

The Door Closes

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CATEGORY:

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On 1 October 2014 the European Court of Justice made a landmark ruling on forum perpetuatio in children proceedings, that is to say as to whether once seised of jurisdiction on children matters the Court of a European Union member State is always seised. The decision was emphatic. The Justices ruled that any agreement for a particular European Union Court to have jurisdiction to deal with a dispute over children would last only until such time as the Court made its decision on the issue in question. Any fresh proceedings should ordinarily take place in the Court of the children's habitual residence. The ruling has major implications in child relocation cases especially. Once a child has gone it will be the Court where the child has gone to that will decide all disputes about that child's upbringing, and the original European Union Court will have no say in the matter. This is no green light to child abduction. Plainly, the relocation has to have been by agreement or Court Order granted by the Court of the child's residence prior to relocation. The message for parents and family lawyers alike is that in all relocation cases a check must be undertaken as to how disputes over children will be decided in the new jurisdiction. There are inevitably differing norms between cultures and what seems important under the law in one part of the world can be irrelevant or at most of marginal relevance elsewhere. Key examples include the consideration of criminal convictions, adultery and the role each parent is expected to play in a child's upbringing. Checks on how the relocation jurisdiction might deal with future children disputes were advisable before. They are an absolute must now.

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