



Reports of Cases

Order of the Court (Sixth Chamber) of 16 January 2018 — PM

(Case C-604/17)¹

(Reference for a preliminary ruling — Article 99 of the Rules of Procedure of the Court of Justice — Area of freedom, security and justice — Judicial cooperation in civil matters — Jurisdiction in matters of parental responsibility — Regulation (EC) No 2201/2003 — Jurisdiction of a court of a Member State to hear and determine an action relating to parental responsibility where the child is not resident in the territory of that State — Jurisdiction in matters relating to maintenance obligations — Regulation (EC) No 4/2009)

1. *Judicial cooperation in civil matters — Jurisdiction, recognition and enforcement of decisions in matrimonial matters and in the matters of parental responsibility — Regulation No 2201/2003 — Jurisdiction in matters of parental responsibility — Court of a Member State having jurisdiction, under Article 3(1)(b) of that regulation, to rule on an application for divorce between two spouses with the nationality of that Member State — Child of spouses habitually resident in another Member State for the purposes of Article 8(1) of the regulation — Whether that court has jurisdiction to rule on custody rights and access rights in respect of that child — No such jurisdiction — Lack of jurisdiction of that court for the purposes of Articles 9, 10, 12 or 15 of the regulation*

(Council Regulation No 2201/2003, Arts 3, 8, 9, 10, 12 and 15)

(see paras 27-29, 35)

2. *Judicial cooperation in civil matters — Jurisdiction, applicable law, recognition and enforcement of decisions in matters relating to maintenance obligations — Regulation No 4/2009 — Jurisdiction concerning maintenance obligations — Court with jurisdiction in accordance with the law of the forum to hear an action concerning parental responsibility in relation to an application concerning a maintenance obligation which is ancillary to that action — Definition — Court of the Member State of habitual residence of the child for the purposes of Article 8(1) of Regulation No 2201/2003 — Included*

(Council Regulations No 2201/2003, Arts 1(3)(e), 3, 8(1), 9, 10, 12 and 15 and No 4/2009, Art. 3(d))

(see paras 31-33, 35)

¹ OJ C 22, 22.1.2018.

Operative part:

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 a court of a Member State with jurisdiction, under Article 3(1)(b) of that regulation, to hear and determine an application for divorce between two spouses who are nationals of that Member State does not have jurisdiction to rule on rights of custody and rights of access in respect of the spouses' child in the case where, at the time when the court is seised, that child is habitually resident in another Member State, that the conditions for such jurisdiction, under Article 12 of that regulation, are not satisfied by that court, and that, on account of the circumstances of the main proceedings, it follows that neither does that court have such jurisdiction under Articles 9, 10 or 15 of that regulation. Furthermore, that court does not satisfy the conditions, laid down in Article 3(d) of 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, for having jurisdiction to rule on an application relating to maintenance.