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| Study on children's involvement in judicial proceedings – contextual overview for civil justice – Cyprus  July 2014 (Research carried out between March 2013 and October 2013) |



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Abbreviations

AG Attorney General

CA Competent Authority

CoE Council of Europe

EC European Commission

ECHR European Convention on Human Rights

EU European Union

SWS Social Welfare Services

# Introduction

Introduction and context

The promotion and protection of the rights of the child is one of the objectives of the EU on which the Treaty of Lisbon has put further emphasis. This report is part of a study ‘to collect data on children’s involvement in judicial proceedings in the EU’ which supports the implementation of the Commission Communication of 15 February 2011 ‘[An EU Agenda for the rights of the child’](http://ec.europa.eu/justice/fundamental-rights/rights-child/eu-agenda/index_en.htm), which identified the lack of reliable, comparable and official data on the situation of children in the Member States (MS). This deficiency is a serious obstacle to the development and implementation of evidence-based poli­cies and is particularly evident in the context of child-friendly justice and the protection of children in vulnerable situations. Making the justice system more child-friendly in Europe is a key action of the EU Agenda. It is an area of high practical relevance where the EU has, under the Treaties, competences to turn the rights of the child into reality by means of EU legislation. Improved data is crucial to the framing of such legislation.

The objective of this study is:

* to establish statistics and collect data based on structural, process and outcome indicators on children involved in civil judicial proceedings for the years 2008-2010 (and 2011 if available) for all 28 EU Member States;
* to provide a narrative overview of children's involvement in civil judicial proceedings in the EU. The report describes the situation in each Member State as at 1 June 2012.
* This report examines the safeguards in place for children involved in **civil judicial proceedings**. The [Council of Europe Guidelines on child-friendly justice](http://www.coe.int/t/dghl/standardsetting/childjustice/publicationsavailable_en.asp) serve as a basis for the analysis of the provisions affecting children in civil judicial proceedings in each Member State.

Structure and scope

This report describes the national **civil justice system** insofar as children’s involvement is concerned. If, in addition to general rules in civil judicial proceedings, there are specific rules in the fields of **family and employment law**, the safeguards in place for children involved in judicial proceedings in those two specific sectors will also be described.

**Chapter 2** of this report provides an overview of the Member State’s approach to children’s involvement in civil judicial proceedings. It includes a description of the competent authorities and services.

**Chapter 3** of this report is divided in sections (3.1, 3.2, etc.) according to the different safeguards examined (e.g. the right to be heard, the right to information, etc.). Each of these sections is divided into subsections describing the different rules applying to children according to the different role they may have in a civil judicial proceeding (plaintiff; defendant; witness; other roles).

The table below summarises the type of judicial proceedings applicable to the fields of family and employment law and the competent courts. For the sake of completeness, the table also indicates which sectors are examined in the [overview for administrative justice](http://bookshop.europa.eu/children-in-administrative-judicial-proceedings), i.e. asylum, migration, education, health, placement into care, administrative sanctions, and offences committed by children below the minimum age of criminal responsibility (MACR). In fact, in some countries, civil procedural rules also apply to judicial proceedings in some of these sectors, but in order to ensure a degree of consistency among the overviews on the 29 jurisdictions covered by this study, the breakdown set out in the table below has been applied for each and every country overview.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Type of judicial proceedings and court competence per sector[[1]](#footnote-1)** | | | | | | | | | |
|  | **Contextual overview for civil justice** | **Contextual overview for civil justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** | **Contextual overview for administrative justice** |
| **Sectors:** | **Family** | **Employment** | **Asylum[[2]](#footnote-2)** | **Migration** | **Education** | **Health** | **Placement in care** | **Administrative sanctions** | **Offences < MACR[[3]](#footnote-3)** |
| **Type of proceeding applying in the sector** | Civil judicial proceeding | Civil judicial proceeding | Administrative judicial proceedings | Administrative judicial proceedings | Administrative judicial proceedings | Administrative judicial proceedings | Civil judicial proceedings (appeal process) | Administrative judicial proceedings | Ooffenders under the MACR are not prosecuted However, decisions of the social welfare service could be subject to judicial review procedures within administrative judicial proceedings |
| **Competent Court(s)** | Family courts | Civil courts | Supreme Court | Supreme Court | Supreme Court | Supreme Court | Family courts | Supreme Court | Decisions of the social welfare service could be subject to judicial review procedures before the Supreme Court |

# Overview of Member State’s approach to children in civil judicial proceedings and specialised services dealing with such children

## Brief description of judicial system and institutions

Overview of the legal framework[[4]](#footnote-4)

Cyprus does not have specialised legislation concerning children involved in judicial civil proceedings and there are few guidelines on the procedures and rules applicable; the practice followed relies significantly on case-law and on the judge’s discretion.

The applicable laws in Cyprus relating to civil matters are a mixture of English law written before Cypriot independence and laws enacted since then. The procedure followed by civil law courts is set in the [Civil Procedure rules](http://www.cylaw.org/cpr.html) (Cap. 6) and the [Law of Evidence](http://www.cylaw.org/nomoi/enop/non-ind/0_9/index.html) (Cap. 9)[[5]](#footnote-5).

In addition, special laws regulate:

* adoption[[6]](#footnote-6);
* the relations between parents and children mainly regarding divorce of the parents, alimony, parental care, administration of the child’s property and related matters[[7]](#footnote-7);
* the protection of children at work[[8]](#footnote-8) and more specifically the conditions of employment of children regarding inter alia their health, safety, hours of work and rest while creating offences for the employer as well as the parents or guardians who violate the set rules;
* non-criminal abductions[[9]](#footnote-9).

The law on adoptions is currently undergoing comprehensive revision so as to incorporate several provisions of the UN [Convention on the Rights of the Child](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx)[[10]](#footnote-10).

A general law on children regulates the assumption by the Director of the Social Welfare Services (SWS) of the Ministry of Labour and Social Insurance of guardianship or care of children who are deemed to be ‘in need of care and protection’[[11]](#footnote-11). The law is silent on the rights or duties of children in judicial proceedings. On the procedural side of matters, when a child is brought before the court, the court may, at its discretion, require the attendance of his/her parent or guardian to issue the necessary orders[[12]](#footnote-12); however this provision is mostly applied to cases of children accused of a criminal offence. This law is expected to be comprehensively revised and modernised shortly and possibly before the end of 2013[[13]](#footnote-13).

Parental care cases are dealt with by family law legislation, forming part of civil judicial proceedings. In divorce cases, where both parents are alive, the court may award custody to one of the two parents or to both or to a third party. In doing so, the court will take into account the relationship of the child with his/her siblings, parents and his/her best interests (see Section 2(b) on how the concept of the child’s best interests is defined)[[14]](#footnote-14).

Specialised institutions working with children involved in civil judicial proceedings

There are no specialist institutions exclusively competent to deal with children involved in civil judicial proceedings. However, three distinct authorities play a significant role: [**the Social Welfare Services**](http://www.mlsi.gov.cy/mlsi/sws/sws.nsf/dmlindex_en/dmlindex_en?OpenDocument) (SWS)[[15]](#footnote-15), the [**Children’s Commissioner**](http://www.childcom.org.cy/ccr/ccr.nsf/DMLcommissioner_en/DMLcommissioner_en?OpenDocument) (or Commissioner for the Rights of the Child)[[16]](#footnote-16) and the [**Attorney General’s Office**](http://www.law.gov.cy/law/lawoffice.nsf/dmlpowers_en/dmlpowers_en?OpenDocument) (AG), also known as the Law Office of the Republic[[17]](#footnote-17). Cyprus is tiny and all its agencies have a highly centralised power; thus all three agencies operate mainly from the capital, Nicosia, (except the SWS which has district offices in all districts) but with a national scope. There are no Juvenile Courts in Cyprus; where children are involved in civil judicial proceedings, they will either appear in the ordinary courts (the district or the Supreme Court) or in the family courts if the issue at stake is one of family law. Family courts are composed of specialised judges.

The SWS

The SWS staff includes specialised social workers bestowed with the task of liaising with and assisting the family and the child in particular. The Law on Children vests the SWS with the role of the guardian for children perceived to be in need. The SWS Director is under a duty to keep the child in his/her care for as long as the welfare of the child appears to require it, so as to protect the child from cruelty, neglect and exposure to physical and ‘moral’ danger[[18]](#footnote-18). Where the child appears to the SWS Director to be in need of care, the Director endeavours to secure that the care of the child is taken over as soon as possible either by a parent or guardian or by a relative or friend. The SWS performs a supervisory role as regards foster care of ‘children in need’.

The vast majority of judicial cases in which the SWS is involved are family law proceedings and, in particular, parental care cases. Where the SWS is not the designated guardian of the child, the parents or other legal guardians decide on most of the issues concerning the proceedings. In such cases the SWS may be requested by the court to draft and submit the socioeconomic report regarding the family and the child in particular. This report is prepared following separate interview(s) with the family and the child and visit(s) to the family home, in order to observe the general situation and record the views of the child. For the purposes of preparing its report, where appropriate, the SWS may request a report from the health authorities, although this is more common in cases of child abuse rather than in civil judicial proceedings. Health practitioners who have examined the child may be called in to testify in court but not necessarily.

The report of the SWS is submitted to the court in the course of judicial proceedings involving children without any party having been notified in advance. It may or may not be taken into consideration, at the judge’s discretion. The report may be submitted both for children who appear and for children who do not appear in court.

The SWS does not have the right to intervene ex officio in order to protect the rights of a child. Only in cases where the SWS assumes custody of the child, either because he/she is unaccompanied, abused or at risk, does the SWS have a more substantial role to play, since it steps into the shoes of the guardian and performs all duties of a guardian[[19]](#footnote-19). The SWS will not escort a child when visiting his/her lawyer if the child already has a guardian; it will only do so if the child is under SWS custody.

The SWS may also be called upon to submit reports to the court in order to determine whether legal aid will be granted; additionally, the SWS may be asked to submit an interim report to the Children’s Commissioner, to assist the latter with its task of acting as a child’s legal representative, as explained below.

The Children's Commissioner

The Children’s Commissioner may be called upon by the courts in order to act as the child’s legal representative of a child in court where there is a conflict between the interests of the child and his/her parents or guardians or where the court requests the Children’s Commissioner’s involvement[[20]](#footnote-20). At present, there is no set of rules regulating this procedure, which is largely based on practice, but the preparation of relevant rules is currently under way. So far the Children’s Commissioner has been requested to act as a child’s legal representative in cases involving parental care. It is not clear at this stage whether the regulations which are being developed will restrict the Children’s Commissioner’s involvement to parental care cases or whether they will extend it to other areas of the law. Currently, the practice is that the court may call upon the Children’s Commissioner to represent a child in court: on the court’s own initiative; upon an application from the SWS, the child’s parents/guardians, the child her/himself; or upon request from the Children’s Commissioner. The court has discretion to accept or reject the request for the Children’s Commissioner’s involvement. A child involved in judicial proceedings may request the court to appoint the Children’s Commissioner as his/her legal representative by submitting an oral or written request to the Court Registrar.

If the court approves the child’s application for the appointment of the Children’s Commissioner as the child’s legal representative, the Children’s Commissioner will appoint, through public procurement procedures, a private practice lawyer to represent the child in court. The lawyer’s fees are paid from the budget of the Children’s Commissioner. For the purposes of preparing for the court case, the Children’s Commissioner will request the SWS to submit to him/her an interim report on the child’s and the family’s socioeconomic situation. The SWS must submit this report within a month from the request of the Children’s Commissioner. Upon receipt of this interim report, the Children’s Commissioner and the private lawyer appointed for the case will meet with the child at the office of the Children’s Commissioner for an interview, in order to assess the child’s level of maturity and establish his/her views. If necessary, more interviews will follow. During these interviews, the Children’s Commissioner may, depending on the child’s level of maturity, inform the child of the details of the judicial proceedings and of the consequences of court decisions. Following these meetings, the Children’s Commissioner will draft a report to be presented in court by the private lawyer representing the child on behalf of the Children’s Commissioner. The report will describe the child’s views and general situation, his/her level of maturity and whether the SWS have adequately dealt with the case in question. In practice, the way the SWS handled the case will be addressed only if there is a complaint against the SWS or because of a check conducted by the Children’s Commissioner on his/her own initiative; in other words, the Children’s Commissioner does not routinely check the actions of the SWS. The court will take the Children’s Commissioner’s report into account but will not necessarily adopt its recommendations. The decision as to whether the child is mature enough to stand in court is finally made by the judge. If the report locates gaps in the services provided by the SWS or by any other agency, the court can order corrective measures before finally deciding on the case.

The child involved is made aware of the contents of the report but is not handed a copy nor is there a procedure for commenting on it[[21]](#footnote-21).

The AG’s office

The advocates of the AG’s office are involved in the judicial process either as representatives of the Republic or as the child’s lawyers. As advocates for the Republic, the AG’s office will be involved in all family law cases, including parental care, adoption and non-criminal abductions. Where the child involved in the proceedings is under the care/custody of the SWS, an advocate from the AG’s office will represent the child. In both capacities, the advocates will act in the best interests of the child. In highly sensitive cases, the only people coming into contact with the child are the appointed social workers of the SWS, and the members of the AG’s office will have to act via the social worker. In other cases, and provided the child is deemed mature enough to testify in court, the members from the AG’s office will liaise directly with the child in order to prepare the testimony to be delivered

Inter-agency cooperation and coordination

Although there is no institutionalised form of inter-departmental coordination, the relevant agencies do cooperate with each other following ad hoc procedures. Whenever an agency (e.g., the SWS) considers that an issue deserves inter-agency handling it will call a meeting with the relevant actors, such as the AG’s office, the Children’s Commissioner, the Health Authorities. The SWS will then be responsible for sending the agenda, running the meeting, drafting minutes and monitoring compliance with the decisions.

Relationship between civil, criminal and administrative proceedings

Civil judicial proceedings are tried in civil courts[[22]](#footnote-22); administrative proceedings are tried at the Supreme Court (exercising its administrative jurisdiction)[[23]](#footnote-23); and criminal proceedings are tried in criminal courts[[24]](#footnote-24). Depending on the nature of the case, it is possible for the court to adjourn the hearing for a case whilst proceedings for the same case are pending in another court. Criminal law cases are, in their vast majority, brought by the Attorney General[[25]](#footnote-25) and not by the person aggrieved. The latter does have the right to bring a private criminal case but this is rarely used and the Attorney General can at any time interrupt such proceedings.[[26]](#footnote-26)

Training and vetting

There is neither any central coordination of the training of officers coming in contact with children, nor any central database with information as regards such training sessions.

The SWS offers compulsory training to its staff on an irregular basis and frequency. The training seminars can be in-house, i.e. delivered by other SWS staff or delivered by external persons invited by the SWS for this purpose. The subject of the training varies from year to year, depending on the needs and gaps identified but it often covers adoption, parental care, the determination of a child’s best interests and the preparation of the socioeconomic report for submission to the court, as that is a significant part of the work of the SWS[[27]](#footnote-27)

No regular training is offered to the members of the office of the Children’s Commissioner, who may (upon instructions from the Children’s Commissioner) attend seminars organised by local or international bodies, governmental authorities or NGOs, if and when these are offered. Training sessions are not offered regularly and are not obligatory[[28]](#footnote-28).

Training is also offered to judges on an irregular basis and for varying subjects. However, this training is not compulsory. Occasionally, the Supreme Court may select a limited number of judges to attend seminars and conferences abroad. The advocates of the AG’s office will attend training seminars upon instructions from the AG. The Bar Association also carries out irregular training sessions for its members, on various subjects, which are generally well attended[[29]](#footnote-29). In order to become a qualified lawyer, one has to go through an internship and take exams organised by the Cyprus Bar Association. The exam subjects include family law, the Constitution and civil and criminal procedure, all of which may potentially, but not necessarily, include issues pertaining to children’s rights. The family law exam deals mainly with divorce, adoptions, civil kidnapping, parental care and custody cases but not necessarily from the perspective of children’s rights[[30]](#footnote-30).

None of the professionals working with children are subjected to regular vetting. Only the SWS officers undergo some type of general assessment, required for all civil servants. This assessment is carried out by their supervisors, but is not specific on their suitability to work with children. In order to enter the SWS, candidates must succeed in entry examinations. The syllabus of these exams used to be specific to the duties of the work to be performed, however in more recent years the exam was replaced by the general examination which is taken by all candidates for the public sector (general knowledge, IQ test etc).

