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UMPOD X000 V1A04

Michaela Kotasová

IMC 410/13

Od: SUSTRACCIONMENORES <sustraccionmenores@mjusticia.es>
Odesláno: 1. srpna 2014 11:35
Komu: Mgr. Michaela Kotasová (michaela.kotasova@umpod.cz)
Předmět: Minor MIREK JADLOVSKY
Přílohy: 2014_08_01_11_30_03.pdf

Důležitost: Vysoká

Please see the enclosed request.

Yours sincerely
Carmen García Revuelta
Consejera Técnica

Ministerio de Justicia.
Subdirección General de Cooperación Jurídica Internacional
C/ San Bernardo, 62
28071 MADRID

_____ Informace od ESET Endpoint Antivirus, verze databaze 10187 (20140801) _____

Tuto zpravu proveril ESET Endpoint Antivirus.

<http://www.eset.cz>

(27)

GARCIA REVUELTA, CARMEN

De: FORCADA MIRANDA, FRANCISCO JAVIER <fj.forcada@poderjudicial.es>
Enviado el: jueves, 31 de julio de 2014 8:48
Para: Ptáček Lubomír
CC: GARCIA REVUELTA, CARMEN
Asunto: RE: minor Mirek Jadlovský, transfer of jurisdiction under Art. 15 of Brussels II bis Regulation

Dearv Lubomir,

Happy to have news from you seeing that everything is running well.
I assume your request coming from a member of the International Hague Network of Judges in order to cooperate in transferring your request to the spanish judge.
I am forwarding your request to the First Instance Court 93 in Madrid.

Yours sincerely.

A copy of this message is being forwarded to the Spanish Central Authority.

Francisco Javier Forcada Miranda
Directorate-General of International Legal Cooperation and Interfaith Relations. Ministry of Justice.
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De: Ptáček Lubomír [Lubomir.Ptacek@nsoud.cz] Enviado el: miércoles, 30 de julio de 2014 18:13
Para: FORCADA MIRANDA, FRANCISCO JAVIER
CC: Zdenek Kapitan; hvraná@osoud.pha5.justice.cz
Asunto: minor Mirek Jadlovský, transfer of jurisdiction under Art. 15 of Brussels II bis Regulation

Dear Javier,

On behalf of Judge Hana Vraná I would kindly ask you for cooperation in transfers of jurisdiction under Article 15 of Brussels II bis Regulation between the Czech Republic and Spain. Bellow you will find request of relevant Czech Court, which will be send together with English translation of Decision of Supreme Court in this matter. Under my information, which are to be confirmed, guardian ad litem of minor and father disagree with transfers of jurisdiction. If there is need for further information or explanation, please let me know.
With best regards

Lubomír

To Court of First Instance No. 93 in Madrid

Subject: Request to assume jurisdiction in the matter as to proceedings on determining parental responsibility for the minor Mirek Jadlovský, bom 31 March 2009, in accordance with Artic1e 15, paragraph 1, letter b) of EU Council Regulation No. 2201/2003.

Proceedings in the matter regarding care of the minor Mirek Jadlovský, born 31 March 2009, are being conducted at the local court under Case No. 50P 14612014 (originally 50 Nc749/2010).

Under the local court's decision Ref. No. 50Nc 749/2010 -680 from 29 March 2013, the mother's mot ion to suspend the proceedings until a decision on the jurisdiction of the Spanish court of appeal as well as the mother's motion to pronounce that the District Court for Prague 5 does not have jurlsdiction and to terminate the proceedings on

determining parental responsibility for the minor Mirek Jadlovský, born 31 March 2009, were denied. Under decision of the Municipal Court in Prague as the court of appeal Ref. No. 64CO 176/2013-725 from 7 June 2013, the decision of the court of first instance was altered such that the court of first instance was declared not to have jurisdiction and the proceedings were halted. The father filed an extraordinary appeal against this decision from the court of appeal (the Municipal Court in Prague), and under decision of the Supreme Court of the Czech Republic Ref. No. 30 Cd02554/2013-771 from 26 February 2014, the decision of the court of appeal was altered such that the decision of the court of first instance was confirmed.

On 6 May 2014, the mother filed a motion to transfer the case to the competent court in Spain for the reason of expediency.

She substantiates her motion with the fact that the court of first instance has still not decided on her previously submitted motion to transfer the case pursuant to Article 15 of the regulation cited above, a motion which she made in the protocol during the meeting on 7 March 2011 (see page no. 67 of our file).

As the appellate court under its aforementioned decision stated that the Czech court has international jurisdiction to decide the case pursuant to Article 8 of the regulation, the District Court for Prague 5 has jurisdiction to decide on the mother's motion to transfer the case to be heard by a court better placed to hear the case, which is in fact the court in Spain. The conditions for transferring the case are unequivocally established, as the minor is a Spanish national and his permanent residence is in Madrid, where he has been living with his mother permanently since June 2010 with the exception of a period of temporary, forced and involuntary relocation to the Czech Republic due to a court decision on repatriation which was subsequently vacated as unjustified. The minor was also born in Spain. On the basis of the decision on vacating the repatriation, the mother and the minor immediately returned to their residence in Madrid, where they both remain to this day. On 20 July 2012, the Court of Madrid issued a prohibition on the minor's leaving the Spanish territory and a prohibition on exporting his passport without prior permission from the court due to concerns about the minor's being abducted outside of the Spanish territory by the father, who disagreed with the Spanish court's decision to vacate the repatriation of the minor.

The minor has spoken Spanish since his birth, and since 2012 has been attending a nursery school and additional hobby clubs in Spain. He also attends a Czech school in Madrid in order to develop and improve in Czech. The minor has many friends at his place of residence. Spain is therefore unequivocally a place unambiguously demonstrating integration of the child into the social environment.

Considering the aforementioned facts, the local court concludes that the Court of First Instance No. 93 in Madrid, Spain, is in fact the court better placed to hear the case of determining parental responsibility for the minor Mirek Jadlovský, born 31 March 2009.

JUDr. Hana Vraná,
Presiding Judge
of the District Court for Prague 5