

4. SOCIAL POLICY AND FAMILY LAW: MARRIAGE, DIVORCE AND PARENTHOOD

4.3. Rights of children

Austria	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	No new provisions. In Austria children in general are capable of holding rights. Sec. 21 CC provides that children are specially protected by law.
Do children have the right to appeal to a mediator in order to defend their rights?	Yes
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	Children in general have the possibility to suggest (to the court) measures if the parents jeopardize the wellbeing of the child (sec. 176 CC).
Any other provisions concerning the rights of children, such as in the educational system?	Not mentioned

Azerbaijan	
<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>According to Article 51 of the Family Code children have the right to protect their rights and legal interests. Protection of their rights is realised by their parents, custodians or guardians, or in cases defined by the Code by representatives of Executive Authorities.</p> <p>There have been conducted a variety of activities, campaigns and projects for promoting of and improving implementation of the United Nations Convention on the Rights of the Child (adopted in 1989) as well as European Convention on the exercise of Children's Rights Special trainings were organised for children and their parents at schools both in the capital and in the regions on raising their awareness on child rights and legal provisions for their protection. These activities have been developed in a more complex program that will be realised within the framework of the Year of the Child – 2009, announced by the decree of the President of Azerbaijan.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>There are State Rehabilitation Centres for Family and Children in three regions (Ghoranboy, Shuvelan and Mingechevir) of Azerbaijan, as well as 13 such centres in Baku where children may appeal with their problems. Special trained staff of social workers render their services as mediators to children living in those communities. It is currently planned to establish such Centres in other regions of Azerbaijan to involve broader population as well as enhance the skills and knowledge of social workers.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>According to the Family Code in cases of violation of rights or legal interests of the child, or in cases of abuse of powers by the parents children under 14 have the right to appeal to the local Executive Powers, upon reaching age of 14 appeal to the court as a complainant.</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>The new Law on Education is to be adopted soon, which among others strengthens state provisions for protection of rights for education as well as regulates implementation of policy on inclusive education. According to this Law the realisation of all rights, including right for education is secured by the government. Children without parents and guardians/custodians are considered to be under guardianship of the government.</p>

Belgium	
<p>Any new provisions indicating the growing tendency to regard children as persons in</p>	<p>L'une des missions centrales de l'accueil d'enfant en Communauté flamande est la participation des enfants. K&G assure une évaluation de l'accueil par l'enfant lui-même moyennant un instrument d'autoévaluation pour le bien-être et la participation à l'accueil (= le ZIKo). Dans toutes les provinces flamandes, K&G organise des sessions d'initiation. K&G a aussi entamé des trajets d'accompagnement dans les crèches.</p>



<p>their own right?</p>	<p>En 2003, K&G a lancé le développement des « kleuterkoffers » (boîtes éducatives) avec les Kinderrechtswinkels (boutiques de droit des enfants), afin d'offrir du matériel didactique adapté aux petits enfants sur les droits de l'enfant. Cette initiative était opérationnelle fin 2004.</p> <p>Communauté française En Communauté française, le Code de qualité définit les bases d'un échange éducatif respectueux de la personnalité et de l'autonomie de l'enfant et invite les milieux d'accueil à améliorer la qualité de l'accueil. Cet arrêté se réfère à la Convention internationale des droits de l'enfant.</p> <p>Pour accompagner les milieux d'accueil dans ce processus l'ONE a élaboré deux référentiels. Le premier pour les enfants de 0 à 3 ans « Accueillir les tout –petits », suivi de 3 brochures « Repères ».</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Communauté française. En vertu du décret du 20 juin 2002 instituant un Délégué général de la Communauté française aux droits de l'enfant, ce dernier, dans le cadre de sa mission de défense des droits et des intérêts des enfants, peut recevoir de toute personne, dont les enfants eux-mêmes, des informations, des plaintes ou des demandes de médiation relatives aux atteintes portées aux droits et intérêts des enfants. Dans le cadre d'une saisine, le délégué général examine prioritairement la possibilité d'orienter, s'il échet, vers un service ou une institution de première ligne ou spécialisée, à même d'aider l'enfant dans la défense de ses droits et de ses intérêts.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>Not mentioned</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

Bosnia and Herzegovina

<p>Any new provisions indicating the growing tendency to regard</p>	<p>FBiH: Article 125, paragraph 1, of the Family Law of FBiH prescribes that a child is entitled to expressing his/her opinion and respect of it in accordance with child's age and maturity. BD: A child is entitled to: - prohibition of interference in own privacy</p>
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<p>children as persons in their own right?</p>	<ul style="list-style-type: none"> - expression and respect of own opinion in accordance with own age and maturity - request for protection of own rights before competent authority - protection from all forms of violence, abuse and neglect <p>A child who turned 14 and for whom the court determines ability to understand the meaning and legal consequences may independently act as a party in a proceeding. Parents are responsible and obligated to inform a child of his/her rights and ensure their fulfilment.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>FBiH: Article 125, paragraph 2, of the Family Law of FBiH prescribes that a child is entitled to request protection of own rights before competent authority. BD: Yes.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>FBiH: See Item 4.2. ii) BD: No</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

Bulgaria

<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>The novelties in the draft new Family Code are: 1. A child after he or she reaches the age of fourteen and within one year after he or she reaches adulthood, could dispute his or her fatherhood. 2. An official on the civic status notifies the recognition of a child to the other parent within seven days if the other parent is known, concerning a child if the child is under the age of 14, and to the Social Assistance Directorate in the place of birth of the child if the child is not yet an adult. An under aged child can contest the recognition. 3. The request for full adoption can be submitted by the adopted person if he or she is over the age of fourteen, through the respective regional social assistance directorate where the child lives, when a spouse is adopting a birth child or an adopted child of their spouse; in case of adoption of a grandchild by a grandmother and grandfather or by both of them; in case of adoption by a collateral relative up to third level; in case of adoption by a partner of the parent in a registered cohabitation; in case of adoption by a</p>
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	<p>guardian or a trustee; as well as in case of adoption by an adoptive family or friends or family with whom the child has been accommodated under the Child Protection Act. The decision on a request for adoption can be appealed by the adopted person if he or she is over the age of 14. 4. Adopted children over the age of 14 are entitled to receive information regarding their origin from the Social Assistance Directorate. 5. In case of a disagreement between a parent and a child over the age of fourteen, the child could personally, through the Social Assistance Directorate turn to the district court with the matter of solving the dispute regarding the exercise of parental rights.</p> <p>After the adoption of the Child Protection Act each child is entitled to legal assistance and appeal in all procedures concerning his or her rights and interests. In case of procedures in any kind of administrative or court procedures in which the rights or interests of a child are at stake, it is mandatory to hear the child if he or she is over the age of 10 if this would not harm his or her interests.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>As of this moment, no such right exists. Every child has the right to be informed and consulted by the child protection body and without the knowledge of his or her parents or the persons who take care of him or her if this is necessary to ensure the best protection for the child's interests and informing those persons could harm those interests. There is also the right to free expression of the child's opinion on all matters of his or her interest.</p> <p>Each child has the right to seek cooperation from the bodies and persons charged with child protection under the Child Protection Act.</p> <p>Under aged persons have the right to independently address a mediator as far as they are a party to a dispute, i.e. when they can manage their personal dealings themselves.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>The matter is regulated by the Civil Procedures Code. It states that natural persons of legal capacity carry out co-procedure actions in person while those under age or those with a limited legal capacity do it in person but with the consent of their parents or trustees. Under aged persons can participate in person in their disputes on labour relations or disputes stemming from small ordinary small deals aimed at the satisfaction of their current needs as well as in other cases provided for by law. Under aged persons and persons placed under full judicial disability are represented by their lawful representatives – parents and trustees.</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>The right to education of children is guaranteed by the Constitution of the Republic of Bulgaria and the Public Education Act and:</p> <ul style="list-style-type: none"> • no limitations or privileges are allowed based on race, nationality, gender, ethnic and social origin, religion and social situation; • the education in state and municipal schools is free of charge; • school education until the age of 16 is mandatory; • students who do not speak Bulgarian language as a mother's language, apart from the mandatory studies in Bulgarian language, are also provided with opportunities to study their own mother's language in municipal schools under the protection and control of the state; • every citizen fulfils his or her right to education in a school and kind of education chosen by him or her according to their personal preferences and capabilities and the right under article 1 for minors (children under the age of 14) is exercised by their parents. <p>The PEA regulates the rights of children with special educational needs and/or chronic diseases to go to popular kindergartens and schools as well as the obligation of kindergartens and schools to</p>

