

SPAIN

Child-friendly justice

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1. THE CHILD'S LEGAL CAPACITY

1.1 What is the minimum age at which a plaintiff can bring a case to court in their own right?

The minimum age at which plaintiffs can bring a case to court in their own right in Spain is 18, with the following provisions:

- Only emancipated children can bring a claim in their own right (without the assistance of a legal representative). In general emancipation is reached at the age of 18, or at the age of 16 through judicial authorization, parental authorization or marriage. In some regions, emancipation can be obtained at the age of 14.
- Measures applied to children under the minimum age of criminal responsibility (below 14 in Spain) are voluntary (so cannot be appealed) or fall under the domain of placement into care.

2. ACCESS TO ADAPTED PROCEEDINGS

2.1 Specialised institutions and competent authorities

2.1.1 Criminal justice

Juvenile Courts: specialist courts called “*Juzgados de menores*” hear cases concerning crimes and petty offences committed by persons aged between 14 and less than 18 in accordance to Organic Law 5/2000, of 12 of January, regulating criminal responsibility of minors. Criminal proceedings against child offenders are conducted by specialized magistrates/prosecutors - the Judges and Prosecutors for Children. In such cases, the Law requires a specialization of the Judges, Prosecutors and Lawyers involved and make their respective governing boards responsible for organizing training programs.

The Public Prosecutor's Office (PPO) is responsible for defending the rights of minors recognized by law, monitoring the actions to be carried out in their interest and the observance of procedural safeguards for the purpose to lead the investigation into the facts.

In order to adapt the most appropriate measures to achieve better social rehabilitation and reintegration of young offenders, it is always consulted (before the imposition of any measure) a specialized technical team composed of psychologists, educators and social workers whose role is to provide technical assistance to juvenile judges and the prosecutor.

The measures that can be taken against juvenile offenders between 14-18 years are collected in a specific law (Organic Law 5/2000, of 12 of January, regulating criminal responsibility of minors) with additional safeguards for its approval or modification. If these measures are custodial, have to be fulfilled in an exclusive Center for young offenders and assisted by specialized professionals.

All in all, most social and educational services, execution of measures and re-integration programmes for children fall within the competency of the Autonomous Communities of Spain. Likewise, a number of rules may also differ between Autonomous Communities, differences that may also imply different security forces: *Mossos d'Esquadra* in the Catalan region and the *Ertzaintza* in the Basque Community, alongside with *Policía Nacional*, *Guardia Civil* and *Policía Local* in all Communities, bodies that compose the Group of Minors of the Judicial Police (GRUME).

For the protection of children's rights, including in criminal proceedings, the office of the public defender or Ombudsman (*Defensor del Pueblo*) has a central importance, along with different and independent autonomic ombudsmen in some Autonomous Communities: Andalucía, Cataluña, País Vasco, Castilla La Mancha, Aragón, Valencia, Canarias, Castilla y León, Galicia y Navarra.

Likewise, the National Child Observatory for Children (*Observatorio de la Infancia*) associated to the Ministry of Labour and Social Affairs, has the mission to coordinate services and information with the aim to ensure that the public administration adopts a suitable approach towards children.

When the perpetrator is under fourteen years, the mentioned Organic Law governing criminal responsibility of minors is not applied but the specific articles of Civil Code and the rest of the current regulation. The public prosecutor must remit to the Child Protection Public Entity testimony of the facts and minor's characteristics.

The Child Protection Public Entity has to promote the appropriate protection measures in accordance with the particular circumstances of the child.

In cases involving children as victims or witnesses are dealt with by regular courts, specific safeguards are provided by law according to age of children, for example the depositions of the most vulnerable children are made to a specialized psychologist and recorded to avoid having to repeat them in court and in any case it avoids visual confrontation between the child and the alleged perpetrator, giving special importance to the status of the victim to child victims of sexual / crime trafficking and gender violence.

2.1.2 Civil justice

Within the civil jurisdiction, in addition to the Ordinary Civil Courts (*Juzgados de Primera Instancia*) deal with children's claims under the civil procedural laws, there are specialised civil courts dealing exclusively with family matters, called Family Courts (*Juzgados de Familia*). There are in total 70 family courts in the whole country, distributed among 25 provinces. These family courts are composed of a judge, who can be advised by a team of experts, consisting of a psychologist and a social worker.

The Public Prosecutor's Office is entitled to participate in civil judicial proceedings when the public interest is compromised or when children or persons with disabilities are involved, until a guardian is appointed for them.

Within the labour jurisdiction, Ordinary Labour Courts (*Juzgados de lo Social*) deal with children's claims under labour law (Law 36/2011, of 10 October, regulating the social jurisdiction), in the same way as for adults.

The Civil Code (*Código Civil*) regulates general private law, which covers issues like: personality (physical or legal), family, patrimony and hereditary succession; however civil judicial proceedings are regulated by the Civil Procedure Rule (*Ley 1/2000, of 7 January*). In contrast to criminal judicial proceedings, where only judges can decide to continue or terminate a proceeding, in civil judicial proceedings parties have the right to renounce or desist from the proceedings, turn to mediation, etc. However, exceptionally in proceedings on filiation, capacity, marriage (i.e. divorce, legal separation and nullity) and children (e.g. guardianship, food expenses, adoption, protection of children), the agreement of the prosecutor is mandatory to terminate the proceeding.

Although minors generally lack capacity to initiate civil proceedings themselves, the Act provides that where a measure may affect their interests and have sufficient maturity, they should be heard, and in any case, when they are 12 years or more. In case, there is a conflict of interests between minors and their legal representatives (parents or guardians), a judicial defender (usually a prosecutor) be appointed by the court.

2.1.3 Administrative justice

Spanish Constitution states in Article 39 the obligation of public authorities to ensure social, economic and legal protection of the family, and especially of minors, in accordance with international agreements safeguarding their rights.

The *Organic Law 1/1996 of 15 January, on Legal Protection of Minors (hereinafter LOPJM)* constitutes, together with the provisions of the Civil Code in this area, the main regulatory framework of the rights of minors, ensuring a uniform protection throughout the State. The mentioned Law has been reform in 2015, and in article 11 establishes the guiding principles of the actions of the Public Administrations in relation to minors.

This LOPJM has been the benchmark of legislation that the regions have been approved subsequently, in accordance with their responsibilities in this area.

Autonomous Communities' laws are important legislation in the field of child protection because the Constitution states that regions can have competences over social assistance services. All regions have assumed such competence through their Statutes.

Local authorities and provinces are also competent in the field of child protection. Local authorities are, in fact, in charge of social services. However, they are not competent with regard to placement of children into care. In Spain, judicial review of administrative acts is performed by courts and judges within the administrative litigation system (*contencioso-administrativo*). In the administrative jurisdiction system, there are no children's courts or other judicial authorities specialized in dealing with children.

The administrative litigation system is composed of the following judicial authorities:

Administrative judicial proceedings are regulated by the Law of the Administrative Jurisdiction (Law 29/1998, of July 13) which applies generally to all administrative proceedings and specificities related to minors are regulated in other rules: Law on Civil Procedure (LEC)¹, Organic Law 1/1996 of 15 January, on Legal Protection of Minors (LOPJM), Civil Code (C.C.)...

In the Contentious-administrative Jurisdiction, law requires judges to resolve always within the limits of the claims made by the parties, and therefore, the roles of childcare services and of the child protection authorities in administrative judicial proceedings, are limited. They inform the psychosocial team when they are asked for information. In addition, they cannot file an appeal when they are the guardians of children placed into care, unless they have been part of the proceedings. They are also obliged to exercise custody of the children in care, legal actions and remedies that may result appropriated in the best interest of the child.

2.1.3.1 Asylum:

Decisions in the field of asylum are issued by the Ministry of Interior and cannot be appealed against before a hierarchically higher administrative authority. The Central Administrative Court is the competent court to decide, in first instance, on appeals filed against a decision adopted in this field by the Ministry of Interior. The decision adopted by the Central Administrative Court can be appealed in second instance before the Administrative Chamber of the National High Court.

2.1.3.2 Migration:

The State Administration will cooperate with Autonomous Communities and Local Authorities to aim the complete integration of foreigners in the Spanish society. All of this, within the frame of a strategic multiannual Plan which includes specially, between its objectives, to improve the integration of non-accompanied minors. Administrative decisions in the field of migration are issued by very different authorities, such as the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry of Labour, the Government Representatives in the Autonomous Communities (*Delegados del Gobierno*), the Deputy Government Representatives in the Autonomous Communities (*Subdelegados del Gobierno*) and the Autonomous Communities.

The decisions to grant or refuse visas or an extension of the permits to stay, decisions concerning residence permits, decisions concerning work permits, or decisions on sanctions and expulsions cannot be appealed against before the hierarchically higher administrative authority. The decisions on extension of the residence permits, renovation of the residence permits, and refusal of entry and return orders, can be appealed against before the hierarchically higher administrative authority.

The Administrative Courts deal with all the resolutions adopted by the State Administration and Autonomous Communities related to foreigners and migration.

The Administrative Chambers of the Higher Courts of Justice of the Autonomous Communities deal with on second instance, all appeals against sentences issued by the Administrative Courts.

2.1.3.3 Health:

Decisions in the field of health can be taken by different authorities. In addition, if a doctor takes an unethical or negligent decision, a claim to start a disciplinary procedure can be filed to the Deontologic Commission of the Medical Association (*Comisión Deontológica del Colegio de Médicos*). Patients can also file claims or give suggestions to the health authorities. In each health care center, there must be a guide explaining how to file claims and give suggestions. These claims are not appeals against decisions taken by the administrative authorities. They are a way to let the administration know about deficiencies or delays experienced by patients in order to take the appropriate measures and improve the system.