## General approach towards children under civil law: definition of a child, principle of evolving capacities, best interests of the child, principle of non-discrimination

Definition of a child

In Cyprus, the age of maturity is 18 years of age. However, under certain circumstances (discussed also under [Section 3.1](#_Child-friendly_justice_in)) children are deemed to have the capacity to commit certain acts or are considered as having civil responsibility even if they are below 18 years of age.

Family law

In family law, and in particular as regards the regulation of relations between parents and children, a ‘child’ is a person under 18, unless s/he is married[[31]](#footnote-31). For the purposes of adoption, a ‘child’ is again a person under 18[[32]](#footnote-32).

Law on children

The Law on Children, which provides for the placement of a child in need under the care of the Director of the SWS, defines a ‘child’ as any person under 18; however only children in need who are under 16 years of age can be placed under his/her care[[33]](#footnote-33).

Employment law

With regard to employment, children are classified into three separate categories: ’young persons’ who are aged under 18; ’teenagers’ who are aged between 15-17, inclusive; and ‘children’ who are aged under 15.

Determination of the best interests of the child

The CRC is directly applicable and can be invoked in courts in Cyprus, and therefore Article 3 CRC can theorically be invoked in courts, albeit this is not a practice. According to legal jurisprudence, the best interests of the child permeate all actions concerning a child from birth until adulthood[[34]](#footnote-34). The term ‘best interests of the child’ is understood to comprise the child’s physical, material, spiritual, mental, moral and generally any kind of interest[[35]](#footnote-35). The authority that will finally determine what the best interests of the child are in a particular instance is the court. There are no checklists or protocols to determine the child’s best interest; this forms part of the court’s discretion. However, the case law has set some parameters as is indicated below. When there is more than one child involved in the procedure, the court will endeavour to determine and safeguard the interests of each child separately; there are no indicators or guidelines on how this will be done, although the courts will often resort to legal precedent of both the Cypriot courts and the British courts.

No case, has so, far been identified where the children involved had conflicting interests[[36]](#footnote-36). As regards the process of establishing the best interests of two or more children, interviews conducted by the judge and two or more children are initially conducted with all siblings present, in order for the children to feel more comfortable. However at a subsequent stage it is customary that each child will be interviewed separately, starting from the eldest of the children, to ensure that each child will have the chance to express him/herself without fear of his/her siblings revealing the content of that conversation to the parents[[37]](#footnote-37).

In determining a child’s best interests, the court may take into consideration:

* + The report of the SWS, described [above](#_The_SWS), if it is submitted in a particular case. This report contains not only the observations and recommendations of the SWS but also the views of the child. In submitting the report, the SWS officer is deemed to be acting independently and not as a witness for one of the two parties. The SWS officer can be cross-examined by the lawyers of both sides.
  + The report of the Children’s Commissioner, described [above](#_The_Child_Commissioner), if one is submitted in a particular case. This report should also contain the Children’s Commissioner’s assessment and recommendations as well as the views of the child. The Children’s Commissioner may perform a check on whether the SWS has duly taken note of the child’s interests.
  + The judge’s own assessment of the situation, taking into account the views of the child, derived from a personal interview with the child which the judge conducts in his/her chambers or as expressed by the child when testifying in court.

A court decision in 2000 has set the parameters as regards the factors which the court will take into consideration, in order to determine the child’s best interests. In this case, the mother who had custody of the child wanted to move back to her home country taking the child with her, whilst the father contested custody and wanted to keep the child in Cyprus. The mother had made clear that her wish to return to her home country was so great that she would go even without the child, if necessary. The trial court granted the mother’s request; it found that it had a duty to address how the mother’s negative feelings from a potential rejection of her application to move with the child in another country would impact the child. If the applicant parent is determined to move out of jurisdiction no matter what and without the child, if necessary, then the court will examine the negative consequences on the child from the loss of daily contact with that parent.

The appeal court foundthat the trial court had erred, in that it failed to examine which of the two parents was the most suitable to take over custody of the child; instead it started from the premise that the mother was the most suitable.

When a court’s discretion is correctly exercised, the appeal court will not intervene even if it disagrees with the result[[38]](#footnote-38). The trial court’s exercise of discretion may be challenged in the following cases[[39]](#footnote-39):

* + Where the discretion is exercised outside the framework provided by the law;
  + Where the exercise of the discretion leads to manifest injustice;
  + Where there is a mistake as to the facts or the law or certain pieces of information were not taken into account, or the court considered irrelevant data.

According to the appeal court, in the case under review, the manner in which the trial court exercised its discretion was erroneous because it upgraded the mother’s wish to return to her country into a basic principle, attaching disproportionate weight to it. The appeal court rejected the position emerging from the trial court decision that where the parent who has custody does not feel happy in a country the relocation of the child to another country away from the other parent is always justified. Although the unhappiness of the mother will reflect on the child’s welfare, this cannot be the only element to consider. The appeal court took into account the following factors: that the mother had a job in Cyprus but did not have a job in the United States, her home country; that in her home country she would not have a home of her own but would live with her parents; that although the child’s wishes must be taken into account, the child’s views, as expressed, did not genuinely indicate a true wish to emigrate to a new country. Although the child had stated that he wanted to go to the United States, it was clear that he was doing so because he knew his mother wanted him to go. As the child had admitted to the SWS officer, he would have liked to have been cut in two so that each of his parents would get a piece. The appeal court noted that when interviewing the child, the SWS officer asked the child in front of his mother as to where he wanted to live, whilst in the father’s environment the officer did so when the father was in another room. It concluded that under the circumstances no safe conclusions could be drawn as to the genuine wishes of the child and reversed the trial court decision, giving custody of the child to the father, as the relocation to another country would not serve the child’s best interests. According to the Appeal Court, the trial court had confused the honesty and determination of the mother to move to another country with the reasonableness of that decision[[40]](#footnote-40).

What this essentially means is that on the one hand, the court must look deeper into the child’s behaviour in order to determine her/his true wishes and not restrict itself to what the child says, bearing in mind the social and emotional pressures the child may be under. On the other hand, the determination of the best interests of the child must be decided using a holistic approach, which can mean that the parents’ actions and decisions must be subjected to the test of reasonableness.

Right to be heard and dignity and respect shown to children involved in civil judicial proceedings

A number of legislative provisions[[41]](#footnote-41) and a body of case-law require the court to take into account the views of the child before a custody decision is made. The weight and significance to be attached to the child’s view will depend on his/her age and degree of maturity.

The rule that a child’s views must be taken into account applies beyond the scope of parental care cases and covers also non-criminal abductions[[42]](#footnote-42) and adoptions[[43]](#footnote-43). In the case of non-criminal abductions, the court may refuse to order the return of the abducted child if it establishes that the child opposes his/her return and s/he is already at an age and maturity level where his/her views can be taken into account. In the case of adoptions, the child’s consent is required if the child’s age and mental capacity allow for it; additionally the court must be satisfied that the adoption serves the best interests of the child. There is no fixed age above which the hearing of the child is mandatory; it is at the judge’s discretion to decide whether the child has the mental capacity to be heard[[44]](#footnote-44).

A great deal of discretion is placed in the hands of the judge who has the last word as to what are the best interests of the child and as to whether the child is mature enough to be able to express a view or stand in court. Legal precedent has, however, established the right of the child to be heard and the court’s obligation to give priority to the best interests of the child, as discussed above. Moreover, parental care cases are seen by the court to be of *inquisitive* rather than *adversarial* in character, aiming at better serving the welfare and interests of the child[[45]](#footnote-45). In practice, this means that the court is willing to look into evidence, both factual and legal, beyond what was presented by the advocates of the litigants, such as the views of the child, in order to establish the best interests of the child.

While making its assessment, the court may hear the child’s opinion if the court deems the child to be mature enough to stand in court[[46]](#footnote-46). Thus, the child’s right to be treated with dignity and respect is not seen as a separate right but rather as intertwined and incorporated with the right to be heard and express an opinion. The child’s right to dignity is respected regardless of the child’s role in the proceedings and regardless of his/her status and capacity.

Evolving capacity of the child

There are no rules as to a child’s evolving capacity; this is assessed entirely by the court.

According to jurisprudence, a child is considered mature when due to biological reasons (like the degree of intelligence) and social reasons (e.g. experiences) he/she is in a position to have a rational and complete view on a certain subject and to behave accordingly. A child’s capacity is not determined by his/her age, but age does play a role: a child under three and a half years old cannot be seen as mature and a child over eight cannot be seen as immature[[47]](#footnote-47). According to legal scholars, children can express their views when they have at least turned six[[48]](#footnote-48), while the practice in Cypriot courts treats the age of eight as the borderline[[49]](#footnote-49).

A child is considered as having the necessary capacity if s/he can understand a simple conversation and can give useful information from his/her experiences as regards his/her living conditions, his/her relations with his/her parents and siblings and his/her position in the family, and if he/she can express, even if indirectly, thoughts and emotions. Where a child has the maturity of thought that enables dialogue and personal communication with the judge, s/he is seen as mature enough for his/her views to be taken into consideration[[50]](#footnote-50).

The following rules derive from Cypriot case law:

* + A person’s freedom and independence keeps evolving until s/he is 18, but never ceases to form part of his/her personality, from the point that the child is capable of rational thinking. Thus, children aged 13 ½ and 12 ½ at the time of giving testimony had sufficient capacity to develop a view as to their interest and welfare[[51]](#footnote-51).
  + Based on the above, an eight-year-old child who lived with his father for four years was assigned to his father’s custody because that was his wish and because he was mature enough to comprehend this situation and express an opinion[[52]](#footnote-52).
  + When a child reaches an age where he/she can make decisions, the court must take his/her wishes into account. The criterion used in legal precedents appears to be age and not the child’s mental level. English precedents have established that such age is 14 for boys and 16 for girls[[53]](#footnote-53).

Based on the aforesaid English precedent, the view of a 10-year-old girl who wanted to live with her father was not taken into account. The court gave custody of the child to her mother, on the ground that the girl was not old enough for sufficient capacity to be presumed[[54]](#footnote-54).

* + The child’s maturity is usually established through an interview with the judge. There are no rules governing the conducting of such interviews, but these are based on logic and specific knowledge of the subject. The conversation must be carried out in a calm environment and in conditions of comfort, safety and trust without external interventions and attempts to influence the outcome[[55]](#footnote-55).

Protection from discrimination

The legal framework as regards non-discrimination comprises of:

a general prohibition against discrimination ‘on any grounds whatsoever’ found in the Constitution[[56]](#footnote-56);

the laws transposing the two Equality Directives (2000/43/EC and 2000/78/EC)[[57]](#footnote-57);

the law appointing the Ombudsman as the national equality body, albeit with an extended mandate to combat discrimination on all grounds and in all fields[[58]](#footnote-58).

Since the anti-discrimination acquis was transposed, very few cases made it to court and the vast majority of them involved age discrimination in recruitment, promotion and pension rights, a handful of cases involved disability and even fewer cases ethnic origin; none of these cases involved children. However, the Equality Body has investigated numerous complaints involving children on a variety of subjects: disability discrimination in education, religious discrimination in education, access of unaccompanied minors to the asylum system, access of Turkish-Cypriot children to citizenship, education of Roma children and others. Although the legal framework provides for resort to either the courts or the equality body, the latter is a far more preferred procedure for victims of discrimination, as it is cost-free and user-friendly in the sense that, unlike the courts, there are no technicalities involved. The equality body has the power to issue binding decisions and impose fines although it has, up to this date, not made use of these powers, preferring to remain in the domain of mediation and recommendations[[59]](#footnote-59).

Apart from the above rules, no specific provisions aimed at protecting children from discrimination during the civil judicial proceedings have been identified.

Child-friendly justice in civil judicial proceedings

## The child as an actor in civil judicial proceedings

***The child as a plaintiff***

In general, a child has no legal capacity to sue and thus can only bring an action through his/her parents/guardian[[60]](#footnote-60). Children without a guardian can bring proceedings througha guardian ad litem appointed by the court; however, the guardian is not personally liable for any costs properly incurred by him/her in the course of the action[[61]](#footnote-61). In order to bring an action to civil courts the child’s guardian must be described in the writ of summons, which must be endorsed by a statement signed by the guardian confirming that the action is being brought with his/her advice and consent[[62]](#footnote-62). Similarly a child cannot enter an appearance in court unless his/her memorandum bears a consent in writing from his guardian[[63]](#footnote-63).

When a child attains the age of 18 during the proceedings, the title of the case is amended to replace the name of the parent/guardian with that of the child that has reached maturity, the SWS ceases to be involved in the procedure and the case continues with the child who turned 18 in the place of the plaintiff[[64]](#footnote-64). For the period prior to maturity, the guardian has absolute discretion on how to handle the case, bearing in mind that every decision of the parents in the course of the exercise of parental care must always aim at the child’s interests[[65]](#footnote-65). A child who has no guardian authorised to bring proceedings on his/her behalf may bring a legal action through a person to be named in the writ of summons and therein described as his next friend[[66]](#footnote-66).

No special case[[67]](#footnote-67) in any matter to which a child is a party can be set down for argument without leave of the court. The application for such leave must be supported by sufficient evidence that the statements contained in such special case, so far as they affect the interests of the child, are true. Either party may set down a special case for argument, but if such case affects a child, the application to the courts registrar to fix a day must be accompanied by an office copy of the order giving leave to set down the case for argument[[68]](#footnote-68).

Where by reason of death, bankruptcy, or any other event occurring after the commencement of a trial, and causing a change or transmission of interest or liability, or by reason of any person with an interest in the case having been born after the commencement of the trial, it becomes necessary or desirable that any person not already a party should be made a party, an order that the proceedings will be carried on between the continuing parties may be obtained ex parte on application to the court. Where a person served with such an order is a child without a guardian authorised to defend proceedings on his/her behalf, the person on whose application the order was made, or any continuing party to the action, may at any time after the making of the order, apply to the court so that a guardian ad litem be appointed[[69]](#footnote-69).

Contractual disputes

In principle, according to the rules of English law, children below 18 years of age do not have capacity to conclude a contract[[70]](#footnote-70). The general rule in English law is that children are not bound by contracts they conclude, although the adult party with whom they make the contract is bound by them. When the child turns 18, he/she can choose whether or not to ratify the contract s/he made as a child.

Nonetheless, certain exceptions apply to the rule above as children are legally bound to fair and reasonable contracts they have concluded. These are: contracts for the supply of ‘necessaries’ or goods and services beneficial to them, unless the terms are especially burdensome or unfair; and contracts for employment, discussed below, where these are for the child’s general benefit[[71]](#footnote-71). In both cases, a child can bring an action only through his/her guardian.

Note that married children are considered by law as capable to enter into a contract[[72]](#footnote-72). In the absence of an express legislative provision to the contrary, the general rule that children cannot bring legal actions in their own name may be assumed to apply also to married children.

Employment disputes

A child may be the plaintiff in employment disputes. The employment of children under 15 years of age in Cyprus is prohibited. However, a child who has turned 14 and has completed or has been discharged from the first cycle of his/her secondary education may be placed in a combined programme of work and vocational training, subject to permission from the Minister of Labour. Subject to the existing regulations, after obtaining the permission of the Minister of Labour as well as following consultation with the SWS, a child under 15 years of age may also be employed in cultural, artistic or athletic activities which are in the child’s interests, do not harm the child’s health, safety, spiritual, moral or social development and do not impede the child’s education. The law introduces restrictions on the number of hours that children below 15 years of age and children 15 to 17 years of age inclusive, can work, prohibits night work and restricts the professions in which children can be employed. The implementation of the law is supervised by inspectors appointed by the Ministry of Labour[[73]](#footnote-73).

For the purposes of determining a child’s age in court, evidence submitted by way of presenting a birth certificate or by way of the testimony of a medical officer that a person is of a certain age will be presumed conclusive until proven wrong[[74]](#footnote-74). The law creates offences for employers who are in breach of the law’s conditions, for the owners of the business, the owners of the premises where the business is conducted or their employees, representatives or other persons, but not for the child. The parent is also responsible if his/her child is employed under conditions which contravene the law, unless the court finds that the parent did not consent to such employment[[75]](#footnote-75).

In employment law disputes children cannot bring an action in their own name but must act through their parents/guardians.

***The child as a defendant***

Children can also be defendants in civil judicial proceedings. However, no person can be sued for torts committed by them when they were under 12 years of age[[76]](#footnote-76).

