

Lawful removal of the child - Bulgaria

TABLE OF CONTENTS

- 1 Under what circumstances may a parent lawfully remove the child to another state without the other parent's consent?
- 2 Under what circumstances is the other parent's consent necessary for the child's removal to another state?
- 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?
- 4 Do the same rules apply to temporary removal (e.g. holiday, healthcare etc.) and permanent removal? If applicable, please provide relevant consent forms.



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

The provisions of Article 123(2) of the Family Code stipulate a procedure in case of disagreement between the parents. In these cases they may approach a mediator or bring a claim before the district court in the place where the child is currently domiciled, which will settle the dispute, after hearing the parents, in order to rule whether the right of the child to travel abroad should be exercised with a view to a specific need. In accordance with the established case law, when the court gives substitute consent for issuing a passport or for travel by the child, permission may be granted when it is in the interests of the child, the permission for leaving the country being granted for a fixed period and for a specific country or an identifiable range of countries. According to the established case law of the Supreme Court of Cassation, no permission for unlimited travel by a child outside the Republic of Bulgaria can be granted to either of the parents.

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

A notarised declaration for travel by the child abroad or substitute consent by the court pursuant to Article 123 (2) of the Family Code are necessary prerequisites for permitting the child to temporarily leave the territory of Bulgaria accompanied by only one of the parents. These prerequisites cannot be interpreted as consent for relocation of the child to another country.

In order for the other parent to consent to a change of the usual place of residence of the child, there should be an agreement between the parents, confirmed by the court, or a judgement granting the rights of custody to the parent who initiates the relocation of the child, this agreement/judgement specifying what the place of residence of the parent and the child will be, indicating the country and defining an appropriate pattern of personal relations with the other parent, considering the fact that the parent and the child will live in different countries. The existence of a court-approved agreement or a judgement ensures that the best interests of the child are protected and that the relocation will not impede the child from maintaining contact with the other parent.

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?

Please see the answer to the first question.

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

In the first case, a free-text declaration of consent for travelling abroad is necessary. In the second case, there should be an agreement between the parents, confirmed by the court, or a judgement granting the rights of custody to the parent who initiates the relocation of the child, this agreement/judgement specifying what the place of residence of the parent and the child will be, indicating the country and defining an appropriate pattern of personal relations with the other parent, considering the fact that the parent and the child will live in different countries.

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Last update: 25/03/2017