	<p>accept children with special educational needs and/or chronic diseases. Special kindergartens, schools and service units may also be created for children with special educational needs and/or chronic diseases but children must only attend those when all other possibilities for education in state and municipal kindergartens, schools and service units have been exhausted and there is a written request from the parents or the guardians.</p> <p>Under the Regulation for the Application of the PEA, students take part in school education as partners and have an active role to play in order to achieve the goals of the education and formation process and students have the rights to:</p> <ol style="list-style-type: none"> 1. choose the school, the education profile, the subjects and activities offered in the school plan as freely chosen; 2. take part, should they choose to, in school-organised out-of-class and out-of-school activities; 3. receive information from teachers on matters related to their education; 4. receive information and consultations from teachers and other officials on their vocational orientation and development; 5. receive consultations from teachers on organising their independent preparations; 6. receive individual assistance from teachers according to their specific pedagogic needs; 7. be guided, stimulated and assisted in the development of their talents, mental and physical capabilities; 8. be protected by the school, the service unit, the regional education inspectorate and the Ministry of Education and Science in case of violation of their human dignity and human rights; 9. give opinions and proposals to the school headmaster concerning the organisation and the overall activity in the school; 10. use for free the school material and technical basis in school hours as well as outside school hours in order to develop their interests and capabilities under rules set by the school headmaster; 11. be encouraged with moral awards for high achievements in school, out-of-class and out-of-school activity; 12. receive scholarships under the terms and conditions set with a legislative act of the Council of Ministers; 13. take part in the work of the pedagogic council on the discussions of the outcomes of the education, awarding and punishment of students; 14. appear once at no more than three exams for improving their marks on school subjects after the end of school activities for the respective grade of the respective education level. <p>Additional education opportunities are created for students in danger of dropping out of school with the assistance of the regional education inspectorates and together with municipalities, school boards and other bodies and organisations, by organising and carrying out:</p> <ol style="list-style-type: none"> 1. individual programmes for mental and pedagogical influence on students; 2. additional work with students during school activities and vacations; 3. out-of-class and out-of-school activities in conformity with the educational needs and interests of students; 4. consultations and guidance on vocational training subject to the age and interests of students.
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Croatia	
<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>The provisions of the Convention on the Rights of the Child were implemented in the Family Act partially in 1998, and fully in 2003.</p>
<p>Do children have the</p>	<p>The Republic of Croatia has signed the UN Convention on the Rights of the Child and acts in accordance with Convention articles 3 and 12 in these situations.</p>

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<p>right to appeal to a mediator in order to defend their rights?</p>	<p>Also, institutions act according to the Family Act which prescribes that in procedures in which a decision is made concerning the child's right or interest, the child has the right to find out in an appropriate way about important circumstances of the case, to obtain advice and to express its own opinion and to be informed about the possible consequences of its opinions being respected. The opinion is taken into consideration in accordance with its age and maturity. The child has the right to ask the respective bodies for the protection of its rights who are in their turn obliged to inform the welfare centre. The centre is generally obliged to examine the violation of children's rights and undertake measures for the protection of a child within its limits or by initiating the legal action.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>Article 269 of the Family Act prescribes that the court is obliged to enable the child, according to its age, maturity and well-being, to express its opinion before the welfare centre or the court in order to exercise its rights and interests.</p> <p>According to the provision of the Article 89 of the Family Act, the child has the right to ask for the protection of its rights before the respective bodies who are obliged to inform the welfare centre, while the provision of the Article 87 establishes the child's right to decide on its education and occupation.</p> <p>The right to "divorce the parents" is not obtainable by court's decision. The policy focuses on helping the family in establishing the environment for the proper growth and development of the child and the law prescribes measures to be used when protecting the child's well-being.</p> <p>There are many ways of separating the child from its parents:</p> <ul style="list-style-type: none"> - as a measure for social protection of the child who can be sent to a children's institution or foster family with the parent's consent; - the court can make a decision, or implement a measure for social protection of the child, to take away the parent's right to live with his/her child and to raise it. The court makes such a decision if a parent greatly neglects the upbringing of the child or if there is a danger for the proper upbringing of the child. Such a measure can be undertaken against the parent who does not protect his/her child from such actions on the part of the other parent or family member or if he/she does not protect the child from harmful actions on the part of other persons: - if a parent abuses or seriously violates the parental responsibility, obligations and rights, the court will deprive him/her of the right to parental custody - if the child shows behavioural disorders, and the parents or foster parents are unable to raise the child properly, the court makes a decision on giving the child to the welfare institution for care and upbringing.
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Schools are obliged to take care of basic students' needs, meet conditions for healthy mental and physical development and social welfare, prevent unacceptable behaviour, take care of students' safety, provide conditions for successful learning for each student, take care of health conditions of each student and inform authoritative bodies on the same, monitor social problems of students and undertake measures in cooperation with welfare institutions.</p> <p>The Act regulates the issues of obligatory protection of the rights of students, their health and security in schools, the right to home education (in case of an illness), the right to equal education throughout the territory of the Republic of Croatia, and other rights. It also regulates the issues of the rights and obligations of parents towards students and school that emphasizes the role of parents in upbringing and education of a child. It regulates the obstacles to starting working in schools thus legalizing a series of obstacles in working within the immediate surroundings of children and young people.</p>

Cyprus

<p>Any new provisions</p>	<p>A major development has been the enactment of the Commissioner for the Protection of</p>
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<p>indicating the growing tendency to regard children as persons in their own right?</p>	<p>Children's Rights Law, which came into force on 22.6.2007. In accordance with this Law, the Commissioner undertakes information campaigns in order to change outdated perceptions on the position of children in society and procures and promotes the views of children whenever they cannot be heard.</p> <p>- A new draft Law for the Welfare, Care and Protection of Children, which is in the final stages of preparation, incorporates the principle of respect for the child's opinion as a general principle which must be applied in all cases and in all areas regulated by the Law. Specifically, the draft Law stipulates that a child who is capable of forming his or her own opinion, must be given the opportunity to be heard in any administrative or judicial procedure which concerns him/her and due weight must be given to his/her views, in accordance with the age and maturity of the child.</p> <p>- Furthermore, the right of children to be heard as witnesses in criminal proceedings is granted by domestic law. Special legal provisions exist to assist and support vulnerable witnesses, such as children, during criminal proceedings and to facilitate the gathering and giving of evidence by such witnesses, e.g. testifying (a) while the case is tried on camera, (b) in the absence of the accused, (c) behind a special screen, (d) through closed-circuit television connection (CCTV).</p> <p>- The Children's Parliament was established in 2001 on the initiative of the Pancyprian Coordinating Committee for the Protection and Welfare of Children (a children's rights NGO), with the aim of ensuring children's active participation in decision-making processes on matters that concern them. It enables 56 children, representing children from all districts, to discuss issues derived from a yearly National Conference on matters concerning children and to present their views at a Special Session of the House of Representatives. The Special Session is presided by the President of the House and is attended by members of parliament and representatives of relevant Government departments and authorities.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>In accordance with the Commissioner for the Protection of Children's Rights Law, the Commissioner may submit applications on behalf of any child for the appointment of a special representative in court proceedings affecting the child, when the law or the court precludes the holders of parental responsibility from representing the child, due to conflicts of interest.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>No</p>
<p>Any other provisions concerning the rights of children, such as in the</p>	<p>In schools, children have the opportunity to express their views and take part in decision-making processes through their participation in independent student councils, administration boards, the disciplinary board and teachers' staff meetings. It should be noted that all schools of both primary and secondary education have independent, democratically elected student councils.</p>

