

# CHILD FRIENDLY COURT GUIDELINES FOR PERSONAL STATUS COURTS IN LEBANON



**Terre des hommes**  
Helping children worldwide.





## INTRODUCTION

Terre des hommes (Tdh) is the leading Swiss organisation for children's aid in more than 40 countries each year. Tdh operates through 4 specialized programmes, including an Access to Justice Programme for Children and Young people.

Since 2017, Tdh has worked closely with personal status judges and religious-based judicial authorities from seven confessions in Lebanon in promoting and strengthening child-friendly justice approaches for minors involved in family law proceedings.

Religious communities in Lebanon have recognized in international principles and standards the spirit of child-friendly justice as an inherent part of the religious values and norms applicable to family disputes. Hence, they have expressed the will to promote their systematic application in their courts.<sup>1</sup>

Based on this shared commitment and will by the Lebanese confessional judicial authorities, Tdh has provided technical support and drafted, supported by several technical workshops, these general guidelines designed for all personal status courts in the country.

The process and result in the guide herein reflect the commitment and willingness of a large number of denominational personal status jurisdictions in Lebanon to actively integrate the concept of child-friendly justice in their judicial proceedings, decisions and practices.



## OBJECTIVES

These guidelines seek to:

- Encourage personal status judges in Lebanon to adopt, throughout the proceedings and in all family litigation cases concerning children, practices, attitudes and decisions in line with the principles of child friendly justice, which respect their rights and understand their needs including those expressed in the context of the proceedings concerning them.
- Foster a better understanding of the role and skills of a personal status judge, and thus encourage, within the limits of religious-based values and norms and the applicable legal framework, innovative and courageous initiatives in favour of children involved in family litigation proceedings.

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<sup>1</sup> 2018, Tdh. Enhancing Child-Friendly Access to Justice for Children in Family Law Proceedings: A Comparative Dialogue on Procedures and Best Practices in Lebanon and some European Countries. Workshop Report.



## STRUCTURE AND CONTENT

These practical guidelines aim at facilitating the work of judges who handle personal status cases which directly concern children and their rights, particularly separation and dissolution of marriage proceedings and their effects: custody, visitation rights, alimony and child support, etc.

They were developed in line with the laws in force in Lebanon and within the framework of applicable religious values and norms by the various denominational jurisdictions.

These guidelines were developed in a participatory manner, following several processes and taking into account additional sources of information:

- The various technical exchanges carried out by Terre des hommes in collaboration with Lebanese personal status judges since 2017, compacted in technical reports <sup>2</sup> (2017 and 2018).
- Pilot consultations with judges, staff of religious courts of personal status and litigants carried out between June and October 2019 in Beirut (Lebanon). Their contributions were used to guide the recommendations towards subjects identified as essential by the participants.



87 users of the Beirut Sunni court responded to a satisfaction survey (n = 87; 71% women and 29% men) to collect experiences and opinions on the general functioning of Sunni personal status courts in Lebanon.

Groups of court clerks, judges, lawyers, and parents participated in pilot consultations (n = 28; 61% men and 39% women) to identify needs, barriers and opportunities to introduce or strengthen proceedings and practices for achieving a child-friendly justice model in personal status courts in Lebanon.

9 judges representing Sunni, Jaafarite, Maronite, Greek Orthodox, Greek Catholic, Evangelical and Druze confessions participated in a technical workshop on October 17 and 18, 2019 aimed at contextualizing international principles and standards of child-friendly justice in denominational Lebanese personal status jurisdictions. The definitions listed in section I below reflect the conceptual discussions and majority opinions of the confessions represented in this workshop.

<sup>2</sup> 2017, Tdh. Religious Courts as Child Protection Actors in Lebanon. Round Table Report.

- Lessons learnt, experiences and case law from Swiss family law courts as well as best practices and innovative tools identified in literature from countries such as Canada or Australia have inspired the technical conceptualization of these recommendations.

The international legal framework for children's rights, namely the 1989 International

- Convention on the Rights of the Child, as well as specific texts and instruments promoting child-friendly justice approaches such as the General Comment 12 (2009) on the right of the child to be heard, General Comment 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, and the Guidelines of the Council of Europe on child-friendly justice (2010) are at the heart of the of these recommendations.

