

**Supreme Court
of the Republic of Belarus**

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On consideration of appeal

The Supreme Court of the Republic of Belarus has considered the supervisory appeal against the court decisions in the case of Liudmila Arkadeyevna Trafimovich against Nikolas Cheropoulos concerning the determination of the place of residence of the minor children, collecting alimony, determination of the procedure for the travel of the minor children outside the Republic of Belarus.

By the decision of the Oktyabrsky District Court of the City of Minsk dated December 27, 2018, the place of residence of the minors Anthoula Anthie Cheropoulou, born on June 8, 2012, and Alexandra Cheropoulou, born on April 1, 2015, was determined as the place of residence of the mother Liudmila Arkadeyevna Trafimovich, born on May 30, 1975.

From Nikolas Cheropoulos, born on July 29, 1958, in favor of Liudmila Arkadeyevna, Trafimovich who lives at the address: 64-24, Kizhevatova Str., Minsk, the alimony was collected for the maintenance of the minor children: Anthoula Anthie Cheropoulou, born on June 8, 2012, and Alexandra Cheropoulou, born on April 1, 2015, in the amount of 33% of all types of earnings and (or) other income per month, but not less than 75% of the average subsistence budget per capita, starting recovery of alimony from April 27, 2017. and until the termination of the grounds for recovery.

The court determined a different procedure for the travel of the minor children: Anthoula Anthie Cheropoulou and Alexandra Cheropoulou outside the Republic of Belarus, namely with the consent of the mother, Liudmila Arkadeyevna Trafimovich.

The issue of legal costs has been resolved.

The ruling of the Judicial Panel for Civil Cases of the Minsk City Court of April 29, 2019. court decision upheld.

In the appeal you state the demand for the revocation of the court decisions believing that when considering the case, the jurisdiction of the case was incorrectly determined, and the Defendant was inadequately informed of the time and place of its consideration.

Studying the case materials and verifying the arguments of the appeal showed that there were no grounds for its satisfaction.

The case materials demonstrate that Nikolas Cheropoulos and L.A. Trafimovich lived together in Stockholm (Kingdom of Sweden) since 2008. During their life together, they gave birth to two minor children: Anthoula Anthie Cheropoulou, born on June 8, 2012, and Alexandra Cheropoulou, born on April 1, 2015.

The Plaintiff and the children are citizens of the Republic of Belarus, the children also have the citizenship of the Kingdom of Sweden.

On April 18, 2017 L.A. Trafimovich together with the children arrived in the Republic of Belarus and since that time she has been permanently living in apartment 24 at 64, Kizhevatova Str. in Minsk, which she owns by right of ownership.

Resolving the Plaintiff's claim for determining the place of residence of the minor children, the court came to the correct conclusion that the place of residence shall be that of their mother L.A. Trafimovich.

In accordance with Art. 74 of the Code on Administrative Offenses of the Republic of Belarus, the place of residence of the child is considered the place of residence of his or her parents, unless otherwise provided by legislative acts of the Republic of Belarus. Disagreements between parents about the place of residence of the child shall be resolved in a judicial proceeding based on the interests of the child.

The court takes into account which of the parents shows greater care and attention to the child, the age of the child and attachment to each of the parents, the personal qualities of the parents, the ability to create proper material and living conditions, as well as a moral and psychological atmosphere, to ensure the proper level of education.

In making the decision, the court was guided by Opinion of the Department of Education, Sports and Tourism of the Administration of the Oktyabrsky District of the City of Minsk No. 1922 dated December 27, 2018, which recognized the determination of the place of residence of the minor daughters of the Parties together with their mother as appropriate.

Of course, the court took into account the young age of the children, the fact that they have lived together with their mother since their birth, the need for maternal care, affection, love. In the case, it has been established with certainty that the Plaintiff has created all the necessary conditions for the development of the children: they live in a comfortable living space, visit a preschool institution, interest groups.

No evidence has been obtained by the court that testifies that the mother speaks negatively about the father or prevents him from communicating with his daughters.

At the same time, the court correctly determined the possibility of the children leaving the Republic of Belarus with the consent of the mother. This fact, taking into account the age

of the children, does not contradict their interests and does not infringe on the rights of each parent in communicating with them.

The Plaintiff's claims for the recovery of alimony payments from the Defendant for the maintenance of the children fully comply with the requirements of Articles 91 and 92 of the Code on Marriage and Family of the Republic of Belarus.

The arguments of the supervisory appeal regarding the violation of the requirements of the Civil Procedure Code during the consideration of the case are ungrounded.

Thus, the materials of the case show that the Defendant was duly notified of the time and place of the hearing of the case. Judicial correspondence, as well as a copy of the statement of claim with translation into English and Swedish, were sent to him at the place of residence and by e-mail.

Moreover, according to the Plaintiff, on December 27, 2018. (day of consideration of the case) the Defendant was in the Republic of Belarus, knew about its consideration, but did not appear in court and did not authorize his representative to do this by proxy.

The position taken by the Defendant to ignore participation in the consideration of disputes regarding the children in the courts of the Republic of Belarus, believing that the dispute should be resolved only by a competent court of the Kingdom of Sweden, is erroneous.

The first-instance court reasonably assumed that the Plaintiff filed this lawsuit with the Oktyabrsky District Court of the City of Minsk on April 27, 2017, i.e. before Nikolas Cheropoulos filed the claims with the court of the Kingdom of Sweden with requirements for establishing custody of the children on May 30, 2017, and when resolving the dispute, the court took into account that the children has been permanently residing in the territory of the Republic of Belarus since April 2017.

In such circumstances, the court did not commit violations of the requirements of Article 40 of the Civil Procedure Code, which provides for the determination of the jurisdiction of the case by the judge accepting the case for proceedings, or by the court which examines it.

The circumstances of the case have been examined fully and correctly. The court rulings in the case comply with the requirements of substantive and procedural law. There are no grounds for canceling court decisions.

For the reasons stated above, the supervisory appeal was dismissed.

Annex: on 18 sheets, 1 copy

Deputy Chairman

of the Supreme Court of the Republic of Belarus

/signed/

A.A. Zabara