With respect to their contractual responsibility children cannot be sued on the basis of contracts they have concluded[[77]](#footnote-77), unless they are married in which case they are deemed to be capable of entering into a contract[[78]](#footnote-78). Also, children may be sued under contracts for the supply of necessities or goods and services which are beneficial to them, unless the terms are especially burdensome and unfair on the child.

Where a child is sued and provided that the child does not have a guardian authorised to defend him/her, the child shall defend him/herself through a guardian ad litem appointed by the court[[79]](#footnote-79). The same rules as in the case of child plaintiffs apply concerning: the identification of the child plaintiff in the writ of summons; the continuation of the proceedings by the child when he/she turns 18 during the proceedings; the way children may be invited to join any proceedings they have an interest in; the rules on the discussion of the case; the requirement to obtain a leave of the court in order to lay down a special case for argument[[80]](#footnote-80).

***The child as a witness***

There is no minimum age for a child to appear as a witness in court. If the court deems the child to be a suitable witness, there is no need for the child’s guardian to approve the child’s participation in the proceedings. When summoned as a witness, the child is legally obliged to appear in court. It is at the court’s discretion to decide whether a child is mature enough to stand as a witness, although the guidelines and considerations applicable regarding the child’s [right to express an opinion](#_Opinion_of_the), as discussed in Section 2(b), will also apply to the case of child witnesses.

Although the law permits the summoning of children as witnesses, courts are very reluctant to allow this in cases beyond family law which do not amount to an exercise of the child’s right to be heard. In practice, a child may be called to testify as a witness beyond the realm of family law only where his/her testimony is crucial in delivering justice and the severity of the case goes beyond a monetary dispute[[81]](#footnote-81).

The court has discretion to accept testimony from a child who is not testifying under oath, when it is satisfied that due to his/her young age, the child should not testify under oath[[82]](#footnote-82). The law does not entitle a child to refuse to testify against his/her parents.

***The child in any other role***

In family law cases, and in particular in parental care and non-criminal abduction cases, if the child is deemed to be mature enough to stand in court, then s/he does so not as a witness for one or the other side but as an actor whose opinion is necessary in the framework of the court’s investigation. Family law proceedings are deemed to be *inquisitive* rather than *adversarial*, with the aim of establishing and safeguarding the best interests of the child[[83]](#footnote-83), thus the child’s participation is of fundamental importance.

Child protection cases

To initiate legal proceedings in child protection cases, the SWS has the initial responsibility to inform the AG’s office that will file the necessary applications for the lawsuit to commence. The applicable rules as regards these proceedings were presented in [Section 2](#_Overview_of_legal) and mainly consist of: the age of legal capacity, the best interests of the child, the child’s right to be heard, the submission of reports by the SWS and the Children’s Commissioner. Beyond those principles the procedural rules applicable are those which also apply to adult plaintiffs, defendants or witnesses.

Parental care cases

The law requires the court to take the child’s views into account as regards decisions on parental care when they have an impact on the child’s interests and depending on the child’s maturity and degree of perception[[84]](#footnote-84). The duty bestowed upon the judge to establish the views of the child involves the investigation of the authenticity of the child’s views, otherwise the power vested in the court would be rendered meaningless. The fact that a judge may interview a child in order to establish the child’s views does not mean that the child is rendered a witness[[85]](#footnote-85).

The views of the child may also be transmitted to the court through the report of the SWS, which is described in Section 2(a). The appointment of an officer from the SWS to investigate the circumstances of the case and submit a report is obligatory in parental care cases[[86]](#footnote-86). However although the court has the duty to secure such report as a precondition for the exercise of its discretion[[87]](#footnote-87), the report’s content is not binding on the court. The court must merely take the report into consideration together with other factors in order to establish the child’s best interests.

Non-criminal abduction cases

In cases of non-criminal abduction, the court may refuse to order the child’s return if the child opposes such return and is at such age and maturity that his/her views are to be taken into account[[88]](#footnote-88). This issue is examined in three phases:

* + First, the court examines whether the child’s objections can be proven;
  + Second, the court examines whether the age and maturity of the child is such that renders it right for the court to take them into account;
  + If the answers to the above questions are positive, the next question is how the court will exercise its discretion by establishing the reasons for the child’s objections and ensuring that the child’s views are expressed freely[[89]](#footnote-89).

Adoption

In adoption cases the child’s consent is required if the judge deems that the child’s age and mental capacity allow for it. The child’s right to be heard in adoption proceedings is also conditional upon the judge deciding that the child to be adopted has the mental capacity to be heard[[90]](#footnote-90).

Interim measures

Courts may, upon application from one of the litigants, issue preventive interim orders in all cases they deem necessary, regardless of whether a child is involved. Where the court is convinced that there is a serious matter to be determined, that the litigant applying for the order has a good chance of being entitled to a remedy and that unless the order is issued it will be difficult or impossible for justice to be delivered at a subsequent stage, the preventive interim order will be granted[[91]](#footnote-91). Nonetheless, children cannot apply in their own right for the adoption of such interim order but must act through their parents/guardians.

Interveners

Children can intervene in civil judicial proceedings if they have a legitimate interest in the case[[92]](#footnote-92) in the same way as adults but can only do so through their parents/guardians.

## Provision of information

***The child as a plaintiff***

There are no legislative rules as regards provision of information, nor is there any duty in law for any agency to provide information to children involved in civil judicial proceedings as plaintiffs or to the child’s parents/guardians. In practice, child plaintiffs are informed of the systems, procedures, consequences, date, time and place of proceedings, violation of rights, recourse to judicial or non-judicial proceedings, etc. by the lawyer representing them in court who is appointed by their parents. If the child is too young to understand the information provided, presumably he/she is also too young to be involved in the proceedings; in this case, the relevant information is provided by the lawyer only to the child’s parents/guardians.

Court subpoenas and all court documents are served to the child’s parent or guardian[[93]](#footnote-93).

In addition, a child may be informed about procedures, his/her rights and the impact of decisions during the interviews he/she may be called upon to attend. Prior to the commencement of family law proceedings (where a child may either be the plaintiff or the subject of the relevant proceeding), the child may be interviewed by:

The SWS officer, who interviews the child to prepare the [socioeconomic report](#_The_SWS) that will be submitted in court or the [interim report](#_The_Child_Commissioner) that will be submitted to the Children’s Commissioner. However, the SWS is responsible for informing and advising the child only where it has been assigned the care or custody of the child. When the child already has guardians, it is for the guardians to ensure that the child is adequately informed, advised and protected. If the SWS have contact with the child and the child asks for any information, this will be provided by the SWS,[[94]](#footnote-94). Given that the SWS officer is assigned an investigative role, intended to supply the court with objective and impartial information to assist in the determination of the child’s best interests, it cannot at the same time assume the role of the child’s advisor[[95]](#footnote-95).

The Children’s Commissioner, if she is appointed as the child’s [legal representative](#_The_Child_Commissioner). During the interview, the Children’s Commissioner will be assisted by the lawyer who will act as the child’s legal representative in court on her behalf. During this interview, the Children’s Commissioner and the lawyer will inform the child of the details of the judicial proceeding and the impact of the court’s decision on his/her life. The child may subsequently call in at the Children’s Commissioner’s office to ask for clarifications. Often the Children’s Commissioner will also supply information and guidance to the child’s parents. The Children’s Commissioner will also inform the parents/guardians if gaps have been identified in the services supplied by other service providers, such as the SWS. If gaps are identified, the Children’s Commissioner will first request an investigation within the competent Ministry and will subsequently intervene with recommendations. The guardian is notified for every intervention made by the Children’s Commissioner. If the Children’s Commissioner thinks that a court action is in the best interests of the child, he/she will inform the SWS to guide or recommend to the child’s guardian to apply to the court. Beyond that, the Children’s Commissioner will not actively encourage a child or a child’s parents/guardians to resort to non-judicial proceedings or any other interventions. He/she will nevertheless advise the child regarding support services in the public and the private sector, but in the form of guidance rather than referrals[[96]](#footnote-96).

The [judge](#_Evolving_capacity_of), for the purpose of assessing the child’s evolving capacity to stand in court and express his/her views. Although the purpose of this interview is for the judge to understand the child’s level of maturity and not for the child to be informed of his/her rights, in the process of establishing the necessary rapport and trust, the judge will provide basic information about the procedure as well as the impact of the decision and the child may seek and receive clarifications[[97]](#footnote-97). This practice is followed invariably in the family courts but it can also be followed in other courts where the child’s view is deemed crucial for the outcome of the proceedings[[98]](#footnote-98).

As it is apparent from the above, there is no system in place to ensure that a child involved in civil judicial proceedings receives all necessary information without fail. No arrangements are in place to inform children who are resident in another Member State. Similarly, no child-friendly legal material is available for children. The burden falls on the guardians/ parents to ensure that the child is provided with the information needed in a suitable format, most probably from the lawyer representing the child in court. Subpoenas are not served to children even if they can sue and be sued, e.g. because they are married[[99]](#footnote-99).

Children are informed of the content and impact of court decisions from their legal representative and their guardian.

***The child as a defendant***

The rules and practices applied in the case of the child as a defendant are the same as those applicable to children as plaintiffs.

***The child as a witness***

The rules and practices applied in the case of the child as a witness are the same as those applicable to children as plaintiffs. A child is summoned as a witness in judicial proceedings through his/her guardian except where the child has been assigned to the care or custody of the SWS in which case it is for the SWS to inform the child and ensure that the child appears in court[[100]](#footnote-100).

***The child in any other role***

The practices followed for the provision of information to children who participate in the proceedings as the ‘subject’ of the dispute are the same as the ones followed in the case of child plaintiffs. Furthermore, in these instances, the [Children’s Commissioner](#_The_Child_Commissioner) also provides information to the child about the proceedings he/she will participate in.

## Protection of the child’s private and family life

### General procedural rules applicable to children involved in civil judicial proceedings regardless of their role

Publicity of trials

Unless the judge orders that proceedings are conducted behind closed doors, the courtroom is open to the general public. Proceedings *in camera* are ordered by the judge usually in criminal proceedings where children are protected as vulnerable witnesses. For civil judicial proceedings, the general rule is that court sittings are public, unless there is a reason to hold them behind closed doors such as to protect the child’s identity or to prevent the child from coming into contact with a person that might influence his/her testimony or view. In practice, proceedings involving children in any capacity (plaintiffs, defendants, witnesses or in cases where they are the subject of the proceeding) are invariably carried out in camera[[101]](#footnote-101).

Protection of the child’s data during the civil judicial proceedings

There are no special rules on privacy and data protection that apply especially to children. A general rule protecting private and family life, based on Article 8 of the [European Convention on Human Rights](http://www.hri.org/docs/ECHR50.html#Convention) (ECHR), is enshrined in the Cypriot Constitution[[102]](#footnote-102).

The Law on Processing of Personal Data N.138(I)/2001, as amended, prohibits the collection and processing of sensitive personal data and lists the circumstances under which this is exceptionally allowed. These include: (a) when processing is necessary for the satisfaction of lawful interest which is superior to the rights and fundamental freedoms of the subject of the data[[103]](#footnote-103); (b) when the processing concerns exclusively data that the subject of it has published or is necessary for the recognition or the exercise of a right before a court[[104]](#footnote-104); (c) when the processing concerns exclusively statistical, research, scientific or historical reasons, subject to ensuring that measures are taken to protect the subjects of the data. Even though information on civil judicial proceedings is not included amongst the information considered as sensitive data, it should be noted that the best interests of the child are paramount on the basis of international law, which precedes national law. Thus, processing of such data may be seen as harmful to the child and may be still treated in the same way as sensitive data on the basis of the UN [Convention on the Rights of the Child](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx). The implementation of the data protection law forms part of the mandate of the [Commissioner for the Protection of Personal Data](http://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/index_en/index_en?opendocument); his mandate does not include any special reference to the protection of the data of children involved in civil judicial proceedings, nor do his annual reports and statements suggest any activity in that direction.

As regards the publication of a child’s name in court judgements, no uniform practice is followed by judges which suggests that they follow their own rules depending on the case.

Protection of the child’s personal data in the media

Court decisions are published in law reports as well as on the internet. Whenever a child is involved in the proceedings, the title of the case contains only the child’s initials; however the text of the judgement mentions the child’s name in full, alongside with other sensitive information about the child and his/her family.

Certain acts committed by third parties inside or outside the courtroom may amount to contempt of court, punishable with imprisonment of up to six months and/or a fine of £450 (approximately €768)[[105]](#footnote-105), regardless of whether children or adults are involved in the relevant civil judicial proceedings. These are:

The publication of testimonies delivered in court during proceedings conducted behind closed doors.

The attempt or the actual taking of pictures or video of any courtroom where proceedings are taking place, including the courtyard during the transfer of the suspect or the accused to and from the court. As the law does not differentiate between criminal and civil judicial proceedings, the relevant rule is applicable to both.

The attempt to ask questions to parties to a civil judicial proceeding (regardless of whether they are children or adults), upon their entry to or exit from the court building or while they are inside the court building.

The publication of pictures, sketches or video recordings in violation of the above.

These sanctions can be imposed by the court or can be requested by the child’s representative or guardian. Note that there is no regulation preventing a parent or a guardian from publicising details of a trial involving his/her child; there have been several TV shows where parents appear to tell their story thus revealing sensitive data about their children.

The media are also prohibited from presenting children as witnesses or victims of accidents. Such presentation is permitted only in exceptional cases, where it is necessary to inform the public and does not cause pain or harm to the personality of the child and only after obtaining the written permission of his/her guardian. Additionally, the disclosure of the names of children involved in judicial proceedings and the transmission of any information that may lead to the disclosure of their identity is prohibited[[106]](#footnote-106). The relevant regulations affect all children under 18 and have the force of law. As the law states that the relevant rules apply to judicial proceedings without any further differentiation, they are presumed to apply both to civil and criminal judicial proceedings.

Complaints may be filed to the Radiotelevision Authority[[107]](#footnote-107) against conduct that violates these regulations; children can submit the relevant complaints through their parents/guardians. If found guilty, a fine may be imposed by the Radiotelevision Authority, the amount of which ranges between €850 and €8,500 depending on the size of the media outlet concerned and on whether it is radio or television. Failure to pay these fines entitles the Radiotelevision Authority to apply to the court and seek recovery of the amount due as a civil debt towards the State[[108]](#footnote-108). In addition, where there is a violation of the regulations, the Radiotelevision Authority may apply to the court requesting the issuance of an order suspending or preventing repeating the violation, ordering the adoption of corrective measures, ordering the publication of the court’s decision or any other action deemed necessary[[109]](#footnote-109).

A voluntary self-regulatory [Code of Journalistic Ethics](http://www.cmcc.org.cy/code_pradice2.html), officially adopted by the Journalists Union, the media owners and the editors’ union, prohibits the interviewing of children under 16 in relation to issues concerning their personal situation or welfare without the parent’s or the guardian’s consent. Additionally, journalists are obliged to comply with the provisions of the UN [Convention on the Rights of the Child](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx)[[110]](#footnote-110).

***The child as a plaintiff/defendant/witness***

The rules analysed above apply.

***The child in any other role***

Apart from the general rules analysed above, the SWS, the Children’s Commissioner, and the AG’s office are not competent to protect the privacy and data of children who are involved in civil judicial proceedings as the ‘subject’ of the dispute[[111]](#footnote-111). However, all three agencies keep their files and data in strict confidentiality and will not reveal these to any party before, during or after the trial. The child does not have access to these files nor does s/he have the right to correct them. However, the lawyer representing the child may request access to these files for the purpose of preparing for the case[[112]](#footnote-112). In the final judgement that is published, the child’s name may or may not appear in the text of the judgement, depending on the judge.

Other than the above described measures, no particular steps are in place to ensure that the risk of adverse consequences for the child is avoided. In the case of family proceedings and generally where there are agencies involved in protecting the child (i.e., the Children’s Commissioner or the SWS), where there is an increased risk of adverse consequences this is likely to be picked up during interviews with the agency’s officers and will be noted in the report to be presented in court, so as for the judge to have the risk in mind when exercising discretion. However, there is no legislation entitling a child not to testify against his/her parents and, thus, no rules aimed at preventing the adverse consequences that civil judicial proceedings may have on the family environment have been identified.