These guidelines have been structured into 3 main sections.

- ✓ Section I - Children and non-adversarial cases
- ✓ Section II - Children and adversarial cases
- ✓ Section III - Child Hearing Appendix

## SECTION I – NON-ADVERSARIAL CASES

### DEFINITION

In non-adversarial judicial cases, the judge does not find any contentious elements between the parties, who suggest agreements to be validated and adopted by the court (in matters of separation/divorce, parental authority, custody, visitation rights, etc.).



The amicable or non-adversarial resolution of family law cases facilitates the swift processing of court files, reduces the probability of appealing court decisions (and thus the number of court cases), and increases the efficiency of justice while also improving the functioning of the courts.

Amicable marital separations promote the consideration of the best interest of the child, since the couple's children will suffer less from arguments and other negative aspects of the parental conflict, especially on the emotional level.

The judge plays a key role in the protection of children involved in family law proceedings by fostering, promoting and encouraging amicable agreements between parents who wish to end their marriage and establish living arrangements for their children.

### STRUCTURE OF NON-ADVERSARIAL PROCEEDINGS

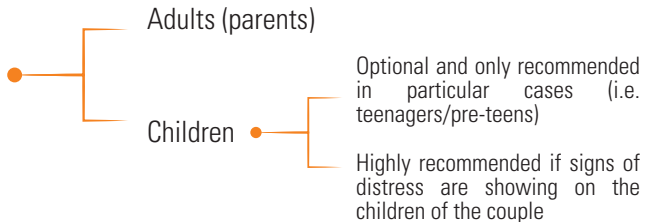
#### 1. Summons Phase



#### 2. Hearing phase



#### 3. Verdict Phase





## 1. Summons Phase

Parents are summoned separately by the Court by summons sent to their home/s or delivered by hand. The summons states that a personal hearing of 45 to 60 minutes, in camera, will take place on the day of the hearing before the judge.



The presence of children at the parents' hearing is strongly discouraged. In the summons, the parents are called to entrust their children to a trusted third party, outside of the Court, for the duration of the hearing.



## 2. Hearing Phase

**Objective:** The main purpose of the hearing in non-adversarial proceedings is to allow the judge to take note, validate and formalize the content of the agreements drawn up by the parents.



The hearing must allow the judge to ensure that these agreements:

- reflect the free will of both parents,
- are not in violation of the law, and,
- are in the best interest of the child or children affected by the proceedings

If the parents' agreement does not meet one or more of these criteria, the judge must question its validity and encourage/guide the parties to find alternative solutions. If necessary, the judge shall advise the parties to resort to parental mediation, informing them that the legal proceedings will be resumed as soon as a new agreement likely to be ratified has been reached



## Stages

On the day set by the summons, the judge shall proceed with the hearing of the parents in two consecutive stages, preferably on the same day:

**1. Individual hearing:** The judge shall ask each party to confirm their willingness to reach an amicable agreement and to assert their consent to the terms of the amicable agreement. The judge shall ensure that neither of the spouses was pressured into giving their consent.

**2. Joint hearing:** Following the individual hearings, the judge shall hear the parties together and ask them to reconfirm their willingness to proceed on the basis of an amicable agreement. He shall then discuss with the parties the details of the agreement.



The closed hearing shall take place in the exclusive presence of the party/ies concerned (and their lawyer/s), the judge and his/her registrar. The closed session guarantees the parties' right to their privacy and promotes the smooth running of the hearing. The judge shall instruct the Registry staff and any third party not to enter the hearing room, by hanging an "in camera" sign.



## Process

Concerning the fate of the children, the judge questions the parents about all the items of their agreement. He structures the hearing around four main themes:

*1st Theme: General questions concerning the well-being of the child during the phase of parental conflict.*



The factors defining the well-being of children can be different according to their age, level of maturity, character and development. Therefore, the questions should seek to understand the situation and the individual and concrete needs of each of the couple's children.

- How is/are the child/children?
- Have they been informed of marital difficulties and/or of the decision to separate? By who?
- Have efforts been made to reassure them?
- Did they express their feelings: anxiety, anger, disappointment?
- Are they showing their feelings through unusual behaviour? (i.e. absenteeism or academic difficulties, violent behaviour at home, school etc., cases of running away from home, change in eating habits ...)
- Have decisions been already taken or discussed regarding the organization of separate living for children and their care? What are the arrangements? Are improvements or additions necessary? Were the children able to give their opinions regarding these arrangements? Has their opinion been taken into account?



