INTERNATIONAL CHILD ABDUCTION UNDER THE 1980 HAGUE CONVENTION A recent survey of Greek law [Russia / Bulgaria / USA]

I. Introduction

International child abduction constitutes one of the most complex areas of private international family law, as it lies at the intersection of the protection of family life, international judicial cooperation, and the need for the immediate protection of the best interests of the child. In order to address this phenomenon, the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction was adopted. The Convention was ratified in Greece by Law 2102/1992. Its purpose is not to resolve the substantive merits of custody disputes, but rather to restore the pre-existing status quo through the prompt return of the child to the State of his or her habitual residence.

II. The Decisions of the Thessaloniki Court of First Instance

The three decisions of the Thessaloniki Court of First Instance are of particular interest because they illustrate different aspects of international family disputes.The first decision (Thessaloniki Court of First Instance 6948/2025) constitutes a characteristic application of the Hague Convention, as it orders the return of a child to the State of habitual residence following the child’s unilateral removal to Russia.

The second decision (Thessaloniki First Instance Court 7868/2025) examines the conflict between sole custody and the rights of a father who retains joint parental responsibility, highlighting the importance of foreign applicable law and the

protection of children rights already established habitual residence.

The third decision (Thessaloniki First Instance Court f 5733/2025) differs substantially from the previous two, as it does not concern an unlawful international child abduction, but rather a request for lawful relocation, following prior judicial authorisation, examined in the light of Article 8 of European Convention on Human Rights (ECHR).

A comparative examination of these decisions provides an opportunity to assess the contemporary Greek approach to international child abduction and to examine the extent to which it is consistent with the case law of the CJEU, the ECtHR and other foreign superior courts, particularly with regard to the concept of habitual residence, the application of the exceptions under Article 13 of the Convention and the realisation of the child's best interests.

I.

Issues for consideration

The first issue concerned whether the Greek courts had international jurisdiction, given that the child was now residing in Russia. The court accepted the international jurisdiction of the Greek courts, on the grounds that the relevant point in time for the application of the Hague Convention is the time of the wrongful removal. The child's removal to Russia had taken place while his habitual residence was still in Greece. Consequently, the transfer to Russia could not automatically establish new international jurisdiction in favour of the courts of the State to which the child had been wrongfully removed. This finding is fully consistent with the case law of the CJEU, which has repeatedly held that habitual residence must be determined on the basis of the actual situation existing before the removal, rather than the situation created by the wrongful removal itself (see, indicatively, CJEU, Case C-523/07). The Court held that habitual residence requires an assessment of the degree of the child's integration into a social and family environment (CJEU, Case C-497/10 PPU, Mercredi v Chaffe (2010)). The CJEU emphasised that particular consideration must be given to the duration and regularity of the stay, the reasons for the child's presence, and the child's family and social integration.

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b) Legal reasoning

The court found that the requirements of Article 3 of the Hague Convention were satisfied. In the present case, the child's habitual residence was Greece. The father was actually exercising his parental rights. He had not consented to the child's permanent relocation to Russia, and there was no judicial decision authorising a change of the child's place of residence. Accordingly, the removal was deemed wrongful.

c) Article 13 of the Convention

Of particular importance was the examination of whether the child's return would expose him to a grave risk. Article 13(b) permits the refusal of return where there is a grave risk of physical or psychological harm or where the child would otherwise be placed in an intolerable situation. The court rejected the application

of this exception, holding that no actual and specific risk had been established. This finding follows the established judicial approach according to which the exception must be interpreted restrictively, since otherwise return proceedings would be transformed into substantive custody proceedings. The ECtHR has emphasised that the Convention requires a balance between the need for the prompt return of the child and the protection of the child against genuine risks. In this regard, see, indicatively, ECtHR, Neulinger and Shuruk v. Switzerland (2010). The Court stressed that return cannot be automatic where serious consequences for the child's private and family life are involved. However, subsequent case law clarified that Article 8 ECHR does not abolish the mechanism established by the Hague Convention (ECtHR, X v. Latvia [GC], 2013). The ECtHR held that national courts must examine allegations of risk substantively, without replacing return proceedings with proceedings concerning custody.

d) The court's decision

The Thessaloniki Court of First Instance upheld the application for return, ordered the minor's return to Greece, found that there was no risk associated with the child's return and imposed measures to ensure the enforcement of its decision. The imposition of such measures is connected with the need for the effective implementation of the Convention, which does not merely require the theoretical recognition of the right to return, but also its actual enforcement.

e) Commentary.

The decision is of particular interest because it confirms the commitment of Greek case law to the fundamental purpose of the 1980 Hague Convention: restoring the situation that existed prior to the unilateral removal of the child. The following aspects are particularly significant:

1. a) Protection of habitual residence. The court did not allow the mother to create a new basis of international jurisdiction through the wrongful removal of the child.
2. b) Distinction between return proceedings and custody proceedings. The decision does not examine which parent is more suitable to raise the child. The substantive custody issue remains within the jurisdiction of the courts of the State of habitual residence.

