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[08/12/1999; Supreme Court of Ireland; Superior Appellate Court]
T.M.M. v. M.D. (Child Abduction: Article 13) [2000] IR 149

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**THE SUPREME COURT OF IRELAND**

**No. 162/99**

**Denham, J.**
**Lynch, J.**
**Barron, J.**

**IN THE MATTER OF THE CHILD ABDUCTION AND ENFORCEMENT OF CUSTODY ORDERS ACT, 1991**

**AND IN THE MATTER OF K.T.M. AND H.L.M., INFANTS**

**BETWEEN**

**T.M.M.**

**PLAINTIFF/APPELLANT**

**AND**

**M.D.**

**DEFENDANT/RESPONDENT**

**Judgment of Mrs. Justice Denham delivered the 8th day of December, 1999**

**This is an appeal by the plaintiff/appellant (hereinafter referred to as the plaintiff) against a decision of the High Court (McGuinness, J.) made on the 20th January, 1999 refusing to return the children to the place of their habitual residence. The plaintiff's application was made pursuant to the Child Abduction and Enforcement of Custody Orders Act, 1991, and the Hague Convention, in regard to the abduction of the two children from the jurisdiction of England and Wales.**

**The plaintiff is the mother of the two children and the defendant/respondent (hereinafter referred to as the defendant) is their maternal grandmother. K.T.M. was born on 28th October, 1987 and H.L.M. was born on 21st December, 1992. The children were brought to Ireland on 23rd October, 1997 by the defendant and their grandfather and have resided continuously in this jurisdiction since then in the Cork area. Proceedings under the Hague Convention were issued by the plaintiff on 11th March, 1998. The defendant swore an affidavit on 25th March, 1998 and a supplementary affidavit on 26th March, 1998. There**

**was a gap in the proceedings. It was submitted that as a result of an assault on her by her partner the plaintiff sustained an injury in the month of May, 1998 and she was unable to deal with the proceedings for some considerable time. It appears that there was time at the end of March and during the whole of April within which the plaintiff could have responded prior to the assault alleged in May. However, the plaintiff swore an affidavit on the 27th October, 1998. A further affidavit was sworn by the defendant on the 9th November, 1998 and an affidavit of laws was sworn on the 4th November, 1998. Finally, there was a further affidavit sworn by the solicitor for the plaintiff, which exhibited an English social welfare report, on the 17th November, 1998.**

**The affidavits and exhibits were opened before the learned trial judge. It was acknowledged before her that both social welfare reports were hearsay and would be inadmissible according to the ordinary rules of evidence. However, it was agreed by counsel that the learned trial judge would read both social welfare reports. McGuinness, J. read the reports, relying on the consent of counsel and on article 13 of the Hague Convention.**

**The learned trial judge spoke to the elder child. Of this McGuinness J. stated:**

**"In addition, again pursuant to Article 13 of the Convention, I spoke to the older child, K. whom I considered to have sufficient maturity so that it was appropriate to take her views into account. I did not interview the child, H., because it appeared to me that she was too young to be interviewed by the court."**

**The facts of the case were found by the learned trial judge to include:**

**"The Plaintiff and her husband, G.M. were married on 21st June, 1995, in a registry office in England, and they were divorced on 28th May, 1997. They had had a long prior relationship, and it appears that they may have been married in the Roman Catholic Church in or about 1986. They lived in England throughout their relationship and marriage. The children were born in England and until they were removed to Ireland have always been resident in England. Until in or about 1995 Mr. & Mrs. D., that is the Defendant and her husband, also lived in England and the Plaintiffs siblings, her sister J. and brother P., and her sister K. all lived in England for a large part of the children's lives. The Plaintiff lived across the road from the mother and father, Mr. & Mrs. D., in London. It is fully accepted that prior to the removal to this jurisdiction the habitual residence of the children was in England."**

**The learned trial judge found that the defendant and the children's grandfather, Mr. & Mrs. D., are Irish and that they had wished to return to reside in Ireland, which they did in 1995. As to the plaintiff, the learned trial judge stated:**

**"From the Social Welfare Report of Janet Martin of Lambeth Social Services, the Plaintiff has a ten year history of alcohol abuse and periodic bouts of depression, and she also records that the children's father had a history of alcohol abuse and depression and was, at the time of the report, living in an alcohol recovery unit. On account of the alcohol abuse the Plaintiff and both children spent long periods of time in the de facto custody and care of their grandparents, their married aunt K.D.A. and her husband. Their uncle P., their unmarried aunt J.D., also cared for them and played a large part in their upbringing. Apparently when Mr. & Mrs. M. went on holidays to Egypt with the children, Miss D. accompanied them so as to help care for the children and make sure of their safety."**

**The learned trial judge found that the background history given by the defendant was borne out by the report of Janet Martin, the social welfare worker in England, who had stated that the infants remained with the extended family for three or four months at a time. The learned trial judge also noted the acknowledged violent abuse by Mr. M., the father of the children, of the plaintiff. It was noted also that Mrs. M. herself sets out that there was violence in her new relationship, which was one of the reasons for the delay in the proceedings.**