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educational system?	
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Czech Republic	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	Not mentioned
Do children have the right to appeal to a mediator in order to defend their rights?	A mediator may establish contact with the parents as well as with the child (there are no obstacles to including the child in the mediation itself, given the age of the child). Any agreement concluded by the parents is reviewed by the court to ascertain it is in compliance with the law and whether it serves the best interests of the child, or children. Should the agreement not comply with one of these conditions the court may not approve such agreement.
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	<p>The courts are obliged, in any proceedings involving a child, to find out what are the opinions of the child, given that the child is able to formulate its own opinions. In order to find out this opinion the court may interview the child in person or to authorize a body involved in social and legal protection of the child to interview the child (i.e. this interview is carried out in an environment which is familiar to the child).</p> <p>Furthermore, the court may find out the child's opinion on the basis of expert evaluation – i.e. the opinion is uncovered by psychologist.</p> <p>A child who is capable of formulating his/her own views has the right freely to express these views for the purposes of socio-legal protection during discussions of all matters affecting the child, even without the presence of his/her parents or other persons responsible for the child's upbringing. When discussing all matters affecting the child, his/her views shall be given due weight in accordance with the age and maturity of the child. In performing its activities, the socio-legal protection authority shall take account of the wishes and feelings of the child in accordance with his/her age and maturity in order to avoid threatening or disturbing his/her emotional and psychological development.</p> <p>A child who, given his/her age and maturity, is able to assess the scope and importance of the decision made during the legal or administrative proceedings to which he/she was a participant, or whether it is another decision that personally affects him/her, shall be informed by the socio-legal protection authority of all matters that might significantly affect him/her.</p>
Any other provisions concerning the rights of children, such as in the educational system?	<p>The rights of the children are regulated especially in the School Act (Act No. 561/2004 Coll.). These rights of the pupils and students include</p> <ol style="list-style-type: none"> a) the right to education and school services, b) the right to information on the course and results of their education, c) the right to establish self-governing bodies of pupils and students in schools, to vote and to be elected into such bodies, to work in them, and to approach through them the directors of schools, e) the right to express their opinions toward all decisions related to the material issues of their education, and these opinions must be given due consideration corresponding to their age and degree of development, f) the right to information and counselling services provided by the school or school advisory facility in all matters related to their education.



	<p>Independently are regulated the rights of pupils and students with special educational needs, and these include children with health handicaps, health disadvantage or social disadvantage. These children have the right to education which contents, form and methods correspond to their education needs and capacities, the right to the creation of required conditions which enable such education and to the counselling services of schools and or school advisory facilities. A special regulation addresses education of the children of foreigners and especially gifted children.</p> <p>In the event the child is placed in an institution enforcing institutional and protective education, the rights of the child in the area of education are regulated also by the Act No. 109/2002 Coll., on the Enforcement of Institutional and Protective Education.</p>
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Denmark	
<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>According to the Act on Parental Responsibility that came into force on 1 October 2007 in cases concerning custody, the child's place of residence or access, the child must be given an opportunity to make its views and opinions known, and the child's views and opinions must be taken into consideration when making the decision.</p> <p>The act also gives a child who has reached the age of 10 the possibility to ask the regional state administration to call the parent to a meeting about custody, the child's place of residence or access.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>No</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>No</p>
<p>Any other provisions concerning the rights of children, such as in the</p>	<p>To guarantee the children right for professional education and to minimize subjectivity in assessment of child's knowledge there was undertaken a transition to unified state examination after their finishing school.</p> <p>In Moscow and other regions (e.g. Saratov) there are been established school ombudsman</p>

educational system?	positions.
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Estonia	
<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Children's rights and obligations are stipulated in the Republic of Estonia Child Protection Act. Every person is required to immediately notify the social worker, police or some other body providing assistance if the person knows of a child who is in need of protection or assistance. The social workers have the right and are required to act immediately, regardless of the region or group to which the child belongs.</p> <p>In the resolution of issues pertaining to a child, the wishes of the parent or foster parent or guardian and the wishes of a child who is at least 10 years of age have to be considered. Upon separation of a child from his or her home and family, the wishes of a child who is less than 10 years of age have to be considered if the developmental level of the child so permits.</p> <p>New provisions in the protection of children's rights are:</p> <ul style="list-style-type: none"> - prohibition on provision of social services - working with children is prohibited for a person who has been punished or who has been subjected to coercive treatment for a criminal offence (for example, in cases of placing a person of less than 18 years of age in a situation where he or she is forced to work or perform other duties against his or her will for the benefit of another person, sexual intercourse with a person less than 18 years of age against his or her will by using force, sexual intercourse with descendant, sexual intercourse with child of less than 14 years of age, disposing minors to engage in prostitution, use of minors in manufacture of pornographic works etc) if information concerning the punishment has not been expunged from the punishment register or information concerning the punishment has been expunged from the punishment register and has been entered in the archives of the punishment register. - Case plans together with the action plan for each child are being prepared by local governments before referral to substitute home service or foster care. A case plan is a written document consisting of evaluation to a child's need for assistance and the activity plan for resolving his or her problems. A case plan is informative. After referral of a child to a substitute home service the local government of the residence of the child supplements the case plan of the child in accordance with the proposals of the provider of substitute home service. The case plan of a child subject to foster care has to be reviewed at least once a year.
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Every person is required to immediately notify any body providing assistance if the person knows of a child who is in need of protection or assistance.</p> <p>Every child has the right to turn to any person or institution (e.g. teachers, school psychologists, school director, medical doctors, social workers etc) for help. Every child has the right to turn to legal chancellor, who among other duties operates as the children ombudsman. Mainly, children are not aware of such possibility.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge</p>	<p>No. Minors can not turn to court without a legal representative.</p> <p>A parent is required to protect the rights and interests of his or her child. A parent is the legal representative of a child. As a legal representative, the parent has the authorisation of a guardian. Children under 18 years of age can not be guardians. If upon depriving a parent of parental rights a child is left without parental care, a guardianship authority arranges for care of</p>

<p>parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>the child.</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Pre-school education is mainly acquired at home and parents or persons substituting for parents are responsible for granting the child a pre-school education. Pre-school child care institutions have to support and complement family upbringing. Education is compulsory for children of school age – 7 year of age (generally) until student has acquired basic education or attained 17 years of age.</p> <p>New provisions concerning the rights of children involve:</p> <ul style="list-style-type: none"> - Establishment of maintenance allowance - a child whose parent does not perform the maintenance obligation has the right to receive maintenance allowance. For detailed description, please see section "Child support/maintenance" of question 4.2 "Divorce and parenthood. Custody of children and child support/maintenance." - Obligation to live with a parent, foster-parent, guardian or in a family with a caregiver or in a children's home as one of the juvenile sanctions. The sanction is applicable mainly as a result of vagrancy.