- Are visitation rights, if already happening, satisfying for both parents and children?
- What should be changed and how should visitation rights change, if any? Depending on what event?



In the context of a non-adversarial proceeding, if the **parents' hearing reveals worrying signs concerning the psychological state or the well-being of the children** without any adequate measure being taken by the parents, the judge **must seek** additional information, either by hearing the child, or by a social inquiry. (See Appendix – Child Hearing Proceeding).

Even without such concerns, in particular if the children are preteens or teenagers, the judge may **suggest to the parents holding a hearing** to take into account, if necessary, their particular situation within the family.

The judge could also advise parents to refer to a distress management service for children (psychologists, specialized paediatricians, public (i.e. Social Development Centres) or private entities, organisations offering psychosocial and recreational activities. etc.).

## 2nd Theme: Custody arrangements

To assess the merits of the custody agreements reached by the parents within the framework of a non-adversarial or amicable proceeding, the judge is particularly interested in the following themes:

- Where has been the child's main home to date?
- How are important decisions concerning the child made (i.e. regarding education, health, upbringing, etc.) through discussions between the parents? By one of the parents unilaterally? After discussion with the child? Are third parties or the extended family consulted?



Given the lack of a shared/alternating custody system and of equitable custody between the father and the mother in Lebanese law, the judge is encouraged to explore and propose extended visitation right arrangements benefiting the non-custodial parent. These arrangements may help maintain a balance between the custodial and the non-custodial parents and guarantee sufficient quality time for children with both parents. Related to co-parenting and child friendly communication techniques, please refer to *Tdh Guide "Positive Parenting Skills during Family Judicial Disputes: Key Messages to Ensure Child-friendly Management of Parental Disputes in Personal Status Courts" (2019)*.

### *3rd Theme: Visitation right arrangements*

To assess the merits of the agreements concluded by the parents during a non-adversarial or amicable proceeding in terms of visitation rights, the judge shall ask them the following questions in particular:

What arrangements have been made by the parties?

- How many days and hours per week/weekends/public and school holidays?
- Are these arrangements generally balanced between father and mother?
- Are grandparents and extended family included in these arrangements?
- Where are the visitation rights exercised?
- What are the time and transport arrangements: who brings the child, then brings them back and when?



Visitation rights are a right of the parents but also a **right of the child (and therefore a responsibility of the parents)**, which remains beyond the dissolution of the couple). The judge must ensure that the amicable agreements reflect the efforts and the will to give each parent sufficient quality time with the child.

This right of the child also includes the **extended family** (grandparents, aunts, uncles, cousins, etc.). The judge shall ensure that the amicable agreements do not exclude the extended family. He shall propose that concrete terms be included in the agreement.

### *4th Theme: Financial items in the agreement*

To assess the merits of the financial agreements concluded by the parents during a non-adversarial or amicable proceeding, the judge shall ask the following questions (non-exhaustive list):

- Have the child's basic needs (i.e. housing costs, clothing, food, health care, school fees, leisure) been quantified in the agreement?
- Is there a parental agreement regarding the child's basic needs?
- What criteria were used to determine the share of each parent in the care of the child's basic needs? (i.e. Percentage based on the income of each parent; Percentage based on the effective custody of the child; equitable distribution; other)



### *How to quantify the essential needs of the child?*

To examine the content of the financial agreements between the parties, the judge may ask them to bring the documents in relation to the child's basic needs:

- School or day-care invoices
- Lease agreement and invoices for current costs
- Health insurance contract (if applicable, estimate based on expenses incurred the previous year)
- Monthly budget for food (estimate)
- Work contract and payslips (reflecting the monthly salary and potential school and medical allowances)
- Proof of financial obligations towards children of a previous marriage or other dependents (i.e. elderly grandparents or dependents)
- Disability pension
- Public family allowances

If essential financial information is still missing at the hearing, the judge may allow the party concerned a short continuance (i.e. one week) to receive it before calling a new hearing and deciding on the agreement.