In principle, decisions adopted by an administrative authority can be judicially reviewed by an administrative court. However, certain decisions such as whether or not to place a person in a psychiatric center against his/her will, or the treatment of a child against his/her will or the will of the legal representative, is taken by the civil court.

¹ In Spanish legislation, the Law on Civil Procedure (LEC) is applied as a supplementary rule of all procedural norms of the different jurisdictions.

Furthermore, in accordance with article 14 of the Organic Law 4/2000, of 11 January, on the Rights and Freedoms of the Foreigners in Spain and their Social Integration, in any case, minors who have their habitual residence in Spain, will have recognized the right to receive the treatment, services and special care that their physical, psychological situation demand.

2.1.3.4 Education:

Decisions in the field of education are issued by different administrative authorities – such as school principals, but they can always be appealed against before the competent hierarchically higher administrative authority

2.1.3.5 Child protective/ care

Decisions to place children into care are taken by the competent child care authorities of the Administration of the Autonomous Communities for the protection of children. Such authorities can also decide to assume the guardianships of abandoned or neglected children, or to appoint guardians to unaccompanied children – including unaccompanied migrants and asylum seeker children.

In addition, any judge of the criminal or civil court can impose precautionary measures, including placement into care, in order to protect a child involved in a civil or criminal proceeding. Decisions adopted by the social services with regard to child protection, can be appealed in civil judicial proceedings, to the Family Courts or in their absence, by the first instance civil courts (*Juzgados de Primera Instancia*).

The civil Courts are competent to authorize the entry to domiciles, when it is necessary to enforce decisions of the administrative authorities – aimed at protecting children.

2.1.3.6 Administrative sanctions

Decisions imposing administrative sanctions to minors and adults may be taken by different administrative authorities at State, Regional or Local level. Such decisions can be appealed to the competent hierarchically higher administrative authority.

2.1.3.7 Children below the age of criminal responsibility (macr) who have committed offences

Children under 14 years old are not held criminally responsible. When they commit an offence, the public prosecutor refers them to the child care authorities of the Autonomous Communities in charge of the protection of children. The following process depends on the Autonomous Community – some of them have special units that work with the families and children through educative measures. Other Autonomous Communities apply, in this case, the measures for children in a situation of risk or abandonment. Educative measures are not compulsory and therefore, the child does not need to file an appeal against the measure. Measures applied to children in situations of risk or abandonment can be appealed to the Family Courts or civil courts.

2.2 Legal and policy measures in place to avoid undue delay in the handling of cases involving children

In general and for all jurisdictions, in order to avoid delays in proceedings involving minors, the Organic Law 1/1996 of 15 January, on Legal Protection of Minors (LOPJM) states that in judicial or administrative proceedings, the appearance or hearings of minors will have priority and be conducted the way appropriated to their situation and evolutionary development, with the assistance, if necessary, of qualified professionals or experts, preserving their privacy and using a language understandable by them, in accessible formats and adapted to their circumstances, informing them both the content of the questions and the consequences of their opinions, with full respect for all procedural safeguards.

2.2.1. Criminal justice

In accordance with article 17 of the Organic Law 5/2000 of 12 January governing the criminal responsibility of minors in Spain, the detention of a minor by police officers must not exceed the time strictly necessary to carry out the investigations aimed to clarifying the facts, and in any case, within a maximum period of twenty four hours, the minor detainee must be free or available to the Prosecutor. When the detainee is made available to the prosecution, it must be resolved, within forty-eight hours after the arrest, on the release of the child, on the discontinuance or the opening of the file, making it available to the competent juvenile judge and urging the same appropriate precautionary measures.

The Law 5/2000, 12 of January, regulating the criminal responsibility of minors, does not set any deadline for research in the process of minors; however, there is general agreement that the statement should be very short and as simple as possible for the conduct of the investigation stage.

Notably, Article 27.4 of the aforementioned Act, provides that during the investigation of criminal proceedings, the prosecutor in charge of child protection, can request not continue with the processing of the file, if in accordance with the report of the technical team attached to the Juvenile Court, it is considered inappropriate for the child's interest any intervention, given the time elapsed since the commission of the facts. This measure tries to avoid the counterproductive effects that the application of a measure of educational-punitive nature can generate when disconnected temporarily from the fact that motivated.

2.2.2 Civil justice

In general and for all jurisdictions, in order to avoid delays in proceedings involving minors, the Organic Law 1/1996 of 15 January, on Legal Protection of Minors (LOPJM) states that in judicial or administrative proceedings, the appearance or hearings of minors will have priority and be conducted the way appropriated to their situation and evolutionary development, with the assistance, if necessary, of qualified professionals or experts, preserving their privacy and using a language understandable by them, in accessible formats and adapted to their circumstances, informing them both the content of the questions and the consequences of their opinions, with full respect for all procedural safeguards.

In civil judicial proceedings (excluding proceedings on family disputes), claimants may request to the court the imposition of precautionary measures. These measures may also be ordered by the judge on his/her own initiative. As a general rule, children cannot request the court to order precautionary measures in their own right and they need the assistance of their legal representatives.

When children are involved in civil proceedings, precautionary measures are generally taken before the judgment, to the best interest of the affected children, such as custody, food, visitation, financial support measures etc.

2.2.3 Administrative justice

As above paragraph : same provision.

2.3 Child-specific support mechanisms, procedures and ways of ensuring the voice of the child is heard

Spanish legislation contains some important provisions that reinforce measures to facilitate the exercise of the rights of minors and an appropriate legal framework concerning *foreign minors* is established, recognizing, for those who are in Spain and regardless of their administrative status, their rights to education, health care and social services (services and basic welfare benefits), under the same conditions as Spanish minors. These issues are also set out in the Organic Law 4/2000 of 11 January, on the rights and freedoms of foreigners in Spain and their social integration, and by Law 16/2003 of 28 May, of cohesion and quality of the National Health System.

Related to *minors protected by Public Entities*, recognition of their insured status in relation to health care assistance is made ex officio with the submission of certification of their guardianship or custody issued by the Public Entity.

Public authorities are obliged to ensure that vulnerable groups, such as unaccompanied minors, those presenting international protection needs, children with disabilities and those who are victims of sexual abuse, sexual exploitation, child pornography, human trafficking, and to ensure that the rights provided by law have been observed.

Likewise, Spanish law recognizes the right to obtain the required documentation of residence to foreign children who are under the guardianship of public entities, once it has been proved inability to return with their families or to their countries of origin. When the Public Entity assumes guardianship of a foreign minor who is in Spain, the State Administration shall provide him, if he doesn't have any, as quickly as possible, and together with the certificate of guardianship issued by the public entity, the documentation providing his status and residence permit, once it has been proved inability to return with his family or to his country of origin, and in accordance with current legislation on foreigners and immigration.

Public authorities will have the aim to achieve, in the design and development of public policies, the full

integration of foreign minors in Spanish society, while they stay in the territory of the Spanish State, under the terms established on the Organic Law 4/2000 of 11 January, on the rights and freedoms of foreigners in Spain and their social integration.

LOPJM states, as guiding principle of administrative action, the protection of children against all forms of violence, including one produced in their family environment, gender violence, human trafficking and female genital mutilation, among others. Accordingly, public authorities will develop awareness actions, prevention, care and protection against any form of child abuse, by establishing procedures to ensure coordination between the competent public authorities.

Closely related to the above, Article 12 LOPJM ensures the necessary support for minors under custody, guardianship or foster care of a victim of domestic violence, to remain staying with this person. Also, the presumption of minority of a person whose majority has not been established with certainty, until has been finally determined it.

The protection of child victims of domestic violence is one of the pillars of the new Law on protection of children and adolescence published on 28 July 2015. The judges must rule on precautionary measures mandatory child protection, and including specifically, the suspension of visitation, stay, relationship or communication with the accused. If not agreed to this, the judge will have to specify how communication will be made and if necessary, will ensure the security, integrity and recovery of minor decisions.

Within the scope of Law 12/2009 of 30 October, regulating the right of asylum and subsidiary protection, there is a special protection for minors and vulnerable persons, as follows:

Article 46- General system of protection:http://noticias.juridicas.com/base_datos/Admin/l12-2009.t5.html#a46

Article 47- Minors:http://noticias.juridicas.com/base_datos/Admin/l12-2009.t5.html#a46

Article 48- Unaccompanied minors:http://noticias.juridicas.com/base_datos/Admin/l12-2009.t5.html#a46

2.3.1 Criminal justice

The Victims Assistance Offices are constituted as units dependent on the Ministry of Justice or on the Autonomous Communities which have assumed competencies about this matter and regulated in Royal Decree 1109/2015, of 11 of December. These Offices are composed of professionals at the service of the Administration of Justice, psychologists or any other professional deemed necessary for the service, who analyse the care and protection needs of victims.

Victims Assistance Offices make an individual assessment of victims to identify their special protection needs, taking into account their personal characteristics, especially those most vulnerable, such as children or people with disabilities who need special protection, and their nature and circumstances of the offense. And all this in order to determine what measures of assistance and protection should be provided to the victims.

The assistance of the Victims Assistance Offices is a function consisting of the initial reception of victims, their guidance, information and the proposal of concrete protection measures, taking into account the specific support needs of each victim and in particular, the situations in which it can find certain categories of victims, such as children or people with disabilities who need special protection, in order to facilitate their full recovery.

During the judicial proceedings where there are children involved as victims or witnesses are dealt with by regular courts, with specific safeguards provided by law according to the age of children, (for example the depositions of the most vulnerable children are made to a specialized psychologist and recorded to avoid having to repeat them in court and in any case it avoids visual confrontation between the child and the alleged perpetrator,...) giving special importance to the status of the victim to child victims of sexual / crime trafficking and gender violence.