## Protection from harm and ensuring a child-friendly process

### General procedural rules applicable to children involved in civil judicial proceedings regardless of their role

Avoiding undue delays

There are no time limits concerning when civil judicial proceedings must be commenced or terminated, regardless of whether a child or an adult is involved. Nonetheless, Cypriot legislation includes general safeguards for a ‘fair trial within reasonable time’[[113]](#footnote-113) which apply to proceedings whether involving children or not. The reasonableness of the length of the proceedings depends on the circumstances of the case, their complexity and the conduct of the parties[[114]](#footnote-114). Where the right to a fair trial within a reasonable time is violated, the litigant concerned, child or adult, may apply to the court, either during the proceedings complained about or within a year from the issue of the decision, claiming compensation for monetary and non-monetary damage. In the case of children, such a claim can be submitted by their parents/guardians, except in cases where they can bring a case in their own name. In assessing such damage, the court will take into account the criteria considered for this purpose by the European Court of Human Rights in relation to violations of Article 6.1 of the ECHR[[115]](#footnote-115).

The Supreme Court may issue orders for the acceleration of the pending proceedings if a decision has been issued that the right to a trial within a reasonable timeframe has been violated. No maximum limit is set by the law as to what is the reasonable time within which a trial must be completed[[116]](#footnote-116).

Cases involving children are neither fast-tracked nor prioritised by the courts.

Child-friendly environment

In the case of civil judicial proceedings, no arrangements are in place to ensure that court premises are suitable for children and no psychological or other support is offered, unless a particular need for such support is diagnosed. In that case, either upon the request of the parent/guardian or on its own initiative, the judge may appoint a child psychologist or a social worker to prepare, support and inform the child. This applies in all cases where the SWS deem that the child is in a vulnerable position, which can include a child as a plaintiff, as a defendant, as a witness or in any other role. It ought to be stressed, however, that there is no authority or agency with competency to ensure that the child is protected from harm during the civil judicial proceedings. Unless a child is under the care of the SWS, then the role of the SWS is merely to submit the socioeconomic report and, unless specifically appointed by the court to support the child, it does not have any role in otherwise supporting the child and protecting him/her from harm, which then becomes a matter for the parent or guardian to take care of. The use of screens, teleconferencing and other protective measures exists only to criminal proceedings. Regulations for the conduct of the media are described in [Section 3.3](#_Protection_of_the). There are no regulations requiring court sessions to be adapted to the child’s pace and attention span. If there are images or other material to be presented in court that may be deemed as harmful for the child, the judge may order that the child be removed from the courtroom[[117]](#footnote-117). The only protective measure for civil proceedings is the conducting of the trial in camera.

Personal appearance of children at trial

If the judge who assesses the child’s maturity decides that the child cannot stand in court, then the judge will rely on the report of the SWS in order to understand the child’s perspective and position. Where the judge deems that the child is mature enough to participate in the proceedings, then depending on the nature of the case, s/he will be represented either by the guardian/parent or a lawyer appointed by the guardian/parent, the Children’s Commissioner or the SWS.

***The child as a plaintiff/defendant***

The general rules analysed above apply to child plaintiffs/defendants.

Additionally, as discussed in [Section 3.1](#_The_child_as) courts may issue preventive orders upon the application of the child parties’ legal representatives. Such preventive orders may be issued with conditions attached and may be revoked or amended by the court at any time. The litigant against whom the order has been issued is entitled to reasonable compensation for costs and damages incurred, where it emerges that the order was based on insufficient reasons or the action on which the order was premised failed. The court has power to elicit compliance with the order, prohibiting or permitting the execution of an act, through the imposition of a fine or a prison sentence or a guarantee. Additionally, the court may order compensation to be paid to the person in favour of whom the order was issued, if the order is not complied with. The court’s power to punish non-compliance with the order extends beyond the litigants to third parties who had notice of the order and knowingly and willingly encouraged or promoted non-compliance[[118]](#footnote-118).

***The child as a witness***

The general rules and practices analysed above apply also to child witnesses.

***The child in any other role***

The general rules as analysed above apply also in cases where the child is the ‘subject’ of the civil judicial proceedings.

In particular, with respect to the need to avoid undue delays in cases involving children as the’subject’ of the relevant proceedings, there are no time limits within which a case must be commenced or completed. An exception to the general rule applies in the cases of non-criminal abductions[[119]](#footnote-119) where there is an obligation to ‘act expeditiously in proceedings for the return of children’. If the court or administrative authority has not reached a decision within six weeks from commencement of the trial, the applicant or the requested State can request a statement for the reasons for the delay which must then be transmitted to the requesting State, or to the applicant, as the case may be. Although there are no rules on ensuring a friendly environment for the child in the courtroom, there is considerable case law of the family court setting out the parameters of the exercise of a child’s right to be heard (see [Section 3.6](#_Toc338234115)).

No specific rules for the protection of children during the civil judicial proceedings through the temporary award of custody of the child to one of the parents or temporary arrangements for contacts of the child with the parents have been found. In general, however, the court can remove from a parent the right to exercise his/her parental care rights if the parent is in breach of his/her duty as a guardian[[120]](#footnote-120).

## Protecting the child during interviews and when giving testimony

***The child as a plaintiff***

Information gathered by child plaintiffs is admissible in court if the judge considers that the child has the maturity to testify, i.e. evidence is not invalid or untrustworthy solely by reason of the child’s age. However, as child plaintiffs are represented by their parents/guardians in civil judicial proceedings, they are not examined by the court as parties but as witnesses[[121]](#footnote-121).

Every person is capable of testifying in court unless the court decides that this person cannot, inter alia due to young age, understand that s/he must tell the truth or the questions put to her/him or give rational answers[[122]](#footnote-122). Therefore it is not age which is the determining factor but rather the child’s ability to understand the significance of telling the truth, as this is assessed by the court[[123]](#footnote-123). Thus, although the summoning of children to testify in civil judicial proceedings is not prohibited, in practice a child’s testimony is required mainly in parental care cases. If a child is considered by the judge as not being sufficiently mature to express his/her views and wishes, then the court will not ask the child to testify. It is possible that a judge may choose to disregard or attach less significance to the views expressed by the child, if the judge is of the view that emotional and social pressures have compelled the child to express views which do not reflect his/her true wishes or are not in his/her [best interests](#_Determination_of_best)[[124]](#footnote-124).

As there are no express provisions governing the conduct of interviews with children or limiting their number, legal precedent places discretion on the judges to decide what methods to follow and how many interviews to conduct[[125]](#footnote-125).

Where the child plaintiff’s parents or guardians consider the involvement of the SWS necessary due to an element of vulnerability present in the case, they can ask the SWS to intervene in order to assist with the process. If the SWS deems that its intervention is necessary, regardless of whether there is a request from the child’s parents/guardians or not, it prepares a socioeconomic report to be submitted to the court. Similarly, in family law cases where the plaintiff is a child (e.g. in child support cases), if the Children’s Commissioner deems it necessary, s/he may seek to be appointed as the child’s legal representative.

Pre-trial interviews conducted by the SWS usually take place at the child’s own house or at the SWS offices, depending on the family situation. Interviews conducted with the Children’s Commissioner take place at the latter’s office *in camera*, without the parent/guardian being present in the room.

Interviews with the judge take place at the judge’s chambers without the parents/guardians being present; however the judge may request the presence of the SWS officer who had investigated the case, since that officer is already acquainted and familiar with the child[[126]](#footnote-126). If the child is found by the judge to be immature either by virtue of his/her age or because this was established in the course of the interview, then the judge will not request that child’s presence in court. This practice is used in relation to all children involved in civil judicial proceedings, irrespective of whether they are litigants themselves or are otherwise related to the case.

There are no special interview methods and no institutionalised rules as to how an interview must be conducted; however legal precedent requires that the conversation must be carried out in a calm environment, under circumstances of comfort, safety and trust without external interventions and attempts to influence the child. Also the conversation must be interrupted where the judge thinks that the child is completely immature and thus unable to express his/her views. The interview may be conducted either by means of direct questions or by means of conversation, through which the judge will endeavour to track the child’s views[[127]](#footnote-127). There are no provisions regulating the number and length of interviews; the system relies on the interviewer’s expertise and perceptiveness to adjust these issues according to the particular child’s needs.

There is no child-friendly written material to be handed to children to enable them to understand the procedure and what is said in court. Child plaintiffs have the right to an attorney paid by the State on the condition that the child’s family (if the child is a dependent) or the child him/herself do not have sufficient economic means to pay for such services and provided the subject matter of the civil action concerns a human rights violation (see also [Section 3.7](#_Right_to_legal))[[128]](#footnote-128). Child plaintiffs must be accompanied in court by their parent/guardian, a SWS officer if the SWS has been assigned the child’s care, a lawyer appointed by the Children’s Commissioner if the latter has been appointed as the child’s legal representative, or a lawyer from the AG’s office if a child being under the care of the SWS was granted the right of representation from the AG’s office. There are no different rules applicable for different age groups.

***The child as a defendant***

The rules applicable to child plaintiffs also apply to child defendants. In addition, defendants are afforded by the Constitution the right to an interpreter and to a lawyer paid by the State if they do not have sufficient means, provided this is ‘in the interests of justice’[[129]](#footnote-129). No special provisions apply for children. The legal aid law further restricts the right to receive legal aid to cases involving human rights violations (see also [Section 3.7](#_Right_to_legal)).

***The child as a witness***

As already discussed for child plaintiffs, every person is deemed to be capable of testifying in court unless the court decides that this person cannot, amongst others due to young age, understand that s/he must tell the truth or understand the questions put to her/him or from giving rational answers[[130]](#footnote-130). Regarding the way child witnesses are questioned, the same rules as in the case of child plaintiffs apply.

The number of interviews and methods of conducting interview are not covered by any regulations but are, rather, left on the judge to determine, taking into account all circumstances of the case. No provisions were identified with respect to the provision of support to child witnesses.

***The child in any other role***

In family law proceedings, the child who stands in court in order to express his/her views steps into the shoes of a witness and thus the rules set out above apply. A judge may interview a child in order to assess his/her level of maturity and decide if s/he is capable of expressing his/her views in court. Interviews with the judge take place at the judge’s chambers without the parents/guardians being present; however the judge may request the presence of the SWS officer who had investigated the case, since that officer is already familiar with the child[[131]](#footnote-131). If the child is found by the judge to be immature either by virtue of his/her age or because this was established in the course of the interview, then the judge will not request that child’s presence in court.

Although the summoning of children as witnesses in civil proceedings is not prohibited, in practice a child’s testimony is required mainly in parental care cases. There are no special interview methods and no institutionalised rules as to how an interview with children must be conducted; however legal precedent requires that the conversation must be carried out in a calm environment, under circumstances of comfort, safety and trust without external interventions and attempts to influence the child. Also the conversation must be interrupted where the judge thinks that the child is completely immature and thus unable to express a view. The interview may be conducted either by means of direct questions or by means of conversation, through which the judge will endeavour to track the child’s views[[132]](#footnote-132). There are no provisions regulating the number and length of interviews; the system relies on the interviewer’s expertise and perceptiveness to adjust these issues according to the particular child’s needs.

## Right to be heard and to participate in civil judicial proceedings

***The child as a plaintiff***

Children cannot participate in civil judicial proceedings in their own right, as discussed in [Section 3.1](#_The_child_as). Depending on the nature of the case at hand, they will be represented either by their parents/guardian, or the SWS (if they have no parents and they have not been appointed a guardian). As a plaintiff, the child does not have the right to be heard, but s/he can testify as a witness in the case that is brought on his/her behalf to court. Thus, there are no legal requirements/policies in place to ensure that children are heard in all matters that affect them and children are not consulted on the manner they wish to be heard. Similarly, there are no rules on how court rulings should be communicated to children and about the communication techniques that should be used when interviewing children (see [Section 3.5](#_Protecting_the_child)). Regarding the provision of information and explanations to children about the consequences of participating in civil judicial proceedings, please see [Section 3.2](#_Provision_of_information).

Court rulings are read out in court by the judge and copies of the judgement are subsequently distributed to all litigants[[133]](#footnote-133). The judgement uses legal terminology and is not written in a child-friendly language; often the language is so obscure that it is not even understood by the adult lay-person[[134]](#footnote-134). There are no rules as to who will explain to the child the outcome of the trial or how. Unless a child is under the care of the SWS, in which case the SWS steps into the shoes of the guardian, it is the responsibility of the lawyer representing the child to explain the content and consequences of that decision to the parent/guardian and for the latter to explain it to the child[[135]](#footnote-135). In cases where the lawyer is a child specialist appointed by the Children’s Commissioner or the AG’s office, then that lawyer may explain to the child the impact of the judgement directly. In any case, both the lawyers and the Children’s Commissioner must prepare the child, during the interview conducted at the pre-trial stage, and explain to him/her the possible outcomes of the trial and their impact on the child’s life[[136]](#footnote-136).

No special communication techniques are used when children are involved in civil judicial proceedings; if a child is deemed not to have the necessary capacity to effectively exercise the right to be heard and express his/her views, then the court will use the SWS report in order to extract the child’s views.

Limitation periods

The limitation period within which plaintiffs, children and adults, must bring a civil action for civil offences and contracts is six years[[137]](#footnote-137). If the claim involves damages for negligence, nuisance or breach of duty, the limitation period is three years. If a person who suffered the injury became aware of the damage later, the limitation period starts from the day the claimant acquired knowledge of the damage. The court has discretion not to apply the statute of limitation for two years where the claim is for bodily injury or death and the claimant was late in filing an action as a result of a delay in securing the necessary data or due to incapacity to handle the case.

The limitation period does not start to run or is suspended as regards children only in the following cases:

Between parents and children during the period that the children were under 18 years of age.

Between trustees and beneficiaries during the period that the beneficiary was under 18 years of age or had not yet been born;

Between executors of a will or administrators of property of a deceased person and the heirs of the deceased, during the period that the heirs were under 18 years of age[[138]](#footnote-138).

***The child as a defendant***

The same rules as in the case of child plaintiffs apply. Additionally, similarly to criminal judicial proceedings, the court may ask the child defendant to speak in court in order to state his/her position as regards the offence s/he is accused of.

Limitation periods

For as long as they are under 18, limitation periods do not run against child defendants who do not have a legal representative[[139]](#footnote-139).

Moreover, the limitation period is suspended for as long a period as the defendant, or a person for whom the defendant is responsible, prevented the plaintiff from filing an action within the last semester of the last year of limitation[[140]](#footnote-140).

***The child as a witness***

Child witnesses have the same rights as adult witnesses, in other words their testimony must be delivered in the structured manner required by the evidence rules. Special rules apply in family law proceedings, as examined below, where the child’s right to be heard is of paramount importance.

***The child in any other role***

In family law proceedings, a child’s views are presented in court through the reports submitted by the SWS and by the Children’s Commissioner, in the event that the latter is appointed as the child’s legal representative. Additionally, a child may express his/her views during a pre-trial interview with the judge in the judge’s chambers as well as during the trial itself, if the child’s evolving capacity is deemed by the judge to be satisfactory to stand in court (see also [Section 3.5](#_Protecting_the_child)).

There are no rules governing the manner in which a child may exercise his/her right to be heard, but there is considerable volume of case-law, considered in [Section 2](#Section2), which has set the parameters of this right. According to this case-law, a child’s right to be heard is a cornerstone of family law but is subject to the child’s perceived [degree of maturity](#_Evolving_capacity_of). Also, the court is not bound to adopt a child’s view or to satisfy a child’s wish, whether expressed through the SWS’s report or directly to the judge in court or in the judge’s chambers; the court must merely take that view/wish into account together with all other evidence in order to determine the child’s [best interests](#_Determination_of_best). Where a child wishes to be consulted in a particular way, then this information is likely to be recorded in the report of the SWS and it is at the judge’s discretion whether it will be taken into consideration. A child that has been assessed by the judge to be mature enough to be heard in court may request the court for the right to intervene during the proceedings; it is up to the court to grant this right. The provision of information to a child as regards the legal proceedings is dealt with in [Section 3.2](#_Provision_of_information).

Under the EU acquis, failure to allow a child to be heard may lead to the non-recognition in other Member States of judgements relating to parental responsibility[[141]](#footnote-141).

Finally, concerning the explanations given to children on the outcomes of the trial and the communication techniques used, the same rules as in the case of child plaintiffs apply.

## Right to legal counsel, legal assistance and representation

***The child as a plaintiff***

Child plaintiffs in civil judicial proceedings have the right to be represented by a lawyer, similarly to adult plaintiffs. In addition, they are entitled to legal aid, in the form of advice, assistance and representation, if the proceedings concern human rights violations and his/her and their family’s financial situation does not allow them to secure representation by a lawyer[[142]](#footnote-142).

