Revista Infoacceso
e-ISSN 2311-7605 (Online)
infoacceso.org/index.php/ri

Volume 13 · Issue 3 · 2026
Pages 2649–2660

Child Participation and the Right to Be Heard under Algerian Legislation

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Received: 05/08/2026 | **Accepted:** 21/09/2026 | **Published:** 03/10/2026

***Abstract*—**The Algerian legislature has sought to give effect to the principle of child participation and the right to be heard in all matters affecting children within its legal system. This principle has been incorporated into judicial proceedings involving children, whether they are victims, children at risk, or children in conflict with the law, as well as into various administrative and social procedures. These include socialisation institutions, such as schools, media organisations, associations, and other formal settings. Through these measures, the legislature seeks to foster a democratic culture among children and recognise them as active individuals capable of expressing their views, which must therefore be given due consideration.

***Keywords*—**Freedom of expression; Child participation; Children's views; Right of the child to be heard.

Introduction

Child participation and the expression of children's views on matters concerning them constitute one of the fundamental principles enshrined in the Convention on the Rights of the Child. This reflects an awareness that the development of a child's personality and healthy growth are cumulative processes shaped by various factors relating to empowerment and autonomy. Such development cannot be achieved unless children are afforded opportunities to participate in all matters affecting them.

Child participation encompasses many aspects of children's lives at different stages of development, including participation in decision-making and in social, cultural, recreational and sporting activities, as well as forming and freely expressing their views. Such participation nevertheless depends on the child's evolving capacities and the parents' willingness and openness to accept it.

Article 12 of the Convention on the Rights of the Child places a legal obligation on States Parties to recognise the child's right freely to express views and to ensure participation, respect those views and give them due consideration. Children must therefore be afforded adequate opportunities to be heard in all decisions affecting them, whether within their families or before administrative or judicial authorities.

In the same spirit, the Algerian legislature has attempted to create a participatory environment for children by enacting numerous provisions in laws concerning the protection of their rights. These provisions seek to give practical effect to the right to participation and to keep pace with legislative developments in comparative legal systems concerning child protection, as expressed in international child-protection instruments.

Despite legislative developments in Algeria concerning children's participation in matters affecting them, protection cannot rest on legal recognition alone. Appropriate legal mechanisms are required to give practical effect to children's participation, especially in the face of resistance from parents who maintain that they know what is best for their children.

The significance of this subject lies in its examination of a fundamental principle that safeguards children's autonomy and dignity and requires respect for their views. The study aims to identify the requirements for giving effect to this principle under Algerian legislation.

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The research addresses the following question: How has the legislature sought to ensure children's participation in matters affecting them?

To answer this question, the article is divided into two parts. The first examines the standards governing child participation and the right to be heard, while the second considers the ways in which Algerian legislation gives effect to these rights.

Part One: Standards Governing the Child's Right to Participate and Be Heard

The Convention on the Rights of the Child introduced a principle requiring serious consideration of the views of children capable of forming their own opinions, particularly in matters of major importance that call for their participation and for them to be heard. This principle may nevertheless raise questions where such participation conflicts with the interests of the child or those of the parents.

Accordingly, this part examines the concept of child participation and the right to be heard (Section One), followed by the limitations and conditions governing that principle (Section Two).

Section One: The Concept of Child Participation and the Right to Be Heard

The principle of child participation and the right to be heard is among the contemporary issues brought to prominence by the Convention on the Rights of the Child and recognised by many domestic legal systems. Despite its importance, however, it has not received sufficiently detailed legal examination of its meaning and practical implementation. It is therefore necessary to address its legislative definition (Subsection One), followed by its doctrinal definition (Subsection Two).

Subsection One: The Legislative Definition of Child Participation and the Right to Be Heard

The Convention on the Rights of the Child establishes the principle of participation in several provisions, notably Article 12, which obliges States Parties to ensure that children capable of forming their own views can participate in all matters affecting them and that their views receive due weight in accordance with their age and maturity. To that end, children must be heard in judicial and administrative proceedings affecting them, either directly or through a representative or appropriate body, in accordance with the procedural rules of domestic law.[1]

It follows that the Convention requires States Parties to afford children the opportunity to participate and be heard in all matters affecting them, whether judicial or administrative, while taking account of their age and maturity. The child is thus treated as an autonomous person rather than merely as an object of protection.

The African Charter on the Rights and Welfare of the Child, for its part, recognises the right of children capable of expressing their own views to do so freely, subject to restrictions prescribed by law, but does not expressly require that those views be given due consideration.[2]

Turning to Algerian legislation, particularly Article 8 of the Child Protection Law, the legislature has followed the approach of the African Charter on the Rights and Welfare of the Child by expressly recognising children's freedom to express their views in accordance with their age and maturity, within the limits of the law, public order, public morals and the rights of others.[3]

The legislature therefore expressly recognises children's right freely to express their views, provided that its exercise complies with the law and does not contravene public order or morals or infringe the rights of others. Article 8, however, neither defines nor fully gives effect to the child's right to participate and be heard. Nor does it impose an obligation to give those views due weight or specify the contexts in which the right applies, unlike the Convention on the Rights of the Child, which provides for its application to all judicial and administrative matters affecting children.