3. c) The effectiveness need. The provision of sanctions in the event of non-compliance with the operative part of the judgment reflects the contemporary international judicial trend towards ensuring the practical effectiveness of return decisions.

f) Conclusion

The decision constitutes a representative application of the 1980 Hague Convention and follows the same interpretative framework as the case law of the CJEU and the ECtHR. A unilateral removal to another State cannot create legal consequences or establish a new jurisdictional basis, nor can it automatically transfer jurisdiction to the State to which the child has been abducted. Furthermore, the exceptions to return require specific and substantiated grounds.

II. THESSALONIKI FIRST INSTANCE COURT 786/2025

Background – Claims of the parties.

Two opposing applications for interim measures were brought before the Thessaloniki Court of First Instance and heard jointly. They concerned a change of residence of two minor children and their return to Bulgaria. The children's parents are Greek nationals who had settled and worked in Sofia, Bulgaria, for several years. Their marriage was irrevocably dissolved by a judgment of a Bulgarian court, which awarded sole custody of the children to the mother, designated her residence in Sofia as the children's place of residence and regulated the father's right of contact. The mother requested authorisation to permanently relocate the children from Sofia to Thessaloniki, invoking economic, social and family reasons, as well as the children's best interests. She argued that she wished to return to Greece because she no longer maintained any significant ties with Bulgaria. She also relied upon alleged threatening behaviour on the part of the father. However, she had already transferred the children to Greece without the father's prior written consent or judicial authorisation. The father requested:

1. a) An order for the immediate return of the minors to Sofia (habitual residence).

2. b) An order temporarily requiring the mother to surrender the children's passports.
3. c) An order requiring the mother to pay his legal costs.

He argued that the unilateral relocation of the children had violated his custody and contact rights and that there was a risk of a further unauthorised relocation of the children to an unknown destination. The Court examined the the Greek Civil Code, Regulation (EU) 2019/1111, the 1980 Hague Convention on the Civil Aspects of International Child Abduction and the 1996 Hague Convention on Parental Responsibility. In particular, pursuant to Article 1519(2) of the Greek Civil Code, a change in the child's place of residence which substantially affects the right of contact of the parent with whom the child does not reside requires either the prior written agreement of the parents or a prior court decision. The concept of a change in the child's place of residence encompasses any change involving an element of permanence, even where it concerns a different neighbourhood, municipality, regional unit or country, provided that it substantially affects the exercise of the other parent's right of contact. A unilateral change without compliance with the statutory requirements may constitute an infringement of the other parent's custody and contact rights, as well as an improper exercise of parental responsibility. Furthermore, under Regulation (EU) 2019/1111, the child's habitual residence constitutes the fundamental criterion for determining international jurisdiction in matters of parental responsibility. In cases of wrongful removal or retention, jurisdiction remains with the courts of the State of the child's previous habitual residence, subject to the conditions laid down in the Regulation. In addition, Article 21 of the Regulation provides for the child's right to express his or her views in proceedings concerning the child, which must be taken into account in accordance with the child's age and maturity.

II.1. The Court's findings

Having examined the two opposing applications brought by the parents, the Court held that the mother had already transferred the minor children from Bulgaria to Greece with the intention of permanently settling them there, despite the father's express opposition and without obtaining his required consent or prior judicial authorisation. The relocation had taken place unexpectedly and during the school year, without any specific urgent circumstances having been established which

could justify the immediate departure of the mother and the children from Bulgaria. The reasons invoked by the mother in support of the relocation, which primarily concerned economic and social circumstances, as well as the alleged threatening behaviour of the father, were not sufficiently substantiated. The Court emphasised that the award of sole custody of the minors to the mother did not entail the exclusive exercise of parental responsibility, nor did it confer upon her an independent right to decide unilaterally on a change in the children's place of residence where such a change substantially affected the other parent's right of contact. Consequently, the Court held that the mother could not seek retrospective judicial approval of a relocation that had already taken place, without invoking specific and urgent reasons justifying her actions. As regards the father's application for the return of the minors, the Court held that it was legally admissible and substantively well-founded. An assessment of the evidence established that the children had been born and raised in Bulgaria, where they had lived for several years, attended school in Sofia and developed their social and friendship networks.

Furthermore, the mother continued to work for the same company in Bulgaria, a fact which did not support her allegations concerning the need for permanent relocation to Greece. At the same time, it was established that the sudden change in the children's place of residence had substantially hindered the father's exercise of his right to personal contact with them. Particular importance was also attached by the Court to its personal communication with the minor children, in order to ascertain their views and wishes. The children expressed their love for both parents, while simultaneously stating that they wished to remain in Greece. However, the Court considered that, given their age and degree of maturity, their views could not be regarded as entirely independent of the influence of their family environment. More specifically, the Court found that their preference for remaining in Greece was significantly associated with the fact that the school curriculum and the demands of the new educational environment appeared easier to them. Furthermore, the Court held that, at the time of the examination of the case, the minors had not acquired habitual residence in Greece, given that only a very short period had elapsed since their relocation. On the contrary, their family, educational and social lives remained closely connected with Bulgaria, where they had been born and raised, had developed their social environment and maintained their school and extracurricular activities.

