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Hearing abducted children in the
court: the Dutch model

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Abstract

This paper presents the legal provisions on parental child abduction (The Hague Abduction Convention, Brussels II-bis Regulation), then examines the implementation of children's rights to be heard in abduction proceedings. Based on an interprofessional cooperation, a judge, a cross-border mediator and a bijzondere curator are all involved in the hearing. As the legislation leaves a wide discretion to the court, semi-structured interviews were conducted with Dutch judges aiming at having an overview about their personal approaches. The main purpose of this paper is to summarise the key findings of these interviews.

Keywords

Parental child abduction, children's rights to be heard, court hearing, bijzondere curator.

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1. Introduction

„It is the child, more than anyone else, who will have to live with what the court decides. Those who do listen to children understand that they often have a point of view which is quite distinct from that of the person looking after them. They are quite capable of being moral actors in their own right. Just as the adults may have to do what the court decides whether they like it or not, so may the child. But that is no more a reason for failing to hear what the child has to say than it is for refusing to hear the parents' views.”²

A child who is involved in a parental child abduction case finds himself or herself in a very stressful situation. Even though the relevance of the child's views in these cases may be limited, the increasing significance of listening to the abducted children requires more and more practices. After a brief overview of the legal background, this paper summarises the key findings of interviews conducted with Dutch judges in May and June 2019 on the hearing in abduction proceedings, then concludes with a few remarks.

Parental child abduction is the situation where one of the parents removes or retains the child abroad, while violating the other parent's parental rights. Retaining, in this case, means that the parent travels with the child lawfully, for a temporary period, but later changes his or her mind and permanently stays abroad.

Legislation on parental child abduction is interpreted on three, international, European and national levels. The Convention on the Civil Aspects of International Child Abduction (hereinafter referred to as Hague Abduction Convention) was drafted in 1980 with the purpose of protecting custody rights internationally, and currently, it is one of the most successful documents of the Hague Conference on Private International Law, as it has 101 Contracting Parties.³ Article 3⁴ of the Hague Abduction Convention defines the very complex concept of child abduction. The Convention's preamble refers to the need to ensure the

2 Re D (a child) [2006] UKHL 51, [2007] 1 AC 619 para 57.

3 For details, see its website at:

<https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>

4 “The removal or the retention of a child is to be considered wrongful where -

a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.”

prompt return of the child in cases of abduction. But it can occur in situations when the return of the child can be refused. These situations are summarized in Articles 12, 13, and 20. For the EU Member States (except Denmark), the Brussels II-bis Regulation⁵ lays down further provisions. The first step is to decide if the child abduction happened in an EU Member State because the combined application of the Convention and the Brussels II-bis Regulation arises only in this case.

If the parent committing child abduction – despite the request of authorities – does not return the child voluntarily to the country of his or her habitual residence, the court orders the child’s return unless specific exceptions apply. In the Netherlands, the parental child abduction cases fall under the exclusive competence of the District Court of the Hague (*Rechtbank Den Haag*).⁶ The District Court of the Hague plans a pre-trial review (*regiezing*) within two weeks from the filing of the return application, including a possibility of cross-border mediation, and conducts a full court hearing within two weeks from the pre-trial review hearing, so that the application can be decided within a six-week deadline^{7,8} If the parents fail to reach an agreement in the cross-border mediation or they refuse to participate, the District Court of the Hague appoints a *bijzondere curator*⁹ for children three years of age or older and organises a full court hearing within two weeks.¹⁰ According to Article 809 (1) of the Code of Civil Procedure (*Wetboek van Burgerlijke Rechtsvordering*), the judge invites children twelve years of age or older to be heard on matters that concern them. However, in parental child abduction cases, the judges hear children from the age of six years.¹¹ Currently, two liaison judges – together with six to eight other judges – handle all cases concerning children who have been wrongfully removed to or are being retained in the Netherlands.¹²

5 Council Regulation (EC) No 2201/2003 of 27 November 2003 Concerning Jurisdiction and the Recognition and Enforcement of Judgments in Matrimonial Matters and the Matters of Parental Responsibility, repealing Regulation (EC) No 1347/2000

6 Annette Olland, ‘The Voice of the Child in 1980 Hague Return Procedures in the Netherlands’, *The Judges’ Newsletter XXII* (2018): 54.

