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Rights of minors in court proceedings

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Latvia

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1. Child's legal capacity

Under Latvian law, persons who have reached the age of majority, i.e. 18 years of age, have legal capacity in civil proceedings. Cases relating to minors are brought before court by their legal representatives. Legal representatives are most often the child's parents or guardian.

In the cases stipulated by law, minors are entitled to exercise their civil procedural rights independently. In such cases legal representatives may be brought in to assist the minor with legal proceedings. It should be noted that children have the right to freely express their views and, to this end, to receive and send any type of information, and also have the right to be heard in any actions or proceedings relating to them. If a child is able to formulate an opinion, account must be taken of it in accordance with the child's age and maturity.

2. Access to modified court proceedings

The work of the courts is organised to ensure that cases involving the protection of a child's rights and interests are heard as a matter of urgency.

In cases which affect a child, e.g. divorce proceedings, the establishment of a child's parentage and the like, the law makes provision for a wide margin of manoeuvre for the disclosure of evidence. In order to clarify a child's views and submit them to court, the competent municipal authority is generally brought in, which means a family court, which is made up of specially trained professionals who clarify the child's views in a familiar environment.

3. Multidisciplinary aspects

The protection of children's rights is implemented in cooperation with the family, central and local government bodies, public organisations and other natural and legal persons.

In accordance with the Law on the protection of children's rights, cooperation between central and local government bodies in matters relating to the protection of children's rights and family rights falling within their remit is coordinated by the Ministry of Welfare.

Latvia has a specific procedure (Cabinet Regulation No 545 of 12 September 2017 on institutional cooperation in the field of the protection of children's rights) governing the organisation of cooperation between central and local government bodies and non-governmental organisations in this field. This is organised with the help of consultative collegiate groups set up in the municipalities and the Council for cooperation on children's affairs. Amongst other things, cooperation groups examine individual cases relating to possible violations of children's rights in cases where there is a need for swift action and cooperation between several institutions, and where the situation cannot be resolved by a single institution or has proved impossible to resolve for an extended period of time.

4. Training of specialists

Legislation makes provision for a wide range of specialists (judges, prosecutors, lawyers, judicial officers and court psychologists) who assess a child's state of mind, along with certified notaries, police personnel who work with children, etc. - who must acquire specialist knowledge in the field of the protection of children's rights. Training for judges in matters relating to children's rights is organised by the Ministry of Justice.

5. Child's interests

Under the Law on the protection of children's rights, a child's rights and interests take priority in all legal dealings relating to a child. In Latvia, all actions involving children exercised by central or local government institutions, public organisations, other natural or legal persons, courts and other law-enforcement institutions must respect a child's rights and interests as a matter of priority.

A child's best interests must be safeguarded by all natural and legal persons in all actions and decisions which directly or indirectly affect, or may affect, that child. When determining the best interests of the child, the aim should be to find a sustainable solution to the child's situation, due account being taken of the specific situation, with due regard for the criteria laid down by law.

6. Monitoring and enforcement of decisions in legal proceedings involving children

As soon as a judgment affecting a child's rights and interests takes effect or should be enforced immediately but is not, the child's legal representative may submit an enforcement document to the judicial officer. The court does not send details of the judgment to the child in person. It is presumed that the child's parents or guardian, in the capacity of the legal representative, acting in the best interests of the child, will explain the court's judgment in accordance with the child's ability to understand it and communicate the requisite information on the progress made in enforcing the decision. Where necessary, for the enforcement of decisions in matters arising from custody and access rights, the judicial officer cooperates with the family court, issuing instructions to the effect that the information needed for enforcement be provided and enforcement proceedings be attended.

7. Access to legal remedies

In civil proceedings, cases involving minors are led by their legal representatives, who are generally the parents or guardian of the child. Where the law allows minors to exercise their civil procedural rights independently, their legal representatives are also brought in.

Provision is made for an additional protection instrument for children with backgrounds of family violence. Where a child is the target of violence or coercive control, an application for protection in the best interests of the child may be made not only by one of the child's parents or guardian, but also by a family court or public prosecutor. This means that if, for whatever reason, the legal representative of the child fails to act to protect the child's rights, a request may be made to the court by one of the aforementioned competent authorities. It should be noted that protection against violence can be requested at any stage of civil proceedings, including prior to the bringing of an action.

8. Adoption procedure, including international adoption

In Latvia, children who are minors may be adopted where this is in their best interests. The legal foundations for adoption are laid down in the Civil Law. The adoption procedure is laid down by Cabinet regulation. An adoption is approved by court. A child may be adopted if, prior to the approval of the adoption, they have been placed under the care and supervision of the adoptive party, and a guardianship and custody institution set up by a local authority - a family court - has established that the child and the adoptive party are mutually compatible, and there are reasonable grounds for believing that the adoption will lead to a genuine child/parent relationship. A child who has reached the age of 12 years must give their personal consent to the adoption.

A person wishing to adopt a child must make the relevant application to the family court. To ascertain suitability for adoption, a family court conducts an investigation into the adoptive family in accordance with the adoption procedure. A child may be placed with an adoptive family by decision of a family court.

In the cases and in accordance with the procedures provided for by law, intercountry adoption is possible in respect of a foreign state which is bound by the Hague Convention of 29 May 1993 on the Protection of Children and Co-operation in Respect of Intercountry Adoption and by the Convention on the Rights of the Child of 20 November 1989 with which Latvia has concluded a bilateral treaty defining the specifics of mutual judicial cooperation in the field of foreign adoption. Intercountry adoption in respect of a foreign state may proceed once an opinion is received from the Foreign Adoption Commission concluding that the process of intercountry adoption is consistent with the principles of the protection of the rights of the child laid down in this Law and is in the best interests of the child.

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