Taking equity considerations into account when distributing the child's financial burden generally helps reduce feelings of injustice and foster a more conciliatory mood among the parties during the separation process. **Thus, the likelihood of long and adversarial separation processes around custody, visitation and financial matters would be reduced.**

The **judge** plays a **key role** in promoting fair financial agreements relating to the care of the child's basic needs during non-adversarial proceedings:

- The judge shall ratify the financial agreements presented by the parents once they promote equity in the care of the children's basic needs.
- If not, the judge shall encourage the parties to review the agreement in order to achieve greater fairness and remind them of the importance of sharing parental responsibility.<sup>3</sup>

<sup>3</sup> 2019, Tdh Guide "Positive Parenting Skills during Family Judicial Disputes: Key Messages to Ensure Child-friendly Management of Parental Disputes in Personal Status Courts" (2019).

The hearing phase ends with the judge explaining the rest of the procedure:

- If a hearing is planned and, if so, when it will take place,
- If additional documents have to be provided and, if so, when,
- If a hearing will be held for the children, if so, when,
- The timeframe for pronouncing the verdict.



### 3. Verdict Phase

The verdict shall reflect the parties' agreement after being reviewed and ratified by the judge.

The verdict issued during a non-adversarial proceeding may briefly state the facts. However, it must include the legal reasoning relating to **the best interest of the child**. The verdict shall also **provide details regarding the concluded agreement** (i.e. concrete custody agreements, visitation rights, financial details, etc.).



#### *Example of verdict form for a non-adversarial visitation rights case.*

*"The provisions discussed and adopted by the parties during the proceedings are fair and serve the best interest of the child. Therefore, they can be subject to ratification. The child's custody being awarded to the (father or mother), the visitation rights of the other parent will be exercised as follows, unless both parents agree otherwise:*

*Every alternate weekend, from 6 p.m. on Friday to 6 p.m. on Sunday, one evening per week for dinner and half of school holidays. Summer vacation can be equally split between both parties. Short holidays, public holidays, religious holidays and birthdays shall be equally allocated to parents every alternate year.*

*In the event that the non-custodial parent fails to exercise his/her visitation rights, it shall be awarded to grandparents or other family members (either from the paternal or maternal family)".*

Once the verdict is reached, it shall be communicated to each of the parties (the parents).



The judge shall underline to the parents the importance of communicating the essence of the verdict to the children in a responsibly manner, and using a tone and language adapted to their age and level of development. To the extent possible, both parents shall jointly communicate the verdict to the child.<sup>4</sup>

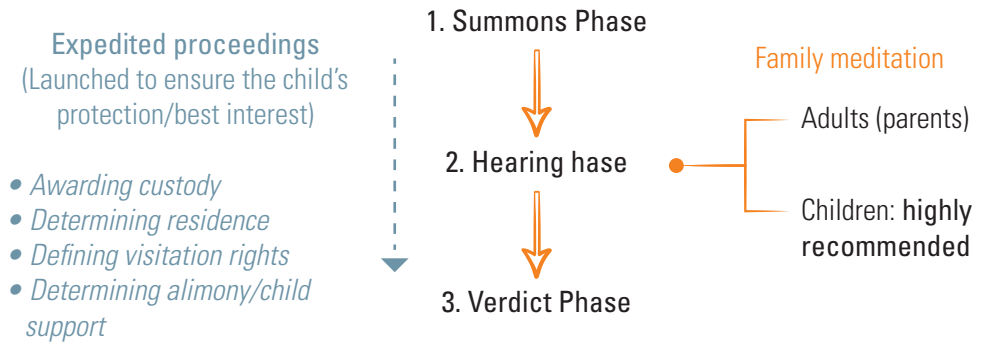
<sup>4</sup> 2019, Tdh Guide "Positive Parenting Skills during Family Judicial Disputes: Key Messages to Ensure Child-friendly Management of Parental Disputes in Personal Status Courts".

## SECTION II – ADVERSARIAL PROCEEDINGS

### DEFINITION

An adversarial proceeding takes place when prior conciliation cases or hearings held to preserve the union or the household fail, resulting in the parents' disagreement over the principle of separation, custody, visitation rights and/or the financial aspects needed to cater to the children's basic needs.

