

Parental responsibility - Latvia

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1 What does the legal term “parental responsibility” mean in practical terms? What are the rights and obligations of a holder of parental responsibility?

The child is under parents' custody until attainment of majority.

Custody means parents' right and obligation to take care of the child and his property and represent the child in his/her personal and property relations.

Caring for a child means his/her care, supervision and the right to determine his/her place of residence.

Childcare means his/her maintenance, i.e. providing food, clothes, housing and health care, caregiving and his/her education and upbringing (ensuring mental and physical development, considering his/her personality, abilities and interests to the extent possible, and preparing the child for socially useful work).

Child supervision means taking care of the child's safety and preventing any danger from third parties. The right to determine the child's place of residence means the geographic choice of the place of residence and the choice of housing.

Caring for the child's property means maintaining and using the child's property for its preservation and enhancement of its value.

2 As a general rule, who has the parental responsibility over a child?

Parents living together exercise parental custody jointly. If parents are separated, joint parental custody continues. The childcare and supervision are exercised by the parent with whom the child lives. Parents make decisions jointly in matters that can have a significant impact on the child's development.

3 If the parents are unable or unwilling to exercise parental responsibility over their children, can another person be appointed in their place?

If the child's health or life is endangered due to the parent's fault (due to a parent's intentional behaviour or neglect) or the parent abuses their rights or fails to provide child care and supervision thus endangering the child's physical, mental or moral development, the court may deprive the parent of the right of custody.

When depriving one parent of custody, the court transfers the child to the separate custody of the other parent. If the custody exercised by the other parent cannot adequately protect the child from danger or if the both parents are deprived of custody, the court tasks the family court with ensuring out-of-home care for the child.

4 If the parents divorce or split up, how is the question of parental responsibility determined for the future?

If parents are separated, joint parental custody continues. The childcare and supervision are exercised by the parent with whom the child lives. Parents make decisions jointly in matters that can have a significant impact on the child's development. Parents' disagreements are resolved by the family court, unless otherwise stipulated by law. Parental joint custody ends when separate custody of one parent is established according to an agreement between the parents or a court ruling.

5 If the parents conclude an agreement on the question of parental responsibility, which formalities must be respected to make the agreement legally binding?

If the parents agree on the matter of parental responsibility and execute it willingly, it is not necessary to obtain approval from any authority or court.

6 If the parents cannot come to an agreement on the issue of parental responsibility, what are the alternative means for solving the conflict without going to court?

In case of a dispute, disagreements are resolved by the family court. If the family court is unable to resolve disagreements between the parents, or if the family court's ruling is not executed, the parents apply to the district (or city district) court.

7 If the parents go to court, what issues can the judge decide upon relating to the child?

If parents apply to court, they require joint custody or separate custody. In addition, if necessary, the judge decides on matters of maintenance, place of residence, etc. A parent with a separate custody right exercises custody of the child, which includes the right to act on behalf of children in their personal and property relations and the right to establish the child's place of residence. Each parent has the obligation and the right to maintain a personal relationship and direct contact with the child. This provision is also applicable if the child is separated from the family or does not live with one or both parents. The parent who does not live with the child has the right to receive information about him/her, especially information about his/her development, health, academic achievements, interests and living conditions. A parental dispute over custody should be decided considering the child's interests and seeking the child's opinion, if he/she is able to express it.

8 If the court decides that one parent shall have sole custody of a child, does this mean that he or she can decide on all matters relating to the child without first consulting the other parent?

A parent who has separate custody of the child has all the rights and obligations arising from the custody. Parents have an obligation to support their child according to their abilities and financial situation. This obligation rests with the father and mother until the child is able to provide for himself.

The obligation to support the child does not end if the child is separated from the family or does not live with one of the parents.

The courts, when deciding on the establishing of separate custody, consider the circumstances of the case, that is, which parent the child lives with at the moment the action is filed and which parent exercises the child's daily custody. The child has the right to maintain personal relationships and direct contacts with any parent (access rights). Each parent has the obligation and the right to maintain personal relationships and direct contacts with the child. The parent who does not live with the child has the right to receive information about him, especially information about his development, health, academic achievements, interests and living conditions. Granting separate custody of the child to one parent does not mean that the other parent is deprived of the right of custody.

9 If the court decides that the parents shall have joint custody of a child, what does this mean in practice?

If children are under both parents' joint custody, both parents can act on behalf of their child in their personal and property relations. Parents make a joint decision on all matters regarding the child's development.

10 To which court or authority should I turn if I want to lodge an application on parental responsibility? Which formalities must be respected and which documents shall I attach to my application?