As in the adult system, the lawyer in the juvenile justice system is involved in each phase of the process in order to safeguard the child's rights. Moreover, legal assistance is compulsory in criminal proceedings and the right to legal assistance cannot be waived. In particular, the child has the right to a lawyer from his very first contact with the legal system, i.e. from the time of his arrest by the police. If the child is a foreigner, he or she has the

right to an interpreter to be able to understand and contribute to the proceedings. When children are held in short-term custody, before a statement is taken, a written notice of the time, place and purpose of the taking of the statement is given, inter alia, to their lawyer.

2.3.1.1 Support given by professionals

Regarding professionals working with children, Spanish legislation (LOPJM) requires that any measure in the interest of the child shall be adopted in accordance with due guarantees of the process and, in particular:

- The rights of the child to be informed, heard and to participate in the process in accordance with current legislation.
- The Intervention of qualified or experienced professionals in the process. If necessary, these professionals have to have sufficient training to determine the specific needs of children with disabilities. In the particularly important decisions affecting the child, a report will be elaborated by an appropriated technical and multidisciplinary group of professionals specialized in the appropriate areas.

2.3.1.2 Common assessment framework

The common framework of evaluation is stated in a law: the *Statute of Victims of Crime* and *Royal Decree 1109/2015, of 11 December*, which implementing it.

The Victims Assistance Offices assists the victim in the legal, psychological and social areas, with the ultimate aim to minimize primary and avoid secondary victimization. To make this assistance, Offices perform individualized assistance plans, and coordinate if necessary, all competent services of care for victims.

Spanish law (Articles 30 onwards of RD 1109/2015) require the need to make an individual assessment of victims to identify their special protection needs.

Individual assessment is performed by the Victims Assistance Offices in response to the needs expressed by the victim and his will, and with full respect for the physical, mental and moral integrity of the victim. In addition, it's must be taking into account certain circumstances such as the personal characteristics of the victim, their situation and immediate needs, age, gender, disability and level of maturity, assessing in particular:

1º if the victim is a disabled person or if there is a dependency relationship between the victim and the alleged perpetrator.

2ª If the victim is a high vulnerable minor or a person who need special protection.

In case of child victims, it will also be taken into account their opinions and interests, as well as their special personal circumstances. Especially, it will ensure the respect for the principles of the best interests of the child and their rights to information, non-discrimination, confidentiality, privacy and the right to be protected.

2.3.1.3 Confidentiality

Spanish legislation safeguards especially the protection of privacy of the child. Thus, the Criminal Procedure Act (Art. 681.3 as amended by Law 4/2015, of April 27 of the Statute of the Victims of Crime) prohibits discrimination in all cases:

- disclosure or publication of information concerning the identity of child victims or victims with disabilities who need special protection,
- data that may facilitate identification directly or indirectly,
- those personal circumstances which have been assessed to decide on their protection needs,
- as well as the obtainment, disclosure or publication of images of him or his family.

Furthermore, any direct or indirect victim is entitled to free and confidential access to support services and the support provided by Victims Assistance Office and other public authorities. A right that may be extended to his families, in the case of offenses that have caused particularly serious harm.

As mentioned, in the individual assessment of victims who perform the Victims Assistance Offices in case of child victims, it will be taken into account their opinions and interests, as well as their special personal circumstances. Especially, it will ensure the respect for the principles of the best interests of the child and their rights to information, non-discrimination, confidentiality, privacy and the right to be protected.

Other examples of the importance that Spain is given to the protection of privacy of the child may be:

- in simple copies, testimonies and certifications of documents issued by the judicial authorities, whatever the media used for it, when it's necessary to protect the best interests of minors and to preserve their privacy, personal data, images, names, address, or any other fact that could directly or indirectly allow their identification should be omitted (article 141 LEC).http://noticias.juridicas.com/base_datos/Privado/11-2000.11t5.html
- In official communications or publications, in response to the superior interest of minors and to preserve their privacy, all personal details, names, address, or any other fact or circumstance that may directly or indirectly allow their identification should be omitted (art. 164 LEC).http://noticias.juridicas.com/base_datos/Privado/11-2000.11t5.html

2.3.1.4 Protocols of cooperation

Spanish legislation encourages Public Administration to adopt and promote the development of protocols and procedures for coordination and collaboration with the participation of victims associations (Royal Decree 1109/2015, of 11 December).

There are several protocols for this purpose, for example, the basic protocol of intervention against child abuse within the family, approved in 2007, or its updating held in 2014, about the intervention in cases of child victims of domestic violence.

In addition to Protocols, in Spain there are some strategic plans, such as the National Strategic Plan for Children and Adolescents, or the Plan of Action against sexual exploitation of children and adolescents, approved in November 2015, which always is taking into account the need for collaboration and coordination of the different professionals working in contact with children.

2.3.1.5 Main principles/objectives for children's involvement in judicial proceedings

The Article 12 of the Spanish Constitution has set the age of majority of the Spaniards in 18 years. In Spain minors / children are considered all those who are under the age of 18 years.

The Spanish legislation recognizes to minors the right to be heard in any case, without discrimination on age, disability or any other circumstances, both in the family and in any proceeding administrative, judicial or mediation that is affected and leads to a decision that affects their personal, family or social sphere, with due regard to their views, depending on their age and maturity. Therefore, the child must receive the information that allows the exercise of this right in an understandable language, and in simple formats adapted to their circumstances.

In judicial or administrative proceedings, the hearings of children will have preferential treatment and shall be conducted appropriately to their situation and evolutionary development, with the assistance, if necessary, of the qualified or experienced professionals, taking care to preserve their privacy and using a language understandable to them and informing both the content of the question and the consequences of their opinion, with full respect for all procedural safeguards.

When the child has enough maturity, law ensures that he can exercise the right to be heard by himself or through a person appointed to represent him. The maturity shall be assessed by qualified personnel, taking into account both the evolutionary development of the child and his ability to understand and evaluate the specific issue to be addressed in each case. It is considered, in any case, that child has sufficient maturity with the age of twelve years.

In addition, to ensure that the child can exercise this right by himself will be assisted, if necessary, by interpreters. The minor may express his opinion verbally or through nonverbal forms of communication.

However, when it's not possible or not appropriate for the best interests of the child, the hearing of his views will be through his legal representatives, or through other persons who, due to their profession or special trust relationship with him, can transmit the information objectively.

With the aim to enhance the effectiveness of this right, when during a judicial or administrative procedure the appearance or hearing of a minor is denied, the Organic Law on Legal Protection of Minors (LOPJM) requires

that the resolution is motivated in the best interest of the child and communicated to the public prosecutor, to the child and, where applicable, to his legal representative, indicating explicitly the existing remedies against such a decision.

2.3.1.6 Protection from discrimination

Spanish legislation stated in the Organic Law on Legal Protection of Minors -LOPJM- that minors will enjoy the rights that Constitution, international treaties signed by Spain and other regulations recognize to them, without discrimination on grounds of birth, nationality, race, sex, disability or illness, religion, language, culture, opinion or any other personal, family or social circumstance.

The LOPJM, its implementing rules and other legal provisions concerning minors, are necessarily interpreted in accordance with international treaties signed by Spain and, especially, according to the Convention on the Rights of the Child of Nations United and the Convention on the Rights of Persons with Disabilities.

Public authorities shall guarantee the rights and obligations of children with disabilities regarding to their custody, guardianship, adoption or similar institutions, ensuring the best interest of the child. In addition, public authorities shall ensure that children with disabilities have equal rights with respect to family life. To enforce these rights and to prevent the concealment, abandonment, neglect or segregation, they shall ensure the providing of early information, services and support to children with disabilities and their families.

In addition to these general provisions, Spanish legislation contains numerous provisions to prevent situations of discrimination, for example, the obligation to ensure that the media in their messages addressed to minors, promote the values of equality, solidarity, diversity and respect for others, avoid images of violence, exploitation in interpersonal relationships, or reflect degrading, sexist or discriminatory treatment towards people with disabilities. The public authorities and providers must promote the full enjoyment of audiovisual communication for children with disabilities and the use of best practices to avoid any discrimination or adverse impact to these people.

Another example is the legal recognition of the right to be heard and listened without discrimination on age, disability or any other circumstances, both in the family and in any administrative, judicial or mediation procedure that is affected and leading to a decision which affects their personal, family or social sphere.

The LOPJM and the Civil Code also establish the obligation of the Spanish State to protect all children within its territory, which includes unaccompanied migrant children and asylum seekers. Consequently, a foreign child who accesses to Spanish territory must be afforded the same legal protection as Spanish national children. Furthermore, the right of all children to education, health assistance and other public services is also protected.

2.3.2 Specific child support services

These support services are provided by the aforementioned Victims Assistance Offices.

2.3.2.1 Conditions for access

All kind of direct or indirect victims (especially minors), have the right to free and confidential access to the assistance and support of the Victims Assistance Offices and the assistance of the rest of the Public Administrations. That right can be extended to their families when the offences have caused serious damages.

There is no minimum age at which the child can access such services in their own right and these services are available in all cases, with reinforced measures for highly conflictual cases.

2.3.2.2 Available materials to provide support/guidance to children involved in the proceedings.

In Spain, Public Prosecutor is the main support to minors since attends all proceedings involving children and in addition, minors have the right to immediate free legal assistance.

The competent bodies of the Autonomous Communities and NGOs dedicated to children have developed numerous documents or support guides targeted to minors.

2.3.2.3 Statutory/policy provisions to remove obstacles to access courts for children

Everyone who lacks sufficient recourses for litigation and especially minors, have the right to free legal assistance. This assistance is immediate from the detention in criminal proceedings.

In accordance with article 6 of Law 1/1996, of 10 January, regulated the content of the right to free legal assistance in Spain, when a person is a minor, free legal assistance includes free advice and orientation from the moment prior to filing the complaint.