Subsection Two: The Doctrinal Definition of Child Participation and the Right to Be Heard

The child's right to participate is one of the fundamental principles established by the Convention on the Rights of the Child. It is a process through which children engage with those around them, including peers, relatives and others, and have opportunities to take part in matters, tasks and responsibilities relating to their individual and collective lives and living conditions, through interaction based on mutual respect and directed towards a shared objective. Children should therefore be informed of the important role they play within their families and communities, with a view to empowering them and developing the personalities and capacities needed for effective and meaningful involvement in decisions concerning their lives.[4]

Other scholars define child participation as giving children a meaningful role in decisions affecting them by supporting them and allowing them freely to express their opinions and be heard in the various fields and

decisions concerning their affairs, while giving due weight to their views in accordance with their age and maturity.[5]

The participation principle established by the Convention can therefore change children's legal status: they are no longer viewed merely as persons requiring protection, but as active individuals whose views are heard and considered in decisions shaping their future. They are prepared from an early age to assume responsibilities progressively. This requires a longer-term restructuring of relationships between adults and children, comparable to changes previously seen in relationships between men and women.[6]

Section Two: Conditions Governing the Principle of Child Participation and the Right to Be Heard

In General Comment No. 12, the Committee on the Rights of the Child affirmed that the right to participate and be heard imposes a clear obligation on States Parties to recognise and implement it by listening to children's views and giving them proper weight. Children may, however, choose not to exercise that right: it is an option rather than an obligation.[7]

Allowing children to participate and be heard does not mean permitting them to make decisions affecting them entirely independently. Rather, it enables their involvement in decision-making in a manner consistent with their age and capacity to distinguish benefit from harm. The practical application of this principle is therefore governed by several considerations: the child's capacity to form views, age and maturity (Subsection One); the child's best interests (Subsection Two); and respect for public order, public morals and the rights of others (Subsection Three).

Subsection One: The Child's Capacity to Form Views, Age and Maturity

The Convention on the Rights of the Child requires States Parties to ensure that children capable of forming their own views can participate and freely express them in all matters affecting them, with due regard to their age and maturity.

The Committee on the Rights of the Child has stressed that this requirement should not be treated as a restriction on participation, but as an obligation to assess a child's capacity to express an independent view. States Parties must therefore implement this right without imposing a fixed minimum age.[8]

Children's views must receive due weight in accordance with their age and maturity. Their participation and the hearing of their statements and views must therefore be taken seriously where they can form and express their opinions. Maturity is not necessarily associated with a particular age; each case must be assessed individually to determine the child's maturity and capacity to evaluate matters affecting them and their consequences.[9]

Participation and the right to be heard thus depend in general on children's developing capacities and on the openness of parents and others exercising authority over them to dialogue, interaction and serious consideration of their views, moving from a model of control and domination towards an inclusive approach in which children have a role, consistent with the Convention.[10]

The Committee on the Rights of the Child has accordingly called for participation to be effective and meaningful and understood as a process rather than an isolated event. It therefore recommends incorporating participation requirements into all legislative and other measures intended to implement Article 12 of the Convention.[11]

Subsection Two: Child Participation and the Best Interests of the Child

The child's best interests require parents and caregivers to accustom children to participating even when they cannot assert control over decisions. Participation may sometimes be essential in matters concerning them, including family life, childcare and interaction with others. Children can often influence events and demonstrate their capacity for self-expression through social participation.[12]

Subsection Three: Respect for Public Order, Public Morals and the Rights of Others

Article 12 of the Convention on the Rights of the Child provides that opportunities for children to be heard in judicial and administrative matters affecting them must be afforded in a manner consistent with domestic procedural law, recognising that child-protection rules operate at the national level.

The Committee on the Rights of the Child has explained that this condition must not restrict the fundamental right or prevent its implementation: domestic procedural rules must not undermine the essence of the right and must comply with standards of fairness.[13]

On this basis, the legislature requires children's freedom to express views, in accordance with age and maturity, to be exercised within the law and without contravening public order, public morals or the rights of others. The

law thus protects participation against exploitation for unlawful purposes or conduct infringing these interests under the pretext of a right enshrined in the Convention, particularly as those interests are protected by domestic law.[14]

Part Two: Manifestations of the Child's Right to Participate and Be Heard

Giving effect to the child's right to participate and be heard is one of the most important manifestations of compliance with international obligations. It recognises children as legal subjects and integral members of society whose views should be heard and considered in all matters affecting their personal affairs and future. Such recognition is progressive, taking account of their capacities, age and intellectual maturity.

Algerian law recognises children's participation in a range of judicial and administrative procedures, particularly through the Child Protection Law, which establishes mechanisms for participation in both types of procedure, as well as through other laws protecting children's rights. This part therefore considers implementation in judicial proceedings (Section One) and administrative procedures (Section Two).