7 In accordance with Article 11 (3) of the Brussels II-bis Regulation: “Without prejudice to the first subparagraph, the court shall, except where exceptional circumstances make this impossible, issue its judgment no later than six weeks after the application is lodged.”

8 ‘The Dutch Office of the Liaison Judge International Child Protection - Report for the Period from 1 January 2018– 31 December 2018’ (District Court of The Hague Family Law Team, International Child Protection Division, 2019), 21.

9 The translation of ‘bijzondere curator’ is ‘special guardian’. In order to avoid any misunderstanding, I decided to use the expression in the original, Dutch language.

10 Olland, ‘The Voice of the Child in 1980 Hague Return Procedures in the Netherlands’, 54.

11 *Ibid*, 54.

12 Judith van Ravenstein, ‘The Annual Report of the Office of the Liaison Judge on International Child Protection (“BLIK”)', *The Judges’ Newsletter XXIV* (2019): 32.

2. Children's right to be heard

The children's right to be heard in accordance with their age and maturity is laid down in Article 12¹³ of United Nations Convention on the Rights of the Child (hereinafter referred to as UNCRC). The Article 12 does not refer explicitly to abduction cases, but the Committee on the Rights of the Child emphasizes that this provision applies to all relevant judicial proceedings affecting the child, without limitation.¹⁴ The Committee also highlights that in cases of separation and divorce, the children of the relationship are unequivocally affected by decisions of the courts. For this reason, all legislation on separation and divorce has to include the right of the child to be heard by decision makers.¹⁵

Both the Hague Abduction Convention and Brussels II-bis Regulation offer the possibility that children can be heard during the judicial process. Article 13 (2) of the Hague Abduction Convention is the only¹⁶ provision which refers to the view of the child. The court may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views. However, it does not provide any specifications for determining the maturity of the child. This lack may result in different practices among Contracting States. Some judges rely on their own impression, while others request an expert opinion. Due to the lack of regulation, each judge is acting according to his or her own concept of maturity. This inherent subjectivity may lead to inconsistent application and arbitrary interpretation of the Hague Abduction Convention.¹⁷

The Hague Abduction Convention also fails to specify a threshold age. While drafting the Convention, "all efforts to agree on a minimum age at which the views of the child could be taken into account failed, since all the ages sug-

13 1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law."

14 UN Committee on the Rights of the Child (CRC), General comment No. 12 (2009): The right of the child to be heard, 20 July 2009, CRC/C/GC/12, para 32

15 Ibid, para 52

16 Nevertheless, the hearing of the child can be relevant in determining whether return would put the child in an intolerable situation according to the Article 13 (1) b).

17 Rania Nanos, 'The Views of a Child: Emerging Interpretation and Significance of the Child's Objection Defense under the Hague Child Abduction Convention', Brooklyn Journal of International Law 22, no. 2 (1996): 447.

gested seemed artificial, even arbitrary.”¹⁸ In drafting the Convention they could not rely on any international children’s rights documents¹⁹, there was no example which could serve as a reference for wording of the right to be heard. On the whole, Article 13 (2) is a huge step forward in implementing the children’s right to be heard.

The preamble of the Brussels II-bis Regulation says that the hearing of the child plays an important role in its application, although it is not intended to modify national procedures applicable. According to the Article 11 (2), it shall be ensured that the child is given the opportunity to be heard during the proceedings unless this appears inappropriate having regard to his or her age or degree of maturity. Article 11 (2) imposes on the judges the obligation to examine the views of children in the return proceedings by adopting a proactive approach²⁰. This mandatory hearing of the child of an appropriate age and sufficient degree of maturity represents an expansion on the Hague Abduction Convention. However, neither the Hague Abduction Convention nor the Brussels II-bis Regulation fill the double criteria (age and maturity) with content.

3. Interviewing judges

My aim was to determine how the Dutch judges experience the implementation of the children’s right to be heard during the return procedure. Since the hearings are not public and not all judicial considerations are revealed in the judgments, having conversations with the judges was required to establish their personal approaches.

In order to answer this question, I conducted four semi-structured interviews with judges²¹ at the District Court of the Hague. The judges were interviewed in their office during May and June 2019.