The Court concluded that the unilateral removal and retention of the minors in Greece, without the father's prior written consent or the required judicial authorisation, violated his custody and contact rights and constituted wrongful removal within the meaning of the 1980 Hague Convention and Regulation (EU) 2019/1111. In particular, the return of the minors to Sofia was considered to serve their best interests, since it would restore their previous daily routine, enable their reintegration into their familiar school and social environment, and safeguard the effective preservation of their personal and emotional relationship with their father. Accordingly, the Court dismissed the mother's application for authorisation to change the children's place of residence from Bulgaria to Greece and partially upheld the father's application. More specifically, it ordered the immediate return of the two minor children to their place of habitual residence in Sofia, Bulgaria, and ordered the mother to pay the father's legal costs.

III. International Relocation of a Child

1. General remarks

The decision of the Thessaloniki First Instance Court 5733/2025 is of particular interest because it differs substantially from cases of international child abduction under the Hague Convention. Whereas in the preceding decisions the central issue concerned the wrongful removal of a child without the consent of the other parent, the present case concerns the lawful change of a child's place of residence following judicial authorisation. The decision therefore falls within the field of family law rather than the strict return mechanism established by the Hague Convention.

2. Factual background

The case constitutes a continuation of a lengthy dispute between the parties concerning the exercise of parental responsibility and custody of a minor child. The dispute had developed within two legal systems: that of the United Kingdom and that of Greece. Initially, the English courts had assumed jurisdiction over the dispute and issued a decision concerning the child's custody. The decision was subsequently recognised in Greece following the relevant proceedings for the recognition of a foreign judgment.

The applicant, who had the status of the child's psychological mother (that is, the person who had, in practice, assumed the parental role and developed a substantial caregiving relationship with the child), had previously obtained permission from the English courts to relocate to Thessaloniki. The authorisation was granted because the applicant was experiencing difficulties in securing employment in the United Kingdom, and it was considered that relocation to Greece could better serve the stability of both her life and the child's life. However, following their settlement in Thessaloniki, the applicant encountered further difficulties. Her expected professional rehabilitation did not materialise. Problems also arose from the conduct of the respondent in the workplace, and a dysfunctional environment developed which affected the family's everyday life. In light of these circumstances, the applicant submitted a further request for a change in the child's place of residence, this time proposing relocation to the United States.

3. The central legal issue

The Court was not called upon to determine whether an unlawful removal had taken place. The principal question was whether the temporary change in the child's place of residence from Greece to the United States served the child's overriding best interests and whether the child's relationship with the biological mother would be protected.

4. Application of Article 8 ECHR

The ECtHR has repeatedly held that, in custody and child relocation disputes, national courts must strike a fair balance between t, he child's best interests, the rights of each parent, and the need to preserve meaningful family relationships [In this regard, see indicatively, ECtHR, Neulinger and Shuruk v. Switzerland (2010)]. The ECtHR emphasised that the child's best interests constitute a primary consideration in family disputes. However, this judgment does not mean that every request for relocation must automatically be accepted. An individualised assessment is required.

5. The importance of a child psychiatric

assessment

A particularly significant feature of the decision is the use of a specialised child psychiatric assessment. The Court did not confine itself to the allegations made by the adults, but also examined the child's emotional condition, relationship with the parents and ability to adapt to a new environment. The psychological assessment indicated that the child viewed the prospect of relocation positively and displayed no signs of fear or pressure. It was therefore considered that the child could adapt to the new circumstances.

6. Hearing the child before the Court

Particular weight was attached to the Court's personal communication with the minor. The child's right to be heard has now become a fundamental principle of ontemporary family law. The Court assessed the child's wishes as spontaneous, consistent with her age and maturity, and not the result of manipulation.

7. Absence of parental alienation

Acrucial factor was that no intention on the part of the applicant to alienate the child from the biological mother had been established. The Court examined whether relocation to the United States would constitute an attempt to exclude the other party from the child's life. On the contrary, it took into account the following considerations:

- The child had maintained a relationship with the mother.
- There were no indications of manipulation.
- The relocation was not intended to sever the existing parental bond.

This factor is particularly important because, in international child relocation cases, the court must distinguish between a genuine attempt to secure better living conditions and a strategic attempt to distance the child from the other parent.

8. Factors supporting the approval of relocation

The Court took into consideration a series of factual elements:

1. a) Linguistic daptation: The child was fluent in English. This was

considered important for reducational adaptation, social integration, and reducing the psychological impact of the change.

b). Family environment in the United States The respondent was a US citizen and maintained family ties in the United States. Her parents resided in the United States, and the child would have the opportunity to maintain contact with a wider family network.

1. c) The child’s wishes. The minor appeared positive and enthusiastic about the proposed relocation. Her wishes did not constitute the sole determining criterion, but they represented an important element of the overall assessment.