Section One: The Child's Right to Participate and Be Heard in Judicial Proceedings

The Algerian legislature has recognised children's right to participate and be heard in numerous matters affecting their lives that are determined through judicial proceedings. Various provisions of the Child Protection Law govern proceedings concerning children in conflict with the law and the judicial protection of children at risk, together with other matters affecting their fundamental rights and freedoms, such as custody. In doing so, the legislature seeks to comply with Algeria's international obligations under Article 12 of the Convention on the Rights of the Child.

Because the right to be heard takes different forms in judicial proceedings, this section examines its implementation in the judicial protection of children at risk (Subsection One) and in trial procedures (Subsection Two).

Subsection One: Participation in Judicial Protection Proceedings for Children at Risk

One of the first manifestations of effective participation by children facing imminent danger is the opportunity to describe the circumstances placing them at risk. The legislature permits children to submit an application to the juvenile judge requesting intervention to remove that danger. To facilitate access, it also allows oral notification without the formalities required for a written application. This gives practical effect to children's ability to communicate the danger threatening them.[15]

This procedure facilitates reporting and safeguards the child's best interests and right to express views about circumstances threatening their health, safety, education or morals. Such circumstances require prompt intervention without excessive formalities to provide comprehensive protection to a child seeking assistance.[16]

Investigation of a child's situation is the first step taken by the juvenile judge in providing judicial protection to a child at risk. The legislature accordingly affords the child an opportunity to express views. The juvenile judge must hear the child and the legal representative concerning the child's situation and future and, after the investigation, hear them and, where appropriate, counsel. An exception may be made where the child's interests require exemption from attending all or part of the hearing.[17]

Because hearing the child is a fundamental and mandatory procedural safeguard, the juvenile judge must inform the child or representative that legal counsel may be retained. The hearing may be postponed at their request to enable them to obtain counsel. When hearing and questioning a child, the judge should take account of the complexity of the child's personality, avoid intimidation and threats, promote reassurance and gain the child's trust. The child should be made to understand that they are a victim rather than an accused person and that the purpose is protection, not conviction, so that sufficient information can be obtained to adopt measures removing the danger.[18]

While investigating the case of a child at risk, the juvenile judge may order temporary placement, retaining the child within the family, entrusting the child to a parent without custody, a relative, a trustworthy person or family, or placing the child in a protection centre or medical institution where care is needed, for a period not exceeding six months. At the end of the investigation, the judge may order the child to remain with the family, be entrusted to the same persons or institutions, or be placed in a protection centre for a renewable two-year period.[19]

A criticism of the juvenile judge's authority to choose the most appropriate protective measure is that the child is not afforded an opportunity to participate and be heard in selecting that measure. The child is a victim of

circumstances, and the measure is intended to protect rather than punish. It would therefore be preferable to allow the child to express a preference as to the person or environment in which they wish to live, at least for consultation, particularly since Article 12 of the Convention obliges the State to hear children in judicial proceedings affecting them.[20]

By contrast, the legislature recognises children's participation in determining the duration of protective measures ordered by the juvenile judge. A child may request extension of protection beyond childhood until the age of 21, termination once able to care for themselves, or modification or revocation of the measure. The judge must determine such a request within one month of its submission. These possibilities give children some effective participation in decisions concerning their protection.[21]

Subsection Two: The Child's Participation in Trial Procedures

Recognising child participation in trial proceedings is a fundamental fair-trial guarantee. The Committee on the Rights of the Child therefore emphasises that children have a right to be heard directly, not solely through representatives, at every stage of proceedings from their first contact with the justice system. Children also have the right to remain silent, and no adverse inference should be drawn from a decision not to make a statement.[22]

Algerian law affords children opportunities to be heard at certain stages of criminal proceedings: before trial (First), during trial (Second) and after trial (Third).

First: Hearing the Child Before Trial

The legislature allows children to express their views and make statements before trial, after being informed of the charges against them, both during preliminary inquiries (1) and during judicial investigation (2).

1. Hearing the Child During the Preliminary Inquiry

Police custody constitutes the initial stage of inquiry into the suspected offence. Judicial police officers must hear the detained child in accordance with prescribed safeguards and inform the child of the right to legal counsel during questioning. In principle, questioning must not take place without counsel. If the child cannot appoint a lawyer, the officer must immediately notify the competent public prosecutor to arrange an appointment. The latter may, however, authorise questioning to begin two hours after custody commences even if counsel has not arrived; if counsel arrives later, questioning continues in their presence. The interview is recorded in an official report specifying its duration, intervals for rest, and the date and time of release.[23]

The legislature thus seeks to ensure that children held in police custody can make statements and be heard without pressure or intimidation. This is an essential safeguard against fatigue and psychological violence during questioning.