**As to the present position of the plaintiff's alcoholism, the learned trial judge said:**

**" ... it is acknowledged clearly by the social worker, Janet Martin, that Mrs. M. has made considerable efforts to overcome her alcoholic problem, but I am somewhat doubtful as to how successful these efforts have been. This is to some extent also borne out by what the child K. herself says."**

**The learned trial judge found that the children's aunt, K.D.A., removed the children from the care of the plaintiff on the 4th October, 1997 and kept them for a period of two weeks. It appeared that she did this because the plaintiff had returned to drinking. Then on the 23rd October, 1997 the defendant removed the children to Ireland. A letter was sent to the plaintiff informing her that the children were being moved to Cork and that they would be living there with her mother (their grandmother, the defendant) and attending a named school in Cork. On the 28th October, 1997, the plaintiff gave authority to the Central Authority in England and Wales to seek the return of the children under the Hague Convention.**

**Before the High Court there were a number of defences argued, including (a) that there was no wrongful removal of the children; (b) that there was acquiescence by the plaintiff; and (c) that there was a defence under Article 13(b) of the Hague Convention. On (c), the third issue raised, the learned trial judge stated:**

**"In this case, however, it is accepted that the mother was unable to care for her children over long periods of time during their whole lifetime, because of her alcoholism. It seems to me the Social Welfare Report of Janet Martin is very guarded in regard to the prognosis of the Plaintiff. It is not at all clear how far she has recovered from her alcoholism, and in some ways the small incident which occurred in this Court might suggest a remaining lack of control.**

**The father of the children is no longer on the scene and clearly he is not a satisfactory alternative carer. It is accepted that he behaved violently towards his wife and that he too has severe drinking problems. The mother's new boyfriend, if he is still part of the relationship, seems to be an additional risk of violence. It seems to me that on the facts as shown in the Affidavits, which are not fully denied, that there is a very real risk of physical and psychological harm which, in my view, cannot be met by undertakings, although of course I accept that the English courts would enforce undertakings, and there are no problems as might arise in other jurisdictions.**

**The children have been in Ireland for fifteen months, which I cannot ignore, and they are at school and doing very well. K. herself stressed to me that this was the longest time she had ever spent in any school and that she was extremely happy in the school that she is in. It is by no means certain that the English Courts would give custody to the mother, in fact Mrs. D.A. has proceedings in being in the English Courts seeking custody of the children, and these proceedings have been adjourned generally with liberty to re-enter, but they can be re-entered or restored, as it says in English law.**

**If the children again come before the Courts in England there is still a possibility that they would be returned to Ireland in the custody of their grandmother. This would cause even more disturbance than they have already suffered, and they have suffered quite enough disturbance in their young lives. If proceedings in regard to their custody take place in this jurisdiction, there is no threat to the mother in Irish law. Her position in Irish law if anything is even stronger than in English law because she has the constitutional right of custody, which must be to the forefront of any wardship proceedings. So that there is no question of her being discriminated against in proceedings in this jurisdiction.**

**Finally, I would turn to the views of K., herself. Mr. O'Riordan [Counsel] drew my attention to page 611 of Mr. Shatter's 4th Edition of his book on Family Law where he deals with this question, and refers to cases which have come before the Courts and there are a number where children have been interviewed. He states on p. 611,**

**'The child's return may also be refused if the child objects to being returned and 'is of an age and of a degree of maturity at which it is appropriate to take account of his views'. In D.C. v. V.L.C., Morris, J. held that a child's objection to return to its country of origin can only be relied upon where the objection is advanced for 'mature and cogent reasons'.'**

**The learned trial judge held:**

**"I think that it would be wrong for the Court to rely only on K.'s opinion. She is quite a young child, though she did seem to me in conversation with her to be a highly intelligent child and quite a mature young lady for eleven years of age. Indeed, sadly some of her maturity can be due to the fact that she has led a somewhat difficult life in the past.**

**I have interviewed children on a number of occasions in regard to family matters, although it is not a practice that I would go in for very often. I am well aware of the danger that children may be coached in what they are to say to the Court. This child was, I am certain, not coached. I am sure she was expressing her sincere opinion. I do not wish to go into all the details of what she said. I don't think it would be fair, but there are one or two things I feel I must convey in this judgment. Firstly, K. not merely objects to returning to England and to the custody of her mother, she exhibits a very real fear of so doing. I am convinced that this fear is sincerely held and not induced by any third party. She gave details of the [cogent] reasons for her fear. K. is very happy in Cork with her grandparents, and in particular she is happy at her school. As I say, she stresses it is the school in which she has been longest in in her whole life. She tells me that she is even getting on quite well in catching up on the Irish language, which of course she [did not] learn in England. She appreciates and understands her present stability and she fears to lose it.**

**Finally, some concerns were expressed by the Social Welfare worker in Cork, Miss. O'Neill, and were mentioned in Court in regard to the children having nightmares and sleep-walking. I had some concerns about this and I asked K. about the frequency and nature of her nightmares. She told me that they were decreasing but that she was still walking or talking in her sleep. I asked her about the nature of the nightmares and sadly she told me that they were nightmares of her mother coming to get her, and drunkeness and the other aspects of her earlier life. She found it hard to control her tears at the prospect of returning to her former situation in England."**