With the development of interdisciplinary legal research, the use of empirical research methods, including the use of the qualitative method of interviewing, is increasing.²² In addition, semi-structured interviewing fits well in the interpretivist research approach that aims at the understanding of socially-

18 Elisa Pérez-Vera, ‘Explanatory Report on the 1980 Hague Child Abduction Convention’ (Madrid, 1981), 433, <https://assets.hcch.net/docs/a5fb103c-2ceb-4d17-87e3-a7528a0d368c.pdf>.

19 Neither the Geneva Declaration of the Rights of the Child (1924) nor the Declaration of the Rights of the Child (1959) contain references to the right to be heard. The Convention on the Rights of the Child was adopted almost ten years later, in 1989.

20 Katarina Trimmings, *Child Abduction within the European Union*, vol. 11 (Oxford, United Kingdom; Portland, Oregon: Hart Publishing, 2013), 183.

21 One of them is a senior legal assistant (*senior juridisch medewerker*) who also participates at the hearing.

22 Urszula Jaremba and Elaine Mak, ‘Interviewing Judges in the Transnational Context’, *Recht En Methode in Onderzoek En Onderwijs*, 2014, 2.

constructed reality and human action in specific contexts.²³ The semi-structured technique also allowed for flexibility and a conversational way of communication.²⁴ The judges were questioned about their assessment of age and maturity, their hearing experiences, their decision-making and their insights about the *bijzondere curator*. The qualitative method of interviewing made it possible to ask additional questions, which helped me to better interpret the answers and the legal background.

3.1. The double criteria of age and maturity

“When I read on paper what’s going on in the child’s life, it’s the story of the parents...”¹

As already mentioned, both the Hague Abduction Convention and Brussels II-bis Regulation offer the possibility that children can be heard during the judicial process, but neither of them fill the double criteria with content.

Each of the interviewed judges confirmed that children older than six years are invited to the court. However, it is up to the child to decide whether they accept this invitation and participate at the hearing.^{II} One judge highlighted that even a child under six years of age is heard by her, if the parent claims that the child objects to the return.^{III} This same judge added that even the children between six and nine years are „*just living now in this moment*”, and if they say “*I don’t want to go back.*” or “*I hate my father!*”, “*I hate my mother!*”, they do not oversee consequences of their sentences.^{IV}

As regards the assessment of the child’s maturity, two judges stressed the importance of the report of the *bijzondere curator*. In general, the reports support the court hearing.^V Involving the *bijzondere curator*, a special focus will be on the maturity of the child. In the past, the judges were only informed about the child by the parents if the child did not participate at the hearing.^{VI} Only one judge explicitly referred to the elements of maturity. According to her, understanding the future consequences of the judicial decision shows a child’s maturity. During the hearing she asks the child how he or she imagines the return, what the return means to him or her.^{VII}

3.2. The role of *bijzondere curator*

23 Ibid, 8.

24 Ibid, 7.

The District Court of The Hague started a pilot project on “*The guardian ad litem in cases involving international child abduction*” in 2017.²⁵ Since 2018 it has become a standard practice.²⁶

The *bijzondere curator* is appointed for children three years of age or older as soon as it is evident that the parents fail to reach an agreement in the cross-border mediation or they refuse to participate.²⁷ After meeting the child, the *bijzondere curator* provides a report about the child’s own opinion and insights, then the report is submitted to the court before the full court hearing.²⁸

The Dutch judges decided to involve the *bijzondere curator* in parental child abduction cases because they missed the children’s voice in the court proceedings. Two of them explicitly referred to the representation of the child’s “voice”^{VIII}, in line with the *bijzondere curators’* self-definition.²⁹ They all shared positive experiences with the *bijzondere curators’* cooperation in handling domestic cases.

The judges unanimously indicated that the *bijzondere curators* helped them to understand children^X, as a result of which their reports facilitate questioning and decision-making^X, and communication with parents.^{XI} Two judges pointedly remarked that the parents can also read the *bijzondere curator’s* report, because they will also get an insight into the child^{XII}, and therefore, „[...] *it brings back the issue, the court case to what is really about...the children.*”^{XIII}.

