



Press and Information

Court of Justice of the European Union

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Advocate General's Opinion in Case C-335/17
Valcheva v Babanarakis

Advocate General Szpunar proposes that the Court of Justice rules that in matters of parental responsibility rights of access include the rights of access of grandparents

EU law provides for a single and uniform rule of jurisdiction which is that of the authorities of the Member State of the child's habitual residence

Ms Valcheva, a Bulgarian national, is the maternal grandmother of a minor child born in 2002. Since his parents' divorce, the child has been habitually resident in Greece with his father, a Greek national. His grandmother wishes to obtain rights of access. Finding that she was unable to maintain quality contact with her grandson and having unsuccessfully sought the support of the Greek authorities, she applied to the Bulgarian courts for a determination of arrangements for her to exercise rights of access to her grandson. She requested that she see him regularly one weekend each month and that he stay at her home for two or three weeks during his holidays. The Bulgarian courts of first instance and appeal dismissed the action on the basis of lack of jurisdiction on the ground that an EU Regulation (Brussels IIa Regulation¹) provides for the jurisdiction of the courts of the Member State in which the child has his habitual residence (here, the Greek courts).

Hearing the case at last instance, the Varhoven kasasionen sad (Supreme Court of Cassation, Bulgaria) takes the view that in order to determine the court having jurisdiction, it is essential to ascertain whether or not the Brussels IIa Regulation applies to the rights of access of grandparents.

In today's Opinion, Advocate General Maciej Szpunar first recalls the fundamental importance which the Brussels IIa Regulation attributes to the principle of the primacy of the best interests of the child, which must guide his analysis in the present case.

The Advocate General further notes that, if applications for rights of access by persons other than parents are to be excluded from the scope of the Brussels IIa Regulation, jurisdiction in respect of such applications would be determined by non-harmonised national rules. The risk of bringing the dispute before a court with which that child has no close link and the likelihood of parallel proceedings and irreconcilable decisions would increase, contrary to the purpose of the Brussels IIa Regulation, which aims to lay down uniform rules of jurisdiction in accordance with the principle of proximity in judicial proceedings.

The Advocate General also analyses applicable international instruments such as the 1996 Hague Convention.² He states that those texts adopt a broad concept of rights of access, thus supporting the integration of ties between near relatives, which can play a considerable part in family life.

The Advocate General concludes that the concept of rights of access includes persons other than parents, since those persons have family ties to the child based on law or on fact.

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 Convention of 19 October 1996, adopted by the Hague Conference on jurisdiction, applicable law, recognition, enforcement and cooperation in respect of parental responsibility and measures for the protection of children.

NOTE: The Advocate General's Opinion is not binding on the Court of Justice. It is the role of the Advocates General to propose to the Court, in complete independence, a legal solution to the cases for which they are responsible. The Judges of the Court are now beginning their deliberations in this case. Judgment will be given at a later date.

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 European Union 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 Opinion is published on the CURIA website on the day of delivery.

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