### STRUCTURE OF A STANDARD ADVERSARIAL PROCEEDING



Expedited proceedings allow the judge to make **simple decisions** regarding certain aspects of the **ongoing dispute**. Such measures are adopted suo motu by the judge or upon the request of one of the parties to protect the child's physical or psychological integrity, or his/her material interests. Such decisions can be amended according to changing circumstances.



Examples of circumstances that may prompt a judge to adopt emergency measures during ongoing proceedings:

- The custodial parent repeatedly and unjustifiably refuses to present the child for visitation rights. The judge can decide to entrust the child to an impartial person whom he/she knows to achieve transition to the other parent.
- The non-custodial parent refuses to return the child under the visitation rights

arrangements. In serious cases, the judge may decide that the visitation right shall be exercised in a protected site, under the supervision of an impartial person.

- The paying parent fails to pay for child support. The judge may decide that the child support amount be directly deducted from the paying parent's salary and transferred to the receiving parent.
- If the custodial or non-custodial parent decides to relocate, it is possible to amend the visitation rights arrangement accordingly.



## 1. Summons Phase

The general rules pertaining to non-adversarial proceedings (see section I) also apply to adversarial proceedings.



**The children's presence at the parents' hearing is strongly discouraged.** In the summons, parents are called to entrust their children to a trusted third party, outside the court, during the hearing proceedings.

The judge may encourage parents to resort to family mediation during the summons phase and/or during the hearing.



### Family mediation

**Judicial family mediation** paves the way to reaching an extra-judicial settlement of the conflict. It also values the negotiated agreements concluded by the parties in the framework of the non-adversarial management of a family breakdown. This process:

- It is aligned with the relevance of reaching non-adversarial or amicable agreements as a priority when possible for the best interest of children.
- It supports the judges to refer the parties to professional mediation structures, or the courts which would have lists of accredited experts to which couples can be referred, according to the agreements which different courts may negotiate

with existing mediation centres in Lebanon.

- It would require building the capacities of professional mediators, specialized in family dispute and children's involvement within them. It would successively require counting with an official system of accreditation for the different courts to have a list of professional mediators to whom refer the couples and children. The deontological principles, role of the mediator, safeguarding for children, etc. would need to be developed and validated officially in Lebanon.



## 2. Hearing Phase

**Objective:** During adversarial proceedings, the primary purpose of the hearing phase is to assess the parents' situation at the time of the hearing and to determine the dispute motives, the children's fate being the main priority.



### Stages

The same structure pertaining to non-adversarial proceedings is applied (see section I). During joint hearings, the judge will make sure that every parent expresses him/herself freely, without being interrupted or corrected by the other party or his/her attorney. The judge will require that **the tones and state of mind of the parties and/or their attorneys during hearings be respectable and calm**; otherwise, the judge could decide to hold separate hearings or a series of hearings with tight deadlines.



### Process

The judge shall ask the parents about the situation of their children, to determine **the marital conflict's impact on the children's well-being**:

- What is the information conveyed to the children regarding the parents' decision to separate? Who conveyed the information? How did the children react? Did they express any opinion, wishes, or concerns regarding their future?
- Has the marital conflict affected their routine and habits (i.e. social/ family relations, school life, etc.) in any way?
- Have any child support measures been taken into account (physician, psychologist, new activities, etc.)?



During the hearing of parents deeply involved in their marital conflict, the judge, with the aim to bring them to an **amicable agreement**, will emphasize his/her role as the protector of the children’s best interests.



During the hearing of parents deeply involved in their marital conflict, the judge reiterates the following principles:

- Parental obligations have precedence over the dispute.
- Children need both of their parents, for each has a role to play as primary caregivers, above anyone else.
- Both parents are **equally responsible of ensuring their children’s wellbeing** and their sound physical, psychological and moral development. Therefore, any disagreement or signs of violence in their presence can have a detrimental effect on them.
- Parents **must agree with the judge’s assistance** to the educational principles they wish to implement, and caregiving arrangements they wish to adopt, thus respecting the children’s basic needs.

The **children’s hearing during adversarial proceedings is highly recommended**, based on age and maturity limits, and according to the protocol adopted to that end (see Appendix I – Child Hearing Proceedings).