All judges expressed the difference between the hearing by a *bijzondere curator* and by a judge in the same way: time and expertise. The *bijzondere curator* meets the abducted child two times.³⁰ In contrast, the judges do not have enough time, they can only devote 10-15 minutes to the hearing. While the judges do not have the expertise for hearing a child^{XIV}, the *bijzondere curators* are representatives of a completely different profession, they know how to create appropriate environment, and how to communicate with a child.^{XV}

Overall, the Dutch judges are very satisfied with the new role of the *bijzondere curator*. Although one of them wondered whether the *bijzondere curator* can cope with a very young child^{XVI}, another one was concerned about respecting the time limit (reaching a decision within six weeks) with an increasing number of cases and involved professionals.^{XVII}

25 ‘The Dutch Office of the Liaison Judge International Child Protection - Report for the Period from 1 January 2018– 31 December 2018’, 10.

26 Ibid, 3.

27 Ibid, 10.

28 Olland, ‘The Voice of the Child in 1980 Hague Return Procedures in the Netherlands’, 55.

29 Anneke van Teijlingen and Lillian van Wesemael, ‘Guardian Ad Litem (Special Curator/Bijzondere Curator) Dutch Experience in National and Child Abduction Cases’ (Training on the well-being of children in international child abduction proceedings, Antwerpen, 6 December 2018).

30 Olland, ‘The Voice of the Child in 1980 Hague Return Procedures in the Netherlands’, 54.

3.3. Hearing the child

“Most of the time I bring it (tissues) with me, because some children are really very sad and they cry.”^{XXVIII}

Children are asked questions about the Netherlands (good and bad things, living conditions), about their country of habitual residence (sense of lack, living conditions) and about their relationship with the left-behind parent. Obviously, questions about their school and friends are also common.

Young children (between six and seven years) were mentioned differently in connection with difficulties during hearing. One judge said that young children are easier to be heard, because the younger they are, the braver they behave^{XIX}, while another judge found it really hard, because the younger the child is, the more difficult for them to speak.^{XX} According to a middle-way approach, those children who decided to come to the court act like a grown-up, they know that the persistent problem has to be solved.^{XXI} In this context one judge highlighted a shocking discussion with a child who was abducted from Italy to the Netherlands. She reported that the pavements were cleaner here and the street lights were different from those of her home. It turned out that she was living on the streets in both countries, therefore she had a different reference point.^{XXII}

The abducted children usually do not speak Dutch, the judges interviewed are very familiar with this situation. Although they have the assistance of an interpreter, *“but emotions are sometimes lost in translation”*.^{XXIII} Two judges emphasized that the abducted children speak Dutch quite well in the months following their abduction.^{XXIV XXV}

Two judges referred to toys to reduce pressure on children. The toys (colouring book, spinner, memory card, elastic toys) are in the office of the President of the Family Law Team. The abducted children are heard in the basement of the courthouse. Two hearing rooms (with a table and a chair, a world map hanging on the wall) are available for the judges, but the hearings are often located in the mediation room (roundtable with chairs).

Two judges explained that they were trying to put themselves into the child’s place, by saying that judges are just average people^{XXVI}, or by confirming that there are no good or bad answers.^{XXVII} This same judge added that most of the time she brings tissues, because some children are really sad and they cry.^{XXVIII}

3.4. The decision

“But listening and hearing wishes won’t mean that I will do as they say.”^{XXIX}

The proactive approach³¹ of the judges does not mean that they must include the child's wishes in their decisions, despite the child's hearing.

One of the judges tries to balance tension between the children's wishes and her functional considerations by telling the child that as a judge, she has to find the right balance between the parents' and the child's wishes.^{xxx} Two judges have difficulty ordering the non-return of the child (which means that the child can stay in the Netherlands) under strict conditions, although it would serve the best interests of the child in some cases.^{xxxI}

When asked whether the court decision offers any insight into the personality or the behaviour of the child, the judges provided different answers.

