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Rights of minors in court proceedings

Malta

There are various definitions of what the law deems as a 'child' (Child's legal capacity) across the Maltese legal framework.

1. Child's legal capacity

In Malta the minimum age of criminal responsibility is 14. For all matters, the minimum age at which a plaintiff can bring a case to court in their own right is 18.

2. Access to adapted proceedings

With reference to juvenile offenders the specialised court dealing with minors in the Criminal Field is the Juvenile Court. With regards to child victims these are heard through video-links. Civil Proceedings: Minors under the age of eighteen cannot sue or be sued except through a parent, tutor, curator or guardian. However in court cases dealing with personal separation or divorce, during the proceedings the court shall always consider the best interest of the child. The following are administrative judicial proceedings involving children: child protection, adoptions, fostering, unaccompanied asylum seekers and children in asylum proceedings.

3. Legal and policy measures to avoid undue delay in the handling of cases involving children

The legal and policy measures in place to avoid undue delay in the handling of cases involving children vary according to the circumstances: criminal cases: child as a victim and child as an offender, civil cases in family cases the best interest of the child is taken into consideration. With regards to administrative cases concerning minors when care orders are issued these are brought before the Juvenile Court which is a specialised court.

4. Child specific support mechanisms and procedures and best interest of the child

There is no overarching rule in Maltese law which specifies the conditions in which a vulnerable child is to be heard during all the different criminal or administrative proceedings that exist. There are laws found in different status and procedures applied by the judicial or quasi-judicial bodies that make the respective administrative and criminal proceedings in line with Article 12 of the UNCRC. In Malta any child can take the witness stand; it is however essential for the court to be satisfied that the child witness understands that it is wrong to give false testimony.

5. Monitoring enforcement of decisions in proceedings involving children

The monitoring and enforcement of decisions in proceedings involving children depends on the type of case, under Maltese Law one finds the following criminal law: sentencing, care orders, probation orders and parole. With regards to civil proceedings decisions involving children as plaintiffs or defendants are enforced in the same way as decisions involving adults as plaintiffs or defendants. With reference to administrative proceedings under Maltese Law, children cannot sue or be sued, except in the person of the parent exercising parental authority, or, in the absence of such parent, of a tutor or a curator. Child protection cases can be started by the legal department of Agenzija Appogg or by a private lawyer.

6. Access to remedies

Under Maltese Law in criminal proceedings there is no specific right for child victims, this right emanates from the law itself and applies to all victims be it child or adult. With regards to civil proceedings/administrative proceedings a child can access any complaint, legal appeal or judicial review mechanism through a parent, tutor, curator or guardian. During contentious proceedings between the parental right holders before the Family Court a children's advocate may be appointed to represent the child's interest.

7. Adoption

The procedure of adoption in Malta involves various stages.

[Child-friendly justice in Malta](#)  (366 Kb) 

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