

QUESTIONNAIRE

A. GENERAL

1. Having regard to the concept of parental responsibilities as defined by the Council of Europe (see above), explain the concept or concepts used in your national legal system.
2. Explain whether your national concept or concepts encompass:
 - (a) Care and protection;
 - (b) Maintenance of personal relationships;
 - (c) Provision of education;
 - (d) Legal representation;
 - (e) Determination of residence;
 - (f) Administration of property.
3. In what circumstances (*e.g.* child reaching majority or marrying) do parental responsibilities automatically come to an end?
4. What is the current source of law for parental responsibilities?
5. Give a brief history of the main developments of the law concerning parental responsibilities.
6. Are there any recent proposals for reform in this area?

B. THE CONTENTS OF PARENTAL RESPONSIBILITIES

7. Describe what the contents of parental responsibilities are according to your national law including case law.
8. What is the position taken in your national law with respect to:
 - (a) Care;
 - (b) Education;
 - (c) Religious upbringing;
 - (d) Disciplinary measures and corporal punishment;
 - (e) Medical treatment;
 - (f) and legal representation.
9. What is the position taken in respect of the child's right to be heard with regard to the issues mentioned under Q 8a - 8f. What relevance is given to the age and maturity of the child?
10. Do(es) the holder(s) of parental responsibilities has(have) the right to administer the child's property?

11. If yes, explain the content of this right.
12. Are there restrictions with respect to:
 - (a) Certain goods and/or values (inherited property, gift...);
 - (b) Salary of the child; or
 - (c) Certain transactions?
13. Are there special rules protecting children from indebtedness caused by the holder(s) of parental responsibilities?
14. Do the contents of parental responsibilities differ according to the holder(s) of parental responsibilities (*e.g.* married, unmarried, parents not living together, stepparents, foster parents or other persons). If so, describe in some detail how it differs.

C. ATTRIBUTION OF PARENTAL RESPONSIBILITIES

I. Married parents

15. Who has parental responsibilities when the parents are:
 - (a) Married at the time of the child's birth;
 - (b) Not married at that time but marry later?
16. How, if at all, is the attribution of parental responsibilities affected by:
 - (a) Divorce;
 - (b) Legal separation;
 - (c) Annulment of the marriage;
 - (d) Factual separation.
17. To what extent, if at all, are the parents free to agree upon the attribution of parental responsibilities after divorce, legal separation or annulment of the marriage? If they are, are these agreements subject to scrutiny by a competent authority.
18. May the competent authority attribute joint parental responsibilities to the parents of the child even against the wish of both parents/one of the parents? To what extent, if at all, should the competent authority take account of a parent's violent behaviour towards the other parent?
19. Provide statistical information on the attribution of parental responsibilities after divorce, legal separation or annulment of the marriage.

II. Unmarried parents

20. Who has parental responsibilities when the parents are not married?

21. Does it make a difference if the parents have formalised their mutual relationship in some way (registered partnership, civil union, *pacte civil de solidarité*...).
22. Under what condition, if at all, can
 - (a) The unmarried mother;
 - (b) The unmarried father,obtain parental responsibilities.
23. How, if at all, is the attribution of parental responsibilities affected by the ending of the unmarried parents' relationship?
24. May the competent authority attribute joint parental responsibilities to the parents also against the wish of both parents/one of the parents? To what extent, if at all, may the competent authority take into account a parent's violent behaviour towards the other parent?
25. To what extent, if at all, are unmarried parents free to agree upon the attribution of parental responsibilities after the ending of their relationship?
26. Provide statistical information available regarding the attribution of parental responsibilities for unmarried parents.

III. Other persons

27. Under what conditions, if at all, can the partner of a parent holding parental responsibilities obtain parental responsibilities, when, he/she is:
 - (a) Married to that parent;
 - (b) Living with that parent in a formalised relationship (registered partnership, civil union, *pacte civil de solidarité*...);
 - (c) or living with that parent in a non formalised relationship?
28. Does it make any difference if the partner of the parent holding parental responsibilities is of the same sex?
29. How, if at all, is the attribution of parental responsibilities in the partner affected by the ending of his/her relationship with the parent? Distinguish according to the different relationships referred to in Q 27 and Q 28.
30. To what extent, if at all, is the parent holding parental responsibilities and his/her partner free to agree upon the attribution of parental responsibilities after the ending of his/her relationship with the parent? Distinguish according to the different relationships referred to in Q 27 and Q 28.

31. Under what conditions, if at all, can other persons not being a parent or a partner of a parent holding parental responsibilities, obtain parental responsibilities (*e.g.* members of the child's family, close friends, foster parent...)? Specify, where such other persons may obtain parental responsibilities, if it is in addition to or in substitution of existing holder(s) of parental responsibilities.
32. Under what conditions, if at all, can a public body obtain parental responsibilities? Specify, where it is so obtained, if it is in addition to or in substitution of existing holder(s) of parental responsibilities.
33. To whom are the parental responsibilities attributed in the case of:
 - (a) The death of a parent holding parental responsibilities;
 - (b) The death of both parents of whom at least one was holding parental responsibilities at the time of the death?
34. To what extent, if at all, may the holder(s) of parental responsibilities appoint a new holder(s) upon his/her/their death? If such an appointment is permitted, must it take place in a special form, *e.g.* will?