2. Hearing the Child During the Investigation

The legislature requires investigation of misdemeanours and felonies allegedly committed by children, while investigation is optional for minor offences. Legal assistance is mandatory during the investigation and throughout prosecution. Where no lawyer has been appointed, the juvenile judge appoints one or asks the president of the bar to do so.[24]

The juvenile judge is vested with the powers of an investigating judge under the Code of Criminal Procedure, including the power to hear the accused child subject to procedural safeguards. After confirming identity and informing the child of the alleged charges, the juvenile judge or investigating judge responsible for juvenile cases must explain the child's complete freedom to remain silent or decline to answer questions, record that information in the interview report, and inform the child of the right to legal counsel.[25][26]

Hearing an accused child during the investigation is therefore voluntary rather than compulsory. If the child wishes to make a statement, the juvenile judge or investigating judge dealing with juveniles must hear the child immediately, with a view to understanding aspects of the child's personality and the circumstances leading to the alleged offending conduct.[27]

Second: Hearing the Child During Trial

Article 82 of the Child Protection Law states that the juvenile division decides the case after hearing the child and the child's legal representative. The legislature thereby provides a basic safeguard for the child in conflict with the law: an opportunity to be heard as the person directly concerned by the proceedings. The hearing is necessary, since the child's statements provide information on which the judge may draw in reaching a decision. The legal representative is also heard as a person entitled to accompany the child at the confidential hearing. The judge may

hear other persons connected with the case, including victims and witnesses, in accordance with the Code of Criminal Procedure.[2829]

The legislature permits juvenile divisions and chambers to excuse a child from attending a hearing where the child's interests so require, provided that the legal representative appears on the child's behalf in the presence of counsel; the judgment is then treated as rendered in the child's presence. The presiding judge may also order the child's withdrawal from all or part of the proceedings. The presidents of juvenile divisions and chambers consequently exercise discretion in assessing whether attendance serves the child's best interests, including the psychological effects of hearing the facts of an alleged offence recounted before the representative, witnesses and victims, particularly in cases involving sexual or indecent conduct.[3031]

Third: Hearing the Child After Trial

Under Article 90 of the Child Protection Law, a child in conflict with the law may appeal judgments concerning misdemeanours, felonies and minor offences to the juvenile chamber of the judicial council, thereby giving effect to the principle of two-tier adjudication.

An appeal may be filed by the child, the legal representative or counsel within ten days of pronouncement of judgment, by a written or oral declaration lodged with the registry of the court that issued the decision and transmitted to the judicial council. During the appellate hearing, the president of the chamber has all the powers of the juvenile judge, and the child, representative and lawyer are heard again. Legal representation is likewise mandatory at this stage. If the child has no lawyer, the president appoints one under the same procedure available to the juvenile judge. The child must enjoy all fair-trial guarantees throughout the appeal.[323334]

Section Two: The Child's Right to Participate and Be Heard in Administrative Procedures

Effective child participation is reflected in decisions and policies concerning children's affairs, including within socialisation institutions and media organisations, by listening to children, providing opportunities to express their views and giving those views due weight.

An examination of laws concerning the family, national education, media and associations reveals variation in the legislature's protection of this right, ranging from openness to restriction. The discussion therefore considers participation within socialisation institutions (Subsection One) and social protection institutions (Subsection Two).

Subsection One: Participation Within Socialisation Institutions

Socialisation institutions are important settings for children's interactions and for the development of their legal personality and conduct, whether in the family or in other institutions such as schools, media organisations and associations.

International instruments accordingly emphasise children's empowerment and participation, respect for their evolving capacities and serious consideration of their views during socialisation and preparation for life, in accordance with the requirements of participatory democracy in children's educational development.

In response, Algeria has sought to establish a legislative and institutional framework centred on involving children and hearing their views in matters affecting them, while ensuring that their upbringing reflects the religious and cultural characteristics of society. This is reflected in recognition of participation in family life (First), educational institutions (Second), associations (Third) and media platforms (Fourth).

First: The Child's Right to Participate and Be Heard Within the Family

Participation within the family is an essential requirement, since the family is the ideal environment in which children can learn to participate and express their views. Nevertheless, the Algerian legislature has provided comparatively limited guarantees, unlike certain other legal systems, such as French law. It generally protects the child's interests in matters affecting them without requiring participation or specifying when or how the child should be consulted. One of the few exceptions concerns a child placed under kafala who has reached the age of discernment: if one or both parents seek the child's return, the child is given a choice. If the child has not reached that age, return requires judicial authorisation with regard to the child's interests.[353637]

In regulating relationships between children and their family environment, including upbringing, custody, guardianship and other family rights, the legislature has sought to balance the religious particularities of Algerian society against the child's right to participate in decisions concerning their own life, taking account of the absence of full legal capacity. It consequently grants parents broad decision-making authority in exercising guardianship

and protecting and raising the child, despite their obligation under the Convention on the Rights of the Child to involve the child in decisions affecting them. A child's expressed views may also give rise to disputes that weaken parental authority in cases of separation.[3839]

Second: The Child's Right to Participate and Be Heard in Educational Institutions

Educational institutions, as institutions of social care, must provide a participatory environment for the children they receive. Unlike its approach to the family, the legislature has been more explicit in guaranteeing this principle in schooling, making pupils central participants whose views are heard in several respects.

