

Name of Case

Court of Appeal of Larisa (Efeteio Larisas) Decision No. 613/2001

Date of Decision

2001

Requesting State

UNITED STATES OF AMERICA

Requested State

GREECE

Name of Court

Court of Appeal of Larisa (Efeteio Larisas)

Status of Case

Final

Level of Court

Appellate Court

Published / where available

Elliniki Dikaiosiini 2003, p. 511

Articles considered

3, 12, 13, 14, 16, 17, 20

Articles or provision upon which disposition of case based

3, 12, 13

Order

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Facts

The father supports that the two children of the couple (boys) are wrongful retained by their mother in Greece. The father asks the Court to order the return of the children in their place of main residence, namely the United States. The request of the father was refused by the First Instance Court, thus now the father asks for an appeal.

Ruling

The removal or retention of the child is wrongful, if it takes place in breach of rights of custody that have been granted according to the law of the place of habitual residence of the child at the time of the wrongful removal.

The role of the Court is to decide based on the best interest of the child. The Court cannot decide about the rights of custody.

The "best interest of the child" means its immediate return to its place of habitual residence and to the conditions under which it lived before the wrongful removal. It is to the best interest of the child to order its return to the parent who took care of it and with whom it has been used to live, given that the removal puts in danger its psychological and mental stability.

The child has its own, separate personality and has to be treated as a person with its own rights.

Cases and authorities referred to

Court of Appeal of Western Macedonia (Efeteio Ditikis Makedonias) Decision No119/94; Court of Appeal of Corfu (Efeteio Kerkyras) Decision No 135/94; *Valmantonis* Elliniki Dikaiosisini 36, p. 1296; Supreme Court (Areios Pagos) Decision No.1382/95; Voulgaris, Nomiko Bima 38.14; Court of Appeal of Thessaloniki (Efeteio Thessalonikis) Decision No. 3662/1996; Court of Appeal of Thessaloniki (Efeteio Thessalonikis) Decision No. 1957/97; *Arvanitakis*, Armenopoulos 53. 616; *Doubis* Elliniki Dikaiosisini 39.24; *Vasilakakis* Armenopoulos 53.1573; Court of Appeal of Thrace (Efeteio Thrakis) Decision No 223/99; Supreme Court (Areios Pagos) Decision No 1382/95; Court of Appeal of Thessaloniki (Efeteio Thessalonikis) Decision No. 998/97.

Judges

Theodoros Niavis (Rapporteur)

Legal basis for decision

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Procedural Matters

The decision of the Court regarding the wrongful removal or retention of the child is final and is irrelevant to the decision concerning the rights of custody.

Regarding the issues of wrongful removal or retention of the child, the Court has to decide based on full conviction.

Comments

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