With regards to rights of detainees, Spanish legislation stated that everyone who is detained must be informed in a plain and simple language which they understand immediately. In addition, minors must receive the information in an understandable language and in simple formats adapted to their circumstances and with the assistance of an interpreter if necessary, to ensure them the exercise of the right to be heard.

3. MULTIDISCIPLINARY ASPECTS

3.1. Co-ordination of their activities by relevant organisations

Spanish legislation provides for coordinated and multidisciplinary action of different professionals who work with children to ensure all their rights and good physical, social and cognitive status. The implementation of measures which affect minors have to be a collegiate and interdisciplinary decision taken by the different professionals

The protection measures adopted for minors have to be review by the Public Entities in concrete terms. Thus, Public Entities are obligated to conduct a personal monitoring of each child or adolescent. The intervention of public authorities if a minor is declared “at risk”² is of the competence of public authority in accordance with the applicable national and regional legislation, in coordination with schools, social and health services and, where appropriate, with collaborating entities belonging to respective territory or any other.

On the other hand, a coordinated and multidisciplinary action is also required in cases of prenatal risk³ (art. 17.9 LOPJM. http://noticias.juridicas.com/base_datos/Privado/lo1-1996.t2.html#a17)

In addition to the above, to ensure close cooperation between the various professionals, the Spanish legislation (LOPJM) requires that any measure taken in the interest of the child shall be adopted with respect of the due process and, in particular with the respect of the intervention in the process of qualified or experienced professionals. These professionals have to have sufficient training to determine the specific needs of children with disabilities. Furthermore, the collegiate inform of a technical and interdisciplinary team, specialized in appropriated areas, is necessary to take relevant decisions which affected minors.

4. TRAINING OF PROFESSIONALS

4.1. Training requirements for professionals who are in contact with the child during the proceedings

Continuous training for judges and prosecutors take place through specific courses organized by the General Council of the Judiciary (*Consejo General del Poder Judicial*) and Centre of Legal Studies (*Centro de Estudios Jurídicos*).

More specifically, in order to access the position of Judge for children, the following eligibility criteria apply (in order of importance):

1. Attendance at the training program organized by the judicial School;
2. Professional experience of at least three years during the previous five years working with children cases;
3. The seniority rule. In this case, before taking up office, the person concerned must attend the specialization courses determined by the General Council of the Judiciary.
- 4.

In relation to staff working in Victims Assistance Offices, Spanish legislation requires specialized personnel concerned, subject to permanent and recurrent training, and working in a coordinated manner.

² "At Risk"; This situation arises when due to circumstances, deficiencies, family, social or educational conflicts, the child suffers disadvantages in his/her personal, family, social or educational status, welfare or rights, without reaching the entity, intensity or persistence that would base his “situation of helplessness”.

³ “Prenatal Risk”: This situation arises when due to the lack of physical care of the pregnant woman or the abuse of substances with addictive potential, as well as any other action, the newborn can be damaged in his normal development.

All of these professionals who work in direct contact with children have obligatory specific training for it beyond their formal qualifications.

4.1.1 Content of training

The content of this training is very broad and includes many different aspects, starting with how to treat children and youth with respect and sensitivity. In any case, the content of training beyond these general aspects is defined in terms of the professional activity in question.

4.1.2 Specialised training

Spain has a very advanced legislation for the protection of minors on the Internet, in order to respond to situations such as grooming, sexting and cyberbullying introduced by Law 26/2015, of July 28, modifying the protection system of children and adolescents.

In addition to the legislative aspects, there are many free activities and training programs related to cybersecurity in general and to the protection of minors on line in particular, aimed to many different groups such as parents, guardians, teachers, students, doctors, professionals from different fields.

The issue of prevention addressed in our national legislation/policy is included in specific measures and activities.

In February 2013, the Digital Agenda for Spain was published, providing a framework of reference for: drawing up a roadmap for information and communications technologies (ICT) and e-government; establishing Spain's strategy for achieving the objectives of the Digital Agenda for Europe.

Spain also has a pioneer initiative, since 2007, which is called "Director coexistence in schools Plan", in which members of security forces specifically trained in these issues, go to schools to explain, raise awareness and prevent many risks as alcohol and drug abuse, domestic violence and problems of ICT.

Various initiatives to promote prevention and safe use of the internet and ICTs by minors are being developed under the aegis of the Ministry of Industry, Energy and Tourism (State Secretariat for Telecommunications and the Information Society and Red.es) in the framework of the Digital Agenda for Spain and the Digital Trust Plan. More specifically, on the risks of grooming, sexting and cyber-bullying, the project 'Training for ICT security for fathers, mothers, guardians and educators of minors (2015-2016)' is currently being implemented. Its purpose is to raise awareness and to train parents, educators and other groups (such as law enforcement bodies) on the main risks minors face in using the internet and ICTs.

As regards cyber-bullying and grooming, the first Clinical guide on cyber-bullying and grooming for health professions was recently issued, produced jointly by the Ministry of Industry, Energy and Tourism, the Spanish adolescent medicine society (SEMA) and the La Paz University Hospital. Its purpose is to facilitate the diagnosis, treatment and prevention of cyber-bullying and grooming in the medical context, and to improve coordination between families, schools, the police and the judiciary.

4.2 Vetting of professionals working with and for children

Spanish legislation provides for different legal rules, including LOPJM, the duty of all persons who have notice of a fact that could constitute a crime against sexual freedom and integrity of human trafficking or exploitation, to inform at the Public Prosecutor Office.

It also establishes as requirement to access and exercise a profession or activity involving regular contact with minors, not to have been convicted of crimes against sexual freedom and integrity, human trafficking and exploitation of children, in compliance of the commitments assumed by Spain to ratify the Convention on the Protection of Children against sexual exploitation and abuse, of October 25, 2007, and Directive of the European Parliament and Council Directive 2011/93 / EU of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography replacing the framework Decision 2004/68 / JHA.

Directly related to the above and for the purposes of prevention, was created in the Ministry of Justice, within the system of administrative registers supporting the Administration of Justice, the *Central Sex Offender Registry* containing the identity of those convicted of crimes against the sexual freedom and integrity, human trafficking, or exploitation of children, and information about their genetic DNA profile. This is achieved to

enable monitoring and control of persons convicted of these crimes not only in Spain but also in other countries. The General State Administration cooperates with the competent authorities of the Member States of the European Union to facilitate the exchange of information in this area.

4.3 Cooperation with other MS on training

With other Member States, training courses and exchange of best practices between different types of professionals (judges, prosecutors, coroners ...) are carried out periodically in many different areas regarding issues affecting children.

Cooperation in training on children is especially intense and relevant with the Latin American countries

5. BEST INTERESTS OF THE CHILD

5.1 Measures in place to ensure that the child's best interests are a primary or paramount consideration

The principle of best interests of the child has been a priority in Spanish legislation.

The L.O. 1/1996 Organic Law on Legal Protection of Minors (LOPJM) amended by L.O. 8/2015 of 22 July, develops and strengthens the priority of the principle of the best interest of the child, incorporating in parallel both the jurisprudence of the Supreme Court in recent years and the criteria of General Comment No. 14, of May 29 2013, the UN Committee on the Rights of the child, on the children's right to their best interests are a primary consideration.

The concept of "legal interest of the child" in Spanish legislation is defined from a triple point of view:

- It is a *substantive right* in the sense that the child is entitled to when a measure concerning him is adopted, his interests have to be evaluated and in case there are other interests at stake, have to be also pondering for reaching a solution.
- It is a *general principle of interpretation*, thus if a legal provision can be interpreted in more than one way, it must be chosen the interpretation that best serves the interests of the child.
- And also, it's a *rule of procedure*.

In these three dimensions, the legal principle has the same purpose: to ensure full respect and observance of all the rights of children and their comprehensive development.

In Spain, the principle of the best interests of the child is recognized expressly in a superior rule of Law. In particular, the article 2 of the Organic Law of Legal Protection on Minors (LOPJM) provides with a high level of detail its content in all areas, and in accordance with the tree dimensions aforementioned.

Otherwise, especially, the child's best interest is also a paramount consideration that applies to THE ADOPTION PROCESS in Spain.

For more information about the adoption process see the link:

<http://www.msssi.gob.es/ssi/familiasInfancia/adopciones/adopInternacional/procedAdopcion/etapasTramitacion.htm>

5.1.2 Individual assessment

In Spanish legislation, the general idea is that the best interests of each child has to be evaluated and determined individually for each child, taking into account all the circumstances which concern him/her.

With respect to avoiding conflicts of interests, for example between the child and his both parents, all participants in the procedure (Prosecutor, Judges, Public Entities...) work in a coordinated manner.

The article 2 LOPJM requires that, if any other legitimate interest concurs in addition to the child's best interests, it must be prioritized measures that, in response to this interest, also respect the other legitimate interests presented. If all legitimate interests that concur could not be attended, the interests of the child must be consider priority over any other legitimate interest presented.

5.1.3 Checklists and protocols to determine the child's best interests

In Spain the definition and criteria that determine the child's best interests are regulated and detailed in article 2 of the LOPJM aforementioned, therefore these lists and protocols are limited.

5.1.4 Implementation of General Comment No 14 of the UN Committee on the Rights of the Child on the Right of the child to have his or her best interests taken as a primary consideration

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16587&LangID=E>

6. MONITORING AND ENFORCEMENT OF DECISIONS IN PROCEEDINGS INVOLVING CHILDREN

6.1 Criminal justice

The ultimate aim of criminal regulations for children is their reinsertion in society. This reinsertion must be facilitated by educational measures and specialised personnel. The provision of child-friendly justice after judicial proceedings is to a large extent a competence of the Autonomous Communities which have the prime responsibility about those necessary rehabilitation measures, community service or education.