Claims arising from custody and access rights are brought in court at the child's place of residence. The registered place of residence of his/her parents is deemed to be the child's place of residence in claims arising from custody and access rights. If the registered places of residence of the child's parents are located in different administrative territories, the child's place of residence is deemed to be the registered place of residence of the parent he/she lives with. If the child's parents or the child have no registered place of residence, the child's place of residence is considered to be the parents' place of residence.

The statement of claim should be filed pursuant to Article 128 of the Civil Procedure Law. Article 129 of the Civil Procedure Law applies in terms of the documents to be attached to the statement of claim.

A family court opinion on the matter can also be attached to the statement of claim.

11 Which procedure applies in these cases? Is an emergency procedure available?

Judicial proceedings in civil cases are governed by the provisions of the Latvian Civil Procedure Law. Cases relating to the protection of the child's rights and interests are considered by court out of turn. The court requests the family court's opinion in matters relating to the granting of custody, child care and the procedure for exercising the right of access, and invites a representative to attend the court hearing and find out the child's opinion if the child is able to express it considering his/her age and degree of maturity.

The court considers civil cases in open sessions, except, for instance, cases of custody and access rights. Similarly, the court may declare the session, or part of it, as closed in the interests of minors upon the substantiated request of the case participants or at the discretion of the court.

The parties have the right to make a substantiated request to the court to determine a faster consideration of the case. The court then examines this substantiated request.

At the request of one of the parties, a court judgement may state that judgements or parts thereof on child maintenance and in cases relating to custody and the right of access are enforceable without delay.

Upon the request of one of the parties, the court passes a ruling which temporarily establishes child maintenance until the judgement is made.

12 Can I obtain legal aid to cover the costs of the procedure?

Low-income or deprived persons who have been assigned such status pursuant to the procedure stipulated in legislation, and persons who suddenly come into such a position and financial situation that prevents them from protecting their rights (due to natural disasters, circumstances of force majeure or other circumstances beyond the person's control), or are fully in the care of the state or municipality (hereinafter referred to as a 'special situation') have the right to request financial support for legal assistance.

At a person's substantiated request, the court or the judge considers the financial situation of an individual and fully or partially relieves him/her of payment of legal expenses into the state budget and suspends the imposed payment of court expenses into the state budget or divides them into instalments.

In accordance with the Civil Procedure Law, claimants are exempt from payment of court expenses into the state budget for claims relating to maintenance recovery for a child.

13 Is it possible to appeal against a decision on parental responsibility?

A judgement can be appealed against under the general procedure, i.e., by filing an appeal (in the Regional Court) or a cassation appeal (in the Supreme Court).

14 In certain cases, it may be necessary to apply to a court to have a decision on parental responsibility enforced. Which court should I use in such cases and which procedure applies?

Court rulings are executed once they enter into effect, or immediately if they are declared as enforceable immediately.

Court rulings are enforced by a sworn bailiff.

15 What should I do to have a decision on parental responsibility that is issued by a court in another Member State recognised and enforced in this Member State?

Rulings of foreign courts are recognised and enforced by Latvian courts.

Rulings of foreign courts are recognised and enforced pursuant to the procedure established by the Civil Procedure Law and pursuant to Council Regulation No 2201/2003 on jurisdiction and the recognition and enforcement of judgements in matrimonial matters and in matters of parental responsibility, repealing Regulation (EC) No 1347/2000,

An application for a declaration of enforceability is submitted for consideration to the district (or city district) court at the permanent place of residence of the person against whom the enforcement is sought or at the permanent place of residence of the child to whom the enforcement relates. A ruling on a declaration of enforceability or a ruling rejecting the declaration of enforceability is made by the judge at his sole discretion on the basis of the submitted application and the documents attached thereto within 10 days of the day the application is filed without inviting the parties.

16 To which court in this Member State should I turn to oppose the recognition of a decision on parental responsibility issued by a court in another Member State? Which procedure applies in these cases?

In a case for the recognition of the decision of a foreign court, an individual complaint on the ruling of a first instance court may be submitted to the district court, and the ruling of the district court on the individual complaint can be appealed against before the Senate by submitting an individual complaint.

A case participant whose registered place of residence or usual place of residence is in Latvia may submit an individual complaint within 30 days of the date when a copy of the ruling was issued, while a case participant whose registered place of residence or usual place of residence is not in Latvia may submit such a complaint within 60 days of the date when a copy of the ruling was issued.

17 Which law does the court apply in a proceeding on parental responsibility where the child or the parties do not live in this Member State or are of different nationalities?

Latvia is bound by the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children, and bilateral agreements on legal assistance concluded between the Republic of Latvia and the Russian Federation, Ukraine, the Republic of Belarus, the Republic of Uzbekistan, the Republic of Kyrgyzstan and the Republic of Moldova

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