Representation by a lawyer is not mandatory, but since the proceedings are conducted by the parents in the name of the child, it is for the parents to decide whether the right to a lawyer is to be waived or not. Furthermore, as the proceedings are conducted by the parent in the name of the child, the child is not considered as a fully-fledged client with his/her own rights and the court will accept the choice of a lawyer made by the parent/guardian. The request for legal aid is submitted to the court which reaches its decision taking into account the socioeconomic report prepared by the SWS. The request will be granted if the court is satisfied, on the basis of the SWS’s socioeconomic report, that the financial situation of the child’s family (or of the child himself/herself if he/she brings an action in his/her own right) does not allow him/her to secure legal assistance and if due to the severity of the case the child must be granted legal aid in the interests of justice[[143]](#footnote-143). The fact that the lawyer provides his/her services through a legal aid scheme does not affect the relationship between the lawyer and his/her client and the rights or privileges derived from this relationship[[144]](#footnote-144). The beneficiary of legal aid, child or adult, has the right to choose his/her lawyer from a list of lawyers who are willing to offer their services through this mechanism. If the beneficiary does not name the lawyer of his/her choice, the court will appoint one from the list of lawyers willing to offer their services[[145]](#footnote-145). When granted, legal aid covers all fees and expenses related to legal advice, assistance and representation. Beyond the legal aid provisions, and subject to permission from the court, children can be represented in court by a private lawyer acting on behalf of the [Children’s Commissioner](#_The_Child_Commissioner) or, where the child has been assigned to the care of the SWS, by a lawyer from the AG’s office. In these cases, no legal fees arise for the child or the child’s parents/guardians. These instances include cases where there is a conflict between the interests of the child and his/her parents and, in the court’s opinion, the child cannot be adequately represented by the lawyer appointed by the guardian/parent.

***The child as a defendant***

A defendant, whether a child or an adult, is afforded by the Constitution the right to legal aid if he/she does not have sufficient means, and provided that the grant of legal aid is ‘in the interests of justice’[[146]](#footnote-146). The legal aid law further restricts the right to receive legal aid in civil judicial proceedings to cases involving human rights violations[[147]](#footnote-147). All other rules applicable to child plaintiffs, as set out above, also apply to child defendants.

***The child as a witness***

Witnesses, whether adults or children, are not entitled to legal representation and legal aid.

***The child in any other role***

Subject to the means of the family, legal aid in the form of advice, assistance and representation, is available for procedures before the Family Court for parental care, alimony, recognition of children, adoption, property relations between spouses and any other marital or family disputes[[148]](#footnote-148). The legal aid law does not restrict the granting of legal aid to children who are parties to the proceedings. Thus, all rules pertaining to the child plaintiffs’ right to legal aid also apply to children who form the subject matter of family law proceedings if the court decides that this is necessary. Also a child involved in a custody case can have a legal counsel appointed by the Children’s Commissioner to represent him/her in court.

## Alternatives to judicial proceedings

***The child as a plaintiff***

Traditionally in Cyprus the parties’ lawyers try to find a solution on behalf of their clients without going to court. If this is impossible, then efforts will be made to reach an amicable settlement in the judge’s chambers, which will then be registered in court and will have the force of a judgement. A case will be tried in courts only if this procedure fails as well. On 16 November 2012 a new law was enacted (Law N. 159(I)/2012) transposing **Directive** [2008/52/EC](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008L0052:EN:NOT) of 21 May 2008 on certain aspects of mediation in civil and commercial matters**.**

There is no duty to first seek recourse to mediation or any other alternative dispute resolution mechanisms in order to spare the child the aggravation of the judicial procedure. The court cannot impose mediation in any case; such an act would be seen as a restriction of the right of access to justice. Mediation is sought and carried out on behalf of the child by the child’s parent/guardian. No court approval is necessary before concluding an out-of-court settlement. Furthermore, there is no system in place to ensure that children are informed and consulted on the opportunity to have recourse to mediation; it is up to the parent/guardian, the legal counsel and the judge hearing the parties in his/her chambers to so inform the child. Similarly, there are no rules concerning the participation of children to proceedings for the amicable settlement of disputes.There are no rules to regulate the situation where a child disagrees with the amicable settlement reached between his/her parents and the other litigant.

If the case at hand falls within the mandate of the Equality Body[[149]](#footnote-149), then the child or the child’s guardian/parent may file a complaint. The equality body follows a liberal policy as regards accepting complaints and will examine complaints from children of any age and on behalf of children of any age by any person, whether parent/guardian or not. Indeed, in recent years the Equality Body has investigated complaints from the civil society (as regards the education of Roma children) and from disability organisations (as regards the rights of disabled children in education). A child can take the initiative and participate in such a procedure in his/her own right. Following investigation of the case the Equality Body will usually invite the parties to a consultation and attempt to reach a solution; alternatively or at the same time, it may issue binding or non-binding recommendations and thereafter monitor compliance. The procedure before the Equality Body does not prevent a child or his/her parent or guardian from applying to the court. If, however, a case on the same subject matter is filed to court, the Equality Body will suspend its own investigation.

The Children’s Commissioner may also receive complaints but its mandate is restricted to forwarding them to the competent authorities and monitoring the outcome. In fact, the Children’s Commissioner is under a *duty* to submit to the competent authorities for investigation, complaints for violations of children’s rights and to follow the course of their investigation, as well as to evaluate the outcome of the investigation of a complaint by any authority[[150]](#footnote-150).

There is limited public awareness about the procedure offered by the Equality Body; the child is likely to receive information about this procedure from the SWS officer he/she comes into contact with, provided the latter is aware of the Equality Body’s functions and mandate. Research has shown that it is common for people to confuse the functions of the Equality Body with that of the Ombudsman, since the two offices are submerged into each other; as a result, the wide mandate of the Equality Body to investigate complaints in a large area of application in both the public and the private sector and to issue binding decisions, often goes unutilised[[151]](#footnote-151).

A special law[[152]](#footnote-152) regulates the conditions under which parties to a dispute can have recourse to arbitration and the manner in which this must be conducted. However, the law is silent on the issue of actions by, on behalf or against children. It may be reasonable to assume that the same rules apply as the filing of actions in judicial proceedings (see [Section 3.1](#_The_child_as)).

***The child as a defendant***

All rules applicable to children plaintiffs as set out above apply also to children as defendants.

***The child as a witness***

No rules have been identified on the participation of children as witnesses in mediation or arbitration proceedings.

***The child in any other role***

Cases where children constitute the ‘subject’ of the dispute (e.g. divorce, custody) cannot be resolved through alternative dispute resolution mechanisms.

## Remedies or compensation for violation of rights and failure to act

***The child as a plaintiff/defendant***

In Cyprus, in accordance with the general rules discussed in [Section 3.1](#_The_child_as), appeals against court judgements cannot be brought by a child himself/herself but only by the adults bringing the action on their behalf, i.e. their parents/guardians or legal counsels. With respect to cases where there is a conflict between the interests of a child and his/her parents, please see [Section 2](#_Overview_of_legal).

The legal counsel acts upon the instructions of the party that has appointed him/her. Thus, if s/he was appointed by the Children’s Commissioner, the legal counsel is compelled to rely upon the report which the Children’s Commissioner has prepared on the basis of the pre-trial interview with the child. If the legal counsel was appointed by the SWS, which is the case for children who have been assigned to the care of the SWS, then the legal counsel will follow instructions of the SWS. Similarly, if the legal counsel was instructed by the parents/guardians, his/her instructions as to submissions in court will emanate from the parents/guardians. It is possible for the parent/guardian to appeal a decision without the child’s consent.

Beyond the cases where the court has requested or approved the involvement of the Children’s Commissioner, or where a child is under the care of the SWS, there is little support for the child to access any judicial or non-judicial complaint mechanisms. In cases where there is a conflict of interests between the child and the parents, it is possible for the child or for the court to appoint the Children’s Commissioner as the child’s legal counsel, as explained in [Section 2](#Section2).

Neither the SWS nor the Children’s Commissioner can appeal against a court decision involving children. However, the AG can and often does appeal decisions where the Republic is one of the litigants.

Limitation periods

The limitation period within which plaintiffs, children and adults must bring a civil action for civil offences and contracts is six years[[153]](#footnote-153). If the claim involves damages for negligence, nuisance or breach of duty, the limitation period is three years. If a person who suffered the injury became aware of the damage later, the limitation period starts from the day the claimant acquired knowledge of the damage. The court has discretion not to apply the statute of limitation for two years where the claim is for bodily injury or death and the claimant was late in filing an action as a result of a delay in securing the necessary data or due to incapacity to handle the case.

The limitation period does not start to run or is suspended as regards children only in the following cases:

* + between parents and children during the period that the children were under 18 years of age;
  + between trustees and beneficiaries during the period that the beneficiary was under 18 years of age or had not yet been born;
  + between executors of a will or administrators of property of a deceased person and the heirs of the deceased, during the period that the heirs were under 18 years of age[[154]](#footnote-154).

For as long as they are under 18, limitation periods do not run against child defendants who do not have legal representatives[[155]](#footnote-155).

Moreover, the limitation period is suspended for as long a period as the defendant, or a person for whom the defendant is responsible, prevented the plaintiff from filing an action within the last semester of the last year of limitation[[156]](#footnote-156).

The child as a witness/the child in any other role

Child witnesses and children who constitute the ‘subject’ of the relevant judicial proceedings do not have access to judicial review mechanisms.

## Legal costs

***The child as a plaintiff/defendant***

In Cyprus the court has discretion to decide who is obliged to pay what part of the legal costs[[157]](#footnote-157). A child who has not been granted legal aid and who did not have a legal counsel appointed by the Children’s Commissioner or the SWS may be asked to pay both his/her legal costs and the other party’s costs, depending on the outcome of the trial. However, as the child is represented by his/her parents/guardians in all procedural actions, the parents/guardians are responsible for paying the relevant legal costs. Concerning the legal aid available to child plaintiffs and defendants please see [Section 3.7](#_Right_to_legal).

Similarly, the stamp duty is paid by the parents/guardians and not by the child involved in the procedure either as a plaintiff or defendant. If the Children’s Commissioner or the SWS are involved in the case on behalf of a child and appoint a lawyer to represent the child, then these agencies have the responsibility to pay the stamp duty.

***The child as a witness***

Witnesses are never required to pay legal costs in civil judicial proceedings in Cyprus, even when they fail to appear in court.

***The child in any other role***

Children who constitute the ‘subject’ of any civil judicial proceedings are not required to pay any legal costs in Cyprus.

## Enforcement of civil court judgements

***The child as a plaintiff***

Since a child can only sue and be sued through his/her parents/guardian (see [Section 3.1](#_The_child_as)), it is the parent’s/guardian’s duty to inform the child about the decision of the civil court and about the enforcement of such decision. However, if the child had a legal counsel appointed by the Children’s Commissioner, the legal counsel is obliged to inform the child; furthermore, if the child is under the care of the SWS, the child will be informed either by the SWS in charge and/or by the lawyer from the AG’s office appointed to handle the case (see [Section 3.5](#_Protecting_the_child)).

There are no measures in Cyprus aimed at protecting a child from harm during enforcement proceedings. All court decisions are immediately and directly enforceable until they are reversed by the Supreme Court. The procedures foreseen in the law regarding the execution of Court decisions do not specifically refer to children involved in the proceedings[[158]](#footnote-158).The enforcement of a judgement may be suspended by the issuing court whenever this seems proper and suitable for as long as the court deems it correct[[159]](#footnote-159). Thus, there are no measures in place providing that court judgements involving children are directly and immediately enforceable.

Concerning the communication of court judgements to children and the provision of information to them on their enforcement please see [Section 3.5](#_Protecting_the_child). In accordance with the general rules discussed in [Section 3.1](#_The_child_as), children in principle cannot seek enforcement of court judgements in their own right but only through their parents/legal representatives.

***The child as a defendant***

Regarding the enforcement of civil courts’ judgements the rules applicable to child plaintiffs apply also to child defendants.

If a decision is issued against a child or an adult defendant, the decision does not automatically lead to a charge on his/her property. An order to compensate the plaintiff creates a civil debt, for which an order against the debtor’s assets may be issued by the court only if the debt remains unpaid. In such a case, the order will be issued against the assets of the guardian/parent who is sued in the place of his/her child, provided the guardian/parent is held liable for the child’s actions (see also [Section 3.1](#_The_child_as)).

Note that in Cyprus personal detention is not a means of enforcement of civil court judgements.

***The child as a witness/the child in any other role***

Child witnesses and children who participate in civil judicial proceedings as the ‘subject’ of the dispute cannot seek enforcement of civil court judgements.

No special rules for the enforcement of civil court judgements in cases where children form the subject matter of the civil judicial proceedings have been identified, i.e. the general rules described for child plaintiffs apply in these cases too.

Conclusions

Institutional and legal framework

There is no special set of regulations governing the participation of children in civil judicial proceedings. The practice is largely defined by the case-law which leaves considerable discretion to individual judges on how to approach cases involving children. Parental care and other family law issues seem to monopolise the attention of both the courts and the competent authorities.

The applicable laws in Cyprus relating to civil matters are a mixture of English law written before Cypriot independence and laws enacted since then. The procedure followed by civil law courts is set in the [Civil Procedure rules](http://www.cylaw.org/cpr.html) (Cap. 6) and the [Law of Evidence](http://www.cylaw.org/nomoi/enop/non-ind/0_9/index.html) (Cap. 9). In addition, special laws regulate employment and certain family law issues, including adoption and the relations between parents and children.

Legislation is not particularly developed as regards the main concepts dealt with by the UN Convention on the Rights of the Child, which is only rarely invoked in court. The antiquated general Law on Children, regulating when the Director of the Social Welfare Services (SWS) can assume the guardianship or care of children ‘in need of care and protection’ sheds no light on the role of children in civil judicial proceedings and is expected to undergo comprehensive reform soon.

There are no specialist institutions with exclusive competence to deal with children involved in civil judicial proceedings. However, three distinct authorities are of particular importance:

* the Social Welfare Services (which either assumes the guardianship of children or, if the child has a guardian, submits to the court a socio-economic report on the child’s family situation);
* the [Children’s Commissioner](http://www.childcom.org.cy/ccr/ccr.nsf/DMLcommissioner_en/DMLcommissioner_en?OpenDocument) (who may be called upon by the courts to act as the child’s legal representative in court if there is a conflict between the interests of the child and his/her parents or guardians or where the court requests the involvement of the Children’s Commissioner); and
* the [Attorney General’s Office](http://www.law.gov.cy/law/lawoffice.nsf/dmlpowers_en/dmlpowers_en?OpenDocument) (whose lawyers are involved in the judicial process either as representatives of the Republic or as the child’s lawyers). As there is no institutionalised form of inter-departmental coordination, the relevant agencies cooperate with each other following ad hoc procedures.

In Cyprus there are no Juvenile Courts; children either appear in the ordinary courts (the district or the Supreme Court) or in the family courts if the issue at stake is one of family law. Family courts are composed of specialised judges.

General approach towards children under civil law

In Cyprus, the age of maturity is 18 years of age. However, under certain circumstances children may be awarded the capacity to proceed to certain acts (e.g. concluding certain contracts beneficial to them) or are considered as having civil responsibility even if they are below 18 years of age.

A significant volume of case-law provides guidance on how key concepts, e.g. giving priority to the child’s best interests, safeguarding his/her right to be heard and assessing a child’s evolving capacity, should be interpreted. The rule emerging from legal precedent is that a child has an irrevocable right to be heard; however the weight which the court will attach to his/her views depends on the child’s level of maturity, as assessed by the court. Indeed, when a child reaches an age where he/she can make decisions, the court must take his/her wishes into account. The criterion used in legal precedents appears to be age and not the child’s developmental level. English precedents have established that such age is 14 for boys and 16 for girls.

The Constitution contains a far-reaching provision prohibiting discrimination on all grounds, without specifically referring to children. Also, Council Directive 2000/78, which prohibits discrimination in the field of employment on the ground of age, has been transposed into the Cypriot legal order. Beyond these two provisions there is nothing in the legislation to protect children from discrimination.

The child as an actor in civil judicial proceedings

A child can only sue and be sued through his/her guardian or parent, who will make all decisions on behalf of the child as regards the handling of the trial. Parents/guardians are vested with absolute discretion on how to handle the case, whilst bearing in mind that all decisions must aim at the child’s interests. Children without a guardian can bring proceedings through a guardian ad litem appointed by the court.

