



Press and Information

Court of Justice of the European Union

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Judgment in Case C-184/14

A v B

The court called upon to decide on parental responsibility also has jurisdiction to rule on the maintenance allowance payable by one of the parents in favour of his or her minor children

Such is the case even if the divorce or legal separation is being decided by a court of another Member State

An EU regulation¹ provides that the courts with jurisdiction in matters of parental responsibility are, in principle, those of the Member State in which the children have their habitual residence. However, the court with jurisdiction for divorce or legal separation of spouses may be that of another Member State (particularly where the spouses are both nationals of a Member State other than that in which they reside with their children).

In addition, another EU regulation² provides that the court with jurisdiction to entertain proceedings concerning the status of a person (divorce or legal separation, for example) is also to have jurisdiction to rule on any matter relating to maintenance ancillary to those proceedings; conversely, matters relating to maintenance ancillary to proceedings concerning parental responsibility are to be resolved by the court with jurisdiction to rule on those proceedings.

A and that person's spouse, B, and their two minor children are Italian nationals and live in London, where the two children were also born. In 2012, A brought proceedings against B in Italy seeking legal separation, also requesting the Italian court to settle the issue of custody of the children and of the maintenance allowances payable to the spouse and the children. The Italian court declared that it had jurisdiction to rule on the legal separation, but took the view that only the UK courts had jurisdiction to entertain proceedings relating to parental responsibility, given that the children were resident in London.

With regard to the issue of the maintenance allowances, the Italian court treated itself as having jurisdiction to hear the allowance application in favour of B on the ground that it was a matter ancillary to the legal separation proceedings. However, it ruled that it lacked jurisdiction to rule on the maintenance application in respect of the minor children, that application being ancillary to the proceedings concerning parental responsibility. Jurisdiction to decide on the latter application therefore fell to the UK courts.

Hearing the case on appeal, the Corte suprema di cassazione (Italian Court of Cassation) asks the Court of Justice which court — Italian or UK — has jurisdiction over matters relating to the child maintenance obligations.

In today's judgment, the Court determines whether A's maintenance application in respect of the children relates more to the status of a person (i.e. to the legal separation proceedings) or to parental responsibility. EU law distinguishes, in principle, between legal proceedings depending on

¹ Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 (OJ 2003 L 338, p. 1).

² Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations (OJ 2009 L 7, p. 1).

whether they concern the rights and obligations of the spouses or the rights and obligations of the parents towards their children.

The Court finds that, **by its nature, an application relating to maintenance in respect of minor children is intrinsically linked to proceedings concerning matters of parental responsibility.** The court with jurisdiction to entertain proceedings concerning parental responsibility is in the best position to evaluate *in concreto* the issues involved in the application relating to child maintenance: it can thus set the amount of that maintenance by adapting it according to the type of custody ordered, access rights and the duration of those rights and other factual elements relating to the exercise of parental responsibility. Such a solution is also consistent with the **best interests of the child** which, under EU law, must be a primary consideration.

The Court therefore concludes that, **where the court of a Member State is seised of proceedings involving divorce or legal separation while the issue of parental responsibility is being brought before a court of another Member State, the application relating to maintenance of one of the parents in respect of that parent's minor children is ancillary to the proceedings concerning parental responsibility** and must therefore be examined by the court with jurisdiction in those matters (namely the UK court in this case).

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of EU law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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