

/National emblem of the Republic of Belarus/

General Prosecutor's Office
of the Republic of Belarus

**Prosecutor's Office
of the City of Minsk**

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To the lawyer Ye.P. Mashonskaya

(representative of Nikolas
Cheropoulos authorised by the Power
of Attorney)

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On consideration of the supervisory appeal

The prosecutor's office of the city of Minsk (with the demand for the case materials) has reviewed the supervisory appeal in the interests of Nikolas Cheropoulos against the decision of the Oktyabrsky District Court of the City of Minsk of 12 July 2018 and the ruling of the Judicial Panel for Civil Cases of the Minsk City Court of 10 September 2018 in a civil case based on the claims against L.A. Trafimovich regarding the return of the children.

The appeal is denied on the following grounds.

In accordance with Article 3 of the Convention on the Civil Aspects of International Child Abduction (concluded in the Hague on 25 October 1980, hereinafter referred to as the Convention), the removal or the retention of a child is to be considered wrongful where:

a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention;

b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

By virtue of Article 12 of the Convention, where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

In accordance with Article 13 of the Convention, notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or

b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

The materials of the civil case demonstrate that Nikolas Cheropoulos and L.A. Trafimovich have been familiar since 2006. From 2008 to April 2017, they lived in Stockholm, the Kingdom of Sweden. In their conjugal life they had two daughters: Anthie Anthoula, born on 08 June 2012, and Alexandra, born on 01 April 2015.

On 18 April 2017, L.A. Trafimovich flew with the children to the Republic of Belarus.

On 19 April 2017, Nikolas Cheropoulos filed a statement to the police of Sweden concerning the illegal removal of the children, and on 26 April 2017 he sent written statements regarding the return of the children to the Ministry of Foreign Affairs of the Kingdom of Sweden.

On 10 May 2017, the Ministry of Justice of the Republic of Belarus, in an official response to a request from the Ministry of Foreign Affairs of the Kingdom of Sweden, confirmed the acceptance of the statements on the illegal removal of the children for the judicial proceedings. On 30 May 2017, a Swedish court decided to grant Nikolas Cheropoulos the full custody of the children in connection with the

release of L.A. Trafimovich from such a right due to her committing a grave offense on 18 April 2017 (the illegal removal of the children).

During the consideration of the case, it was established that L.A. Trafimovich holds the property rights to the three-room apartment located at the address: 64-24 Kizhevatova Str., Minsk, in which she lives with the minor children.

According to the results of the psychological examination of the minors for the study of the child-parent relations of 06 June 2018, it is difficult for Alexandra to understand the fact of separation of the parents due to her age. In some of the proposed tests the girl mentions the father first, which usually corresponds to high authority and importance in the eyes of the child. She places herself closer to the mother's figure, which speaks of close, trusting relationships, the need and the importance of communication with the mother. The child demonstrates a high degree of affection towards the mother and the father. Alexandra has formed a comfortable, close, trusting relationship with her elder sister. The child has a positive psycho-emotional background, is socialized, sociable, willing to make contact, talkative, inquisitive.

Anthie Anthoula demonstrates emotional affection towards both the mother and the father. The relationship of the child with her mother is the closest. In the "family drawing" the father figure is absent. The figures of both parents and the relationship with them are positively coloured in the representation of the girl. Due to the fact that the parents do not live together and the discord between them, the girl is anxious and tense when it comes to the family. She wants to meet her father, to visit him, but to live with her mother.

The court reasonably refused to return the minors in accordance with the Convention on the Civil Aspects of International Child Abduction of 1980, as it was reliably established during the case consideration that there were no violations of the provisions of the Convention or international law.

Anthie Anthoula and Alexandra are considered to be solely citizens of the Republic of Belarus in the territory of the Republic of Belarus, which does not recognize the affiliation of their citizens to the citizenship of a foreign state.

Since moving from Sweden, the children have been living in the Republic of Belarus for more than one year. They are fully integrated into the living environment, attend preschool institution, various interest groups, classes where they do not have problems with communication.

The return of the daughters to the territory of the Kingdom of Sweden without a mother can cause their psychological trauma and will not be in the interests of the children.

The arguments of your appeal concerning the violation of the norms of substantive and procedural law during the consideration of the case are ungrounded, as the court has given a proper assessment to all the evidence presented in the case, including that indicated in the supervisory appeal, therefore the procedural law was correctly applied.

The prosecutor's office of the city of Minsk has not found grounds for protesting the appealed judicial acts.

In case of disagreement with court rulings, Nikolas Cheropoulos or his representative has the right to appeal them to the Minsk City Court and (or) the General Prosecutor's Office of the Republic of Belarus.

Annex: copies of the decision of the Oktyabrsky District Court of the City of Minsk dated 12 July 2018 and the ruling of the Judicial Panel for Civil Cases of the Minsk City Court of 10 September 2018 certified by the court, 7 sheets in total.

Prosecutor of the City of Minsk

State Judicial Counsellor 3rd
Class

/signed/

S.K. Khmaruk