



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 78/18

Luxembourg, 31 May 2018

Judgment in Case C-335/17
Valcheva v Babanarakis

The notion of ‘rights of access’ includes the rights of access of grandparents to their grandchildren

Ms Neli 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 to be able to see him regularly one weekend each month and for him to stay at her home twice a year 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 by reason of the fact that an EU Regulation (the Brussels IIa Regulation)¹ provides for the jurisdiction of the courts of the Member State in which the child is habitually resident (in this case, 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 establish whether or not the Brussels IIa Regulation applies to the rights of access of grandparents.

In today’s judgment, the Court of Justice begins by stating that the notion of ‘rights of access’ within the meaning of the Brussels IIa Regulation must be interpreted autonomously. After pointing out that that regulation covers all decisions on parental responsibility and that rights of access are identified as a priority, the Court notes that the EU legislature chose not to provide for any limitation of the range of persons who may exercise parental responsibility or hold rights of access. Thus, according to the Court, the notion of rights of access refers not only to the rights of access of parents to their child, but also to the rights of access of other persons with whom it is important for the child to maintain a personal relationship, among others, the child’s grandparents.

The Court also points out that, in order to avoid the adoption of conflicting measures by different courts, and in the best interests of the child, the same court — as a general rule, the court of the child’s habitual residence — should rule on rights of access.

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.

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).

Pictures of the delivery of the Judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106

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