

**Judgment of the Court (Third Chamber) of 27 October 2016 (request for a preliminary ruling from the Supreme Court — Ireland) — Child and Family Agency v J. D.**

(Case C-428/15) <sup>(1)</sup>

**(Reference for a preliminary ruling — Judicial cooperation in civil matters — Jurisdiction, recognition and enforcement of decisions in matrimonial matters and in the matters of parental responsibility — Regulation (EC) No 2201/2003 — Article 15 — Transfer of a case to a court of another Member State — Scope — Conditions under which applicable — Court better placed — Best interests of the child)**

(2017/C 006/25)

Language of the case: English

**Referring court**

Supreme Court

**Parties to the main proceedings**

Applicant: Child and Family Agency

Defendant: J. D.

Other party to proceedings: R. P. D.

**Operative part of the judgment**

1. Article 15 of 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 it is applicable where a child protection application brought under public law by the competent authority of a Member State concerns the adoption of measures relating to parental responsibility, such as the application at issue in the main proceedings, where it is a necessary consequence of a court of another Member State assuming jurisdiction that an authority of that other Member State thereafter commence proceedings that are separate from those brought in the first Member State, pursuant to its own domestic law and possibly relating to different factual circumstances.
2. Article 15(1) of Regulation No 2201/2003 must be interpreted as meaning that:
  - in order to determine that a court of another Member State with which the child has a particular connection is better placed, the court having jurisdiction in a Member State must be satisfied that the transfer of the case to that other court is such as to provide genuine and specific added value to the examination of that case, taking into account, *inter alia*, the rules of procedure applicable in that other Member State;
  - in order to determine that such a transfer is in the best interests of the child, the court having jurisdiction in a Member State must be satisfied, in particular, that that transfer is not liable to be detrimental to the situation of the child.
3. Article 15(1) of Regulation No 2201/2003 must be interpreted as meaning that the court having jurisdiction in a Member State must not take into account, when applying that provision in a given case relating to parental responsibility, either the effect of a possible transfer of that case to a court of another Member State on the right of freedom of movement of persons concerned other than the child in question, or the reason why the mother of that child exercised that right, prior to that court being seised, unless those considerations are such that there may be adverse repercussions on the situation of that child.

<sup>(1)</sup> OJ C 320, 28.9.2015.