Regarding contractual disputes it should be noted that in principle, according to the rules of English law, children below 18 years of age do not have capacity to conclude a contract. Nonetheless, children are legally bound to fair and reasonable contracts they have concluded for the supply of ‘necessaries’ or goods and services beneficial to them, unless the terms are especially burdensome or unfair. Additionally, even though married children are considered by law as capable to enter into a contract, still it seems that they cannot bring legal actions in their own name. Finally, while children can conclude employment contracts under certain conditions, they still cannot bring an action in their own name but must act through their parents/guardians.

The court may deem a child to be mature enough to testify in court. Attendance in such a case is mandatory. In practice, however, this rule is not applied or is very exceptionally applied beyond family law cases. In family law cases, the child would not testify as a witness for one or the other side but as an actor whose opinion is necessary for the court’s investigation.

Regarding interim measures, courts may, upon application of one of the litigants, issue preventive interim orders in all cases they deem necessary, regardless of whether a child is involved. Nonetheless, children cannot apply in their own right for the adoption of such interim measures but must act through their parents/guardians.

Provision of information to children

There are no rules regulating the provision of information to children involved in civil judicial proceedings, regardless of their role. Nor is any child-friendly material containing legal information available; all documents used in civil judicial proceedings involving children use ‘legalistic’ language which is not easily understood by children. This applies not only to the judgement itself but also to all other documents served or used before, during or after the trial, which are normally served to the guardian rather than to the child. No particular agency is mandated with explaining the content and impact of the proceedings or the judgement to the child. Information on an ad hoc basis can only be provided by:

the lawyer representing the child;

the SWS social worker who interviews the child to prepare the socioeconomic report for the court, provided the child is under the care of the SWS;

the Children’s Commissioner, if the latter has been appointed as the child’s legal representative (usually in family law cases);

the judge interviewing the child for the purpose of assessing the child’s evolving capacities.

Protection of the child’s personal and family life

A child has no access to data concerning him/her and no right to correct them. Children’s Commissioner

In practice proceedings involving children are always carried out in camera. However, in spite of the above measures, and although the disclosure by journalists of the names of children involved in civil judicial proceedings is prohibited , the text of court decisions often reveals sensitive information about the child, including his/her name.

Other than this, the publication of testimonies delivered during court proceedings conducted in camera, the taking of pictures or videos of such proceedings or the attempt to interview litigants as they enter or exit the court building may amount to contempt of court.

Protection from harm and ensuring a child-friendly process

Apart from a Constitutional provision modelled on the ECHR as regards trial within a reasonable time, there are no time limits within which judicial proceedings must be concluded. Cases involving children are not fast-tracked or prioritised and long delays occur.

Protecting the child during interviews

There are no precise provisions governing the conduct of interviews with children or limiting their number. As regards the interviews conducted by the judge, it is for the judge to determine their number and manner, based on his/her assessment of the child’s maturity.

No rules regulate the pre-trial interviews conducted by the SWS or the Children’s Commissioner but some general guidelines apply.

Right to be heard and participate in civil judicial proceedings

As a plaintiff or defendant, the child does not have the right to be heard, but s/he can testify as a witness in the case that is brought on his/her behalf to court. The court may ask a child defendant to speak in court in order to state his/her position as regards the offence s/he is accused of. Child witnesses have the same rights as adult witnesses, in other words their testimony must be delivered in the structured manner required by the evidence rules. There are no legal requirements/policies in place to ensure that children are heard in all matters that affect them and children are not consulted on the manner in which they wish to be heard.

In family law proceedings, a child’s views are presented in court through the reports submitted by the SWS and by the Children’s Commissioner, in the event that the latter is appointed as the child’s legal representative. Additionally, a child may express his/her views during a pre-trial interview with the judge in the judge’s chambers as well as during the trial itself, if the child’s evolving capacity is deemed by the judge to be satisfactory to stand in court. There are no rules governing the manner in which a child may exercise his/her right to be heard, but there is a considerable volume of case-law, which has set the parameters of this right. According to this case-law, a child’s right to be heard is a cornerstone of family law but is subject to the child’s perceived [degree of maturity](#_Evolving_capacity_of). A child that has been assessed by the judge to be mature enough to be heard in court may request the court for the right to intervene during the proceedings; it is up to the court to grant this right.

Right to legal counsel, legal assistance and representation

Child plaintiffs in civil judicial proceedings have the right to be represented by a lawyer, similarly to adult plaintiffs.

Legal aid is available to child litigants if the proceedings concern family law issues or human rights violations and the family’s financial means do not allow for the hiring of a lawyer.

Alternatives to judicial proceedings

It is common practice in Cyprus for the litigants’ lawyers to attempt to reach an amicable settlement before the hearing. If that is successful, then it is registered in court and acquires the force of a judgement. However, there is no duty to seek recourse to mediation and no institutionalised procedures for mediation or other means of resolving disputes involving children out of court.

Remedies and compensation for violation of rights and failure to act

Child plaintiffs/defendants, who do not have full capacity to act cannot file an appeal in their own right. This right is exercised by their legal representatives.

Legal costs

With respect to the payment of legal costs, Cypriot legislation does not contain any child-specific rules. In Cyprus the court has discretion to decide who is obliged to pay what part of the legal costs.

Enforcement of civil court judgements

All court decisions are immediately and directly enforceable until they are reversed by the Supreme Court.

Strengths and weaknesses

As already mentioned above, Cypriot courts’ decisions provide a valuable insight into how key concepts (e.g. giving priority to the child’s best interests, safeguarding the right to be heard and assessing a child’s evolving capacity) should be interpreted. Thus, even though civil legislation contains very few child-specific provisions, it is established in court practice in family law cases that a child has a right to be heard subject to the child’s perceived [degree of maturity](#_Evolving_capacity_of). Furthermore, public institutions like the SWS, the Children’s Commissioner and the AG Office aim to ensure that the best interests of children involved in civil judicial proceedings are protected.

Nonetheless, the absence of comprehensive legislation regulating the role of children in civil judicial proceedings has led to several gaps in the way that agencies which are mandated to provide support to children, such as the Children’s Commissioner and the Social Welfare Office, handle the relevant cases. Individual judges have sought to fill these gaps by providing guidelines, through their publications and judgements, on how children ought to be approached in the course of the proceedings. However these guidelines are restricted to the field of family law and cover only situations where children are the ‘subject’ of these proceedings. Beyond this area, there are no provisions requiring the speedy conclusion of civil trials involving children, no special juvenile courts are in operation and no special arrangements for shorter court sessions or specially adapted courtrooms exist.

The current framework provides no structures for children to bring actions or appeal against decisions affecting them in their own right, without being represented by their parents/guardians. In the absence of a regulatory framework, guardians make all decisions as regards the choice of a lawyer and the handling of the case. Where the child has a guardian, the Social Welfare Services and the Children’s Commissioner cannot intervene. Furthermore, the mandate of the Children’s Commissioner to intervene in order to support a child during family law proceedings (including by hiring a private practice lawyer to represent the child in court) may be potentially undermined by two factors: the budget cuts as a results of the austerity measures adopted after the economic crisis hit Cyprus and the precedent created in the case of the asylum applications of unaccompanied children, where the government cancelled the mandate of the Children’s Commissioner to represent children in court through the hiring of private practice lawyers.

The limited remit of the legal aid legislation, whose scope covers only family law and human rights violations, is further undermined by the fact that the ‘means’ test’ is rigorously applied against the assets of the child’s parents or guardians; thus if the parents are deemed to have financial means to pay legal costs, then legal aid is not granted to a child.

Two major law reforms are expected to be completed before the end of the current year which may potentially address some of the problems identified. At the same time, the potential impact of the budget cuts planned in response to the economic crisis on the SWS, the Children’s Commissioner and the AG Office, should not be underestimated.

1. List of Legislation

* Law on the Limitation Period for Actionable Rights N.66(I)/2012 (*Ο Περί Παραγραφής Αγώγιμων Δικαιωμάτων Νόμος του 2012*)
* Law on effective remedies for the violation of the right to diagnose civil rights and obligations within a reasonable time N. 2(I)/2010 (*Ο περί Αποτελεσματικών Θεραπειών για Παραβίαση του Δικαιώματος σε Διάγνωση Αστικών Δικαιωμάτων και Υποχρεώσεων σε Εύλογο Χρόνο Νόμος του 2010*)
* Law on the Commissioner for the Rights of the Child N.74(I)/2007 (*Ο Περί Επιτρόπου Προστασίας των Δικαιωμάτων του Παιδιού Νόμος του 2007*)
* The Combating of Racial and other Forms of Discrimination (Commissioner) N.42(I)/2004 (*Ο Περί Καταπολέμησης των Φυλετικών και Ορισμένων Άλλων Διακρίσεων (Επίτροπος) Νόμος του 2004*)
* Equal Treatmnet in Employment and Occupation N.58(I)/2004 (*Ο Περί Ίσης Μεταχείρισης στην Απασχόληση και την Εργασία Νόμος του 2004*)
* Law on Equal Treatment (Race or Ethnic Origin) N. 59(I)/2004 (*Ο Περί Ίσης Μεταχείρισης (Φυλετική ή Εθνοτική Καταγωγή) Νόμος του 2004*)
* Law on Legal Aid N. 165(I)/2002 (*Ο Περί Νομικής Αρωγής Νόμος του 2002*)
* Law on the processing of data of a personal nature (protection of the person) N.138(I)/2001 (*Ο Περί Επεξεργασίας Δεδομένων Προσωπικού Χαρακτήρα (Προστασία του Ατόμου) Νόμος του 2001*)
* Law on the protection of Young Persons at Work N.48(I)/2001 (*Ο Περί Προστασίας των Νέων κατά την Απασχόληση Νόμος του 2001*)
* Law on Persons with disabilities N. 127(I)/2000 (*Ο Περί Ατόμων με Αναπηρίες Νόμος του 2000*)
* The Radio and Television Channels Regulations of 2000, issued under the Law on Radio and Television Channels (*Οι περί Ραδιοφωνικών και Τηλεοπτικών Σταθμών Νόμοι, Κανονισμοί δυνάμει του άρθρου 5*)
* Journalists Code of Practice, (*Κώδικας Δημοσιογραφικής Δεοντολογίας*), 1998
* Law on adoption N.19(I)/1995 (*Ο περί Υιοθεσίας Νόμος του 1995*)
* Law on relations between parents and children N.216/1990 (*Ο περί Σχέσεων Γονέων και Τέκνων Νόμος του 1990*)
* Constitution of the Republic of Cyprus (*Σύνταγμα της Κυπριακής Δημοκρατίας*)
* Courts of Justice Law N.14/1960 (*Οι περί Δικαστηρίωv Νόμoι τoυ 1960 έως (Αρ. 3) τoυ 1998*)
* Law of Evidence, Cap. 9 (*Ο περί Αποδείξεως Νόμος (ΚΕΦ.9*))
* Law on Arbitration, Cap.4 (*Ο περί Διαιτησίας Νόμος (ΚΕΦ.4*))
* Law on Civil Wrongs, Cap. 148 *(Ο περί Αστικών Αδικημάτων Νόμος (ΚΕΦ.148)*)
* Law on Contracts, Cap. 149 *(Ο περί Συμβάσεων Νόμος (ΚΕΦ.149)*)
* Law on Children, Cap. 352 (*Ο περί Παιδίων Νόμος* *(ΚΕΦ. 352)*)
* Civil Procedure rules, Cap. 6 (*Ο περί Πολιτικής Δικονομίας Νόμος (ΚΕΦ.6)*)

