

[Home](#) > ... > [Your Rights](#) > [Rights of Minors In Court Proceedings](#) > [Denmark](#)

Rights of minors in court proceedings

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Denmark

Denmark



1. The child's legal capacity

In Denmark the minimum age at which a plaintiff can bring a case to court in their own right is 18.

2. Access to adapted proceedings

In criminal law cases, specialist institutions are not in place to deal with child victims and child witnesses. The normal police, prosecution and court services deal with such children.

In civil law, there are no specialized institutions dealing with children in civil judicial proceedings in Denmark.

As a main rule, the Danish legal system is based on the presumption that judges and bailiffs are "generalists". Thus, no specialized judges or bailiffs are involved in proceedings that concern children.

The courts are under a general obligation to pursue any case with the necessary speed.

In 2013 the Danish Government decided to strengthen the protection of children and young people from abuse. Where it must be assumed that a child or a young person is in need of special support, the municipal council shall ensure that the conditions of the child or the young person are examined.

For criminal justice, specialist institutions are not in place to deal with child victims and child witnesses.

Denmark considers unaccompanied minors as a particularly vulnerable group and guidelines for the processing of these applications have been drawn up.

Child plaintiffs are represented by their parents or guardians during the civil judicial proceedings as they do not have procedural legal capacity to act. Children being called as witnesses in ordinary civil courts do not have the right to request a lawyer free of charge.

3. Multidisciplinary aspects

In 2013 the Danish Government allocated funding to initiatives strengthening the protection of children and young people from abuse. One of the initiatives was the establishment of 5 special "Children's Houses" covering all municipalities in Denmark.

A cooperation mechanism to enhance cooperation in high conflict cases between the Regional State Administration and the municipalities has been set up.

4. Training of professionals

Deputy Judges participate in a series of obligatory basic training courses. These courses include training in handling custody cases.

With regard to judges this subject in general is incorporated in training courses and seminars where relevant.

There is no mandatory training of attorneys-at-law that represent children in civil cases, criminal cases or cases within the administrative system.

The Director of Public Prosecution offers a seminar as part of the supplementary training of prosecutors who are in contact with children during proceedings.

The Danish Government continuously supports the municipalities in their work to provide the right service for vulnerable children, young persons and their families. Therefore annual funding has been allocated to the further education of municipal social workers.

5. Best interests of the child

Pursuant to the Danish Act on Social Services the municipality is obliged to provide a child with the needed support in accordance with the best interests of the child. Support must hence be adapted to the specific situation and needs of the child, provided at an early stage and on a continuous basis so that any problems as far as possible may be remedied in the home of the child or in the child's immediate environment. Furthermore support must be based on the child's own resources.

6. Monitoring and enforcement of decisions in proceedings involving children

For criminal justice, as regards to the victim, when an alleged offence is reported to the police, the police is under a general obligation to provide guidance and information to the victim regarding, inter alia, the right to legal assistance.

Civil judgments involving children as plaintiffs are enforced according to the normal enforcement rules by the Bailiff's courts. Child plaintiffs do not have procedural legal capacity to act, thus need to be represented by their parents or guardians who exercise the rights of the child plaintiff.

In family law cases, enforcement of judgments on the custody and residence of the child takes place by the Bailiff's courts. Enforcement cannot take place if the child's mental and physical health is exposed to serious danger.

7. Access to remedies

For criminal law, when an alleged offence is reported to the police, the police are under a general obligation to provide guidance and information to the victim regarding, inter alia, the right to legal assistance and information about complaints. Compensation claims can be dealt with during the criminal trial.

A child may have the status of plaintiff, but do to his/her lack of procedural capacity to act, cannot independently bring a case before domestic courts in his/her own name.

A child may have the status of defendant, but all procedural actions must be taken by the child's parents or guardian on his/her behalf.

Everybody, including children, is obliged to testify in a court procedure if he/she is invited by the court to attend as witness. An agreement of a parent/guardian is not necessary for the participation of the child in the proceedings as a witness.

Children can have the status of plaintiffs and defendants in civil law proceedings. Children do not in general have procedural legal capacity to act and therefore their parents or guardians will exercise the rights of child plaintiffs and defendants, including the right to appeal.

8. Family life

Before an approval as Prospective Adoptive Parents is granted, the secretariat of the Joint Council a thorough investigation of the applicants. The outcomes of the investigation are presented to the Joint Council, who, based on the investigation, decides whether or not the applicants can be approved as PAPs.

The Danish Adoption Act of December 2015 only allows full adoption. At present time the Danish AAB only cooperates with states of origin whose legislation allows strong adoptions.

In relation to national adoptions the Danish Adoption Act states that all children over the age of 12 must consent to an adoption.

In case the child is under the age of 12 the State Administration must, where the maturity of the child and nature of the case allows, provide information on the child's attitude towards the adoption.

The Minister for Social Affairs and the Interior is responsible for the legislation concerning adoption.

[Child-friendly justice in Denmark](#)  (499 Kb) 

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