



*MiRI – Minor's Right to Information in EU civil actions -
Improving children's right to information in cross-border civil cases*

Questionnaire for practitioners

To be submitted to: lawyers, judges

Project coordinator and partners:



UNIVERSITÀ DEGLI STUDI
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About MiRI

The project **MiRI - Minor's Right to Information in EU civil actions (Improving children's right to information in cross-border civil cases)**(JUST-AG-2018-831608) - aims at improving the situation of children involved in civil cases, with particular reference to children's right to receive adequate information concerning civil proceedings in which they are involved.

In this light, the Project is intended to examine and evaluate the current practices in the area of family law by legal practitioners, courts and authorities, as well as by social workers and psychosocial practitioners in Italy, in order to develop common best practices and ensure the effective, coherent and child-friendly application of EU and national law. To this aim, the Project will also organise domestic best practices exchange conferences in the involved countries, which are: Italy, Spain, Bulgaria and Latvia, as well as France and Portugal through the Italian and Spanish partner organisations.

The results of each research at the national level will be available online through the official website, also containing a database with the relevant legislation and case law. The final objective of the project is to create a set of Guidelines on common best practices to be applied in all EU Member States, that can be adopted by judges, legal practitioners and professionals involved in cross-border family cases. MiRI is supported by the European commission.

For more information about the MiRI project, please check the [official website](#)

Note to the reader

You are invited to complete this questionnaire if you are a judge or a lawyer, or another professional working in the field of family law. The scope of this questionnaire is to gain insights as concerns the children's right to information in civil cases involving them. The objective of the investigation is to understand if and how children are assisted during those proceedings and are provided sufficient and appropriate information as concerns the aspects that will have an impact on their life. For this purpose, testimonies as concerns practical aspects and on-going practices, stemming from your professional experience, are very welcomed.

In answering the questions, please make reference to legislative provisions and case law.

In case of multiple-choice questions, please mark your answer with an 'x'. In case of open-answer questions, please answer according to your knowledge and your experience.

The questionnaire is anonymous, and the collected data will be used and analysed only in an aggregated form.

Completing the questionnaire will last approximately 30-45 minutes.

If you have any questions, do not hesitate to contact us:

[local contact varies depending on the local versions]

We thank you in advance for your time and for sharing with us your experience, ideas and thoughts on this issue!

Section 1: Background information (please answer all these questions)

I understand that taking part in this survey is voluntary and that any information I provide will be used in the MiRI's project activities without any identifying information:

YES

Country of the answering person: _____

Region/State/district: _____

Are you a:

Judge

Lawyer

Other: _____

Years of professional experience:

Less than 1 year 1-5 years 5-10 years More than 10 years

Section 2: General

1. In your country, is there a general obligation to provide written/oral information to children, when the dispute involves a child or is capable to affect the child's life and future? Does it depend on the age of the child? What is the main content of this information? (please explain, providing the relevant legislative provisions and also examples, if possible)

2. Are children informed *before* the start of the proceeding?

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

3. How long before children are informed before the start of the proceeding?

2-3 months 1 month 3-2 weeks 1 week 1 day No fixed rule I don't know

4. **Are children informed *during* the proceeding?**

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

5. **Are children provided information *after* the proceeding?**

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

6. **In general, in your legal system, is there a professional that has the duty to help the child in expressing his/her opinion?**

- YES (*please specify*): _____
- NO
- Only in certain cases (*please specify who and in which cases*): _____
- _____
- I don't know

If yes, is this professional neutral from the parties of the dispute and from the court institution?

- YES. How is neutrality granted? _____
- _____
- NO

7. **In general, and even when there is no obligation for the judge to hear the child under domestic law, does your legal system provide for an obligation to inform the child about the proceeding?**

- YES (*please specify if there are legal provisions explicitly stating this, or if there is case law that has established this obligation*): _____
- _____
- _____
- _____
- NO
- I don't know

8. **Are parents prepared or advised by courts or other public service on how to explain to children the situation and how to communicate them the outcome of the proceeding?**

- YES (*please specify by whom and how*): _____
- _____
- _____
- NO
- I don't know

9. **In civil proceedings, are children provided with child-friendly material on their right to information and to be heard?**

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

If yes, which of these materials? (select all the relevant answers)

- Informational booklets with pictures of the hearing room and who will be present
- A movie or a short video/a cartoon
- Flashcards
- Drawings
- Other

If yes, are there different materials on the basis of different age categories?

- YES
- NO

10. **If the child does not understand the local language, are there translation services or materials available in order to guarantee that the child receives proper information?**

YES. What services are provided (*e.g. translation services, cultural mediators, etnopsychologists, other*)? _____

-
- NO
 - I don't know

11. **Is information adequately provided also to children with special needs?**

- YES
- NO
- SOMETIMES
- BARELY
- NEVER
- I don't know

How?

- With psychologist
- With cultural mediators
- Through specific media (videos or other)
- Other

Section 3: Proceedings on parental responsibility (attribution, exercise, delegation, restriction or termination of parental responsibility/custody proceedings/access rights also after separation/divorce/marriage annulment)

12. In parental responsibility proceedings, is the child heard before issuing a decision on the merits (either directly, or through a representative or an appropriate body)?

- NO
- YES, under the following conditions (*please specify the relevant legal provisions*):

13. Who hears the child?

- The judge
- A psychologist
- A social assistant
- The judge together with the psychologist / the social assistant (*please underline the pertinent one*)
- Other: _____

If the child is heard by the judge, is the judge assisted by a psychologist or an expert?

- YES
- NO
- SOMETIMES. *In which cases?* _____

Does one of the parents (or both parents) attend the hearing?