D. THE EXERCISE OF PARENTAL RESPONSIBILITIES

I. Interests of the child

35. In exercising parental responsibilities, how are the interests of the child defined in your national legal system?

II. Joint parental responsibilities

36. If parental responsibilities are held jointly by two or more persons, are they held equally?
37. If parental responsibilities holders cannot agree on an issue, how is the dispute resolved? For example does the holder of parental responsibilities have the authority to act alone? In this respect is a distinction made between important decisions and decisions of a daily nature? Does it make any difference if the child is only living with one of the holders of the parental responsibilities?
38. If holders of parental responsibilities cannot agree on an issue, can they apply to a competent authority to resolve their dispute? If applicable, specify whether this authority's competence is limited to certain issues *e.g.* residence or contact.
39. To what extent, if at all, may a holder of parental responsibilities act alone if there is more than one holder of parental responsibilities?

40. Under what circumstances, if at all, may the competent authority permit the residence of the child to be changed within the same country and/or abroad (so called relocation) without the consent of one of the holders of parental responsibilities?
41. Under what conditions, if at all, may the competent authority decree that the child should, on an alternating basis, reside with both holders of parental responsibilities (*e.g.* every other month with mother/father)?

III. Sole parental responsibilities

42. Does a parent with sole parental responsibilities have full authority to act alone, or does he/she have a duty to consult:
 - (a) The other parent;
 - (b) Other persons, bodies or competent authorities?

E. CONTACT

43. Having regard to the definition by the Council of Europe (see above), explain the concepts of contact used in your national legal system.
44. To what extent, if at all, does the child have a right of contact with:
 - (a) A parent holding parental responsibilities but not living with the child;
 - (b) A parent not holding parental responsibilities;
 - (c) Persons other than parents (*e.g.* grandparents, stepparents, siblings etc)?
45. Is the right to have contact referred to in Q 43 also a right and/or a duty of the parent or the other persons concerned?
46. To what extent, if at all, are the parents free to make contact arrangements? If they can, are these arrangements subject to scrutiny by a competent authority?
47. Can a competent authority exclude, limit or subject to conditions, the exercise of contact? If so, which criteria are decisive?
48. What if any, are the consequences on parental responsibilities, if a holder of parental responsibilities with whom the child is living, disregards the child's right to contact with:
 - (a) A parent;
 - (b) Other persons?

F. DELEGATION OF PARENTAL RESPONSIBILITIES

49. To what extent, if at all, may the holder(s) of parental responsibilities delegate its exercise?
50. To what extent, if at all, may a person not holding parental responsibilities apply to a competent authority for a delegation of parental responsibilities?

G. DISCHARGE OF PARENTAL RESPONSIBILITIES

51. Under what circumstances, if at all, should the competent authorities in your legal system discharge the holder(s) of his/her/their parental responsibilities for reasons such as maltreatment, negligence or abuse of the child, mental illness of the holder of parental responsibilities, *etc.*? To what extent, if at all, should the competent authority take into account a parent's violent behaviour towards the other parent?
52. Who, in the circumstances referred to in Q 51, has the right or the duty to request the discharge of parental responsibilities?
53. To what extent, if at all, are rights of contact permitted between the child and the previous holder of parental responsibilities after the latter has been discharged of his/her parental responsibilities?
54. To what extent, if at all, can the previous holder(s) of parental responsibilities, who has been discharged of his/her parental responsibilities, regain them?

H. PROCEDURAL ISSUES

55. Who is the competent authority to decide disputes concerning parental responsibilities, questions of residence of the child or contact? Who is the competent authority to carry out an investigation relating to the circumstances of the child in a dispute on parental responsibility, residence or contact?
56. Under what conditions, if any, may a legally effective decision or agreement on parental responsibilities, the child's residence or contact, be reviewed by a competent authority? Is it, *e.g.*, required that the circumstances have changed after the decision or agreement was made and/or that a certain period of time has passed since the decision or agreement?
57. What alternative disputes solving mechanisms, if any, *e.g.* mediation or counselling, are offered in your legal system? Are such mechanisms also available at the stage of enforcement of a decision/agreement concerning parental responsibilities, the child's residence or contact?

58. To what extent, if at all, is an order or an agreement on parental responsibilities, the child's residence or contact enforceable and in practice enforced? Describe the system of enforcement followed in your national legal system. Under what conditions, if at all, may enforcement be refused?
59. To what extent, if at all, are children heard when a competent authority decides upon parental responsibilities, the child's residence or contact, *e.g.*, upon a dispute, when scrutinizing an agreement, when appointing or discharging holder(s) of parental responsibilities, upon enforcement of a decision or agreement?
60. How will the child be heard (*e.g.* directly by the competent authority, a specially appointed expert or social worker)?
61. How, if at all, is the child legally represented in disputes concerning:
 - (a) Parental responsibilities;
 - (b) The child's residence; or
 - (c) Contact?
62. What relevance is given in your national legal system to the age and maturity of the child in respect of Q 59-61?