



Visa applications for minors -LEGAL CUSTODY- Sierra Leone

Section 89 Children's Act states:

“ No person shall unlawfully remove a child from another person who has the lawful custody of a child”

In order to prevent child abduction, visa applications for minors have to be signed or authorized by the person(s) who have legal custody of the child.

WHO HAS THE CUSTODY OF A CHILD?

In Sierra Leone both parents share the custody of a child. It does not matter whether they are married or live together or not.

Therefore, **both parents** have to sign the application form on behalf of the minor. **The signature of one parent is not sufficient unless this parent has the sole custody.**

It is **not** enough to state

- that one parent's whereabouts are unknown
 - that there was no marriage between father and mother
 - that only the father or mother or another relative takes care of the child alone
- and that the other parent/the parents is/are not interested in the child since the custody **does not** automatically belong to one parent only, even though the other parent might be neglecting his or her duty.

IN CASE THE APPLICATION IS NOT SIGNED BY BOTH PARENTS OF THE MINOR, WHICH ADDITIONAL DOCUMENTS MUST BE PROVIDED?

It must be proven by adequate means that the person (or persons) who sign(s) the application or authorizes it has the custody of the minor.

For example:

- if one parent has applied to a court for the sole custody of a child and the court has granted the application, the Custody Order has to be provided.
- if one parent has passed away, his or her death certificate has to be provided
- etc.

Please note that Custody Orders will have to fulfill certain requirements to be acknowledged under German Law and may not be accepted if they lack these requirements.

WHAT ARE THE REQUIREMENTS FOR ACKNOWLEDGEMENT OF CUSTODY ORDERS?

- The Custody Order must be rendered according to the Children's Act of Sierra Leone of 2007.
- In order to meet the requirements of sections 83 and 108 of the Children's Act of Sierra Leone of 2007, the custody order has to show that the best interest of the child has been considered. The consideration by the court must reflect in the Custody Order.
- It is essential that the child is heard by the court and has the opportunity to give his view. This has to be proven by documentary evidence in the custody order. In case that the child was not heard by the court, this can only be accepted for substantial reasons, which need to be explained in the Custody Order. The hearing of the child can also be replaced by a report from the Social Welfare Department. The custody order has to contain details regarding this report as well.
- Likewise, it has to show that both parents were heard. In case that one parent was not heard by the court, the Court must explain the important reasons for this. In case that the whereabouts of one parent are unknown, the custody Order needs to show which measures were taken in order to find the parent.

If the Custody Order does not meet these requirements, it cannot be accepted by the German Embassy.