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

- It is not possible to appoint a guardian ad litem in return proceedings (Country Profile, 2011).
- The Stockholm District Court is the only competent court to hear cases regarding the return of children under the Hague Convention (Section 11 and 13 of the Implementation Act, see also European Parliament Study, 2013, p. 368). From the Children and Parents Code, it may be deduced that the District Court's decision may be appealed to the Svea Court of Appeal (Blixt, 2016).

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

Before the Court decides on the return of a child, it shall let the child express his or her views on the matter. The child shall be heard unless it is deemed impossible in respect to the child's age and maturity (section 17 of the Implementation Act). According to section 18 of the Implementation Act, the court may, if it decides that the child shall be returned, order the return of the child under threat of the penalty of a fine or, alternatively, decide that the return shall be executed by the police authorities.

7. Legal sources on hearing the child

- Chapter 6 Sec. 2a & Sec. 11 & Sec. 19 Swedish Children and Parents Code
- Section 17 Implementation Act
- Children and Parents Code

8. Sources in literature

- [Ballesteros et al.](#), 2013, pp. 181-192
- [CEFL](#), 2005
- [CRIN](#), 2014
- [European Parliament Study](#), 2013
- [Hague Convention Country Profile](#) section 10.4 (published in 2011)
- Contact person for Sweden : Lena Blixt