6.1.2 The child as a victim or offender

Children who are victims of criminal offences are provided with social services adapted to their particular case. Children victimised by their parents or guardians may be in a state of effective abandonment, and in such a case, authorities acquire custody of the child as foreseen in the regulations for effective abandonment or *desamparo*. Children who are victims of minor offences committed by other children may reach an informal settlement, which may require the permission of parents or guardians.

With regard to *children as offenders*, on certain occasions the measures constituting the offence may be reviewed with the agreement of the parties at trial together with the assessment of a team of specialists. This review may provide for a reduction or a termination of the measures imposed, once established that this decision is in the best interests of the child. Such judges for children decisions must be reasoned and may be appealed by legal representatives of the child within the prescribed term. In cases of multiple offences, the assigned Judge, the Prosecutor, the defence for the child and the team of experts may substitute all or any measures for subsequent fulfilment of alternative measures that may never exceed the total prescription of the original sentence.

6.1.2.1 Provision of information

The provision of information related to both offenders and victims must be facilitated by all public authorities, as imposed by the norm that children be immediately attended to. This obligation is thus applicable to the execution of measures after sentencing. Likewise, all actors involved in the execution of measures after judicial proceedings must take into account the views of the child and when applicable, their parents or guardians. With regard to the weight to give to the child's views and opinion in accordance with his or her age and maturity, instructions issued by the Chief State Prosecutor's Office emphasise vulnerability to outside influences and the subsequent need for rigorous selection of weighting criteria.

The right to access information relevant to the child is a recognised right for all children in Spain and must be upheld by all public authorities, parents and therapists and careers.

With regard to children in custody of public authorities after being sentenced, norms affirm their right to communicate with parents, guardians, family, legal representatives and other persons, according to regulations, which may also entail permissions. Rules also affirm the capacity to communicate with the Prosecuting Authority, Ombudsmen, lawyers, Judges for Children and inspecting personnel of the correctional facilities involved in the sentencing. All legal representatives have the right to be informed about the situation and evolution of the child, and of his/her consequent rights. Furthermore, the child has the right to access updated information on his/her rights and obligations, of his/her personal and judicial situation, and regarding the rules of the detention centre (*centro de internamiento*).

6.1.2.2 Sentencing

Sentence must be pronounced within five days of the resolution of the facts, and must include all the standard prescriptions of a legal sentence under Spanish Law. The sentence must take into account the views of Prosecuting Authority and defence counsel, as well as the particular facts adjudicated and their gravity. Adequate attention must also be paid to the conditions of the child's family and personal welfare as well as

his/her age at the time of sentencing. The sentence must be justified and expressed in clear and comprehensive language. The Sentence may be appealed within five days of its publication, and may be resolved in private or public session in light of the particular facts of the case and the best interests of the child. Appeals may be attended by parents or guardians social representatives.

The list of measures which can be imposed on children is broad and includes the following: different kinds of ordinary (and therapeutic) detention (in close regime, half-open regime and open regime); visiting a day-centre; week-end arrest; supervised freedom; prohibition to enter in contact or in communication with the victim; custody by a family or educative group etc.

Measures imposed on child offenders must be both educational and sanctioning for both children between the ages of 14 to 16 and between 16 to 18 years old. However, the law foresees a number of special cases, in particular for serious offences. However, in certain circumstances the Criminal Code also provides for the possibility of giving priority to criminal responsibility. These cases are when a child's actions represent a "serious offence, committed within a group or a gang" as well as when there was recourse to "violence or a serious threat to life or physical integrity". The Law also foresees that when the case is based on multiple actions, the action to be charged is the one that constitutes the most serious offence. There are also some general limits in the imposition of sanctions in case of child offenders, such as: in the light of the accusatory principle the Judge for Children is prevented from imposing a more severe measure than the one demanded either by the Prosecutor or by the accuser; furthermore, for misdemeanours only a limited range of measures, such as supervised freedom (up to six months), warning, week-end arrest (up to 4 week-ends), and community service (up to 50 hours) can be applied.

6.1.2.3 Deprivation of liberty

Spanish legislation requires that a child may only be deprived of his/her freedom when it is for his/her best interests or for his/her own good. This deprivation must form part of a programme with educational measures with the aim of reinserting the child into society. Provided there are grounds for doing so, a Judge may impose sanctions on children between the age of 14 and 18 years charged with a criminal offence.

The execution of such measures may combine different modalities, with educational factors being of central importance. Measures should never exceed the requirements set forth by Prosecuting Authority (PA). The Spanish rules give to the PA the power to monitor detention centres (*centros de internamiento*). Likewise, the PA is responsible for adopting measures, including decisions on protection, for the best interests of the child.

6.1.2.4 Criminal records

The PA establishes a file for every offence, excepting offences that are related to each other. Every file of every child is kept by these authorities, together with a record of the proceedings in the possession of the respective court of law (*Juzgado de Menores*). When establishing a unique record for multiple offences that involve different regions within the Spanish territory, the authorities must give priority to a location near the child's residence.

Every trial chamber has a record of sentencing for cases involving children. Files and records involving children in criminal proceedings in the position of accused may be kept secret upon request of the child, his/her family or the PA. The request may be granted by the assigned Judges for Children, and the decision must be justified and may apply to the whole or to parts of the request.

6.2 Civil justice

6.2.1 The child as a plaintiff/defendant

Children can be parties in civil judicial proceedings and therefore any judicial decision is communicated to them through their legal representatives as they lack the legal capacity to act, unless they are emancipated. On the same basis, children cannot seek enforcement of a court judgement on their own but only through their legal representatives.

6.2.2 The child as a defendant

Children may be responsible for the breach of contracts made by them, being liable with their own property. Children can also have extra-contractual responsibility, for example when they commit a civil wrong. In such a case, children may be sued together with their parents since they will be responsible for their children's acts, and both of them are liable with their own property.

6.2.3 The child in any other role

In cases of mutual divorce both parties will submit to the judge the terms and conditions of their agreement concerning children. Judges will request a report from the prosecutor and will hear the children if considered necessary to ensure their effective protection.

As mentioned above, the law forbids the provisional enforcement of judgements issued in cases of filiation, recognition of paternity/maternity, dissolution of marriage, divorce, etc. Nevertheless, there is a contradiction in the law since the same legislation recognises that in the appeal against a judgement on a divorce, imposing any measure will not suspend its enforcement. Some courts have tried to solve this conflict, taking into account the special character of family matters involving children, making the enforcement of the judicial decisions prevail. In cases of family disputes the judge will decide on the measures agreed by both parties. If there is no agreement, the judge will decide the measures affecting children, always bearing in mind their best interests. When one of the parties, in this case the parents, does not fulfil the measures laid down in the judgement, the judge can impose a fine. Furthermore, no measures have been identified to protect the child from any harm he/she may incur due to the enforcement of civil court judgments.

6.3 Administrative justice

With regard to enforcement of administrative court judgements, the general procedural rules applicable to children involved in judicial proceedings including proceedings reviewing administrative authorities' decisions in the sectors of asylum, migration, health, education and administrative sanctions apply to all administrative judicial proceedings. However, health placement and child protection measures (including protection measures addressed to children below MACR who committed an offence) are governed by civil judicial proceedings.

7. ACCESS TO REMEDIES

It is important to note that under Spanish law, both the regime access to resources such as measures to safeguard the rights of the child in case of conflict of interest with their parents, it is the same in all jurisdictions

7.1 Criminal justice

7.1.1 Recourse in case of decision not to prosecute

There is a very broad legal framework for the protection of victim under age in Spain. Their rights within the framework of action are established in the Law 4/2015 of the Statute of Victims of Crime and Royal Decree 1109/2015 that develops.

7.1.2 Access to complaint, legal appeal or judicial review mechanisms

All children are entitled to receive from the Government, or through their associate entities, the information in accessible formats and appropriate assistance for the effective exercise of their rights and to ensure their respect. To defend their rights and guarantee the child can: art. 10 LOPJM

- a) Request the protection and guardianship of the competent public entity.
- b) To inform the public prosecutor about the situations that threaten their rights so that it promotes appropriate action.
- c) Ask complaints to the Ombudsman or to the regional counterpart institutions.
- d) Request the available social resources of public administrations.
- e) Request legal assistance and the appointment of a judicial defender, to undertake the necessary judicial and administrative actions aimed at the protection and defense of their rights and interests. In any case the prosecutor may act in defense of the rights of minors.
- f) To submit individual complaints to the Committee on the Rights of the Child, under the terms of the Convention on the Rights of the Child and the norm that develops.

7.1.3 Claiming damages/compensation during or after criminal proceedings in which the child was a victim

The Spanish Constitution grants the Prosecutor the function of "promoting the action of justice in defense of legality, the rights of citizens and public interest protected by law, on its own initiative or at the request of stakeholders" (Art. 124 CE). The Prosecutor intervenes as an impartial guardian of the law and defender of the rights of the child.

A very important role to the Prosecutor in proceedings in which the minor is not a victim but offender is also assigned, so provides Article 6 of the Organic Law 5/2000 of 12 January governing the criminal liability of minors noting that it correspond to Public prosecutors defending the rights of minors and monitoring of the actions to be carried out in their interest and the observance of procedural safeguards, for which he personally lead the investigation and order the judicial police practice the necessary actions for checking those and the child's participation in them, driving the procedure.

7.1.3.1 free legal assistance:

In Spain, any child who lacks resources will have recognized the right of free legal assistance.

To this is added that regardless of whether have or not financial resources, any child victim of abuse or maltreatment is entitled to free legal assistance (RDley 3/2013) and not only with regard to be defended by a lawyer, also the free expert valuation by private professionals with specialized training when the judge decides. The law has been included in the free legal assistance system to specific victims by the mere fact of being and regardless of whether or not the resources to litigate, which will involve not only the exemption from payment of the levy on all processes with bonding, arising or resulting from their status as victims, but also the ability to access all other benefits that entails legal aid.