The abducted children are informed about the content of the final decision by the *bijzondere curator*.³² From the interviews with judges it appears that they agree with this practice. However, it often happens that before making appointment with the *bijzondere curator* the parent is already on the plane with the child.^{xxxII}

3.5. The best interests of the child

"[...] children are smart, whether they young or older, doesn't matter, they are smart, they know what kind of situation they are."^{xxxIII}

The interviews reveal that Dutch judges agree that the Hague Abduction Convention does not provide possibility for taking account the best interests of the child and its judicial interpretation. Two of them explained that the procedure is limited to the wrongful nature of the removal.^{xxxIV} Moreover, one held the view that taking the best interests of the child into account would be against the goal of the Convention, because it should be done during the procedure on the merits. Another judge pointed out that the concept of the best interests of the child is incorporated into the Convention, because the child has to return to his or her country of habitual residence as soon as possible.^{xxxV} One judge added that even if they cannot prevail the best interests of the child in their decision, they could talk about it with the parents at the court. This can happen, for example, when the grounds for refusal cannot be invoked, but the child faces difficulties in returning to the country.^{xxxVI}

4. Concluding Remarks

31 Trimmings, *Child Abduction within the European Union*, 11:183.

32 Olland, 'The Voice of the Child in 1980 Hague Return Procedures in the Netherlands', 55.

The Dutch legislation seems to hold the view that judges are not able to hear children under six years of age in abduction proceedings. However, children six years of age or older are always invited to the court. In comparison with other European countries this age threshold is considerably low. Moreover, the *bijzondere curator* is appointed for children three years of age or older. The Dutch legislation pays particular attention to the low average age of children (6.8 years in 2015³³) involved in a return application.

The inter-disciplinary aspects of parental child abduction cases³⁴ requires strong cooperation between specialists. The Dutch model is based on this inter-professional cooperation, because a judge, a cross-border mediator and a *bijzondere curator* are all involved in the hearing. The concentrated jurisdiction system can also lead to a higher degree of specialization.

However, an increasing number of professionals may hear the abducted child several times. It can happen that the child is interviewed five times by four different people.³⁵ A similar practice does not meet the requirements of the UNCRC. The Committee on the Rights of the Child emphasizes that a child should not be interviewed more often than necessary, in particular when harmful events are explored. The “hearing” of a child is a difficult process that can have a traumatic impact on the child.³⁶

Through interviews with Dutch judges, it has also been shown that the *bijzondere curator* has a very significant role in the court proceeding. The assessment of the child’s maturity is closely linked to them and it appears that the judges have gain a better insight into abducted children with their involvement. All judges highlighted the same factors (time and expertise) as differences between their hearings and the hearing by a *bijzondere curator*. It was also clarified that the abducted children are informed about the content of the final decision by the *bijzondere curator*, therefore the children receive a sort of feedback on how the decision was made. Taken together, this person supports both children and judges throughout the procedure.

33 See “Part I – A statistical analysis of applications made in 2015 under the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction – Global report”, Prel. Doc. No 11A of February 2018 (revised) prepared for the attention of the Seventh Meeting of the Special Commission on the practical operation of the 1980 Hague Child Abduction Convention and the 1996 Hague Child Protection Convention (October 2017) (available on the Hague Conference website at <https://assets.hcch.net/docs/d0b285f1-5f59-41a6-ad83-8b5cf7a784ce.pdf>), p. 9.

34 Rhona Schuz, *The Hague Child Abduction Convention: A Critical Analysis*, vol. 13, *Studies in Private International Law* (Oxford: Hart Publishing, 2013), 54–70.

35 In case of an unsuccessful cross-border mediation the mediator, the *bijzondere curator*, the judge and the appeal judge hear the child.

36 UN Committee on the Rights of the Child (CRC), General comment No. 12 (2009): The right of the child to be heard, 20 July 2009, CRC/C/GC/12, para 24

In domestic cases, the *bijzondere curator* is appointed by the court to protect and represent the best interests of the child.³⁷ The *bijzondere curator* may be involved in paternity cases (Article 1:212 of the Civil Code / *Burgerlijk Wetboek*) and in cases concerning the child's care and upbringing, or the child's property and when there is a conflict of interests between the child and the parents (or guardian) (Article 1:250). Therefore, the current legislation *presumes* that there is a conflict of interests (*belangenstrijd*) in all parental child abduction cases. This conflict of interests was also mentioned by the Committee on the Rights of the Child. It stressed that in many cases (civil, penal or administrative), there are risks of a conflict of interest between the child and their most obvious representative (parent(s)). If the hearing of the child is undertaken through a representative, it is of utmost importance that the child's views are transmitted correctly to the decision maker by the representative. Representatives must have sufficient knowledge and understanding of the various aspects of the decision-making process and experience in working with children.³⁸

5. Acknowledgements

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37 'The Guardian Ad Litem, a Lucky Number?' (Kinderombudsman, 2012), https://www.dekinderombudsman.nl/system/files/inline/2012_Theguardianadlitemaluckynumber.pdf.

