# Parental responsibility - child custody and contact rights

Cyprus

**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 notion of "parental responsibility" covers giving a child a name, caring for the child, managing its property and representing it in any matter or legal transaction that concerns it or its property. In practice, it covers all issues relevant to a child (as an individual) and its property.

Parental responsibility is the duty and the right of the parents who exercise this responsibility jointly. Such responsibility must bear in mind the child's interests (Section 6 of Law 216/1990).

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

Parental responsibility of a child is exercised by both parents jointly.

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

Yes, in such cases, the Court can appoint a guardian with parental responsibility (Section 18(2) of the Parents and Children Relations Law, Law 216/1990).

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

In the case of a divorce or where a marriage is annulled or declared null and void, the question of parental responsibility is determined by the Court, which can award it to one of the two parents, or both jointly, or to a third person (Sections 14 and 15 of Law 216/1990). If the Court awards parental responsibility to one parent only, it can also decide about the other parent's rights of access to the child, bearing in mind the child's interest (Section 17 of Law 216/1990).

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

The Court needs to issue an order on the agreement for it to become legally binding.

**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?**

At present, there are no alternative means of settling a dispute other than court proceedings.

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

The judge can regulate any issue relating to the child, including the question of parental responsibility, access rights, education, health, management of property, name, maintenance, travel abroad and abduction.

**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?**

No, because there are issues, such as the management of the child's property, which are not covered by "custody" in the narrow sense.

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

In practice, joint custody means that the parents must decide together on issues relating to their child. It usually means that the child will live equally with both parents.

**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?**

The court with jurisdiction is the Family Court in the district in which the minor is habitually resident. Proceedings are started by filing an initiating application without an affidavit. No accompanying documentation is required at this stage.

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

The application is served on the other side who is asked to appear before the Court on the date specified in the application, in order to state his/her views. In cases involving a child, there is no emergency procedure apart from child abduction cases. Having said that, because of their nature, courts do make sure that priority is given to these cases. In addition, Article 6 of the European Convention on Human Rights and Article 30 of the Constitution of the Republic of Cyprus apply to all these proceedings; the said provisions state that all proceedings before a court must be completed within a reasonable time.

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

Yes, provided you meet the criteria laid down in law and you have obtained a court order on that matter under Law 165(I)/2002.

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

Yes. It is possible to appeal to the Appellate Family 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?**

The court with jurisdiction to enforce a parental responsibility order is the court which issued that order. Proceedings are initiated by filing an application by summons without an affidavit, using the Type I form referred to in Procedural Regulation 2/90.

**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?**

You need to register the application for recognition and enforcement in accordance with Article 21(3) of Regulation (EC) No 2201/2003. The application should be registered with the Family Court in the district where the child lives, or where the respondent lives if the child lives abroad.

**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?**

The court with jurisdiction is the Family Court in the district where the child lives, or where the respondent lives if the child lives abroad.

When the application mentioned above is served on the respondent, he/she is entitled to appear and register a defence as specified in Law 121(I)/2000. Those proceedings fall within the scope of Regulation (EC) No 2201/2003.

**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?**

The law of the Republic of Cyprus applies, and, in particular, Law 216/1990. Where none of the parties lives in Cyprus, Law 216/1990 states that the Family Courts of the Republic have no jurisdiction to try the case.

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