The hearing may give the judge, among others, sufficient insight into the family situation and the living conditions of the children affected by marital conflict.

In this case, the hearing could take place in conjunction with a **social inquiry** requested by the judge and undertaken by social welfare workers. It is up to the judge to assess the need for a social inquiry during the **hearing phase** of the parents and/or the children based on the amount of **contradicting or missing information**.



**Social inquiry** – A social inquiry is a major step in any judicial procedure, for it aims at collecting **objective and current data** on the family environment and the children’s situation, before taking any decision regarding custody, visitation rights, etc. Social inquiry can be adopted as a child protection measure during adversarial separation proceedings. Social inquiry is **carried out by an expert in social relations, usually a social welfare worker, who drafts a report, with or without recommendations, to be submitted to the judge.** The social inquiry report is a **tool that will aid the judge in making a decision.**

Should conflict persist in the family in spite of the judge’s and social welfare worker’s intervention, or in the event of serious family dysfunction, the judge may call for **family group expertise**. It will conduct a parenting abilities assessment for both parties and a psychological status assessment for the children affected by marital conflict. Such an assessment is undertaken by one or several psychologists, psychiatrists/ child psychiatrists. If assessing the mental condition of one of the parents is deemed necessary due to a supposed or recognized psychiatric condition, the judge will then appoint a psychiatrist as the expert.



Should the hearing of parties, children, social inquiry report or the expert reveal a serious parental dysfunction, the judge may appoint to the child/children a **specialized guardian ad litem** to represent his/her/their interests.



### 3. Verdict Phase

The verdict reflects the **decision made by the judge regarding the subject matter of the litigation.**

The verdict announced in an adversarial proceeding is usually more elaborate given the circumstances of the dispute. The judge's verdict shall include **the legal reasoning behind his/her decision** and the adopted procedures and mechanisms to achieve the **best interest of the child**. The verdict shall also **provide details regarding the agreement imposed to the parties in terms of custody, visitation rights, child support and financial obligations etc.**).



#### Solutions to protect children in verdicts declared during adversarial proceedings.

**Parental authority:** When parental authority is awarded to one of the parents under the law, the judge may order the custodial parent to consult with the non-custodial parent before making any important decision regarding the living environment, health, schooling and child education. Such an obligation to the custodial parent aims at encouraging dialogue and compromise between both parties.

**Custody:** When defining custody and visitation rights arrangements, the judge has the power to precisely define the weekend duration, the party responsible for accompanying the child from the residence of the custodial parent to the residence of the non-custodial parent and back, the distribution of school and public holidays, whether religious or not, and provide alternatives, if one of the parents ever fails to respect the arrangements set forth by the judge (illness, or the child's absence for school reasons, etc.).

**Visitation rights:** If severe dispute persists between parents by the end of the proceedings, the judge may decide that the child's transition from one parent to the other should take place in a safe place and/or in the presence of a trusted person. When the duration of the visitation right is limited due to the child's young age, the inability of the beneficiary parent to take care of the child on their own, the lack of an appropriate setting for the exercise of the visitation right, or a high risk of child abduction, the judge has the authority to choose an appropriate setting to exercise the visitation right including the supervising parties according to circumstances ("Meeting point", kindergarten or public park with adequate infrastructure). Once the children reach school age, it is recommended that contact via telephone or text messaging be expressly readjusted between the child and the non-custodial parent.



#### **Child support /Financial obligations linked to the basic needs of the child:**

In case of conflict and if child support is defined under the law, the judge may urge both parties to reconcile and resort to family mediation mechanisms that could result in amicable and fair financial agreements. In the lack of an agreement, especially in blatant cases of financial imbalance between both parties, the judge suggests bold solutions to bridge the gap, thus catering to the child's basic needs.

Once reached, the verdict shall be communicated to the parties (the parents) in a hearing during which the judge will read the verdict aloud. If both, or one of the parents fail to attend the hearing, the judge may communicate the decision to the parties' attorneys, that will in turn, convey it to them.



#### **Communicating the verdict to the couple's children**

It is highly recommended that the judge invites the concerned children to meet with him/her, and that s/he explain to them, in detail, the adopted decisions concerning them. The judge may decide to give them a redacted copy of the verdict, by censoring only sections pertaining to the parents' relation, to protect children from the parental dispute, and consolidate the confidential aspects of the agreement (the financial aspects resulting from separation).