Finland	
<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>It frequently occurs that new legislation affecting minors contains specific provisions giving children below the age of 18 certain self-determination right or rights to participate.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Yes, but mediation is voluntary for participants. It is, accordingly, not possible to force e.g. parents to participate the mediation which is instituted at the request of the child.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence</p>	<p>No</p>

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or education (e.g., the so-called right to "divorce your parents")?	
Any other provisions concerning the rights of children, such as in the educational system?	Not mentioned

France	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	A child is a person, an owner of rights which are limited by the fact of being underage.
Do children have the right to appeal to a mediator in order to defend their rights?	<p>In any proceedings that concern them, minors may be assisted by a lawyer. The lawyer may be chosen by:</p> <ul style="list-style-type: none"> - the father or mother, the guardian, the legal representatives; - directly by the minor concerned; - or by the Public Prosecutor, the investigating judge or the children's court, being "officially appointed" in that case. <p>The lawyer's role is:</p> <ul style="list-style-type: none"> - to assist, represent and advise the minor and to defend his or her interests, - may ask that the minor be heard, - to consult the minor's record of court-ordered educational measures or guardianship file, - to appeal against the decisions of the children's court within 15 days at the minor's request. <p>In addition, any minor aged 18 years may apply directly to the "Children's Advocate" (law of 6 March 2000) whose function is the defence and furtherance of children's rights as defined by law or by an international undertaking. The Children's Advocate does not take the place of the specialised services or the social and judicial apparatus of child welfare. This office invites the persons, institutions, and administrations implicated to take a different view of the cases and to envisage other solutions. It can also issue recommendations or even injunctions where a judicial ruling is not complied with. It delivers an annual report to the President of the Republic.</p>
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge	The law does not give capacity to bring legal action to minors not released from parental authority except in special cases outside the sphere of family law, so they cannot challenge before the courts their parents' decisions in matters such as their place of residence or education. They do not have standing as party to proceedings. On the other hand, it is prescribed that parents associate children in decisions concerning them, according to their age and level of maturity (see Article 371-1 of the Civil Code). Furthermore, in any proceedings concerning them, minors capable of understanding may be heard by the judge or a person appointed to do so. This

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<p>parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>hearing is as of right (see Article 388-1 of the Civil Code).</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Law no. 2005-380 setting out principles and programmes for the future of school education of 23 April 2005 reaffirmed the principles on which the French education system is founded, in particular:</p> <ul style="list-style-type: none"> - a right to education is secured to all persons to enable them to develop their personality, raise their standard of basic and further training, take their place in social and occupational life and exercise their citizenship, - a right to guidance and information on courses and occupations.

Germany

<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Under § 1631 Para. 2 Civil Code, children have a right to be brought up without violence. Physical punishment, mental abuse and other humiliating measures are not permitted. Under § 1684 Para. 1 Civil Code, children also have a right of association with both parents; each parent is obliged and entitled to associate with the child.</p> <p>At the moment, there is some discussion as to whether children's rights above and beyond this should be defined expressly in the Basic Law (e.g. by supplementing Article 6 Basic Law: "Every child has a right to develop and unfold his or her personality, to be brought up without violence and to be protected in particular against violence, neglect and exploitation. The state community regards, protects and promotes the rights of children and is responsible for providing living conditions appropriate for children."). Irrespective of this, a recently issued decision by the Federal Constitutional Court (judgement dated 1 April 2008, 1 BvR 1620/04) provides a new interpretation of Article 6 of the Basic Law. According to this, Article 6, Basic Law, concerns not only the relationship between the parent and child and the state, but also gives the child a right of care and upbringing against the parent.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Under § 8 Para. 2 SGB VIII, children and young people have the right to contact the Youth Welfare Department in all matters relating to their upbringing and development. Children and young people can also ask the Youth Welfare Department to take them into care (§ 42 SGB VIII). In a legal action, the child may, in its own interests, be assigned a supporter in the case by the Court. Similarly, the right of a child to be consulted in legal procedures is also regulated under the law. There is no express right to appeal to a mediator.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence</p>	<p>If the good of the child is at risk, the Family Court must, under § 1666 Civil Code, take the necessary measures. The Family Court can independently initiate action under § 1666 Civil Code. There is no need for a formal application, which means that the proceedings can be started at the request of a minor or a third person.</p>

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or education (e.g., the so-called right to "divorce your parents")?	
Any other provisions concerning the rights of children, such as in the educational system?	Not mentioned

Greece	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	<p>According to the Law 3625/2007 "Ratification, application of the Optional Protocol of the U.N. Convention on the Rights of the Child concerning the trafficking of children, child prostitution and child pornography and other provisions", the basic issues are the following:</p> <ul style="list-style-type: none"> • Re-determination of the offence of child pornography, so that the actor should be punished even if the purpose of the act was not the financial benefit, purpose which remains as a particular aggravating fact. In addition, it is considered to be worthy of punishment the possession of material of child pornography, the representation or the real or virtual presentation of a) minor's body or part of minor's body in a way that obviously provokes sexual excitation, b) real or virtual immodest act in electronic or other means, • The self-appointed recruitment of advocate for minor victims, • The participation during interrogation of a psychologist or psychiatrist specialized in children, • The registration of minor's testimony to electronic means, • Prohibition of the presentation of minor victim in front of audience, • The psychological examination and treatment of minor victims and actors of certain crimes, • Prohibition of publication of events that may have as a result the identification of the minor victim, • The postponement of the suspension during minority of the victim. This postponement is in effect for three years after that the victim becomes adult as far as felonies are concerned and for a year for misdemeanours, • The application of Greek penal code for offences concerning child pornography and travels for reasons of sexual intercourse or others immodest acts against minors committed by foreigners or natives (sexual tourism), • Responsibility of Legal Entities with administrative penalties, • Quick judgment of cases of all degrees of responsibility for these acts.
Do children have the right to appeal to a mediator in order to defend their rights?	<p>Our country with law 2101/92 ratified the Convention of the UN concerning the rights of the child. At the same time, law 3094/2003 has re-defined the competences and the way of operation of the Greek Ombudsman and established the Greek Ombudsman for Children. The mission of the Greek Ombudsman includes the protection and the promotion of the rights of the child. Any child or the parents, foster parents or relative of first degree have the right to ask directly or send their complaint to the Ombudsman for Children. The Ombudsman, after a thorough investigation, forwards a relevant report in case it considers that the competent judiciary authority should intervene.</p>
Any legal developments allowing young children	Not mentioned

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<p>(that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

Hungary

<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Not mentioned</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Not mentioned</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>Not mentioned</p>

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<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>
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Iceland	
<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Not new ones, but the Law in Respect of Children provides children with the right to express their opinion on subjects concerning their own affairs (e.g. custody). United Nations Declaration of the Rights of the Child was ratified in Iceland in the year 1992 and office of the child ombudsman was opened in 1994.</p> <p>According to the Child Protection Act nr. 80/2002 a child who has reached the age of 15 is a party to a child protection case if the child is to be placed in a treatment or a foster home.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>No</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>No</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>The children's ombudsman has played a very important role in the implementation of the CRC; not least when it comes to ensuring that children's voices are raised and heard. Article 12 of the Convention grants children the right to have his/her view heard and to be given weight in accordance with their age and maturity. In schools and all institutions serving children there is a growing awareness of the importance of children rights and their voice and the children's ombudsman has been providing guidelines for institutions to follow as well as encouragement to work in accordance to the CRC.</p>

Ireland	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	No
Do children have the right to appeal to a mediator in order to defend their rights?	No
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	No
Any other provisions concerning the rights of children, such as in the educational system?	No

Italy	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	The Department for Family Policies and the Department for Equal Opportunities collaborated in writing the draft law for the establishment of the National protection supervisor for childhood and adolescence. Among the tasks of the protection supervisor are the monitoring the implementation of international conventions and state laws for minors, the reporting of cases of hardship, abuse and maltreatment to juvenile courts and the promotion of awareness-raising and information for the understanding of the rights of minors. The protection supervisor will also have advisory tasks and may propose to Parliament the adoption of measures and actions to promote or protect the rights of children and adolescents.