1. This table provides an indicative summary of competent courts and relevant proceedings. However, please check [Section 2](#Section2) for a complete overview of the competent courts or sections/divisions within the competent courts. [↑](#footnote-ref-1)
2. This study on Children’s involvement in judicial proceedings is composed of three contextual overviews i.e. contextual overview for criminal justice, contextual overview for civil justice, contextual overview for administrative justice. The rules applying to judicial proceedings in the sectors of asylum, migration, education, health, placement into care, administrative sanction and offences committed by children below MACR are described in the contextual overview for administrative justice. [↑](#footnote-ref-2)
3. (MACR) Minimum Age of Criminal Responsibility – see [Table 3.1 of the EU Summary of contextual overviews on children's involvement in criminal judicial proceedings](http://bookshop.europa.eu/en/summary-of-contextual-overviews-on-children-s-involvement-in-criminal-judicial-proceedings-in-the-28-member-states-of-the-european-union-pbDS0313659/related/?PublicationKey=DS0313659&CatalogCategoryID=WTQKABsteF0AAAEjKpEY4e5L) on MACR in EU28 as at 1 June 2012. [↑](#footnote-ref-3)
4. As not all laws are available online in Cyprus, it was not possible to provide hyperlinks for some of the laws mentioned in this report. [↑](#footnote-ref-4)
5. Phoebus Christos Clerides & Associates, ‘[*Civil Law and Procedures*](http://www.cypruslawdigest.com/topics/judicial-system/item/133-civil-law-and-procedures)’, Cyprus Law Digest. [↑](#footnote-ref-5)
6. [Law on adoption](http://www.cylaw.org/nomoi/enop/non-ind/1995_1_19/full.html) N.19(I)/1995 (*Ο περί Υιοθεσίας Νόμος του 1995*) (available in Greek). [↑](#footnote-ref-6)
7. [Law on relations between parents and children](http://www.cylaw.org/nomoi/enop/non-ind/1990_1_216/full.html) N.216/1990 (*Ο περί Σχέσεων Γονέων και Τέκνων Νόμος του 1990*) (available in Greek). [↑](#footnote-ref-7)
8. [Law on the protection of Young Persons at Work](http://www.cylaw.org/nomoi/enop/non-ind/2001_1_48/full.html) N.48(I)/2001 (*Ο Περί Προστασίας των Νέων κατά την Απασχόληση Νόμος του 2001*) (available in Greek). [↑](#footnote-ref-8)
9. The Hague Convention on the Civil Aspects of International Child Abduction Ν.11(III)/94 (*Σύμβαση της Χάγης για τις Αστικές Πτυχές της Διεθνούς Απαγωγής Παιδιών*), Article 13. [↑](#footnote-ref-9)
10. Information obtained through consultation with stakeholders (the Attorney General’s office whose officers were, at the time of writing, busy with the drafting of the amending legislation). [↑](#footnote-ref-10)
11. [Law on Children](http://www.cylaw.org/nomoi/enop/non-ind/0_352/full.html) Cap. 352 (*Ο περί Παιδίων Νόμος (ΚΕΦ 352)*). Other areas covered by this law is the regulation of nurseries and child-minders, remand homes, foster child protection, prevention of cruetly. [↑](#footnote-ref-11)
12. [Law on Children](http://www.cylaw.org/nomoi/enop/non-ind/0_352/full.html) Cap. 352, Article 71. [↑](#footnote-ref-12)
13. According to the SWS, the [Law on Children](http://www.cylaw.org/nomoi/enop/non-ind/0_352/full.html) Cap. 352 will be broken into two different laws and four sets of regulations and its scope will be expanded. At the time of writing, the comprehensive reform did not take place yet, but on 21.06.2013 the [Law on Children](http://www.childcom.org.cy/ccr/ccr.nsf/All/01F4EC50F3A8BFB6C22574720037C711?OpenDocument) Cap. 352 was amended by deleting the clause which had permitted parents to administer corporal punishment on their children (Article 54(6)), a provision which had been repeatedly criticised by the UN Committee on the Rights of the Child. [↑](#footnote-ref-13)
14. [Law on relations between parents and children](http://www.cylaw.org/nomoi/enop/non-ind/1990_1_216/full.html) N.216/1990, article 14(3). [↑](#footnote-ref-14)
15. A state agency forming part of the Ministry of Labour and Social Insurance. [↑](#footnote-ref-15)
16. An independent public agency dealing exclusively with the rights of the child. [↑](#footnote-ref-16)
17. Articles 112 - 114 of the [Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf) (*Σύνταγμα της Κυπριακής Δημοκρατίας*). [↑](#footnote-ref-17)
18. [Law on Children](http://www.cylaw.org/nomoi/enop/non-ind/0_352/full.html) Cap. 352, Article 63(1). [↑](#footnote-ref-18)
19. Information obtained through consultation with stakeholders (SWS officer). [↑](#footnote-ref-19)
20. [Law on the Commissioner for the Rights of the Child](http://www.childcom.org.cy/ccr/ccr.nsf/All/01F4EC50F3A8BFB6C22574720037C711?OpenDocument) N. 74(I)/2007 (*Ο Περί Επιτρόπου Προστασίας των Δικαιωμάτων του Παιδιού Νόμος του 2007*), Article 4(1)(g) and 4(1)(h). An unofficial English translation of the law is available at the website of the [Children’s Commissioner](http://www.childcom.org.cy/ccr/ccr.nsf/All/5768A13F9CB48485C225746E00332103?OpenDocument). [↑](#footnote-ref-20)
21. Information obtained through consultation with stakeholders (officers at the Child Commisioner’s office).The draft regulations discussed were not made available to the author. [↑](#footnote-ref-21)
22. [Courts of Justice Law](http://www.cylaw.org/nomoi/enop/non-ind/1960_1_14/full.html) N.14/1960 (*Οι περί Δικαστηρίωv Νόμoι τoυ 1960 έως (Αρ. 3) τoυ 1998*) as amended, Article 22. [↑](#footnote-ref-22)
23. [The Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf), Article 146. [↑](#footnote-ref-23)
24. [Courts of Justice Law](http://www.cylaw.org/nomoi/enop/non-ind/1960_1_14/full.html) N.14/1960 as amended, Article 24. [↑](#footnote-ref-24)
25. [The Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf), Article 113(2). [↑](#footnote-ref-25)
26. [The Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf), Article 30. [↑](#footnote-ref-26)
27. Information obtained through consultation with stakeholders (SWS officer). [↑](#footnote-ref-27)
28. Information obtained through consultation with stakeholders (SWS officer). [↑](#footnote-ref-28)
29. Information obtained through consultation with stakeholders (officer at the Children’s Commissioner’s office). [↑](#footnote-ref-29)
30. See for instance the [exam questions](http://www.law.gov.cy/law/lawoffice.nsf/All/1F08769B10268B06C2257C610029E496?OpenDocument) of October 2013. [↑](#footnote-ref-30)
31. [Law on relations between parents and children](http://www.cylaw.org/nomoi/enop/non-ind/1990_1_216/full.html) N.216/1990 (available in Greek), Article 2. [↑](#footnote-ref-31)
32. [Law on adoption](http://www.cylaw.org/nomoi/enop/non-ind/1995_1_19/full.html) N.19(I)/1995 (available in Greek), Article 2. [↑](#footnote-ref-32)
33. [Law on Children](http://www.cylaw.org/nomoi/enop/non-ind/0_352/full.html) Cap. 352, Article 3(1). In the same provision, a child in need is defined as a child that ‘has neither parent nor guardian or has been and remains abandoned by his parents or guardian or is lost’; or whose ‘parents or guardians are, for the time being or permanently, prevented by reason of mental or bodily disease, or infirmity or other incapacity or any other circumstances from providing for his proper accommodation, maintenance or upbringing and there is no available person or persons capable, fit or willing to undertake the care of such child’; and in either case, the intervention of the SWS is necessary to secure the interests of the welfare of such child. [↑](#footnote-ref-33)
34. Liasides S., ‘*Hearing the under-age child in family law’ in The Family Law Review* (*Επιθεώρηση Οικογενειακού Δικαίου*) [2010] January- March, Vol. 1, 7, 8. [↑](#footnote-ref-34)
35. ibid. [↑](#footnote-ref-35)
36. Information gathered through desk research and interview with lawyer from the AG’s office. [↑](#footnote-ref-36)
37. ibid, Vol. 1, 7, 20. [↑](#footnote-ref-37)
38. [*Efstathios Kyriacou and Sons Ltd v. Mouzourides*](http://www.cylaw.org/clr/1963/1963_2_1.pdf) (1963) 2 C.L.R. 1. [↑](#footnote-ref-38)
39. *Lysioti v. The Republic* (2000), Ref. P.E.10515 dated 22 March 2000. [↑](#footnote-ref-39)
40. [*A. Iakovides v K. Iakovidou*](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2000/1-200006-oik95.htm&qstring=ιακωβιδ*%20AND%20v%20AND%20ιακωβιδο*%20AND%202000) (2000) 1 AAD, 1108, Appeal No. 95, judgement delivered on 30 June 2000. [↑](#footnote-ref-40)
41. [Law on relations between parents and children](http://www.cylaw.org/nomoi/enop/non-ind/1990_1_216/full.html) N.216/1990 (available in Greek), Article 6(3); the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (N.36/1986), Article 15; The Convention on the Rights of the Child (N.5(III)/2000), Article 12(1). [↑](#footnote-ref-41)
42. The Hague Convention on the Civil Aspects of International Child Abduction (N. 11(III)/94), Article 13. [↑](#footnote-ref-42)
43. [Law on adoption](http://www.cylaw.org/nomoi/enop/non-ind/1995_1_19/full.html) N19(I)/1995, Article 4(1)(c). [↑](#footnote-ref-43)
44. Liasides S., ‘Hearing the under-age child in family law’ in The Family Law Review (*Επιθεώρηση Οικογενειακού Δικαίου*) [2010] January- March, Vol. 1, 7, 12-16. [↑](#footnote-ref-44)
45. [*Esaias Ioannides v. Chada Ioannides*](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2002/1-200209-129.htm&qstring=hsai*%20AND%20ivannid*) (2002), 1 ΑΑD, 1446 (Appeal Nos 129 and 130). [↑](#footnote-ref-45)
46. See footnote 41, Liasides S., Vol. 1, 7, 8. [↑](#footnote-ref-46)
47. Manoledaki Ε.Κ. (2003), *Family Law* (*Οικογενειακό Δίκαιο*) Vol. ΙΙ, 3rd edition, p.270, quoted in: Liasides S., ‘*Hearing the under-age child in family law*’ in The Family Law Review (*Επιθεώρηση Οικογενειακού Δικαίου*) [2010] January- March, Vol. 1, 7, 12. [↑](#footnote-ref-47)
48. Vathrakokili (2004), *Family Law* (*Οικογενειακό Δίκαιο*) p. 907, quoted in: Liasides S*., ‘Hearing the under-age child in family law*’ in The Family Law Review (*Επιθεώρηση Οικογενειακού Δικαίου*) [2010] January- March, Vol. 1, 7, 12. [↑](#footnote-ref-48)
49. Information obtained through consultation with stakeholders (senior advocate from the AG ‘s office). [↑](#footnote-ref-49)
50. Georgiades A. & Stathopoulou M. (2003), *Civil Code* (*Αστικός Κώδικας*) Vol. VIII, 2nd edition, p. 98, quoted in: Liasides S., ‘Hearing the under-age child in family law’ in The Family Law Review (*Επιθεώρηση Οικογενειακού Δικαίου*) [2010] January- March, Vol. 1, 7, 12. [↑](#footnote-ref-50)
51. [*Stylianou v. Stylianou*](http://www.cylaw.org/clr/1993/1993_1_130.pdf) (1993) 1AAD, 130. [↑](#footnote-ref-51)
52. [*G.Antoniou v. Harpa*](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2001/1-200102-114.htm&qstring=αντων*%20AND%20χαρπ*%20AND%202001) (2001) 1 ΑΑD, 194. [↑](#footnote-ref-52)
53. [*Re. application by A. Calphopoulou*](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/1998/1-199801-100-97-7.htm&qstring=καλφοπουλο*) (1998) 1 AAD, 55. [↑](#footnote-ref-53)
54. [*Tsekkoura v. Tsekkoura*](http://www.cylaw.org/clr/1994/1994_1_822.pdf) (1994) 1AAD, 822. [↑](#footnote-ref-54)
55. [*Ioannides v. Ioannides*](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2002/1-200209-129.htm&qstring=ιωαννιδ*) (2002) 1AAD, 1446. [↑](#footnote-ref-55)
56. [The Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf), Article 28. [↑](#footnote-ref-56)
57. [Law on Equal Treatment (Race or Ethnic Origin)](http://www.cylaw.org/nomoi/enop/non-ind/2004_1_59/full.html) N.59(I)/2004 (*Ο Περί Ίσης Μεταχείρισης (Φυλετική ή Εθνοτική Καταγωγή) Νόμος του 2004*) (available in Greek); [Equal Treatmnet in Employment and Occupation](http://www.cylaw.org/nomoi/enop/non-ind/2004_1_58/full.html) N.58(I)/2004 (*Ο Περί Ίσης Μεταχείρισης στην Απασχόληση και την Εργασία Νόμος του 2004*) (available in Greek); [Law on Persons with disabilities](http://www.cylaw.org/nomoi/enop/non-ind/2000_1_127/full.html) N.127(I)/2000 (*Ο Περί Ατόμων με Αναπηρίες Νόμος του 2000*) as amended (available in Greek). [↑](#footnote-ref-57)
58. [The Combating of Racial and other Forms of Discrimination (Commissioner) Law](http://www.cylaw.org/nomoi/enop/non-ind/2004_1_42/full.html) N.42(I)/2004 (*Ο Περί Καταπολέμησης των Φυλετικών και Ορισμένων Άλλων Διακρίσεων (Επίτροπος) Νόμος του 2004*) (available in Greek). [↑](#footnote-ref-58)
59. Demetriou, C. (2011) [*Report on measures to combat discrimination Directives 2000/43/EC and 2000/78/EC Country report 2010, Cyprus*](http://www.non-discrimination.net/content/media/2010-CY-Country%20Report%20LN_FINAL_0.pdf)*,* European Network of Legal Experts in the non-discrimination field. [↑](#footnote-ref-59)
60. [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6 (*Ο περί Πολιτικής Δικονομίας Νόμος (ΚΕΦ.6)*), Order 9, clause 12; information confirmed through consultation with stakeholders (AG’s office). [↑](#footnote-ref-60)
61. [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, Order 9, clause 12. [↑](#footnote-ref-61)
62. [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, Order 2, clause 4b and 15. [↑](#footnote-ref-62)
63. [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, Order 16, clause 10. [↑](#footnote-ref-63)
64. Information obtained through consultation with stakeholder (AG’s office). [↑](#footnote-ref-64)
65. [Law on the relations between parents and children](http://www.cylaw.org/nomoi/enop/non-ind/1990_1_216/index.html) N.216/1990, Article 6(1). [↑](#footnote-ref-65)
66. The guardian ad litem is appointed by the court for unaccompanied minors. The ‘next friend’ is a concept introduced in the [Law on Children](http://www.cylaw.org/nomoi/enop/non-ind/0_352/full.html) Cap. 352, (e.g. Article 3(3)(b)). Although not defined, it is considered as referring to a person who is not a guardian or a parent but who accompanies the child in the absence of a guardian. The director of the SWS must endeavour so that an abandoned child is taken over by a ‘parent, guardian, relative or friend’. From the wording of the law, it appears that the ‘friend’ is a person who may or may not be a relative and who takes care of the child, pending procedures for his/her formal appointment as a carer or guardian. [↑](#footnote-ref-66)
67. A ‘special case’ is a preliminary hearing on a point of law. According to Order 29, clause 1 of the [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6,the parties to any cause or matter may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court’. [↑](#footnote-ref-67)
68. [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, Order 29, rules 4-5. [↑](#footnote-ref-68)
69. [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, Order 12, rules 4 and 6. [↑](#footnote-ref-69)
70. Prf. Dr Ohly, [Introduction to English Law](http://www.zivilrecht8.uni-bayreuth.de/de/download/Download-Archiv/English_Law_WS_09_10/EL_2_1_LN.pdf); JC Smith, Smith & Thomas: [A Casebook on Contract](http://www.lawteacher.net/contract-law/lecture-notes/capacity-lecture.php), Eleventh Edition, 2000, Chapter 17. [↑](#footnote-ref-70)
71. In 2010, the Children’s Commissioner expressed the position that according to English law children do not have the capacity to enter into contracts except for acquiring necessities, but additionally made use of Article 25 (the right to recreation) of the [Convention on the Rights of the Child](http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx) in order to conclude that a contract entered into by a group of students with a hotel was valid and enforceable. [↑](#footnote-ref-71)
72. [Law on Contracts](http://www.cylaw.org/nomoi/enop/non-ind/0_149/index.html) Cap.149 (*Ο περί Συμβάσεων Νόμος (ΚΕΦ.149)*), Article 11(2). [↑](#footnote-ref-72)
73. [Law on the Protection of Young Persons at Work](http://www.cylaw.org/nomoi/enop/non-ind/2001_1_48/full.html) N.48(I)/2001, Articles 5-8 and 24. [↑](#footnote-ref-73)
74. [Law on the Protection of Young Persons at Work](http://www.cylaw.org/nomoi/enop/non-ind/2001_1_48/full.html) N.48(I)/2001, Article 28(1). [↑](#footnote-ref-74)
75. [Law on the Protection of Young Persons at Work](http://www.cylaw.org/nomoi/enop/non-ind/2001_1_48/full.html) N.48(I)/2001, Artcile 31. [↑](#footnote-ref-75)
76. [Law on Civil Wrongs](http://www.cylaw.org/nomoi/enop/non-ind/0_148/full.html) Cap. 148, *(Ο περί Αστικών Αδικημάτων Νόμος (ΚΕΦ.148)*), Article 9. [↑](#footnote-ref-76)
77. [Law on Civil Wrongs](http://www.cylaw.org/nomoi/enop/non-ind/0_148/full.html) Cap. 148, Article 8. [↑](#footnote-ref-77)
78. [Law on Contracts](http://www.cylaw.org/nomoi/enop/non-ind/0_149/index.html) Cap.149, Article 11(2). [↑](#footnote-ref-78)
79. [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, Order 9, Rule. 12. [↑](#footnote-ref-79)
80. A ‘special case’ is a preliminary hearing on a point of law. According to Order 29, rule 1 of the [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, ‘the parties to any cause or matter may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court’. [↑](#footnote-ref-80)
81. Information obtained through consultation with stakeholders (lawyer). [↑](#footnote-ref-81)
82. [Courts of Justice Law](http://www.cylaw.org/nomoi/enop/non-ind/1960_1_14/full.html) N.14/1960 as amended, Article 55. [↑](#footnote-ref-82)
83. [*Esaias Ioannides v. Chada Ioannides*](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2002/1-200209-129.htm&qstring=hsai*%20AND%20ivannid*) (2002), 1 ΑΑD 1446 (Appeal Nos 129 and 130). [↑](#footnote-ref-83)
84. [Law on relations between parents and children](http://www.cylaw.org/nomoi/enop/non-ind/1990_1_216/full.html) N.216/1990, Article 6(3). Also, the European Convention on Recognition and Enforcement of Decisions concerning Custody of Children and on Restoration of Custody of Children (Law 36/1986) Article 15. [↑](#footnote-ref-84)
85. [*G. Hailis v. Minister of Justice and Public Order*](http://www.cylaw.org/clr/1994/1994_1_530.pdf) (1994) 1 AAD 530. [↑](#footnote-ref-85)
86. Regulations on the custody of minors and prodigals (amendment) 1972, Reg. 5(1). [↑](#footnote-ref-86)
87. [*F. Damianou v. E. Damianou*](http://www.cylaw.org/clr/1989/1989_1E_29.pdf) (1989)1AAD 29. [↑](#footnote-ref-87)
88. The Hague Convention on the Civil Aspects of International Child Abduction N.11(III)/1994, Article 13. [↑](#footnote-ref-88)
89. [*N. Nicolaou v. Ministry of Justice and Public Order*](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2008/1-200812-22-08.htm&qstring=νικολαο*%20AND%20υπουργ*%20AND%202008) (2008), Appeal No. 22/2008, 30 December 2008. [↑](#footnote-ref-89)
90. [Law on adoption](http://www.cylaw.org/nomoi/enop/non-ind/1995_1_19/full.html) N.19(I)/1995, Article 5(1)(b). [↑](#footnote-ref-90)
91. [Courts of Justice Law](http://www.cylaw.org/nomoi/enop/non-ind/1960_1_14/full.html) N.14/1960 as amended, Article 32. [↑](#footnote-ref-91)
92. [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, Order 9. [↑](#footnote-ref-92)
93. Information obtained through consultation with stakeholders (AG’s office). [↑](#footnote-ref-93)
94. Information obtained through consultation with stakeholders (SWS officer). [↑](#footnote-ref-94)
95. Information obtained through consultation with stakeholders (officer in the Children’s Commissioner’s office). [↑](#footnote-ref-95)
96. Information obtained through consultation with stakeholders (officer in the Children’s Commissioner’s office). [↑](#footnote-ref-96)
97. See footnote 32, Liasides S, Vol. 1, 7, 7-8. [↑](#footnote-ref-97)
98. Information obtained through consultation with stakeholders (AG’s office). [↑](#footnote-ref-98)
99. Order 16, section 10 of the [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6 provides that a child cannot enter an appearance unless the memorandum bears a consent in writing from his/her guardian. Also, according to Order 2, section 15 of the [Civil Procedure rules](http://www.cylaw.org/cpr.html) Cap. 6, writs presented by or on behalf of a child must be endorsed by a statement signed by such guardian. [↑](#footnote-ref-99)
100. Information obtained through consultation with stakeholders (AG’s office). [↑](#footnote-ref-100)
101. Information obtained through consultation with stakeholder (AG’s office). [↑](#footnote-ref-101)
102. Article 15  of the [the Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf) reads: ‘1. Every person has the right to respect for his private and family life. 2. There shall be no interference with the exercise of this right except such as is in accordance with the law and is necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the rights and liberties guaranteed by this Constitution to any person. [↑](#footnote-ref-102)
103. [Law on the processing of data of a personal nature (protection of the person)](http://www.cylaw.org/nomoi/enop/non-ind/2001_1_138/index.html) N.138(I)/2001 (*Ο Περί Επεξεργασίας Δεδομένων Προσωπικού Χαρακτήρα (Προστασία του Ατόμου) Νόμος του 2001*) (available in Greek), Article 5(2)(e). [↑](#footnote-ref-103)
104. [Law on the processing of data of a personal nature (protection of the person)](http://www.cylaw.org/nomoi/enop/non-ind/2001_1_138/index.html) N.138(I)/2001, Article 6(2)(e). [↑](#footnote-ref-104)
105. [Courts of Justice Law](http://www.cylaw.org/nomoi/enop/non-ind/1960_1_14/full.html) N.14/1960 as amended, Article 44. [↑](#footnote-ref-105)
106. [The Radio and Television Channels Regulations of 2000](http://www.crta.org.cy/images/users/1/kanonismoi/KANONISMOI.pdf), issued under the Law on Radio and Television Channels (*Οι περί Ραδιοφωνικών και Τηλεοπτικών Σταθμών Νόμοι, Κανονισμοί δυνάμει του άρθρου 51*) (available in Greek), Article 32(3)(c) and (d). [↑](#footnote-ref-106)
107. [The Radio and Television Authority](http://www.crta.org.cy/default.asp?id=266) is a public independent body with powers to regulate the broadcasting sector (radio and television). [↑](#footnote-ref-107)
108. [The Law on Radio and Television Channels](http://www.crta.org.cy/images/users/1/CRTA-LAW7(1)98%20FINAL%202011.pdf) (*Ο περί Ραδιοφωνικών και Τηλεοπτικών Σταθμών Νόμος του 1998*) (available in Greek), Αrticle 41B. [↑](#footnote-ref-108)
109. [The Law on Radio and Television Channels](http://www.crta.org.cy/images/users/1/CRTA-LAW7(1)98%20FINAL%202011.pdf), Αrticle 41C. [↑](#footnote-ref-109)
110. [Journalists Code of Practice](http://www.cmcc.org.cy/code_pradice2.html) (*Κώδικας Δημοσιογραφικής Δεοντολογίας*). [↑](#footnote-ref-110)
111. Information obtained through consultation with stakeholders (SWS officer, advocate from the AG’s office and with officer at the Children’s Commissioner’s office). [↑](#footnote-ref-111)
112. Information obtained through consultation with stakeholders (the AG’s office and the SWS). [↑](#footnote-ref-112)
113. Aticle 30.2 of the [the Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf) stipulates: ‘In the determination of his civil rights and obligations or of any criminal charge against him, every person is entitled to a fair and public hearing within a reasonable time by an independent, impartial and competent court established by law. Judgement shall be reasoned and pronounced in public session, but the press and the public may be excluded from all or any part of the trial upon a decision of the court where it is in the interest of the security of the Republic or the constitutional order or the public order or the public safety or the public morals or where the interests of juveniles or the protection of the private life of the parties so require or, in special circumstances where, in the opinion of the court, publicity would prejudice the interests of justice’. [↑](#footnote-ref-113)
114. Pikis G. M. (2006) C*onstitutionalism - Human Rights - Separation of Powers, the Cyprus Precedent*, MartinusNijhoff Publishers, Leiden/Boston, pp. 80-82. [↑](#footnote-ref-114)
115. [Law on effective remedies for the violation of the right to diagnose civil rights and obligations within a reasonable time](http://www.cylaw.org/nomoi/enop/non-ind/2010_1_2/full.html) N.2(I)/2010 (*Ο περί Αποτελεσματικών Θεραπειών για Παραβίαση του Δικαιώματος σε Διάγνωση Αστικών Δικαιωμάτων και Υποχρεώσεων σε Εύλογο Χρόνο Νόμος του 2010*) (available in Greek). [↑](#footnote-ref-115)
116. Cypriot Courts are notorious for their delays and have been repeatedly convicted by the ECtHR for violation of Articles 6 and 13 of the ECHR.See for instance [*Clerides & Kynigos v. Cyprus*](http://echr.ketse.com/doc/35128.02-en-20060119/view/)*,*19/04/2006, Application no. 35128/02, European Court of Human Rights, regarding a national Court case that had lasted 12 years as a result of repeated adjournments and delays in transferring the file from the District Court to the Supreme Court. In 2010, Cyprus’ compliance with the ECtHR’s aforesaid decisions was placed under the supervision of the Council of Europe’s Ministerial Committee, as a result of which this law was enacted. [↑](#footnote-ref-116)
117. Information obtained through consultation with stakeholders (AG’s office). [↑](#footnote-ref-117)
118. [Courts of Justice Law](http://www.cylaw.org/nomoi/enop/non-ind/1960_1_14/full.html) N.14/1960 as amended, Articles 41-42. [↑](#footnote-ref-118)
119. The Hague Convention on the Civil Aspects of International Child Abduction N.11(III)/1994, Article 11. [↑](#footnote-ref-119)
120. [Law on relations between parents and children](http://www.cylaw.org/nomoi/enop/non-ind/1990_1_216/full.html) N.216/1990, Article 18(1). [↑](#footnote-ref-120)
121. Information obtained through consultation with stakeholders (the AG’s office). [↑](#footnote-ref-121)
122. [Law of Evidence](http://www.cylaw.org/nomoi/enop/non-ind/0_9/index.html) Cap. 9, (*Ο περί Αποδείξεως Νόμος (ΚΕΦ.9)*), Article 13. [↑](#footnote-ref-122)
123. Prior to 2009, the evidence law used to provide (in Article 9) that no person shall be convicted of an offence upon the unsworn evidence of a child of tender years unless such unsworn evidence is corroborated by material evidence implicating the accused. In 2009, Article 9 was amended by amending law N. 14(I)/2009 so that it is no longer necessary for the Court to seek additional or supporting evidence to a child’s testimony, delivered under oath or without being under oath, in order to convict the accused, nor is it necessary for the court to warn itself of the dangers involved in accepting a child’s testimony, as it was the practice of the courts until then. [↑](#footnote-ref-123)
124. [*Esaias Ioannides v. Chada Ioannides* (2002)](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2002/1-200209-129.htm&qstring=hsai*%20AND%20ivannid*), 1 ΑΑD 1446 (Appeal Nos 129 and 130). [↑](#footnote-ref-124)
125. ibid. [↑](#footnote-ref-125)
126. In an article to a journal, a Family Court judge offers his personal views on how this interview must be conducted: the preliminaries, the place and the time, the types of questions to be asked etc: Liasides S., ‘*Hearing the under-age child in family law*’ in The Family Law Review (*Επιθεώρηση Οικογενειακού Δικαίου*) [2010] January- March, Vol. 1, 7, 18-23. However there is no evidence of such guidelines being followed. [↑](#footnote-ref-126)
127. Esaias Ioannides v. Chada Ioannides (2002), 1 ΑΑD 1446, at page 1453 (Appeal Nos 129 and 130). [↑](#footnote-ref-127)
128. [Law on Legal Aid](http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html) N.2002 (165(I)/2002), Article 5. [↑](#footnote-ref-128)
129. Article 12 of the  [Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf) reads: ‘Every person charged with an offence has the following minimum rights:   
     (a) to be informed promptly and in a language which he understands and in detail of the nature and grounds of the charge preferred against him;