Minors are within these victims entitled to free legal when they are victims of abuse or neglect situations:

- It is recognized the right to free legal assistance regardless of the existence of resources to litigate.
- Free legal assistance will "provide them immediately." The aim pursued by the legislature is to provide maximum protection to these victims.
- The judge or court may decide that the free specialized expert assistance is carried out by private technical professionals when need to be paid to children who are victims of abuse or mistreatment, if required by the circumstances of the child and the superior interest of the child or the person with disabilities.
- This free specialized expert assistance may be paid immediately.
- Recognition of the right, it is linked to the situation of abuse or mistreatment, not contradistinguish the court order, so that will be provided in all proceedings in which this situation could affect contentious-administrative, civil, or criminal.

7.1.4 Statute of limitations when the victim is a minor

The Spanish Penal Code includes certain limitations for prescribing certain crimes when the victim is a minor, (Art. 132.1 CP). Thus, in the attempted murder and crimes of abortion without consent, injuries, human trafficking, against freedom, torture and against moral integrity, sexual freedom and integrity, privacy, the right to self-image and the inviolability of the home, where the victim is a minor, the terms are calculated from the day when it has reached the age of majority, and if the minor should die before reaching it, from the date of death.

7.2 Civil justice

For the defense and guarantee of their rights the child can: art. 10 LOPJM.

To defend their rights and guarantee the child can: art. 10 LOPJM

- a) Request the protection and guardianship of the competent public entity.
- b) To inform the public prosecutor about the situations that threaten their rights so that it promotes appropriate action.
- c) Ask complaints to the Ombudsman or to the regional counterpart institutions.
- d) Request the available social resources of public administrations.
- e) Request legal assistance and the appointment of a judicial defender, to undertake the necessary judicial and administrative actions aimed at the protection and defense of their rights and interests. In any case the prosecutor may act in defense of the rights of minors.
- f) To submit individual complaints to the Committee on the Rights of the Child, under the terms of the Convention on the Rights of the Child and the norm that develops.

For example, under the provisions of civil law, in the civil procedural scope of the actions of determining or contesting filiation, corresponding to the minor child or disabled may be exercised by their legal representative or by the prosecution, indistinctly. (765 LEC)

As for the opposition to administrative decisions regarding the protection of minors, which may be brought before the civil courts, may formulate by minors affected by the decision in question. (Article 780 LEC).

7.2.1 Submissions by a legal representative

In accordance with Article 780 of the Civil Procedure Act (LEC): At the civil courts can be formulated opposition to administrative decisions regarding the protection of minors.

They are entitled to raise objections to administrative decisions regarding the protection of minors, who provided to have legitimate and direct interest in such resolution, in addition to children affected by the decision, parents, guardians, careers, keepers, the prosecution and those persons expressly recognize by a law Legitimizing parents to promote the revocation of the administrative decision of helplessness and to oppose to the decisions taken regarding child protection is limited to a period of two years from the notification.

During that two-year public entities, considering the situation, are able to adopt any measure of protection they consider necessary, including the proposed adoption, when there is a forecast of irreversibility.

After those two years only the prosecutor is entitled to challenge the resolutions on the child issued by the Public Entity. (Art. 172 Civil Code)

7.2.2 Support is provided to the child in order to access such mechanisms

The Spanish Constitution grants the Prosecutor the function of "promoting the action of justice in defense of legality, the rights of citizens and public interest protected by law, on its own initiative or at the request of stakeholders" (Art. 124 CE). From this general definition it is given entry to the Prosecutor in all procedures on ability, parentage, marriage or children, "whenever any of the stakeholders in the process is minor" (art. 749.2 LEC).

The Prosecutor intervenes as an impartial guardian of the law and defender of the rights of the child.

In procedural civil law (Article 749 LEC), there are certain procedures, and processes of international child abduction or determination and contestation of filiation in which Prosecution will always be part, even if not promoting them or have to under the law, to assume the defense of any party. The prosecution will ensure throughout the process safeguarding the interests of the person concerned.

In all processes on capacity, filiation, marriage and minors will be mandatory intervention of the prosecution, whenever any of those interested in the procedure is a minor, (or incapacitated or is in a position of legal absence).

A very important role to the Prosecutor in proceedings in which the minor is not a victim but offender is also assigned, so provides Article 6 of the Organic Law 5/2000 of 12 January governing the criminal liability of minors, noting that correspond to the Public Prosecutors defending the rights of minors recognize the laws and monitoring of the actions to be carried out in their interest and the observance of procedural safeguards, for which he personally lead the investigation the facts and order the judicial police practice the necessary actions for checking those and the child's participation in them, driving the procedure.

7.2.3 Possible actions in case of conflict of interests with parents' interests

In case of conflict of interest law provides for the appointment of a judicial guardian Thus, Article 299 of the Civil Code (CC) provides our legislation a judicial guardian to represent and protect for the interests of those who are in any of the cases provided for Law be appointed, the first of them the case where in any case there is a conflict of interest between minors or incapacitated and their legal representatives or curator.

In the case of joint custody exercised by both parents, if the conflict of interests exist only with one of them, the other by law, without special appointment, will represent and protect the minor or incapacitated.

In accordance with Article 163 of the CC, the law requires that whenever in any case, the father and mother have an opposite interest respect their unemancipated children, will be appointed a judicial guardian to represent them in court and out of it . It was also shall make this appointment when parents have an opposite interest to the emancipated minor child whose capacity must be complete.

If the conflict of interest existed only with one parent, it corresponds to the other by law and without special appointment represent the child or complete his/her capacity.

The Spanish legislation provides that where the public body finds that the child is in abandonment, assume custody of him by operation of law, taking appropriate protective measures and giving notice of the prosecution and, where appropriate, the judge agreed ordinary guardianship.

Understands that there is abandonment situation when one or some of the circumstances that collects LOPJM (art. 18), including for example when the child is identified as a victim of human trafficking and there is a conflict of interest with parents, tutors and guardians.

When a public entity assumes guardianship or custody of a minor is required to develop an individualized plan of protection set targets, forecasting and timing of the intervention measures to be taken with their family of origin, including, where appropriate, family reintegration program. Art 19a LOPJM

As already mentioned, (art. 172 CC), legitimizing parents to promote the revocation of the administrative decision of abandonment and to oppose the decisions taken regarding child protection is limited to a period of two years after the notification.

During that two-year public entities, considering the situation, may adopt any measure of protection if they consider necessary, including the proposed adoption, when there is a forecast of irreversibility.

After those two years only the prosecutor is entitled to challenge the resolutions on the child issued by the Public Entity.

7.2.4 Possibility of appeal by child care authorities against certain court decisions involving children

In Spain, the protection of minors who are in distress corresponds of law to the Public Entity.

The assumption of guardianship attributed to the Public entails the suspension of parental authority or ordinary guardianship. (Art. 172 CC)

Public Entity exercising guardianship with the Public Prosecution, will be entitled to appeal decisions affecting children.

Public Entity is entitled, among other things, for the exercise of the actions of deprivation of parental rights, removal of the guardian and the request for appointment of a guardian of children in abandonment. Also the prosecution is entitled and others called to the exercise of guardianship (Art 239 CC).

7.3 Administrative justice: Describe any statutory/policy provisions providing remedies to children for violations of rights.

In Spanish law, children have capacity to be parties before the contentious-administrative jurisdictional besides the people that bearing under the Law of Civil Procedure, minors for defending those of their rights and legitimate interests whose performance is them permitted by law without assistance from the person exercising parental authority, guardianship and curatorship (article 18 of Law 29/1998 of 13 July, regulating the Contentious Administrative Jurisdiction).

7.3.1 Statutory/policy provisions allowing the child's legal representative to make submissions instead of the child without his/her consent and/or appeal without the child's consent, etc.

Spanish law requires that (art. 2 LOPJ) limitations on legal capacity of minors is always interpreted restrictively.

7.3.2 Legal obligation on judicial authorities to secure the right of a child involved in judicial proceedings to claim compensation for damages caused by violation of rights

This claim for compensation must be formulate by who holds the legal representation of the child.

In Contentious Administrative Spanish law, the petitioner can claim not only that the Court declare not comply with the law and, if necessary, the annulment of acts and administrative provisions but also the recognition of a particular legal situation and the adoption of appropriate measures for the full restoration, including

compensation for damages, where applicable in accordance with Article 31 of Law 29/1998 of 13 July, governing administrative Jurisdiction (LRJCA).

When a court considers a claim to compensate damages, it shall be declared in any case the right to reparation, also pointing who is obliged to pay compensation. The judgment shall also determine the amount of compensation when expressly requested by the claimant. In another case, the basis for determining the amount, will be deferred to the period of execution of sentence (Article 71 LRJCA) will be established.

Who holds the legal representation of the minor shall request the Court recognition of compensation for damages as the courts of contentious administrative order are required to judge within the limits of the claims made by the parties and the reasons substantiate the appeal and opposition (Art. 33 LRJCA).

7.3.3 Possible actions in case of conflict of interests with parents' interests

In case of conflict of interest, under Spanish law the appointment of a judicial guardian is expected. Article 299 of the Civil Code (CC)

7.3.4 Possibility of appeal by child care authorities against certain court decisions involving children

As mentioned limitations on the capacity to act in Spain are interpreted restrictively, so that the child can make the decision to appeal all decisions that affect it.

To do so, the law allows the child to inform the Prosecutor situations deemed to violate their rights so that it promotes appropriate action and seek legal assistance, which is free always lacking resources to litigate, and the appointment of a judicial defensor, if necessary, to take legal action and administrative provisions aimed at protecting and defending their rights and interests.

In any case the Public Prosecutor may act in defense of the rights of minors.

7.3.5 Exercise of a child's rights

The Spanish Law derogates the parent representation in acts relating to personality rights or others that the child in accordance with the laws and conditions of maturity, can make itself (Article 162 of the Civil Code).