The Framework Law on National Education expressly requires schools to afford all pupils opportunities to participate in school and collective life and to provide education consistent with children's and human rights. Schools must develop a democratic culture by teaching debate, participation, acceptance of majority opinion, rejection of discrimination and violence, and preference for dialogue.[4041]

The Charter of Professional Ethics and Stability of the Education System likewise adopts this right as a general principle under the heading of respect, implemented by requiring members of the educational community to listen to one another and respect themselves and others. In regulating pupils' rights and duties, it also recognises pupils with special needs by calling for their right to schooling and support for their autonomy, enabling their effective participation in school life.[4243]

The Charter further calls upon school stakeholders to ensure pupils' effective participation in cultural, sporting and associative activities and to exercise their democratic right to elect class representatives and school council members. It encourages competition and creativity, including participation in classroom wall magazines and school publications, thereby enabling meaningful involvement in educational, cultural, recreational and sporting activities adopted by the institution, in line with the Convention on the Rights of the Child.[44]

The foregoing educational legislation shows that the legislature has given relatively strong guarantees of children's participation in schools, covering pupils with special needs as well as others and extending to school interactions and related activities, in accordance with the Convention.

Third: The Child's Right to Participate and Be Heard Within Associations

Children's social participation under the Associations Law does not accord with Article 15 of the Convention on the Rights of the Child, which expressly recognises freedom of association and peaceful assembly and requires that the right be restricted only as permitted by law. Law No. 12-06 on Associations, however, requires natural persons establishing, managing and administering associations to be at least 18 years old.[45]

Children are therefore excluded from establishing and managing associations, unlike in certain comparative legal systems, including Swedish and French legislation, which allow minors aged 16 to participate in establishing or managing associations or becoming members, subject to written authorisation from their legal representative.[46]

Given children's important role in social participation, which is itself a means of learning the foundations of democracy and citizenship, the legislature should revise the Associations Law to align with the Convention ratified by Algeria. It should create opportunities for meaningful participation in civil society, even under parental supervision or subject to parental or legal-representative consent for legal acts associated with the exercise of this right. Parents could also act on behalf of children in undertaking particularly complex legal procedures and transactions.

The effective exercise of children's rights to participate and express views is also linked to access to information, enabling them to form opinions from different sources and ideas and to receive and impart information across borders, orally, in writing or print, through art or any other medium of their choice. Even at an early age, children may express opinions through gestures and body language. The right should therefore be implemented for all groups of children, including children with disabilities, children belonging to minorities or indigenous peoples, migrant children and others who do not speak the majority language and may face difficulties making their voices heard.[4748]

Fourth: The Child's Right to Participate and Be Heard Through the Media

Media institutions of all kinds—print, audio and audiovisual—contribute to a culture of children's rights by promoting human rights and delivering educational, recreational and awareness-raising activities. Such activities play a substantial role in developing children's personalities, aspirations and behaviour, individually and in their relationships with others. Depending on their content and influence, the media may assist or hinder upbringing and development. Media platforms should therefore involve children in their programmes and hear their views.[49]

The legislature has sought to implement this right in accordance with the restrictions set out in Algeria's interpretative declaration concerning the Convention on the Rights of the Child, taking the form of a reservation regarding Articles 13, 14(1) and (2), 16 and 17. It recognises the right within the limits of the child's interests and the need to protect physical and mental well-being, particularly through provisions of the Penal Code concerning public order, public morals and the incitement of minors to corruption or prostitution. Law No. 90-04 on Information also required publications intended for children or young people to consult an educational advisory body and to respect Islamic morality, national values and human rights, while avoiding racism, intolerance, betrayal, violence and delinquency.[50]

Under the newer Organic Law No. 23-14 on Information, the legislature has adopted a more flexible approach to restrictions and safeguards. It no longer requires publications directed at children to consult an educational advisory body, while requiring media activities to respect Islam and the national religious tradition, national identity, the nation's religious, moral and cultural principles and values, human dignity, and individual and collective freedoms.[51]

The same law calls upon journalists, in the exercise of their duties, to refrain from directly or indirectly praising racism, terrorism, intolerance or violence; publishing or broadcasting hate speech or discriminatory content; disseminating images, statements, signs or gestures that are immoral or offensive to public sensibilities; and violating children's rights.[52]

It follows that the new Organic Law on Information dispenses with the advisory educational body referred to in the interpretative declaration and previously regulated by Article 24 of Law No. 90-04. It nevertheless reinforces the protection of children's rights by treating publications that violate them as contrary to journalistic ethics. The substance of Article 26 of the same earlier law, also referred to by the declaration, has been retained. The interpretative declaration therefore remains operative despite repeal of the previous Information Law, since its substantive protections continue to be reflected in current law.

