

Name of Case

Supreme Court (Areios Pagos) Decision No. 63/2001

Date of Decision

17 January 2001

Requesting State

UNITED KINGDOM

Requested State

GREECE

Name of Court

Areios Pagos (Supreme Court)

Status of Case

Irrevocable

Level of Court

Supreme Court

Published / where available

Elliniki Dikaiosi 2001, p. 902

Articles considered

13a, b

Articles or provision upon which disposition of case based

13 b

Order

Return of the child to its father in England was refused.

Facts

The child, a girl, was aged 10 at the date of the alleged wrongful removal. The parents, who had their habitual residence in England, were in separation since 1991 and enjoyed joint rights of custody. Since their separation the girl lived with her mother. The child had psychological problems and a bad performance in her studies due to her parents' separation, her classmates' behaviour and an alleged sexual harassment from her father. For these reasons she was transferred for observation to a neutral family environment (in a relative from her mother's side) with restrictions of communication with her parents. In 1998 the mother took the child to Greece (according to the child's wish). The child refuses to return to England and the Court came to the conclusion that its mind should be taken into consideration, since it is mature enough to form its own view. Since its removal, the father initiated return proceedings.

Ruling

Return refused; in accordance with article 13 b there was a grave risk that her return would expose the child to psychological harm.

The Court upheld the decision rendered by the Court of Appeal.

Cases and authorities referred to

One Member Court of First Instance of Athens (Monomeles Protodikeio Athinon) Decision No. 29634/1998; Court of Appeal of Athens (Efeteio Athinon) Decision No. 5837/1999; Supreme Court (Areios Pagos) Decision No.29634/1998.

Judges

Dionisios Katsireas, Georgios Papadimitriou, Konstantinos Vardavakis (Rapporteur), Stilianos Paterakis, Romilos Kedikoglou

Legal basis for decision**Article 13 b**

The Court of the requested state is not obliged to order the return of the child, if it can be proved that there is a risk to expose the child to physical or psychological harm or place it in an intolerable situation by ordering its return. The information offered by the social services of the state of habitual residence on the social status of the child has to be taken into consideration.

In this case it is highly possible that psychological harm will be caused to the child if it returns to England, where it used to live.

Procedural Matters

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Comments

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