By personality rights have to understand those who seek to ensure that the person the enjoyment and respect for their own identity and integrity in all physical and spiritual manifestations. In this context, the article reflects the idea that in the strictly personal and familiar sphere the replacement of the holder is excluded, so personality rights should be exercised by their holders, always that the minor has mature enough conditions.

For its part, Article 2 of the Law on Legal Protection of Minors (LOPJM) provides that restrictions on legal capacity of minors be interpreted restrictively.

We have to differentiate between the possibility of approach claims against non-jurisdictional and courts. As for the complaints to no courts (Article 10 LOPJM), to defend their rights and guarantee the child may:

- a) Request the protection and guardianship of the competent public entity.
- b) To inform the public prosecutor about the situations that threaten their rights so that it promotes appropriate action.
- c) Ask complaints to the Ombudsman or to the regional counterpart institutions.
- d) Request the available social resources of public administrations.
- e) Request legal assistance and the appointment of a judicial defender, to undertake the necessary judicial and administrative actions aimed at the protection and defense of their rights and interests. In any case the prosecutor may act in defense of the rights of minors.
- f) To submit individual complaints to the Committee on the Rights of the Child, under the terms of the Convention on the Rights of the Child and the norm that develops.

7.3.6 Differentiation between age groups

Spanish law takes as reference the degree of maturity of the child.

To this add that, in any case, it is understood that enjoys sufficient degree of maturity when they turn 12 years of age so that from this it is necessary to obtain their views and opinion on many issues.

7.3.7 Laws/policies ensuring best interests of the child and their dignity.

Already described in discussing the superior interest of the child and as reflected in the Spanish legislation as the first parameter to be considered by all the Public Administrations.

8. FAMILY LIFE

8.1 Procedure for adoption, including international adoption.

In Spanish legislation are stated two kinds of adoption: national adoption regulated in articles 175 to 180 of our Civil Code and the Code of Civil Procedure and international adoption regulated in Law 54/2007, of 28 December, of International Adoption.

The mentioned legislation has been recently modified by the Law 26/2015, of 28 of July, of modification of the protection system for children and adolescents.

8.1.1 Procedure for national adoption

The Spanish legislation establishes concerning national adoption, the following *requirements* for adopters and adoptees:

-Requirements for being adopter:

- Must be over twenty five years. In cases of adoption for two people, is enough that one of them has reached that age.
- The age difference between adopter and adoptee shall be, at least sixteen years, and may not exceed forty-five years.
- Have been found suitable for the exercise of parental authority by the competent Public Entity.

-Requirements for being adoptee:

- Only can be adopted not emancipated minors. As an exception, it will be possible to adopt an adult or an emancipated minor when, immediately before emancipation, a situation of foster care or uninterrupted coexistence had existed of at least one year.
- Cannot be adopted a descendant or a relative in the second degree of the collateral line by consanguinity or affinity.

8.1.1.1 Stages of processing in national adoption

The person interested in adoption must apply to the *competent Public Entity of the Autonomous Community of residence* (Service Child Protection of his/her city) to start the adoption file and formalize the offer for national adoption, accompanying the necessary basic documents (marriage certificate if applicable, criminal record certificate, medical certificate, certificate of economic incomes).

Once the offer is formalized, the multidisciplinary team of Service Protection of Minors makes a *Psychosocial Study of the person / s who is offered for adoption*, which permits to evaluate the capacity to adopt and to decide on the suitability of these people for the exercise of parental authority.

Subsequently, the Public Entity will choose the most suitable family for children who are in a position to be adopted and after presenting the proposal to the person / s who is offered for adoption, will send the adoption proposal file to *the competent judge*, attaching all the necessary documents.

No prior proposal from the Public Entity is required, when on the child to be adopted occurs any of the following circumstances:

- Be an orphan and a third-degree relative of consanguinity or affinity of the adopter.
- Be a child of the spouse or of the person linked to adopter by a similar relationship to marriage.
- Remain more than a year in custody for the purpose of adoption or have been under the adopter guardianship for the same time.
- Be of legal age (18 years) or emancipated minor.

The judge shall issue an adoption resolution which creates between adopter / s and adoptee a filiation link

identical to the natural children. Likewise except some exceptions, legal links between the adoptee and his/her biological family remain extinguished.

The adoption is irrevocable once has been constituted.

8.1.2 Procedure for international adoption

The procedure for international adoptions when the adoptee is a foreign minor, is divided into the following different stages:

8.1.2.1 Step 1: Information and training on international adoption

Previously to the declaration of suitability requested by the person/s who is offered for adoption, he/she should attend information and training sessions organized by the Public Entity or by the Accredited Bodies for International Adoption (hereinafter: OAA).

As well as, this person/s presents his offer to adoption in order to opening the correspond file. For that purpose, he/she must fulfill an application and submit the documentation required by the *Public Entity* which belongs to the Autonomous Communities Administration.

8.1.2.2 Stage 2: Suitability study of the person / s who is offered for a foreign child adoption

- The suitability assessment of the person / s who is offered for adoption is a requirement stated in the Spanish legislation in order to the recognition of the foreign adoption resolution and for the international adoptions proceedings.
- The suitability must be declared by the Spanish Public Entity prior the constitution of the adoption, when the person / s who is offered for adoption is resident in Spain.
- The suitability is defined as the appropriated capability, aptitude and motivation to exercise parental responsibility, meeting the needs of those children and to assume the peculiarities, consequences and responsibilities that international adoption entails.
- It aims to ensure the ability of the person / s who is offered for adoption to respond and address the physical, psychological and social needs of children who can be adopted.
- It consists of a psychosocial assessment of the person / s who is offered for adoption about the personal, family and social situation of the adopters and their ability to establish stable and secure links, their educational skills and their ability to meet a minor.
- This study will be conducted by psychologists and social workers with experience in child protection, family and adoption.
- This evaluation is carried out by professionals of the regional administration and / or by private practitioners. The latter, through collaboration agreements signed by the Administration with professionals bodies or through authorized interdisciplinary teams to perform these valuation functions.
- The assessment of suitability phase is preceded by a stage of preparation for adoption, which is pretends to approach the reality of international adoption to the person / s who is offered for adoption, promote a reflection on the needs of adopted children and help this person/s in the decision-making process. The preparation is carried out through a program that includes group sessions with the person / s who is offered for adoption and professionals responsible for their implementation.

8.1.2.3 Step 3: Obtainment of the Certificate of Suitability

- In any case, correspond to the competent Public Entity of the Autonomous Community the issuance of the certificates of suitability for international adoption. This competence is not delegable in any other public or private body.
- In the event that the result of Administration resolution is to be of ineligibility for adoption, the person / s who is offered for adoption may submit the appeals mentioned in that resolution.
- Certificates of suitability and the previous psychosocial reports are generally referred for adoption in a determined country.
- Certificates and psychosocial reports have three years term from the date of the issuance by the competent body, whenever no significant changes occur in the personal and family situation of the person / s who is offered for adoption. The latter will be under the conditions and limitations established in the applicable regional legislation in each case.

8.1.2.4 Step 4: Choice of the way of processing the application

In general, when the offer for adoption is aimed to a country that applies the Convention on Protection of Children and Cooperation on International Adoption, the way of processing the application must be decided between carry out through the competent Spanish Public Administrations or through an Accredited Adoption Body (hereafter: OAA).

In order to take this decision, it's must be taken into account:

- If the country of origin of the child has set a particular way for the processing of files or not (for example, some countries have opted for the processing of international adoptions is made exclusively through OAA).
- If the General State Administration, in collaboration with Public Entities (Autonomous Communities), has agreed that with respect to a particular State, the offers of international adoption only are proceeding through authorized OAA by the authorities of both states.

8.1.2.5 Step 5: Preparation of file in Spain

The person / s who is offered for adoption must prepare the adoption file with all documents required by the country of origin of the child.

This information is provided by Children's Services of the Autonomous Communities and, in the event that the prospective adopters are processing the documentation through an OAA, the OAA professionals have to help and advise them.

8.1.2.6 Step 6: Legalization and authentication of documents

In order to the efficiency of the documents issued in Spain which form part of the file in a foreign country, it is essential to complete the process of legalization of them.

8.1.2.7 Step 7: Sending the file to the country of origin

There are two forms of sending the file to the competent authority of the country of origin of the child, depending on the chosen way of processing the application in advance:

- Through the competent Spanish Central Authorities on International Adoption (Autonomous Communities and State General Administration via diplomatic bag).
- Through the chosen OAA.

8.1.2.8 Step 8: Reception by the competent Spanish authorities of the proposed assignment issued by Foreign Authority

Corresponds to the competent Spanish Public Entity to receive the proposed placement of the minor from the competent authorities of his/her country of origin which must include relevant information about the child: identity, photography, adoptability, social and psychosocial report, medical history and particular needs, as well as information concerning the granting of consents of persons, institutions and authorities required by the law of the country of origin.

8.1.2.9 Step 9: Approval of the Public Entity to continue with the adoption procedure

Once the placement of a child to a family is finished, the approval of the Spanish Public Entity is necessary to continue with the processing of an adoption, it's not enough with the prospective adopters acceptance. The competent authority of the Autonomous Community which declared the suitability must give its consent in this important phase of the process, which comes into play the reality of a particular child. The Public Entity, after evaluation and assessment of the child information and of the person / s who is offered for adoption, will issue a report expressing its opinion, agreement or disagreement with the proposal issued by the country of origin of the child.

8.1.2.10 Step 10: Acceptance / Rejection of the proposal of the person / s who is offered for adoption

The proposed allocation must be communicated to the person / s who is offered for adoption, providing support and advice necessary for taking the most appropriate decision. The decision of the person / s who is offered for adoption should be expressed in writing.

