

**Name of Case**

Court of Appeal of Thessaloniki (Efeteio Thessalonikis) Decision No. 722/2003

**Date of Decision**

2003

**Requesting State**

GERMANY

**Requested State**

GREECE

**Name of Court**

Efeteio Thessalonikis (Court of Appeal of Thessaloniki)

**Status of Case**

Final

**Level of Court**

Appellate Court

**Published / where available**

Armenopoulos 2004, p. 1157

**Articles considered**

2, 4, 7h, 10, 11

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

2, 4, 7h, 10, 11

**Order**

Return of the one child to the mother has been ordered.

**Facts**

The parents were married in Greece, but immediately after their marriage, they moved to Germany, where they lived until 2000. From their marriage they acquired 3 children aged 1 (girl), 4 and 3 (boys) at the time they decided to divorce. Rights of custody were awarded to both parents, but it was decided by the Court that the children would stay with their mother. During Christmas of 2000, the father with his two minor sons visited his parents in Greece, with whom the children were deeply related. After the end of their vacation, the children decided to stay in Greece, as their mother in Germany used to treat them badly with no reason. The mother consented to the change of the habitual residence of the children, but 2 years later the grandfather died and the grandmother was not able to raise the children on her own, given that the father was in the meantime imprisoned.

**Ruling**

The Court upheld only partially the decision of the First Instance Court and ordered the return of the one child aged 15 to the mother. For the other child, aged 17, it came to the conclusion that it does not fall within the scope of the Convention.

**Cases and authorities referred to**

Supreme Court (Areios Pagos) Decision No. 754/1986; Supreme Court (Areios Pagos) Decision No. 1003/1998; Supreme Court (Areios Pagos) Decision No. 1382/1995; Court of Appeal of Western Macedonia (Efeteio Ditikis Makedonias) Decision No. 119/1994; Court of Appeal of Thessaloniki (Efeteio Thessalonikis) Decision No. 1957/1997; *Voulgaris Ioannis*, The Hague Convention of 1980 on the civil aspects of international child abduction, *NoB* 38, 14-26

**Judges**

Vasilakeris Ioannis (Chairman), E. Zaxariadou, A. Miliopoulos (rapporteur)

**Legal basis for decision****a. 4**

The Convention ceases to apply when the child attains the age of 16.

**Procedural Matters**

The proceedings for adjudication of an application for return according to the Convention are the Provisional Measures proceedings, according to the Greek Code of Civil Procedure, due to the expeditious character of such proceeding as requested by the Convention (Article 2). However, the decision of the Court is not a decision of Provisional Measures, but a decision of the ordinary procedure, which can be appealed and which must be grounded on full conviction and not probable cause.

Only cases regarding children aged under 16 fall within the scope of the Convention.

**Comments**

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