The continued recognition of the declaration's substance reflects the legislature's attempt to balance children's right to information against respect for the religious and cultural particularities of Algerian society, with due regard to children's best interests and physical and mental well-being. Children's participation and right to be heard must be secured, and the considerable capacities of both modern and traditional media directed towards providing information and educational and recreational programmes suited to children's needs, without exploiting them for commercial advertising or undermining their fundamental right to education.[53]

Despite the importance of this right for the development of children's future personalities, its misuse can turn its potential benefits into serious harms to children and society. This is particularly true in a widely accessible digital environment that is difficult to regulate and requires greater efforts to supervise harmful uses by children.

Fifth: The Child's Right to Participate and Be Heard in the Children's Parliament

Algeria established the Algerian Children's Parliament through cooperation between the Ministry of National Education and the People's National Assembly, as a forum for cultivating participatory democratic practices among high-achieving pupils within a representative institution. It allows them to participate in public life by questioning members of the government directly during plenary sittings and provides a setting for dialogue and citizenship, strengthening children's participation, the right to be heard and awareness of their rights.[54]

The Children's Parliament was constituted through elections. Candidates were required to satisfy conditions including Algerian nationality, academic achievement exceeding 17 out of 20 in the first term of the 2024–2025 school year, the absence of disciplinary sanctions, and an age between 12 and 16 years. Accordingly, pupils in middle school and the first and second years of secondary school, including pupils at the international school in France, participated in the electoral process.[55]

The 12–16 age range was selected because children at these ages have attained a minimum level of awareness and maturity permitting parliamentary representation, while excluding those aged 16–18 prevents members from passing beyond childhood before completing their two-year parliamentary mandate.

The Children's Parliament embodies effective participation, beginning with the election of representatives from middle schools and general and technological secondary education. Elections were held in two stages. At the institutional level, more than 1,900,000 pupils voted to select representatives. The second stage took place at provincial level in 208 polling centres and resulted in the election of 401 pupil parliamentarians representing the country's provinces, including two pupils with special needs and two pupils from the international school in

France representing Algerians abroad. A further three pupils were enrolled in schools and centres affiliated with the Ministry of National Solidarity, Family and Women's Affairs, bringing the reported total to 404 members, including 233 girls, representing 58.1 per cent.[56]

The Children's Parliament thus offers a significant form of participation and the right to be heard, particularly on matters of national significance affecting children. Members can question government representatives, contribute to decision-making through dialogue and structured expression, defend fundamental rights and freedoms, freely express opinions, participate in development and represent Algeria at international events concerning children.

Subsection Two: Participation Within Social Protection Institutions

The legislature recognises the right of children who are at risk or threatened with danger to notify the National Delegate for Child Protection about their circumstances. No minimum age or prescribed form is required for the notification; any form, whether written, oral, through gestures or otherwise, may be accepted.[57]

This power recognises children's right to participate and be heard as autonomous rights-holders rather than merely objects of protection. It respects their legal personality and autonomy by enabling them to access protection mechanisms and report violations affecting them.

Once informed or notified that a child may be at risk, open-environment services are authorised to establish whether the danger actually exists. They undertake social inquiries and visit the child's location to assess the situation, hear the child and legal representative regarding the reported facts, and determine the circumstances and appropriate measures.[58]

If the inquiry confirms a genuine danger, the services must take measures to protect the child and remove them from the risk. They contact the legal representative to reach an agreement on measures suited to the child's needs and circumstances. If the child has attained the age of discernment, they must also be heard and involved in determining these measures. The child and representative must be informed of their right to reject the agreement. Finally, the agreement is recorded in an official report and signed by all parties after being read to them.[59]

Open-environment services thus protect the right of a child at risk to participate and be heard throughout the process: in notifications submitted to the services or the National Body for the Protection and Promotion of Childhood, during investigation of the danger, and when agreeing on the measure most appropriate to the child's needs and circumstances, provided the child has reached the age of discernment. The legislature has appropriately recognised children's right to be heard when these services select a measure, unlike the procedure before the juvenile judge, where the author considers this opportunity to be lacking.

Conclusion

Through the Child Protection Law and other relevant legislation, the Algerian legislature has adopted numerous provisions designed to give effect to the principle of child participation and the right to be heard in judicial, administrative and social settings. The implementation of this principle has, however, alternated between openness and full compliance with the Convention on the Rights of the Child, on the one hand, and restriction or failure to recognise the right, on the other.

The study has reached the following findings:

The Algerian legislature has expressed its intention to adopt the principle of child participation and the right to be heard in accordance with the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child.

The Algerian legislature has overlooked the child's right to participate and be heard when custody is awarded.

The legislature has failed to ensure that a child facing imminent danger participates and is heard in selecting the most appropriate measure where the measure is ordered by a juvenile judge. By contrast, it recognises this principle where the danger is not immediate and measures are adopted by open-environment services.

Educational institutions and schools provide the strongest environment for giving effect to child participation and the right to be heard.

Despite the body of legislation supporting participation and the right to be heard in judicial and administrative procedures, implementation suffers from certain shortcomings. The following recommendations are therefore proposed to strengthen the principle in the national legal system:

Children at risk should be given an opportunity to express their preferences regarding the protective measure most appropriate to them, and juvenile judges should give their views due weight.

