

1 Under what circumstances may a parent lawfully remove the child to another state without the other parent's consent?

Where the two parents exercise the rights of custody jointly and separately, they are supposed to decide jointly on the removal of the child to another state.

Where the parents do not live together, they may reach agreement regarding the place of residence, custody and access to the child and approach the district court with jurisdiction over the child's present address to approve their agreement.

Where the parents are unable to reach agreement, the dispute is settled by the district court with jurisdiction over the child's present address, which rules on the place of residence of the child, the exercise of custody rights and access to the child.

2 Under what circumstances is the other parent's consent necessary for the child's removal to another state?

Irrespective of whether the parents exercise the rights of custody jointly or the court has approved an agreement or has issued a decision awarding their exercise to only one of the parents and determining that the place of residence of the child is to be with that parent, the consent of the parent who does not exercise the rights of custody is also necessary for the child's removal from the territory of Bulgaria, and this consent must be given in writing with the parent's notarised signature (point 9 of Article 76 of the Bulgarian Personal Documents Act (Zakon za bulgarskite lichni dokumenti)).

3 If the other parent does not consent to the child's removal to another state, though it is necessary, how can the child be removed lawfully to another state?

If the parents disagree about the child's removal to another state, the dispute is resolved under the procedure of Article 127a of the Family Code (Semeen kodeks) (SK), and if they disagree about the child's place of residence, the procedure of Article 127(2) or Article 59 of the SK applies.

Where the court substitutes the parent's consent to the issuing of a foreign-travel passport and a child's removal to another state (regardless of the duration of the trip), the requirement is for the existence of a specifically protected interest of the child when it is removed to another state which, in turn, necessitates that such removal should be allowed for a specified period of time, for a specified state or states within an identifiable range (e.g. the Member States of the European Union), or for an unlimited number of trips during a specified period of time, but also for specified states.

In accordance with the binding instructions for the interpretation of the law, given in Interpretative Decision No 1 of 2016 of 3 July 2017 in Interpretative Case No 1 on the docket of the General Assembly of the Civil College of the Supreme Court of Cassation for the Year 2016, the court may not definitively substitute the parent's consent and allow travel for an unlimited period of time and territory.

4 Do the same rules apply to temporary removal (e.g. holiday, healthcare etc.) and permanent removal? If applicable, please provide relevant consent forms.

The Bulgarian Personal Documents Act requires consent by the parent who does not accompany the child on the trip by means of a notarised declaration regardless of the specific circumstances of the child's removal to another state.

Such removal may be temporary, after which the child returns to Bulgaria without transferring its residence to another state. When the child travels abroad for the purposes of an excursion, holiday, visit to relatives, study, cultural or sports events, competitions, healthcare, etc. and the parties disagree, the court assesses the reason for the request. If there is no reason to believe that the child is at a specific and real risk, the court determines the parameters of the permission. In cases involving a child's temporary removal to another state, it is hardly likely that the child's right to travel would conflict with the parent's right of access, and even if such a conflict would arise, if the child's travel is in its best interest, the parent affected is supposed to tolerate such temporary restriction of his or her rights.

The purpose of the removal may also be to transfer the child's residence to another state. When examining the matters concerning a child's removal to another state and, accordingly, the issuing of the requisite personal documents, the court should not allow its permission for removal to entail a transfer of the child's residence unless the request for permission is accompanied by a request for a transfer of the child's residence. The determination of a child's place of residence reflects the child's best interests in being integrated in a family and social environment and presupposes a lasting character of the establishment.

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