

Name of Case

Opinion by the Prosecutor of the Supreme Court (Eisaggeleas Areiou Pagou) No. 1/1999

Date of Opinion

1999

Requesting State

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Requested State

GREECE

Name of Judiciary

Eisaggeleas Areiou Pagou (Prosecutor of the Supreme Court)

Status of Case

Opinion on Law

Level of Court

Prosecutor of the Supreme Court

Published / where available

Nomiko Vima 2000, p. 272, Poiniki Dikaiosyni 1999, p. 591, Trapeza Nomikon Pliroforion (Electronic database of the Athens Bar Association)

Articles considered

5, 1, 21

Articles or provision upon which disposition of case based

5b

Opinion

A parent to whom a child has been returned pursuant to the Hague Convention, may move the child to another country of his/her choice, as a right of custody of the child.

Facts

The Athens Bar Association posed a question of interpretation of law to the Prosecutor of the Supreme Court. The question was whether a parent to whom a child was ordered returned, pursuant to the Hague Convention, and who had custody of the child, has the right to move the child to a country other than that country to which the child was ordered returned to.

The Prosecutor replied in the affirmative. According to the Prosecutor's opinion, pursuant to the Greek legislation on custody in conjunction with Article 5 of the Hague Convention, the parent has the right to move the child to another country. The other parent also retains the right to challenge the decision of the court by which custody was granted and to initiate new legal proceedings according to the Hague Convention, if there are suspicions of child abduction.

Ruling

Affirmative opinion.

Cases and authorities referred to

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Prosecutor

Vasileios Xenikakis

Legal basis for decision**Article 5**

“Rights of custody” include rights relating to the care of the person of the child and, in particular, the right to determine the child’s place of residence.

“Rights of access” include the right to take a child for a limited period of time to a place other than the child’s habitual residence.

Procedural Matters

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Comments

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