The principle should be extended to additional judicial procedures, such as awarding custody, particularly as the child has direct knowledge of the kind of living environment needed.

Participation by children at risk should be strengthened in the environment to which they are entrusted and in protection centres.

Participation by children in conflict with the law and their right to be heard should be strengthened within juvenile rehabilitation and reintegration centres.

Notes

[1] Article 12 of the Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by UN General Assembly Resolution 44/25 of 20 November 1989; entered into force on 2 September 1990 pursuant to Article 49; ratified by Algeria under Presidential Decree No. 92-461 of 19 December 1992, with interpretative declarations, Official Gazette of the People's Democratic Republic of Algeria, No. 91, 23 December 1992.

[2] Article 7 of the African Charter on the Rights and Welfare of the Child, adopted in July 1990 and entered into force on 29 November 1999; ratified by Algeria under Decree No. 03-242 of 8 July 2003 concerning ratification of the Charter adopted in Addis Ababa in July 1990, Official Gazette, No. 41, 9 July 2003.

[3] Article 8 of Law No. 15-12 of 15 July 2015 on Child Protection, Official Gazette, No. 39, 19 July 2015.

[4] Talaat Mansour, “Children's Participation: Empowerment and Protection, Development and Sustainability,” Arab Council for Childhood and Development, 2014, pp. 36–37.

[5] MULOMBA TSHITUMBU ELIE, “Le droit de participation de l’enfant en contexte scolaire: une enquête exploratoire à Kananga en République démocratique du Congo,” doctoral thesis, Università degli Studi di Bergamo, 2013–2014, p. 30.

[6] Jean Zermatten and Daniel Stoecklin, Le droit des enfants de participer, Institut international des Droits de l’Enfant, 2009, p. 15.

[7] Committee on the Rights of the Child, General Comment No. 12 on the right of the child to be heard, paras. 15–16, 2012, p. 7.

[8] Committee on the Rights of the Child, General Comment No. 12, cited above, para. 20, p. 8.

[9] Committee on the Rights of the Child, General Comment No. 12, cited above, paras. 28–30, p. 10.

[10] Fatima Shehata Ahmed Zidan, The Status of the Child in Public International Law, edition unspecified, Dar Al-Jamia Al-Jadida, Egypt, 2007, pp. 290–291 [in Arabic].

[11] Committee on the Rights of the Child, General Comment No. 12, cited above, para. 133, p. 30.

[12] MULOMBA TSHITUMBU ELIE, op. cit., p. 28.

[13] Committee on the Rights of the Child, General Comment No. 12, cited above, para. 38, p. 12.

[14] Article 8 of Law No. 15-12 on Child Protection.

[15] Article 32, paragraphs 1 and 3, of Law No. 15-12 on Child Protection.

[16] Fouad Mansour, “Legal Safeguards for the Protection of Children at Risk and Child Victims,” Sawt Al-Qanun Journal, Djilali Bounaama University, Khemis Miliana, vol. 7, no. 2, 2020, p. 1116 [in Arabic].

[17] Articles 33 and 39 of Law No. 15-12 on Child Protection.

[18] Nassima Boucharia, Legal Protection of Children Exposed to Moral Danger, doctoral thesis in private law, Faculty of Law, University of Oran 2, 2021, pp. 285–286 [in Arabic].

[19] Articles 35, 36, 37, 40, 41 and 42 of Law No. 15-12 on Child Protection.

[20] Article 12(2) of the Convention on the Rights of the Child.

[21] Article 42, paragraphs 2 and 3, and Article 45 of Law No. 15-12 on Child Protection.

[22] Committee on the Rights of the Child, General Comment No. 24 (2019) on children's rights in the child justice system, document CRC/C/GC/24, 18 September 2019, p. 11 (the original refers to “Article 45”).

[23] Articles 33 and 39 of Law No. 15-12 on Child Protection.

[24] Articles 64 and 67 of Law No. 15-12 on Child Protection.

[25] Article 69 of Law No. 15-12 on Child Protection.

[26] Article 175, first paragraph, of Law No. 25-14 of 3 August 2025 containing the Code of Criminal Procedure, Official Gazette, No. 54, 13 August 2025.

[27] Article 175, first paragraph, of Law No. 25-14 containing the Code of Criminal Procedure, cited above.

[28] Article 82(2) of Law No. 15-12 on Child Protection.

[29] Chahira Boulahia, "Safeguards for Children in Conflict with the Law During Trial under Law No. 15-12 on Child Protection," Tabna Journal of Academic Scientific Studies, Barika University Centre, Algeria, vol. 4, no. 3, 2021, p. 993 [in Arabic].

[30] Article 82, paragraphs 3 and 4, of Law No. 15-12 on Child Protection.

[31] Fatima Zahra Arbouz, "Protection of Children in Conflict with the Law at the Criminal Trial Stage in Light of Law No. 15-12," Al-Oustath Al-Bahith Journal for Legal and Political Studies, Faculty of Law and Political Science, University of M'Sila, vol. 2, no. 3, 2017 [in Arabic].