38 UN Committee on the Rights of the Child (CRC), General comment No. 12 (2009): The right of the child to be heard, 20 July 2009, CRC/C/GC/12, para 36

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- I Personal interview (2)
- II “They are not obliged to come, never.” Personal interview (2)
- III „Well, in child abduction cases we hear all the children as of 6 years old [...] we always hear the children if the parent assesses that the child objects to its return. We had one case where a Turkish boy was 5 years old, and his father said he objects to go back to Turkey, then we heard him. Personal interview (4)
- IV “[...] because even as of 6 years old, between 6-9 years, the children are just living now in this moment. If they say “I don’t want to go back” or “I hate my father or I hate my mother” they don’t oversee the consequences of what they say, that’s my experience, in the majority of cases I talk to children.” Personal interview (4)
- V “The report also advises us to hear or not to hear the child, but I have not seen a report which advises not to hear the child by the judge.” Personal interview (1)
- VI „I think the maturity is more something we can hear from now, since we have the bijzondere curator, we hear it from the bijzondere curator if it’s good for the child to be heard, is it sometimes it would have too much impact on the child be heard by three judges and to come here and so. I think it’s now we have the bijzondere curator, now we hear about these things. Before, we didn’t know. We just waited for the child, will the child be heard for the hearing or not, and if it’s not, we didn’t have an idea, [...] so before we didn’t know anything about the child, only what parents brought up.” Personal interview (2)
- VII “The elements of maturity would be the...if a child can reflect on the situation and also can reflect on if I say this, that means for the future, it will be like that...so I make a decision now, but I understand that the consequences will be in future. So that’s one of the things we talk about if the court is got to say you have to return to your country of habitual residence: How can you imagine what that means for you?” Personal interview (4)
- VIII “We missed the voice of the child.” Personal interview (1)
 “[...] we thought perhaps it’s right here to involve bijzondere curatoren in child abduction cases, so that the child has a voice in the procedure [...]” Personal interview (3)
- IX “Yes, they do help our work by giving the opinion and the voice of the child prepared in a way that we could use.” Personal interview (1)
 “[...] it’s easier for us to get an insight what is going on the child’s life at that moment, so [...]” Personal interview (2)
 “[...] and also to speak with us to say what children exactly mean when they are saying “having a fun time in Holland”, or that “they love their father or mother or miss them”. Personal interview (3)
 “Yes, really satisfied to have a better understanding about the view of the children [...]” Personal interview (4)
- X Personal interview (1)
- XI Personal interview (2)
- XII “[...] I think also good for the parents to read the report of the bijzondere curator, because they will also get an insight what the child wants, what’s keeping them busy, how they experience being heard, [...]” Personal interview (2)
- XIII Personal interview (4)
- XIV “We, as judges, we are not fully equipped to abstract the opinion of the child in a neutral and appropriate manner.” Personal interview (1)