The acceptance or rejection documents of the Spanish Public Entity, as well as the documents of the person / s own offered for adoption should be submitted to the competent authority of the country of the child, through the own Spanish central authorities or through the chosen OAA, depending on the processing via.

8.1.2.11 Step 11: Travel to the country of origin of the child. Constitution of the Adoption

Once the person / s who is offered for adoption confirms that can go to the encounter with the child and for the constitution of the adoption before the competent authority, the trip to the country of the origin of the child takes place.

8.1.2.12 Step 12: Proceedings before the Spanish Consulate

Once the adoption has been constituted, the adopter / s must contact with the Spanish Consulate abroad to request:

- The registration of the adoption in the Civil Consular Registry which produces effects in Spain.
 - The issuance of family reunification visa, in accordance with the Spanish legislation.
- The Consul, prior the issuance of a visa for an adopted child in the country of accreditation by Spanish nationals resident in Spain, must ensure that the adoption fulfills all the requirements.

8.1.2.13 Step 13: The arrival of the child to Spain

It is advisable that the adoptive parents inform the Child Protection Service of their Autonomous Community of their arrival to Spain with the adopted child.

8.1.2.14 Step 14: Registration of adoption in Spain

Only in cases that adoptive parents hadn't registered the adoption in the Spanish Civil Consular Registry in the country of origin of the child, it is necessary that the adopter/s submits an application of adoption registration in the Civil Registry of the place of residence in Spain.

In the event that the resolution of the country of origin is not of full adoption but simple adoption or guardianship with the aim of adoption, the conversion into a full adoption must be processed before the competent Spanish court.

8.1.2.15 Step 15: Child adaptation monitoring report

When the country of origin of the child legislation stated the providing of post-adoption monitoring reports about the adaptation of the child to his/her new family, the Spanish competent authority acquired the commitment of sending them within the established deadlines.

Adopters must provide in the estimated time, the information, documentation and interviews required by the Public Entity, accredited body or authorized entity for the preparation of the mentioned report.

The lack of the adopters collaboration at this stage may lead to administrative sanctions foreseen in the Autonomous Community legislation and may be considered cause for unsuitability in a subsequent adoption process. Adopters shall fulfill on schedule the post adoptive established proceedings stated in the legislation of the country of origin of the adopted child and for that porpoise, they are entitled to receive the particular assistance and advice from the Public Entities and the OAA.

8.1.2.16 Step 16: Post adoptive support and mediation for seeking the origins of the child

In order to encourage the proper adoptive parents and adopted children integration, the competent Public Entities on adoption in the Autonomous Communities should establish resources for post-adoption support and mediation to search the origins of the child and for the proper care of adoptees and adoptive parents. This task may be entrusted to an OAA.

8.2 Different types of adoption

Spanish legislation provides two kinds of adoption: national and international. The main different between them is the origin of the adopted children, likewise in the legal and procedural matters before mentioned.

8.3 Measures in place to ensure that the child's best interests are taken as the paramount consideration

The principle of best interests of the child has been a priority in the Spanish legislation.

The L.O. 1/1996 Organic Law on Legal Protection of Minors (LOPJM) recently amended by L.O. 8/2015 of 22 July. Changes in the LOPJM develop and strengthen the priority of the principle of the best interest of the child,

incorporating in parallel both the jurisprudence of the Supreme Court in recent years and the criteria of General Comment No. 14, of May 29 2013, the UN Committee on the Rights of the child, on the children's right to their best interests are a primary consideration.

The concept of "legal interest of the child" in Spanish legislation is defined from a triple content:

- It is a *substantive right* in the sense that the child is entitled to when a measure concerning him is adopted, his interests have been evaluated and in case there are other interests at stake, have also been pondering for reaching a solution.
- It is a *general principle of interpretation*, thus if a legal provision can be interpreted in more than one way, it must be chosen the interpretation that best serves the interests of the child.
- And also, it's a *rule of procedure*.

In these three dimensions, the legal principal has the same purpose: to ensure full respect and observance of all the rights of children and their comprehensive development.

In Spain, the principle of the best interests of the child is recognized expressly in a superior rule of Law. Thus, in particular, the article 2 of the Organic Law of Legal Protection on Minors (LOPJM) provides with a high level of detail its content in all areas (included the adoption process), and in accordance with the tree dimensions aforementioned.

In accordance with the abovementioned, the article 2 states: "Any minor has the right that his/her best interest must be valued and held as a primary consideration in all actions and decisions concerning to him/her, in both public and private domain. In the application of this law and the rest of norms affected by it, as well as in the adoption of measures concerning minors established by public and private institutions, tribunals or legislative institutions, the best interest of the child will be held as a primary consideration over other legitimate interest which can concur".

8.4 Measures in place to respect the child's right to be heard in adoption cases

The Spanish legislation recognizes to minors in article 9 of the Organic Law 1/1996, of 15 of January, of Legal Protection on Minors (LOPJ) the right to be heard in any case, without discrimination on age, disability or any other circumstances, both in the family and in any proceeding administrative, judicial or mediation that is affected and leads to a decision that affects their personal, family or social sphere, with due regard to their views, depending on their age and maturity. Therefore, the child must receive the information that allow the exercise of this right in an understandable language, and in simple formats adapted to their circumstances.

In judicial or administrative proceedings, the hearings of children will have preferential treatment and shall be conducted appropriately to their situation and evolutionary development, with the assistance, if necessary, of the qualified or experienced professionals, taking care to preserve their privacy and using a language understandable to them and informing both the content of the question and the consequences of their opinion, with full respect for all procedural safeguards.

When the child has enough maturity, law ensures that he can exercise the right to be heard by himself or through a person appointed to represent him. The maturity shall be assessed by qualified personnel, taking into account both the evolutionary development of the child and his ability to understand and evaluate the specific issue to be addressed in each case. It is considered, in any case, that child has sufficient maturity with the age of twelve years.

In addition, to ensure that the child can exercise this right by himself will be assisted, if necessary, by interpreters. The minor may express his opinion verbally or through nonverbal forms of communication.

However, when it's not be possible or not be appropriated for the best interests of the child, the hearing of his views will be through his legal representatives, or through other persons who, due to their profession or special trust relationship with him, can transmit the information objectively.

With the aim to enhance the effectiveness of this right, when during a judicial or administrative procedure the appearance or hearing of a minor is denied, the Organic Law on Legal Protection of Minors (LOPJM) requires that the resolution is motivated in the best interests of the child and communicated to the public prosecutor, to the child and, where applicable, to his legal representative, indicating explicitly the existing remedies against such a decision.

In accordance with the above mentioned, regarding the existing of age limits related to the right of minors to be heard, Spanish law takes as reference the degree of maturity of the child. In any case, it is understood that a minor has sufficient degree of maturity when he is 12 years of age, thus from this age, it is necessary to obtain his view and opinion on many issues.

In cases of minors involving in an adoption procedure:

- The adopter/s and the adoptee older than 12 years have to express their consents in present of the judge (article 177 of Civil Code).
- The adoptee under the age of 12 years, prior the adoption, must be heard by the judge according to his age and maturity.

8.5 Competent authorities for adoption (national/international)?

8.5.1 National adoption

- The Public Entity: Child Protection Services of the Autonomous Communities are competent authorities regarding to the administrative procedures of the adoption process.
- The constitution of the adoption corresponds to the competent Judges of the Court of First Instance / Family of the address of the Public Entity, and in its absence, of the adopter domicile.
- Regarding to the registration of the adoption, the competent authority is the Civil Registry of the adopter/s place of residence.

8.5.2 International adoption:

- To the State General Administration corresponds the competence in foreign policy and therefore, the determination of the initiation and suspension of the adoption processing with each country of origin of the children, always in collaboration with the involved Public Entities (article 4 of the Law 54/2007, of 28 of December, of International Adoption).
- The Public Entities: Child Protection Services of the Autonomous Communities, whose administrative competences are stated in article 5 of the Law 54/2007, of 28 of December, of International Adoption.
- The Accredited Bodies for International Adoptions (OAA) can carry out mediation activities when they are legally accredited for both countries.
- Regarding to the recognition and registration of the adoption: Consular Civil Registry of the Spanish Consulate of the country of origin of the child or the Civil Registry of the adopter/s place of residence in Spain.

8.6 Possibility for an adopted child to have access to information held by the competent authorities on his or her origins

In the Spanish legislation, in accordance with *Article 180.6 of the Civil Code*, adoptees, reached the age of majority or during minority, through their legal representatives, shall be entitled to know data on their biological origins. Public Entities, prior notification to the affected people, provide through their specialized services, advice and help to fulfil this right.

For this purpose, any private or public entity has the obligation when they are required, to provide to Public Entities and public Prosecutor, reports and necessary background information about the child and his family of origin.

In addition to the above, the Civil Code provides that Public Entities will ensure the conservation of the information available concerning the origins of the child, including in particular, information about their parent's identity and the child medical history and his/her family, which will be preserved for at least fifty years after the adoption becomes definitive. Preservation will be carried out for the sole purpose of the adopted person can exercise his/her right of access to such information.

Regarding to international adoption, adopted minors are entitled to the same right to know their biological origins in accordance with *Article 12 of Law 54/2007 of 28 December, on International Adoption*, which emphasizes that adopted people reached the age of majority or during minority, through their legal representatives, have the right to know the information in the possession of Public Entities about their origins, without prejudice of the possible limitations stated in the countries of origin of minors legislation. This right shall be effective with the advice, help and mediation of the specialized services of the Public Entity, accredited bodies and institutions authorized for that purpose.

Public Entities will ensure the preservation of information concerning the child's origin in their possession, in particular the information regarding the identity of his/her parents and the medical history of the child and his/her family.

Accredited intermediary bodies that had participated in the adoption should inform the Public Entities of their available data about the origins of the child.