

**Name of Case**

One Member Court of First Instance of Kos (Monomeles Protodikeio Ko) Decision No. 1157/2002

**Date of Decision**

2002

**Requesting State**

AUSTRALIA

**Requested State**

GREECE

**Name of Court**

Monomeles Protodikeio Ko (One Member Court of First Instance of Kos)

**Status of Case**

N/A

**Level of Court**

First Instance Court (Provisional Measures)

**Published / where available**

Chronika Idiotikou Dikaiou 2003, p. 38

**Articles considered**

1, 2, 3, 4, 12, 13 b

**Articles or provision upon which disposition of case based**

12

**Order**

Return granted

**Facts**

The case involved two children, both girls aged 10 and 8 at the date of the alleged wrongful removal. The parents were not in separation and enjoyed joint rights of custody. The parents together with the children lived in Australia, where the two children were born and resided with both parents. In March 2002 the mother travelled to Greece with the two children to visit her father after her mother's death in February of the same year. Although she had agreed with the father that she would return with the two children in May 2002, however she announced to the father that she and the children would permanently stay in Greece and would not return. The father disagreed with the mother's decision and in May 2002 initiated return proceedings.

**Ruling**

Return granted. The Court held that the children were unlawfully kept in Greece and that they must return to their family home in Australia. The defendant's (mother's) argument that return should be refused because the children have no relatives in Australia was dismissed as irrelevant. The defendant's (mother's) argument that return should be refused on the basis of Article 13 b was also dismissed on the merits, as the mother did

not make mention of any sort of danger that would constitute a refusal of return. In its ruling the Court also took into consideration the children's wish to return to their home in Australia.

**Cases and authorities referred to**

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**Judge**

A. Triandopoulos

**Legal basis for decision**

**Article 12**

**Procedural Matters**

Application was admissible as it was filed within one year from alleged removal of children.

Plaintiff's request for imprisonment of defendant and imposition of a fine as a means of enforcing judgment dismissed as inadmissible in present proceedings.

**Comments**

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