- YES
- NO

14. Is the hearing usually preceded by a phase in which the child is provided information?

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

Who provides the information to the child?

How is the information provided?

When is the information provided?

What is the content of the information?

- The reason of the hearing
- The presence of other persons at the hearing;
- Professionals' functions;
- The extent of disclosure of the information provided;
- The availability of procedural safeguards;
- Behavioral rules during hearings
- Children's rights
- Background information on the case
- Hearing's possible outcomes
- Other: _____

Are children informed at the beginning of the audience that their opinion is important but they won't be responsible of the final outcome of the proceedings?

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

15. Is the hearing usually *followed* by a phase in which the child is provided feedbacks and information about the following steps?

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

16. Do you usually provide information to children together with a person they trust?

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

Who is this person?

- A parent
- A guardian
- Other: _____

17. After the judge has issued a decision on the merits, who informs the child about the outcome of the proceeding (*i.e.* the decision and its consequences)?

- The judge
- The lawyer of one of the parents
- The child's representative or special curator
- A social assistant or a psychologist
- Other: _____
- The child is not informed at all

How is this information provided? *(Please be specific)*

Section 4: International child abduction

18. In international child abduction cases, is the child heard before the decision of (non)return in international child abduction cases under the 1980 Hague Convention on the Civil aspects of International Child Abduction (and, when applicable, the EC Regulation No 2201/2003 – *from August 2022, Regulation EU 2019/1111*)?

YES, in these cases and under the following conditions *(please specify the relevant legal provisions)*:

NO

Sometimes, *i.e.* when _____

19. Who hears the child?

The judge

A psychologist

A social assistant

The judge together with the psychologist / the social assistant (please underline the pertinent one)

Other: _____

If the child is heard by the judge, is the judge assisted by a psychologist or an expert?

YES

NO

SOMETIMES. *In which cases?* _____

Does one of the parents (or both parents) attend the hearing?

YES

NO

20. Is the hearing usually preceded by a phase in which the child is provided information?

ALWAYS

OFTEN

SOMETIMES

BARELY

NEVER

Who provides the information to the child?

How is the information provided?

When is the information provided?

What is the content of the information?

- The reason of the hearing
- The presence of other persons at the hearing
- Professionals' functions
- The extent of disclosure of the information provided
- The availability of procedural safeguards
- Behavioral rules during hearings
- Children's rights
- Background information on the case
- Hearing's possible outcomes
- Other: _____

Are the children informed at the beginning of the audience that their opinion is important, but they won't be responsible of the final outcome of the proceedings?

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

21. **If a decision of return is issued, is the child informed about the decision?** (*'Decision of return': decision adopted under article 11 of the 1980 Hague Convention on the Civil Aspects of International Child Abduction, ordering the immediate return of the child in the State of habitual residence*)

- YES
- NO

If the answer is YES, how is the child informed? _____

By whom? _____

Please make reference to the relevant legal provisions: _____

22. **If a decision of return is issued, is the child prepared and informed about the enforcement of a return order?**

- YES
- NO

If the answer is YES, how is the child informed? _____

By whom? _____

Please make reference to the relevant legal provisions: _____

Section 5: Maintenance proceedings

23. When proceedings on maintenance or child support are celebrated outside a divorce/separation/marriage annulment proceeding, is the judge under an obligation to hear the child?

YES, in these cases and under the following conditions (*please make reference to the relevant legal provisions and case law, when applicable*): _____

- NO
- I don't know

24. Is the hearing usually preceded by a phase in which the child is provided information?

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

Who provides the information to the child?

How is the information provided?

When is the information provided?

What is the content of the information?

- The reason of the hearing
- The presence of other persons at the hearing
- Professionals' functions
- The extent of disclosure of the information provided
- The availability of procedural safeguards
- Behavioral rules during hearings
- Children's rights
- Background information on the case
- Hearing's possible outcomes
- Other: _____

Are the children informed at the beginning of the audience that their opinion is important but they won't be responsible of the final outcome of the proceedings?

- ALWAYS
- OFTEN
- SOMETIMES
- BARELY
- NEVER

Section 6: Special representative or special curator of the child

25. In your country, has the child the right to be separately represented in civil proceedings?

- YES
- NO
- SOMETIMES, *i.e.* when _____

- I don't know

If the answer is YES, please list the proceedings, as well as the relevant legal provisions, in which the child has the right of separate representation:

In these cases, does this representation include the specific duty to provide the child with adequate information about the object, the scope and the possible outcomes of the proceeding?

- YES
- NO
- I don't know

If the child is heard during the proceeding, has the representative the duty to prepare the child for the hearing?

- YES
- NO
- I don't know

26. In your country, is there the possibility to appoint a special curator or a *guardian ad litem* of the child in civil proceedings involving him/her?

- YES
- NO
- I don't know

If the answer is YES, please list the proceedings, as well as the relevant legal provisions, in which the appointment of the special curator or the *guardian ad litem* is foreseen:

In those cases, what are the main duties and responsibilities of the special curator or of the *guardian ad litem*?

Section 7: Final considerations

27. Have you ever had a specific training for professionals on children's rights and/or how to protect and fulfil the best interests of the child in civil proceedings?

- YES
- NO

28. Have you ever had a training on child-friendly language for informing children?

- YES
- NO

29. Have you ever had a training on how to explain to parents how to inform their children about proceedings?

- YES
- NO

30. Have you ever had a training on child friendly behavior to relate to children involved in proceedings?

- YES
- NO

31. What do you think can be done in order for children to receive complete and adequate information about the proceeding that concerns them in your country?

32. Is there any other aspect that has been omitted in this survey and that you think is relevant for the purpose of this research?

Thank you for taking the time to compile this questionnaire!