- XV “That’s a way of different profession, I think. I think when I can say it, I think we do our best to create a normal situation, to have a normal conversation with the child, and that’s all we can, and bijzondere curator is a professional and he or she really knows to create the most fine situation for the child to say what he has to say. I don’t think that we can create a situation like that, but that’s my meaning, it can be that some judge have a whole different idea about that.” Personal interview (3)
- XVI “What can they do with the information that is given by a 4-year-old child? I think that even the bijzondere curator struggles with this. For example: making a decision on the life in Spain versus in the Netherlands. You have to be older than 4-6 years old to be able to conceptualize what ‘a country’ is.” Personal interview (1)
- XVII “But our experience at the moment is when we have 30 cases a year, and we have 2 parents and 2 lawyers and sometimes Raad voor de Kinderbescherming and also the Mediation Bureau from Centrum IKO and then also bijzondere curator, and you have to take quick decision, with quick hearings in very short time, and more people are busy with those cases, difficult to take decision in 6 weeks. So that’s now, how to manage that in the future? Because it grows, our bureau is 12 years old and we still thinking about things to do better, how to make this procedure better, shorter, more clear for everyone.” Personal interview (3)
- XVIII Personal interview (4)
- XIX “The younger they are, the more open and fearless they are.” Personal interview (4)
- XX “Sometimes it’s hard when they are very young. I think children, they always find it difficult, they don’t know what to expect and...so it’s most non-verbal, and they are not looking at you...and it’s very hard to get something out of them, and that can be a problem, and it depends on the child, the younger they are, the worse it can be.” Personal interview (2)
- XXI “The children that come here - oftenly I think - they are very grown-up, they have seen a lot in their lives and they know that there are problems, and have to solved. Most of children know that they come to the court to solve the problems where they are in.” Personal interview (3)
- XXII “Sometimes we meet with very heart-breaking situations: a little girl abducted from Italy to the Netherlands said that the pavements were clearer here, and the street lights were different. She had a different point of reference, because she was living on the streets.” Personal interview (1)
- XXIII Personal interview (1)
- XXIV “And in many cases the children are in the Netherlands already for months, and they go to school, they go to kindergarten, and then...for young children it’s very easy to pick up some of the language, so...it’s amazing, they often, they can speak Dutch very good. Much better than my English now.” Personal interview (2)
- XXV „He was a very nice and wise guy, and he spoke a very good Dutch, (...)” Personal interview (3)
- XXVI „I always say to the children [...] that we are very just normal people, we only are normal women and men and that we understand that it’s very difficult for children to come here.” Personal interview (3)
- XXVII „And of course, before we try to explain why we are happy that it came to talk to us. And we also are saying that it can say anything they like, there is no good or bad, we just wanted to hear its view.” Personal interview (4)
- XXVIII “Most of the time I bring it (issues) with me, because some children are really very sad and they cry.” Personal interview (4)
- XXIX Personal interview (4)

- XXX „I always try to prepare the children by saying that as a judge I have to find the balance between the child's wishes and the parents' wishes and tell them that all these wishes may not always match. I also tell the children that it does not always happen what they want and that ideally their parents have to agree (especially in cases of young children).” Personal interview (1)
- XXXI „It's not easy...when it's really child abduction, then it's very hard to decide that the child has to stay here, because there are very limited reasons to come to that decision, so...and how it is for the child it's not the most important question. [...] And that's because of the Hague Convention, that's...it doesn't not give us much space to look at the interests of the child, only when it's abuse or it's really dangerous for the child to go back, [...]” Personal interview (2)
- “Well, I think it is difficult, because sometimes you see that it will be in the best interests of the child is to come here and stay here and live with family and friends, and especially in cases where people are like expats, [...]. And then I think it will be better if the children could stay here and you have visiting arrangements, because the father - there is an expat family - works a lot, so he cannot take care of the children himself, I think. Come back and...but that's, I can't do that, because that's not about Convention. That's what I think that very difficult.” Personal interview (4)
- XXXII “I hear back from the bijzondere curators that lot of time they want to make an appointment for the child to explain about it, and then the mother or the father is already on the plane back to the country, so it's not necessary.” Personal interview (4)
- XXXIII Personal interview (3)
- XXXIV “When they order a measure, they cannot go really deeply into the merits of the case, the question is: ‘was the child wrongfully abducted or not’. It would be against the goals of the Convention if they look at the best interest of the child in an extensive way in incoming cases. [...] The best interest of the child is taken into account when they make a full assessment of the case, when they decide on the merits of the case. The Netherlands follows this strict approach, that is the court of child's habitual residence which is equipped to take account the best interest of the child.” Personal interview (1)
- “I think it has little impact, because that's not the question we have to answer, the question is not what is in the best interests of the child, the question is: has there been an illegal child abduction and if the answer is yes, [...] then we have not many possibilities to think about what's in the best interest of child.” Personal interview (2)
- XXXV “It doesn't have...our...how do you say...Hague Convention is not about assessing the children's interest, of course the interest of the children is our first priority, but we see the Convention as a tool in which the best interest of the child is already incorporated, namely going back as soon as possible to the country it came from [...]” Personal interview (4)
- XXXVI “We try to find out what the child wants and also what could be in their best interests, but we cannot do so much with it in the decision, so and we can...at the court session we can discuss things with the parents, so when we...when the child, when we think it's difficult for the child to go back, but in the Convention we don't see the space to let the child stay here, then we can discuss things with the parents, so...in the interests of the child (...)” Personal interview (2)