<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Law 149/2001 provides for the figure of a lawyer for every child involved in cases of a declared state of adoptability and in proceedings under Art. 336 Civil Code relating to the forfeiture or restriction of parental responsibility. Compared to the past, when the first stage of the proceedings relating to these cases was secret and concluded with a decree from the court of minors against which the parents could only make an objection at the end, the approach introduced by Law 149/2001 requires that cross-examining and discussion is guaranteed from the outset. The spirit of the law, which is modelled on the guidelines of the New York Convention on the Rights of the Child, is that when the a child is capable of discernment, they are entitled to express an opinion on matters which interest them, having the possibility of being assisted by a lawyer in a legal proceeding.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>Not mentioned</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

<p>Latvia</p>	
<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>A public utilities number will also be set up, 114, to which children and families can go to report cases of hardship or abuse".</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>The Ministry of Children and Family Affairs provides mediation only for adults.</p>

<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to “divorce your parents”)?</p>	<p>Under the Section 20 of the Protection of the Rights of the Child Law a child shall be given the opportunity to be heard in any adjudicative or administrative proceedings related to the child, either directly or through a lawful representative of the child or through a relevant institution.</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

Lithuania

<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Not mentioned</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Not mentioned</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the</p>	<p>Not mentioned</p>

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so-called right to "divorce your parents")?	
Any other provisions concerning the rights of children, such as in the educational system?	Not mentioned

Luxembourg	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	Les enfants sont considérées comme des personnes à part entière encore que pour des raisons de capacité et de protection ils n'exercent pas toujours leurs droits (différence entre jouissance et exercice du droit).
Do children have the right to appeal to a mediator in order to defend their rights?	Oui au médiateur pour enfant (voir 1ère partie).
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	Le droit du divorce est un droit personnel des parents. Les enfants ne peuvent donc pas s'opposer au divorce de leurs parents. L'enfant mineur a de par la loi son domicile auprès de celui ou de ceux des parents qui exercent l'autorité parentale. En cas de litige p. ex. d'un adolescent mineur, il peut saisir le tribunal de la jeunesse (qui peut d'ailleurs se saisir lui-même) et celui-ci décidera le cas échéant après audition de l'enfant, et dans son intérêt de l'autorité parentale et donc du domicile de l'enfant. (voir ci-avant art. 11 de la loi sur la protection de la jeunesse).
Any other provisions concerning the rights of children, such as in the educational system?	Comme les parents sont civilement responsables de leurs enfants qui vivent auprès d'eux et sur lesquels ils ont l'autorité parentale, l'éducation de l'enfant relève principalement de leur choix. En cas de litige, le tribunal de la jeunesse peut être saisi (voir ci-avant).

Malta	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	Not mentioned
Do children have the right to appeal to a mediator in order to defend their rights?	Yes
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	No
Any other provisions concerning the rights of children, such as in the educational system?	In Malta there is a Commissioner for Children taking care of children's rights and the role is covered by the Commissioner for Children Act.

Moldova	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	Not mentioned

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<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Not mentioned</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to “divorce your parents”)?</p>	<p>Legea 45-XVI din 1.03.2007 on prevention and combating family violence, establishes in Art.12 and 13 that the victim of violence in the family (inclusively the child) may address an application on the acts of violence committed in the family towards family members. On the basis of the application the instance/authorities issue in 24 hours on the application deposited, an ordonnance of protection, to assist the victim, applying measures towards the aggressor among which are: a) obligation to leave temporarily the common living house/space/, or stay far/apart from the victim, without deciding on the way of property or common goods management; b) obligation to stay away from the place of stay of the victim; c) obligation to stop contacting with the victim; d) forbidding to visit the place of residence of the victim; e) obligation to pay the costs for the damage and violation acts towards the victim, inclusively medical costs and those for replacement or repair of the goods destroyed or deteriorated; f) Fixing a temporary regime of visits for minor children. At the same time, acc the Civil procedural Code, art. 58, the physical person can exercise in full volume its capacity, personally or via a legal representative (exercise capacity of the rights of civil procedures), starting the age of 18. The legal rights and freedoms of children between 14 and 18 years old are defended in the legal instances by parents, adopters, or their tutors, the instance being obliged to introduce in such cases minor children or adults limited in their capacity. The rights, freedoms and legal interests of the minor children under 14 are defended in instances by their legal representatives-parents, adopters, tutors, curators, administration of the education institutions, of orphanages and social protection institutions.</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Art.10 of the Law 338-XIII of 15 December 1994 on the rights of the child provides for that every child has the right to free of charge training /education in the state language or other language in a school of general education, to continuation of studies in technical and occupational schools, lyceums, colleges, high education institutions, in conformity with the legislation.</p>

Monaco

<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Dans le cadre de la procédure de divorce, le Tribunal de première instance peut entendre ou faire recueillir par une tierce personne les sentiments exprimés par les enfants mineurs. Ceux-ci peuvent être entendus seuls ou, si leur intérêt le commande, avec une personne désignée à cet effet par le Tribunal de première instance. Toutefois, dans un objectif de préservation des rapports parents-enfants, l'audition des enfants mineurs ne leur confère pas la qualité de partie à la procédure.</p>
<p>Do children have the right to appeal to a mediator in order to</p>	<p>Sans objet.</p>

defend their rights?	
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	Le mineur peut saisir le juge tutélaire pour obtenir le bénéfice d'une mesure de surveillance ou d'assistance éducative. Le juge tutélaire peut auditionner toute personne en vue de rechercher notamment l'adhésion des parents de l'enfant quant aux mesures de protection, avant de rendre sa décision par voie d'ordonnance dont notification au mineur lui-même peut avoir lieu.
Any other provisions concerning the rights of children, such as in the educational system?	S'agissant de la reconnaissance des droits des enfants, peuvent être citées les mesures éducatives suivantes : - une éducation au texte de la Convention des droits de l'enfant des Nations Unies de 1989 par l'édition d'une série de sept albums de bandes dessinées, financée par l'Etat monégasque ; - l'expérimentation du Conseil Economique et Social des Jeunes, qui rend concrète la participation des jeunes à la vie civile, - la série des 7 albums contribuant à la connaissance de la Convention des droits de l'enfant de 1989 est utilisée dans la totalité des établissements du primaire, et des actions de sensibilisation sont menées, notamment lors d'une journée des droits des enfants pour laquelle tous les établissements scolaires sont impliqués. D'autre part, des heures spécifiques de « vie de classe », en collège, servent de moment d'apprentissage pratique des droits et devoirs de l'enfant (rôle de délégué de classe, instruction civique, etc.).