If a specialized guardian ad litem has been appointed to the child, they will receive the redacted verdict, as they will assume the responsibility of explaining to the child the judge's decision by respecting the principles and standards of child-friendly communication.

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## SECTION III: Appendix– Child Hearing Proceeding

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Below, there are **important considerations to follow when organizing and performing a child hearing** within judicial proceedings related to family disputes:

- ✓ The child has the right to be heard by the judge, prior to making any decision regarding him/her.
- ✓ The child shall have the right to be heard from the moment he/she attains 6 years of age, unless for compelling reasons to the contrary, such as: verified mental impairment, a psychological illness or a sustainable vulnerability may be seen as compelling reasons. The stress inherent to a hearing is not a compelling reason, but an indication to put in place child-friendly justice measures.
- ✓ When the hearing of the child cannot take place due to compelling reasons, especially when the child has not attained the age limit, an inquiry conducted by social services or an expert may substitute the hearing before a judge.
- ✓ According to court rules, the judge shall hear both parents prior to hearing the child.
- ✓ The judge can immediately hear the child, chiefly upon a hearing application submitted by the latter, in the event of an emergency or if one of the parents has been absent for a long period of time.
- ✓ When justified by circumstances (extreme parental dispute, child maltreatment, established or suspected parental alienation, or a severed relationship between the child and one of the parents for a long time), the judge may appoint a guardian ad litem to the child. One guardian can be appointed to several children; only if their interests are not conflicting.
- ✓ The child's hearing shall be carried out without the attendance of his/her parents, of their attorneys, and the public, with the exception of the guardian *ad litem*.
- ✓ The child will be personally served with a summons at the custodial parent's place of residence or that of the guardian ad litem.
- ✓ *The judge shall allocate sufficient time to hear each child. Several factors may affect the duration of the hearing such as the extent to which the child is involved*

*in the conflict, the existence of alleged or proven child maltreatment or severed relationship between the child and one of the parents for a long time.*

- ✓ Each of the siblings is awarded a separate hearing, unless there are ambivalent compelling reasons, such as a child close to the age limit of six years and his brother/ sister being slightly older.
- ✓ Parents should prepare children to the hearing by comforting and reassuring them rather than pressuring them. The judge has an important role in making that very clear to the parents.
- ✓ The child shall not be sworn in to testify.
- ✓ The child should be provided with a separate access to the court than the rest of the public. The judge may allow a parent or relative to accompany the child during the welcoming and waiting phases.
- ✓ The child's hearing shall take place in an appropriate setting, in other words in a wide sparsely furnished room (a table and some chairs) thus avoiding any form of intimidation.
- ✓ The judge informs the child of his/her right not to take sides with or against his/her parents, or one of them: the judge invites him to speak freely and without restraint.
- ✓ The judge makes sure that the terminology he uses is simple, understandable, and well-meaning, thus relinquishing all external signs of authority that might jeopardize or complicate the hearing. The registrar shall do the same.
- ✓ The judge shall provide papers and pencils to the child to draw or write what he/she finds difficult to express, if deemed necessary.
- ✓ The judge shall not ask the child suggestive questions, but rather open questions.
  - I hear you get along well with your dad, right? **Inappropriate question!**
  - How can you describe your relationship with your dad? **Appropriate question!**
  - I am sure that you have good grades at school? **Inappropriate question!**
  - How is school? **Appropriate question!**
  - Is everything okay living at your mom's? **Inappropriate question!**
  - Tell me about a typical day at home? What do your mom and dad do? What do you do with each of them? **Appropriate question!**

- ✓ The judge allows the child to express their feelings (crying, anger, silence).
- ✓ The court minutes or summary of the hearing dictated by the judge to the registrar is submitted to the child for approval. The child may refuse that a part of his/her statement be included in the court minutes or the summary of the hearing.
- ✓ The judge briefly informs the child of the remainder of the process, by explaining to him/her that he will decide if he/she is to stay with his/her mother or father, and how he/she will be able to see the other parent.
- ✓ The judge informs the child that he/she can submit an application for another hearing if deemed necessary. He explains to him/her how to contact the judge or the registrar.



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