[32] Article 90(4) of Law No. 15-12 on Child Protection.

[33] Article 420 of Ordinance No. 66-155 containing the Code of Criminal Procedure, as amended and supplemented.

[34] Article 93 of Law No. 15-12 on Child Protection provides: "In the event of an appeal, the president of the juvenile chamber shall have all the powers vested in the juvenile judge under Articles 67 to 71 of this Law."

[35] Fatima Shehata Ahmed Zidan, The Status of the Child in Public International Law, edition unspecified, Dar Al-Jamia Al-Jadida, Egypt, 2007, p. 292 [in Arabic].

[36] French legislation recognises the right of children with discernment to participate in various matters, including changes in civil and social status, nationality, family name, given name and adoption, under Articles 21-11, 61-3, 60 and 345, respectively, of the French Civil Code.

[37] Article 124 of Law No. 84-11 containing the Family Code, as amended and supplemented.

[38] ARIANE BERTHY-CAILLEX, "Le droit de l'enfant d'exprimer librement son opinion sur toute question l'intéressant – article 2 alinéa 1 de la CIDE va-t-il devenir caduc?", Journal du droit des jeunes, no. 287, September 2009, p. 22.

[39] MARC JUSTON, "Les enfants peuvent-ils faire la loi ou dire leurs besoins?", Journal du droit des jeunes, no. 278, 2008/8, pp. 44–45.

[40] Article 4, paragraph 12, of Law No. 08-04 of 23 January 2008 containing the Framework Law on National Education, Official Gazette, No. 04, 2008, p. 7.

[41] Article 5(4) of Law No. 08-04 containing the Framework Law on National Education.

[42] Third principle of the Charter of Professional Ethics and Stability of the Education System, p. 2.

[43] Second pupil's right in the Charter of Professional Ethics and Stability of the Education System, p. 3.

[44] Fifth and sixth pupils' rights in the Charter of Professional Ethics and Stability of the Education System, p. 3.

[45] Article 4 of Law No. 12-06 of 12 January 2012 on Associations, Official Gazette, No. 02, 15 January 2012.

[46] Article 43 de la loi no. 2017-86 du 27 janvier 2017 relative à l'égalité et à la citoyenneté, JORF no. 0024 du 28 janvier 2017.

[47] Article 13 of the Convention on the Rights of the Child.

[48] Committee on the Rights of the Child, General Comment No. 12 (2009), cited above, pp. 8–9.

[49] Khaled Salah Hanafi Mahmoud, Rights of the Arab Child and Means of Their Realisation Between Islamic Law and International Instruments, 1st ed., Al-Wafaa Legal Library, 2019, p. 175 [in Arabic].

[50] Item 2, interpretative declarations concerning Articles 13, 16 and 17 of the Convention on the Rights of the Child; Presidential Decree No. 92-461 of 19 December 1992 ratifying, with interpretative declarations, the Convention approved by the UN General Assembly on 20 November 1989, Official Gazette, No. 91, 23 December 1992.

[51] Article 3, items 1, 3 and 5, of Organic Law No. 23-14 of 27 August 2023 on Information, Official Gazette, No. 56, 26 August 2023 (dates reproduced from the source).

[52] Article 35, items 4, 5, 8 and 9, of Organic Law No. 23-14 on Information.

[53] Samia Mouafi, The Impact of the 1989 Convention on the Rights of the Child on Algerian Legislation, doctoral thesis in public law, Faculty of Law, University of Algiers 1, 2016–2017, pp. 168–169 [in Arabic].

[54] Ministry of National Education, circular on organising elections to the Algerian Children's Parliament 2025–2027, available on the official Children's Parliament website: https://acp.apn.dz/articles-view (accessed 5 June 2026 at 10:00 a.m.).

[55] Ministry of National Education, circular on organising elections to the Algerian Children's Parliament 2025–2027, cited above, p. 1.

[56] Official website of the Ministry of National Education: https://www.education.gov.dz/2025/12/24/%D9%88%D8%B2%D9%8A%D8%B1-%D8%A7%D9%84%D8%AA%D8%B1%D8%A8%D9%8A%D8%A9-%D8%A7%D9%84%D9%88%D8%B7%D9%86%D9%8A%D8%A9-%D9%8A%D8%B4%D8%A7%D8%B1%D9%83-%D9%81%D9%8A-%D9%85%D8%B1%D8%A7%D8%B3%D9%85-%D8%AA%D9%86/ ; article on the Minister of National Education overseeing the inauguration of the Algerian Children's Parliament (accessed 6 June 2026 at 11:00 a.m.).

[57] Article 15 of Law No. 15-12 on Child Protection; see also Article 19(1) of Executive Decree No. 16-334, as amended and supplemented, and Article 28(1) of the institution's internal regulations.

[58] Article 23, first paragraph, of Law No. 15-12 on Child Protection.

[59] Article 24 of Law No. 15-12 on Child Protection.