Montenegro

Any new provisions indicating the growing tendency to regard children as persons in their own right?	<p>A child has the right to know who its parents are. The right of a child to know who its parents are may be limited only by this law.</p> <p>A child who has completed 15 years of age and who is able to form an opinion may have an insight into the birth register and other documents pertinent to its origin.</p> <p>A child has the right to live with its parents and the right to have its parents take care of it before everyone else. The right of the child to live with its parents may be limited only by a court decision, when this is to the best interest of a child.</p> <p>A court may make a decision to separate the child from its parents if there are reasons for restriction or depriving of the parental right or in case of violence in the family.</p> <p>A child who has completed 15 years of age and who is capable of forming its own opinion may decide which of the parents it wants to live with.</p> <p>A child has the right to maintain personal relationships with the parent it does not live with. The right of the child to maintain personal relationships with the parent it is not living with may be restricted only by a court decision when this is to the best interest of the child.</p> <p>The court may make a decision to restrict the right of the child to maintain personal relationship with the parent it is not living with if there are reasons for restrictions or deprivation from the parental right or in case of violence in the family.</p> <p>A child who has completed 15 years of age and who is able of forming its own opinion may make</p>
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	<p>a decision to maintain personal relationship with the parent it is not living with.</p> <p>A child has the right to maintain personal relationships also with relatives and other persons it is in particular close to if this is to its best interest.</p> <p>A child has the right to be secured the best possible living and health conditions for its proper and complete development.</p> <p>A child who has completed 15 years of age and who is able of forming its own opinion may give consent to undertaking of a medical intervention.</p> <p>A child has the right to education in accordance with its abilities, desires and inclinations.</p> <p>A child who has completed 15 years of life and who is able of forming its own opinion may decide which secondary school it will attend.</p> <p>A child who has not completed 14 years of age may undertake legal affairs by which it acquires neither rights nor obligations and legal affairs of small significance.</p> <p>A child who has completed 14 years of life may undertake, apart from the legal affairs as of paragraph 1 of this Article also all other legal affairs along with a previously or subsequently obtained consent of the parents, i.e. consent of the custodial body for legal affairs as of Article 308 paragraph 2 of this Law.</p> <p>A child who has completed 15 years of life may undertake legal affairs by means of which it manages and disposes of its revenues or property it acquired by its own work.</p> <p>A child may undertake also other legal affairs when this is foreseen by the law.</p> <p>A child who is able to form its own opinion has the right to freely express that opinion.</p> <p>A child has the right to obtain in a timely manner all the information needed for forming its opinion.</p> <p>Due attention has to be devoted to the opinion of a child in all issues regarding it and in all the procedures in which his rights are decided on, all in compliance with the age and the maturity of the child.</p> <p>A child who has completed 10 years of age may freely and directly express its opinion in every court and administrative procedure in which his rights are being decided on.</p> <p>A child who has completed 10 years of life may by its own, or through the mediation of some other person or institution, address the court or an administrative body and require assistance for the realization of its right for free expression of opinion.</p> <p>Competent authority shall determine what the opinion of the child is through an informal talk conducted in an appropriate place, in cooperation with the school psychologist or the custodial body, family councillor or some other institution specialized for family relationships, and in the presence of a person the child itself chooses.</p> <p>A child is under an obligation to help its parents in accordance with its age and maturity.</p> <p>A child making an income or having revenues from property is under an obligation to cover partly the needs for its own support or for the support of its parents or a minor brother or sister, on conditions determined by this law.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Not mentioned</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence</p>	<p>Not mentioned</p>

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or education (e.g., the so-called right to "divorce your parents")?	
Any other provisions concerning the rights of children, such as in the educational system?	Not mentioned

Netherlands	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	A ban on the use of corporal punishment (in civil law, as a normative provision) was incorporated in Dutch legislation (article 1:247, Civil Code) in 2007.
Do children have the right to appeal to a mediator in order to defend their rights?	See answer at iii
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	Minors may request the court to appoint a guardian ad litem (bijzondere curator) who can start proceedings regarding residence, education or contact even for young children; - In a decision of 4 February 2005 the Dutch Supreme Court ruled that there were no procedural requirements for filing a request for a guardian ad litem ('easy access' for children and parents) - In a decision of 4 April 2008, the Supreme Court ruled that a child could file an application to change a shared responsibility arrangement to sole responsibility even after divorce proceedings.
Any other provisions concerning the rights of children, such as in the educational system?	No information available

Norway	
<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Children's right to express themselves in cases which concern the child him/herself is lowered from 12 to 7 years old in the main legislation such as the Child Welfare Act and the Children Act.</p> <p>From first of April 2004 the Children Act has changed so that the judge has the power to appoint an advocate or other representative for the child or children of the family. Although the rule is intended to apply only as a matter of exception, it may contribute to improving the position of the child in particularly serious cases.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>See 4.4.i)</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>See 4.4.i)</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

Poland	
<p>Any new provisions indicating the growing tendency to regard children as persons in</p>	<p>According to the draft amending Polish Family and Guardianship Code concerning legal relations between parents and children and procedural matters, activities of the parents connected with the parental authority should be taken with respect of children dignity and rights (Art. 95§1 of the draft) and the personal relations between children and parents should be based on mutual respect (Art. 87 of the draft).</p> <p>Pursuant to Article 95§2 of the draft, the parents before taking the decision concerning the person or the property of the children should hear them out and under the condition that the</p>

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<p>their own right?</p>	<p>wishes of the child is reasonable, fulfil them. The court, taking into consideration the protection of the child's property, would be able to impose on parents the annual limit of the disposition concerning movables, money and securities papers which are the child's property (Art 104 of the draft). In accordance with the draft, the contact of the parents with the child should be considered not only as the right, but also as the obligation.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Children don't have the right to appeal to a mediator. However, if a child informs the representative of public institution about the violence in the family, according to the Article 12 of an Act on prevention against family violence, each person who due to his/her professional duties possesses a knowledge that the crime of violence against family member were committed, is obliged to report it to Police or Public Prosecutor.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>No new legal developments allowing young children to go to court to challenge parental decisions on issues such as residence or education. However the child can participate to the family mediation. In this case, expressing of juvenile's consent is required.</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

Portugal

<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Over the last few years there has been a public debate regarding the regulation of custody and parental responsibility in cases where biological and foster parents dispute the custody of children. There have been several court decisions involving children in foster families which at some point, at the request of one of the biological parents and following a Court decision, are transferred from one family to another. This usually implies that the child is cut off from previous and profound emotional ties with families with whom she/he had lived for many years. Court decisions tend to favour biological criteria and in many cases young children (aged two, three, four, five years old) are handed over to biological fathers/mother with whom there has been no relationship built up over a certain period of time.</p> <p>Both the media and public opinion have rallied round the foster families and the children who have challenged court decisions to hand over children to biological parents whom they have never known or not seen for several years (in one case, which has been running in court for</p>
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	<p>several years, a petition with 10 000 signatures was handed to parliament). As a result, there is an ongoing debate involving several public opinion makers as well as representatives of several entities, mostly non profit institutions or non governmental institutions dealing with children, all of them questioning to what extent the rights of children are being respected.</p> <p>Recently, in 2008, the President of The Institute for Child Support (Instituto de Apoio à Criança), wife of a former President of Portuguese Republic, presented in parliament a proposal to change the law that protects children at risk in cases of divorce or dispute between foster or biological parents. The content of this document includes: the clarification of the concept of the "child's superior interest"; the introduction of a child's right to keep profound emotional relationships; the possibility of the child being heard and his/her opinion taken into account when the child is below age 14 (the aim is for the court to get to know and to gain more respect for the child's will and desire); the importance of keeping siblings together in processes of adoption, with separation only allowed in very special and rare cases. The proposal also challenges the idea that a child at risk is a maltreated child, emphasizing that a child facing an abrupt emotional break-up is also at risk.</p>
Do children have the right to appeal to a mediator in order to defend their rights?	See previous question
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	No
Any other provisions concerning the rights of children, such as in the educational system?	Not mentioned

