

Judgment of the Court (Fourth Chamber) of 13 July 2023 (request for a preliminary ruling from the Landesgericht Korneuburg — Austria) — TT v AK

(Case C-87/22, ⁽¹⁾ TT (Wrongful removal of a child))

(Reference for a preliminary ruling — Jurisdiction in matters of parental responsibility — Regulation (EC) No 2201/2003 — Articles 10 and 15 — Transfer to a court of another Member State better placed to hear the case — Conditions — Court of the Member State to which the child has been wrongfully removed — The 1980 Hague Convention — Best interests of the child)

(2023/C 321/11)

Language of the case: German

Referring court

Landesgericht Korneuburg

Parties to the main proceedings

Applicant: TT

Defendant: AK

Operative part of the judgment

1. Article 15 of 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,

must be interpreted as meaning that the court of a Member State, which has jurisdiction to rule on the substance of a case on the matter of parental responsibility under Article 10 of that regulation, may exceptionally request the transfer of that case, provided for by Article 15(1)(b) of the regulation, to a court of the Member State to which the child has been wrongfully removed by one of his or her parents..

2. Article 15(1) of Regulation No 2201/2003

must be interpreted as meaning that the only conditions to which the possibility for the court of a Member State with jurisdiction as to the substance of a case in matters of parental responsibility to request that that case be transferred to a court of another Member State is subject are those expressly set out in that provision. When examining those conditions in respect of, first, the existence in the latter Member State of a court better placed to hear the case and, second, the best interests of the child, the court of the first Member State must take into consideration the existence of proceedings for the return of that child which have been instituted pursuant to the first paragraph and point (f) of the third paragraph of Article 8 of the Convention on the Civil Aspects of International Child Abduction, concluded in The Hague on 25 October 1980 and in which a final decision has not yet been delivered in the Member State to which that child was wrongfully removed by one of his or her parents.

⁽¹⁾ OJ C 213, 30.5.2022