     (b) to have adequate time and facilities for the preparation of his defence;

     (c) to defend himself in person or through a lawyer of his own choosing or, if he has no sufficient means to pay for legal assistance, to be given free legal assistance when the interests of justice so require;

     (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

     (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.’ [↑](#footnote-ref-129)
130. [Law of Evidence](http://www.cylaw.org/nomoi/enop/non-ind/0_9/index.html) Cap. 9, Article 13. [↑](#footnote-ref-130)
131. In an article to a journal, a Family Court judge offers his personal views on how this interview must be conducted: the preliminaries, the place and the time, the types of questions to be asked etc: Liasides S., ‘Hearing the under-age child in family law’ in The Family Law Review (*Επιθεώρηση Οικογενειακού Δικαίου*) [2010] January- March, Vol. 1, 7, 18-23. However there is no evidence of such guidelines being followed. [↑](#footnote-ref-131)
132. [*Esaias Ioannides v. Chada Ioannides*](http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_1/2002/1-200209-129.htm&qstring=hsai*%20AND%20ivannid*) (2002), 1 ΑΑD 1446, at page 1453 (Appeal Nos 129 and 130). [↑](#footnote-ref-132)
133. Information derived from the expert’s personal knowledge. [↑](#footnote-ref-133)
134. For a few samples of such decisions, see the [website of the Cyprus Bar Association](http://www.cylaw.org/cgi-bin/sinocgi.pl?searchoption=1&query=%E1%ED%E7%EB%E9%EA%EF&hitsnom=20&nexthit=1&prev_query=%E1%ED%E7%EB%E9%EA&new_search=1&masks=apofaseis%2Faad). [↑](#footnote-ref-134)
135. Information obtained through consultation with stakeholders (the AG’s office). See also Article 20(2) of the Lawyers’ Code of Conduct according to which lawyers are obliged to advise and defend their clients within a reasonable time, consciously and with the required degree of care. The duty to inform the client of the judgement can be considered as inherent in the duty to advise the client. [↑](#footnote-ref-135)
136. Interview with stakeholder from the Children’s Commissioner’s office. [↑](#footnote-ref-136)
137. [Law on the Limitation Period for Actionable Rights](http://www.cylaw.org/nomoi/enop/non-ind/2012_1_66/full.html) N.66(I)/2012 (*Ο Περί Παραγραφής Αγώγιμων Δικαιωμάτων Νόμος του 2012*) (available in Greek). [↑](#footnote-ref-137)
138. [ibid](http://www.cylaw.org/nomoi/enop/non-ind/2012_1_66/full.html), Article 12. [↑](#footnote-ref-138)
139. [ibid](http://www.cylaw.org/nomoi/enop/non-ind/2012_1_66/full.html), Article 16. [↑](#footnote-ref-139)
140. [ibid](http://www.cylaw.org/nomoi/enop/non-ind/2012_1_66/full.html), Article 13. [↑](#footnote-ref-140)
141. [Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgements in matrimonial matters and the matters of parental responsibility](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003R2201:EN:HTML)**, Article 23.** [↑](#footnote-ref-141)
142. [Law on Legal Aid](http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html) N.165(I)/2002 (*Ο Περί Νομικής Αρωγής Νόμος του 2002*) (available in Greek), Article 5. [↑](#footnote-ref-142)
143. [Law on Legal Aid](http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html) N.165(I)/2002, Article 7. Note that the term ‘in the interests of justice’ is not defined in the law. [↑](#footnote-ref-143)
144. [Law on Legal Aid](http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html) N.165(I)/2002, Article 9(1)(a). [↑](#footnote-ref-144)
145. [Law on Legal Aid](http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html) N.165(I)/2002, Article 10. [↑](#footnote-ref-145)
146. Article 12 of [the Constitution of the Republic of Cyprus](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf) reads: ‘Every person charged with an offence has the following minimum rights:   
     (a) to be informed promptly and in a language which he understands and in detail of the nature and grounds of the charge preferred against him;

     (b) to have adequate time and facilities for the preparation of his defence;

     (c) to defend himself in person or through a lawyer of his own choosing or, if he has no sufficient means to pay for legal assistance, to be given free legal assistance when the interests of justice so require;

     (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

     (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.’ [↑](#footnote-ref-146)
147. [Law on Legal Aid](http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html) N.165(I)/2002, Article 5. [↑](#footnote-ref-147)
148. [Law on Legal Aid](http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html) N.165(I)/2002, Article 6. [↑](#footnote-ref-148)
149. Under the [Combating of Racial and Some Other Forms of Discrimination (Commissioner)](http://www.cylaw.org/nomoi/enop/non-ind/2004_1_42/full.html) Law N.42(1)/ 2004 Article 3(1), the Equality Body is vested with the power to (i) combat racist and indirectly racist discrimination as well as discrimination forbidden by law and generally discrimination on the grounds of race, community, language, colour, religion, political or other beliefs and national or ethnic origin; (ii) promote equality of the enjoyment of rights and freedoms safeguarded by the Constitution or by one or more of the Conventions ratified by Cyprus and referred to explicitly in the Law (these do not include the [Convention on the Rights of the Child](http://www.google.gr/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&sqi=2&ved=0CCkQFjAA&url=http%3A%2F%2Fwww.unicef.org%2Fcrc%2F&ei=9E5JUtryEIaShQeK-YBY&usg=AFQjCNECycRqS3loVYXcbhrlkDXVM78OsQ&sig2=tg1w4nIrK0bewRVqgEutwg&bvm=bv.53217764,d.bGE)) irrespective of race, community, language, colour, religion, political or other beliefs, national or ethnic origin and (iii) promote equality of opportunity irrespective of grounds listed in the preceding section (to which the grounds of special needs and sexual orientation are added) in the areas of employment, access to vocational training, working conditions including pay, membership to trade unions or other associations, social insurance and medical care, education and access to goods and services including housing. Thus, its mandate covers all five grounds of the two anti-discrimination Directives but extends further to include gender, nationality, community as well as rights contained in the Cypriot Constitution and in international conventions ratified by Cyprus. [↑](#footnote-ref-149)
150. [Law on the Commissioner for the Rights of the Child](http://www.childcom.org.cy/ccr/ccr.nsf/All/01F4EC50F3A8BFB6C22574720037C711?OpenDocument) N.74(I)/2007, Article 4(2)(h). [↑](#footnote-ref-150)
151. Demetriou, C. (2011) *Report on measures to combat discrimination Directives 2000/43/EC and 2000/78/EC Country report 2010, Cyprus,* European Network of Legal Experts in the non-discrimination field, available [here](http://www.non-discrimination.net/content/media/2010-CY-Country%20Report%20LN_FINAL_0.pdf). [↑](#footnote-ref-151)
152. [Law on Arbitration](http://www.cylaw.org/nomoi/enop/non-ind/0_4/full.html) Cap. 4 (*Ο περί Διαιτησίας Νόμος (ΚΕΦ.4)*). [↑](#footnote-ref-152)
153. [Law on the Limitation Period for Actionable Rights](http://www.cylaw.org/nomoi/enop/non-ind/2012_1_66/full.html) N.66(I)/2012 (*Ο Περί Παραγραφής Αγώγιμων Δικαιωμάτων Νόμος του 2012*) (available in Greek). [↑](#footnote-ref-153)
154. [ibid](http://www.cylaw.org/nomoi/enop/non-ind/2012_1_66/full.html), Article 12. [↑](#footnote-ref-154)
155. [ibid](http://www.cylaw.org/nomoi/enop/non-ind/2012_1_66/full.html), Article 16. [↑](#footnote-ref-155)
156. [ibid](http://www.cylaw.org/nomoi/enop/non-ind/2012_1_66/full.html), Article 13. [↑](#footnote-ref-156)
157. [Courts of Justice Law](http://www.cylaw.org/nomoi/enop/non-ind/1960_1_14/full.html) N. 14/1960 as amended, Article 43. Although the term legal costs is not defined in the law, it can be assumed to mean the fees of the lawyers of both the defendant and the plaintiff. [↑](#footnote-ref-157)
158. [Civil Procedure rules](http://www.cylaw.org/nomoi/enop/non-ind/0_6/full.html) Cap. 6, Articles 10-81. [↑](#footnote-ref-158)
159. [Courts of Justice Law](http://www.cylaw.org/nomoi/enop/non-ind/1960_1_14/full.html) N. 14/1960 as amended, Article 47. [↑](#footnote-ref-159)