Romania

Any new provisions indicating the growing tendency to regard	At this time, there is no intention to amend the legal provisions regarding the acquiring of exercise capacity.
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children as persons in their own right?	
Do children have the right to appeal to a mediator in order to defend their rights?	In order to be able to resort to the mediation procedure, the conflicting parties must conclude a mediation agreement. Therefore, in this field the rules regarding the civil capacity of a person are applicable. Equally, we specify that the mediation procedure can also be used in the case of disputes already brought to court, in this case the provisions regarding the processual capacity of exercise and use being applicable. We also note that the rules regarding representation and assistance apply in this respect as well.
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	The legal provisions regarding this issue are comprised in the Family Code, as follows: Art. 42 (1) The law court shall decide, when pronouncing the divorce, who shall have the custody of the under age children. To this end, the court shall hear the parents and the guardianship agency and, taking into account the children's interests, whom it shall also hear if they are aged 10 or more, it shall decide, for each child, whether the custody is to be given to the father or the mother. (2) For solid reasons, children can be entrusted to relatives or to other persons, with their consent, or to child protection institutions. (3) At the same time, the law court shall establish the each parent's contribution to the expenses regarding the raising, education, learning and professional training of the children. (4) The parent's agreement regarding the custody of the children and the each parent's contribution to the expenses regarding their raising, education, learning and professional training shall be effective only if approved by the court. Art. 44 (1) In the event of a change of circumstances, at the request of any of the parents or the child, if the latter has reached the age of fourteen, the guardianship agency or a child protection institution, the court can amend the measures regarding the personal or patrimonial rights and obligations between the divorced parents and the children."
Any other provisions concerning the rights of children, such as in the educational system?	We must note here the provisions of the Law no. 272/2004 on the protection and promotion of children's rights, as further amended and supplemented. Thus, Chapter II in the above-mentioned law, "Child's rights", comprises a series of provisions regarding the civil rights and liberties of the child. Equally, Section IV – "Education, leisure and cultural activities" in Chapter II of the Law regulates the right of the child to receive an education that allows the development of his/her skills and personality in non-discriminating conditions.

Russian Federation

Any new provisions indicating the growing tendency to regard children as persons in their own right?	The Russian Federation has adopted the Convention on the Rights of the Child. The family legislation (the Family Code) contains Chapter 11 "The Rights of Under-aged Children". Another act dealing with this issue is the Federal Law "On main guarantees of the Rights of the Child in the Russian Federation". Children rights protection is traditionally taken into account in every case of legal regulation of social relations. Special norms of the legislation on issues of education, population health protection, labour relations, penal and administrative laws, social providing of the population are devoted to children rights protection. A number of federal laws specially concern with rights protection of the children under drastic vital circumstances (homeless and neglected children, children left without parental care, etc.). Since 1998 there is a new program concerning the development of ombudsman institute on children rights issues. In 2008 the ombudsmen are acting in 23 regions of the Russian Federation,
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	that is nearly 1/3 of all 85 regions in Russia.
Do children have the right to appeal to a mediator in order to defend their rights?	<p>As it was pointed out above, there is no mediators' institute in Russia in European sense. At the same time, due to Article 56 "The Child's Right to Protection" it is established, that the child shall have the right to protection from abuses on the part of the parents (the persons, substituting for them).</p> <p>If the child's rights and legal interests are violated, including if the parents (one of them) fail to discharge or improperly discharge their duties, involved in the child's upbringing and education, or if they abuse the parental rights, the child shall have the right to turn on his own for their protection to the guardianship and trusteeship body, and upon reaching the age of 14 years - to the court.</p> <p>The family legislation establishes the cases, when decisions on vital problems of child's life shall be obligatory made taking into account the opinion of the child.</p> <p>According to Article 57 of the Family Code the child shall have the right to express his opinion in resolving any issue in the family, which infringes upon his interests, and also to be heard out in the course of any court or administrative hearings. It shall be obligatory to take into account the opinion of the child, who has reached the age of 10 years, except for in the cases, when this is contrary to his interests. In the cases of changing the child's name and surname, restoration in the parenthood, child adoption, the entry of the adopters as the adopted child's parents, giving a child for upbringing into a Foster Family, the guardianship and trusteeship bodies or the court shall be able to take the decision only with the consent of the child, who has reached the age of 10 years.</p>
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	<p>See above.</p> <p>In addition to this due to Article 65 of the Family Code in case the parents live apart in the absence of an agreement, the dispute between the parents on the place of the children's residence shall be resolved in court, proceeding from the children's interests and taking into account the children's opinion. In doing this, the court shall take into account the child's affection for each of his parents and for his brothers and sisters, the child's age, the moral and other personal features of the parents, the relations, existing between each of the parents and the child, and the possibility to create optimal conditions for the child's upbringing and development (the parents' kind of activity and work regime, their material situation and family status, etc.).</p>
Any other provisions concerning the rights of children, such as in the educational system?	<p>To guarantee the children right for professional education and to minimize subjectivity in assessment of child's knowledge there was undertaken a transition to unified state examination after their finishing school.</p> <p>In Moscow and other regions (e.g. Saratov) there are been established school ombudsman positions.</p>

Serbia

Any new provisions indicating the growing tendency to regard	The law has regulated that each person is obligated to be led by the best interest of the child in all activities that concern the child. The state has the obligation to overtake all necessary measures for child protection from neglect, physical, sexual and emotional abuse and any type of
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<p>children as persons in their own right?</p>	<p>exploitation. Also, the state has the obligation to respect, protect and improve the rights of children. We will take out only some of the legal solutions, which show that children are considered as persons with all rights that belong to them: child that is capable to form its own opinion has the right to freely voice that opinion; child has the right to gain all information needed for forming that opinion. Child's opinion must be given a special attention in all matters that concern that child and in all processes in which decisions about its rights are being made and in agreement with the age and maturity of the child.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Child that has turned 10 years of age can freely and directly voice its opinion in every court process in which it is being decided about child's rights. Also, child that has turned 10 years of age can by itself, or through some other person or policy body, turn to court in achieving its opinion and implementation of the right of voicing ones opinion. Court or the ruling body valueate child's opinion in cooperation with the school psychologist or a guardian body, family council or other specialised institution for mediation in family matters and with presence of the persons the child chooses itself.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>Child that has turned 15 years of age and that is capable of thinking can decide with which parent it will live with. Also, the child of this age and capable of thinking can decide about keeping the personal relations with the parent with who the child doesn't live with. Child that turned 15 years of age and is capable of thinking can give acceptance for performing the medical grip and which school it would attend. Child that hasn't turned 14 years of age (younger minor) can perform legal duties by which it only collects rights and legal jobs of small scale. Child that has turned 14 years of age (older minor) can perform, besides above mentioned jobs, all other legal jobs with parental acceptance or guardian bodies for legal jobs referring to realty and movable property of high value. Parents of the child can therefore dispose this property without primarily gaining the acceptance of the ruling bodies. Child that has turned 15 years of age can undertake legal jobs which it manages and disposes with its own earnings or property gained by that child's own work. Child that has turned 10 years of age can freely and directly express its opinion in every court proceeding in which it is being decided about its rights. Also, child that has turned 10 years of age can alone or through another person or institution, turn to court and ask for help in achieving its right to expressing opinion. The court ascertains child's opinion in cooperation with school psychologist or the guardian body, family counselling or another specialised institution for mediation in family relations and with the presence of the person chosen by the child on its own – article 65. Family Act.</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

Slovakia

<p>Any new provisions indicating the growing tendency to regard children as persons in</p>	<p>No</p>
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their own right?	
Do children have the right to appeal to a mediator in order to defend their rights?	No
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	No
Any other provisions concerning the rights of children, such as in the educational system?	The rights and obligations of children within the educational system are laid down in the School Act (Act No 29/1984 Coll. on system of primary and secondary schools as amended). A new Draft of the School Act as a part of the educational reform has been recently submitted in the legislative approval procedure.

