

Name of Case

Court of Appeal of Thrace (Efeteio Thrakis) Decision No. 61/2001

Date of Decision

2001

Requesting State

UNITED KINGDOM

Requested State

GREECE

Name of Court

Efeteio Thrakis (Court of Appeal of Thrace)

Status of Case

Final

Level of Court

Court of Appeal

Published / where available

Armenopoulos 2001, p. 1058

Articles considered

3, 12, 13

Articles or provision upon which disposition of case based

3, 12, 13

Order

Return of the child to the mother was refused.

Facts

The case involved a boy aged 5 at the time of the proceedings. The couple was married in 1994 in Birmingham, where it originally settled down. They soon decided to move to Greece (Xanthi, Thrace), where they lived until 1999. In the meantime, in 1996, their son was born in Birmingham. In 1999 the couple decided to move permanently to Birmingham. During their stay in England, the parents exercised common rights of custody. In August of 1999 the father took the child to Greece for vacation, but did not return it to England after the end of the vacation.

When the mother asked for the return of the child, less than a year had elapsed since the wrongful removal of the child. However, the Court came to the conclusion that it was not forced to order the return of the child according to the Convention, since its return to England would expose it to physical and psychological harm and would put it in an intolerable situation. During most of its life, the child had been living in Thrace; it was fully adapted to the Greek environment and could only speak Greek. Furthermore, its relation with its father and its Greek relatives was very good. If it was ordered to return to England, it would have to adapt to a new environment, where the living conditions were not good.

Ruling

The Court decided that the child should remain with its father in Greece, since its return to England with its mother could expose it to physical or psychological harm.

Cases and authorities referred to

Monomeles Protodikeio Xanthis (One Member Court of First Instance of Xanthi)
Decision No. 424/1999

Vathrakokoilis Vas., *Greek Code of Civil Procedure*. art.913

Judges

Vellas Iosif (Chairman), G. Topalnakos, A. Plakidas (Rapporteur)

Legal basis for decision**a. 12, 13**

Despite the fact that less than a year had elapsed since the wrongful removal and retention of the child, the Court concluded that it was not forced to order the return of the child to its mother, since this could expose it to physical and psychological harm and could place the child in an intolerable situation.

Procedural Matters

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Comments

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