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Rights of minors in court proceedings

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France

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1. Legal capacity of minors

Minors under the age of 18 are not legally capable under French law. They must be represented by their legal representatives (usually their parents) when exercising their rights. Minors must be involved in all decisions that affect and are of relevance to them, depending on their age and level of judgment.

2. Access to appropriate procedures

Specialised staff, in particular the specialised judges of the children's court, are responsible for cases involving minors. Youth Legal Protection (*Protection judiciaire de la jeunesse*) and authorised associations may intervene during proceedings involving a minor.

The law provides that a minor can enter into a dispute with their parents. In this case, an independent individual may be appointed as an ad hoc administrator.

In criminal matters, minors have the right to consult a lawyer without the need for parental permission. Legal aid is provided free of charge. Lawyers are considered to be the first point of access to information, and play a supportive and protective role as regards minors. They can ask that a judgment be held in closed session, that a minor be positioned so as not to see the accused, that any additional medical examination is replaced by a review of the file and that certain investigative acts (e.g. '*confrontation*') do not take place.

— Where a minor is a defendant or a party to the procedure and one of their rights is infringed, the procedure or detention may be annulled. Minors (over the age of 10) may be detained under the supervision of specially trained professionals in premises reserved for minors.

— Where a minor is a witness in a case, the judges and criminal police officers must take into account their vulnerability. Minors under the age of 16 do not have to swear an oath.

— Minors who are victims are accorded special protection. Furthermore, if a minor is a claimant in a civil procedure, they may claim damages for the harm suffered. If the convicted offender is not solvent, the victim may receive compensation from a [guarantee fund](#) (depending on the circumstances), the Criminal Injuries Compensation Board (CIVI) and/or the Victims of Crime Recovery Assistance Service (SARVI).

In civil matters, minors must in general be represented by their legal representative. An administrator is appointed if there is a conflict of interest between a minor and their parents. Parents have 15 days in which to appeal the appointment of an administrator.

In certain situations, the law expressly provides that minors may act on their own account (particularly as regards minors at risk in relation to educational assistance, applications for an affidavit for the purposes of establishing parentage, applications for emancipation and applications for establishment of nationality of unaccompanied foreign minors).

3. Laws and measures to reduce time limits in cases involving minors

In criminal matters, the Public Prosecutor may order the immediate appearance of the minor before the children's court, to ensure that the hearing takes place within a period of 10 days to two months. This procedure is only possible if an investigation into the facts is no longer necessary, in relation to specific offences and according to the age of the minor and the penalty incurred. Moreover, an earlier appearance allows the Public Prosecutor to order a hearing before the children's court within one to three months.

In civil cases, there is no specific provision for speeding up proceedings at first instance in cases involving minors, but where an appeal is lodged against a decision of the children's court, the law provides that the case should be heard as a matter of priority.

4. Specific mechanisms and procedures for supporting the child and the best interests of the child

The interests of the minor are of central importance in court proceedings involving children. The law frequently reaffirms that judges must justify their decisions on the basis of the essential criteria of safeguarding the interests of children. They must take into account the family, social and economic situation of the child and the opinions expressed. However, there are no protocols or guidelines in which the best interests of the child are defined.

In criminal matters, the judicial authority is alerted by the regional authorities where a minor has been or is presumed to have been the victim of mistreatment. Where the minor has been the victim of sexual abuse, the Public Prosecutor must immediately inform the children's court judge and request assistance with rehabilitation.

The obligations arising from professional privilege do not apply in cases of abuse or deprivation of minors. Various crimes against minors have longer limitation periods, which only start to run when the victim reaches the age of majority. Hearings involving an accused who is a minor must be held in closed session. Publication of the content of hearings is prohibited.

In civil matters, the children's court judge is responsible for rehabilitation assistance where a minor is at risk. Furthermore, the Civil Code confers broad powers on family court judges, who must take «particular care to ensure the protection of the interests of children».

5. Enforcement of decisions concerning minors

In criminal matters, the parents and the lawyer of the minor are directly involved in the implementation of any measures. A number of measures may be ordered by the children's court judge or the investigating judge during the investigation phase (for minors aged between 10 and 18: placement measures, probation, reparations and daytime activities; for minors aged between 13 and 18: pre-trial detention, court supervision and residential surveillance using electronic monitoring).

The children's court may order the surrender of minors aged between 10 and 18 to their family, reparations, suspension with probation, daytime activities, placement measures or court protection. For minors aged between 13 and 18, the court may also issue an admonishment or warning, order reparation activities, a daytime activity (which may, for minors aged between 16 and 18, consist of community service), probation or court protection. A penalty may be imposed on minors aged between 10 and 18: a ban on entering certain places, meeting certain persons, placement and, as a last resort for minors over the age of 13, imprisonment (in the minors' section of a remand centre or a young offender institution; specialised case workers must be present).

In civil matters, decisions on parental responsibility, maintenance allowance or the protection of minors at risk are immediately enforceable. Depending on the minor's level of judgment, in most cases parents have to enforce the judgment. In the event of a conflict with the parents and in cases in which a court has not already ruled on this issue (e.g. by appointing a guardian), an administrator will be responsible for the enforcement of the measures in the interests of the minor.

6. Adoption

Adoption involves several stages: obtaining approval, the match and connection between the child and the adopter and the legal procedure creating the parent-child relationship. There are two types of adoption in France: simple adoption (retention of the original parent-child relationship) and full adoption (only for children under 15; substitution of original parent-child relationship by relationship with adoptive parents).

The High Court (*Tribunal de Grande Instance*) has jurisdiction in both cases and adoption can only be approved if it is in the interests of the minor. A minor over the age of 13 must consent to their adoption.

[Child-friendly justice in France](#)  (749 Kb) 

 Last update: 30/07/2020

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