Slovenia

Any new provisions indicating the growing tendency to regard children as persons in their own right?	In accordance with the provisions of the Constitution of the Republic of Slovenia (Ur. l. RS, No. 33/91, 42/97, 66/00, 24/03, 69/04 and 68/06) children enjoy special protection and care. Children are guaranteed special protection from economic, social, physical, mental or other exploitation and abuse. Article 56 of the Constitution of the Republic of Slovenia of 1991 (with amendments adopted up to 2006) stipulates: "(Rights of Children) – Children shall enjoy special protection and care. Children shall enjoy human rights and fundamental freedoms consistent with their age and maturity. Children shall be guaranteed special protection from economic, social, physical, mental or other exploitation and abuse. Such protection shall be regulated by law. Children and minors who are not cared for by their parents, who have no parents or who are without proper family care shall enjoy the special protection of the state. Their position shall be regulated by law."
Do children have the right to appeal to a mediator in order to	The new Family Code introduces an additional right of a child – the right to an representative in all activities and procedures concerning him/her if his/her benefit can not be protected in any other suitable manner – a child' representative. In transitional provisions the Code makes reference to a special act, which will regulate the procedure for appointing a representative to a child, conditions an representative must fulfil and advocate's competences, the manner of



defend their rights?	representative termination and other issues regarding representation to a child.
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to “divorce your parents”)?	<p>Children in Slovenia become of age at the age of 18, which is also the age of contractual capacity. A minor can have full contractual capacity in two instances:</p> <ol style="list-style-type: none"> 1. By entering into marriage (a minor requires the consent of the Social Work Centre for entering into marriage – no age is defined by law under which it is not possible to enter into marriage but in practice, the age limit has been set at the age of 15). 2. By a court decision, issued at the proposal of the Social Work Centre, if a minor becomes a parent and important reasons exist for giving him/her full contractual capacity (Article 117 of the ZZZDR, Article 61 of the Non-litigious Civil Procedure Act). Minors acquire certain rights and obligations even before they are 18 years of age: Criminal liability starts at the age of 14, but criminal liability of minors differs from criminal liability of adults. At the age of 14 persons fall within the competence of juvenile courts (younger offenders are dealt with by the social security bodies). Even though persons of 14 years of age can be tried in a court (in a special criminal procedure), a prison sentence can only be imposed on minors that were already 16 years of age when they committed the offence. Slovenian legislation recognizes no exceptions in this regard: A minor may conclude a contract of employment at the age of 15. A contract of employment concluded by a person under 15 years of age is null and void; Deciding on medical intervention: At the age of 15, a minor decides himself/herself on any medical interventions; he/she gives consent to, or refuses, proposed interventions (Health Service Act). <p>The Civil Procedure Act has lowered the age of capacity to sue or be sued in marital and parental actions to 15 if the child is of sound mind. Such a child can execute the acts of procedure independently as a party, and in particular can file a complaint against a decision the court is obliged to serve on him/her.</p>
Any other provisions concerning the rights of children, such as in the educational system?	Not mentioned

Spain	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	Not mentioned
Do children have the right to appeal to a mediator in order to defend their rights?	Not mentioned

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<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to “divorce your parents”)?</p>	<p>Not mentioned</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

Sweden

<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Since 1996 there is an explicit rule in the Swedish Children and Parents Code stipulating that the court, in every decision on custody, residence of the child and contact, has to take account of the child's own wishes, subject to his or her age and maturity. The same rule applies to decisions about enforcement of a custody decision.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>No - The Social Welfare Committee has an obligation to intervene or act on behalf of the best interests of the child.</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the</p>	<p>No</p>

so-called right to “divorce your parents”)?	
Any other provisions concerning the rights of children, such as in the educational system?	<p>There is a ‘Barnens elevombudsman’ (Pupils’ ombudsman) at the National Agency for Education. This person is responsible for representing children in bullying cases (against municipalities who may be liable for damages if children have been exposed to bullying).</p> <p>A new act prohibiting discrimination, the Act Prohibiting Discrimination and Other Degrading Treatment of Children and School Students (2006:67) came into force in 2006. To read more, see link to the right.</p>

Switzerland	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	Non
Do children have the right to appeal to a mediator in order to defend their rights?	Pas réglé par la loi.
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to “divorce your parents”)?	Non. L'enfant doit obéissance à ses père et mère, qui lui accordent la liberté d'organiser sa vie selon son degré de maturité et tiennent compte autant que possible de son avis pour les affaires importantes. L'enfant ne peut quitter la communauté domestique sans l'assentiment de ses père et mère.
Any other provisions concerning the rights of children, such as in the educational system?	<p>Les père et mère sont tenus d'élever l'enfant selon leurs facultés et leurs moyens et ils ont le devoir de favoriser et de protéger son développement corporel, intellectuel et moral.</p> <p>Les père et mère disposent de l'éducation religieuse de l'enfant; par contre dès 16 ans l'enfant a le droit de choisir lui-même sa confession.</p>

Turkey	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	Not mentioned
Do children have the right to appeal to a mediator in order to defend their rights?	Not mentioned
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?	The abuse of parental power falls within the judicial authority. Where the physical or intellectual development of a child is endangered, or where he is utterly neglected, then the court may take the child away from the parents and board him out with a family or in an institution according to the circumstances. If the circumstances disturb the family and the child severely, the parents as well as the child may apply to the court for a decision on above mentioned precautions.
Any other provisions concerning the rights of children, such as in the educational system?	A commission was formed in Our Ministry for drafting the legislation on the assistance for the children who are victim of violence which would enable to compensate their material and emotional damage within the concept of social solidarity. The work of the commission is still on going.

Ukraine	
Any new provisions indicating the growing tendency to regard children as persons in their own right?	Not mentioned

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<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>Children have the right to appeal to a mediator in order to defend their rights (Social services, police, etc.).</p>
<p>Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (e.g., the so-called right to "divorce your parents")?</p>	<p>Children have the rights. Children can go to court to challenge parental decisions on issues such as residence (with mother or with father if they are divorced) since 12 years old.</p>
<p>Any other provisions concerning the rights of children, such as in the educational system?</p>	<p>Not mentioned</p>

United Kingdom

<p>Any new provisions indicating the growing tendency to regard children as persons in their own right?</p>	<p>Section 53 of the Children Act 2004 amends the Children Act 1989 and places new duties on social workers to give due consideration to children's wishes and feelings when undertaking a child protection enquiry or a children in need assessment. It came into force in March 2005. However, research suggests there may be a low awareness of this duty.</p>
<p>Do children have the right to appeal to a mediator in order to defend their rights?</p>	<p>In certain situations advocates should be provided: The Children Leaving Care Act 2000 requires local authorities to improve the life chances of young people living in and leaving care and expects advocacy services to be accessible to all care leavers making or intending to make a complaint. The Adoption and Children Act 2002 places a duty on local authorities to provide advocacy services to children who wish to make a complaint or a representation under the 1989 Children Act procedures. The Health and Social Care Act 2001 places a duty on the Secretary of State for Health to make arrangements for advocacy services to be provided to people [including children and young people] wishing to make a complaint about their NHS care or treatment. The most recent Children's Complaints regulations "Local Authority Social Services Department Children's Representation Procedure [England] Regulations" require local authorities to give</p>

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	children and young people information about advocacy services when they first make a representation or a complaint.
Any legal developments allowing young children (that is those under the age of legal independence) to go to court to challenge parental decisions on issues such as residence or education (eg., the so-called right to “divorce your parents”)?	None
Any other provisions concerning the rights of children, such as in the educational system?	Guidance published in May 2008 sets out the Government’s expectations on how children and young people’s voices should be heard in schools. School councils are mandatory in Wales.