**The learned trial judge came to the conclusion:**

**"Given the entire background to this case, together with the feelings expressed by K., I cannot but conclude that there is a grave risk that a return to the English jurisdiction, which must, in the circumstances, mean a return to the custody of the Plaintiff, poses a grave risk**

**of physical and psychological harm to these children, and would place them in an intolerable situation. I also take into account both the child's objections and under Article 13, the Social Welfare Report of Janet Martin. It is a sad situation and the mother's difficulties are very unfortunate but, as is always the case in this type of proceedings, it is the child's welfare which must be foremost in the Court's mind.**

**I will therefore refuse the Orders sought in the Special Summons. I understand from Miss O'Regan, Counsel for the defendant, that wardship proceedings are being prepared. I am conscious that the present proceedings are summary proceedings and do not deal fully with all of the issues of custody, access and so on because it is important that these aspects should be dealt with in a full way with evidence from all sides. So I would urge Mr. and Mrs. D. to press ahead with wardship proceedings so that all of the evidence in regard to the welfare of these children can be brought before the Court and a secure decision made as to their future."**

**On this appeal it was not contested that the infants were wrongfully removed by the defendant from England on 23rd October, 1997. Nor was the matter of any acquiescence by the plaintiff a significant feature of the submissions in this court. The appeal was argued by counsel for the plaintiff, Ms. Anne Dunne, S.C., on the following grounds:**

**1. It was contended on behalf of the plaintiff that the learned trial judge erred in law and in fact in refusing to return the children and each of them to their country of habitual residence and that the refusal was unreasonable where the learned trial judge deemed that such return meant a return to the custody of the plaintiff when, in fact, proceedings in England and Wales in relation to the custody of the children by their aunt were extant and upon the reliance by the learned trial judge upon future putative wardship proceedings to be brought by the defendant.**

**2. It was submitted on behalf of the plaintiff that the learned trial judge erred in fact in relying upon the plaintiff's distress in court as a matter to be taken into account when refusing the return of the children; in finding that there was very real risk of physical and psychological harm to the children; in holding without evidence or sufficient evidence before her that the plaintiff was still abusing alcohol and in holding that there was a very real risk of physical and psychological harm which could not be met by undertakings and in holding that undertakings were inapplicable to the facts of the situation.**

**3. It was submitted on behalf of the plaintiff that the interviewing of one of the said infants by the learned trial judge and her reliance on same to ground the refusal to return the children was inappropriate and was an error in law and in fact. It was further submitted that the use of unsworn evidence obtained in the absence of the legal representatives of the parties, in particular the plaintiff, where the subsistence of same was not revealed in front of the parties and in circumstances where there was no corroboratory evidence and which had such a prejudicial effect upon the plaintiff, was erroneous in law and in fact.**

**4. It was submitted on behalf of the plaintiff that the use by the trial judge of the test of welfare of the child in relation to the child abduction proceedings was incorrect in law.**

**Reference was made to case law by counsel for the plaintiff: A.S. v. P.S. (Child Abduction), [1998] 2 I.R. 244; K. v. K. Unreported, Supreme Court, 6th May, 1998; N. v N. (Abduction: Article 13 defence), [1995] I F.L.R. 107; Re: C. (Abduction; grave risk of physical or psychological harm) [1999] 2 F.L.R. 478; Re: B. (Abduction : Article 13 defence), [1997] 2 F.L.R. 573; and Re: K. (Abduction: psychological harm) [1995] 2 F.L.R. 550.**

**Decision**

**On the first ground argued by counsel for the plaintiff, that it was not any risk to return the children to the jurisdiction of England and Wales but that a risk might be in the return of the children to the plaintiff, I am satisfied that the plaintiff's submission fails. There was evidence before the High Court upon which the learned trial judge could determine that the return of the children to England would in fact be a return of the children to the plaintiff. Whereas their aunt has commenced proceedings before the courts in England and Wales seeking their custody, the plaintiff remains their parent with custody in England and Wales and any such return at this time would be to the plaintiff. This, of course, is not to suggest in any way that the courts of England and Wales would be incapable of protecting the children, it is merely that on the facts of the case, if they were returned, they would be returning to the custody of the plaintiff.**

**In relation to the second series of grounds submitted by counsel for the plaintiff, I am satisfied that it was appropriate for the learned trial judge to rely upon events which take place in the courtroom before the trial judge when considering whether or not to return children to a parent who is before the court. Thus, the learned trial judge was entitled to rely upon the plaintiff's conduct in court as one of the matters to be taken into account. Further, I am satisfied that in the circumstances of the case and article 13 it was entirely appropriate to rely upon the social welfare reports exhibited with the affidavits which, with the consent of counsel (quite properly) were read and considered and accepted by the learned trial judge. Taking the evidence in the affidavits and the social welfare reports into consideration, there was evidence upon which the learned trial judge could find facts and hold that the plaintiff was still abusing alcohol and that in all the circumstances there were reasonable grounds to hold that the situation could not be met by undertakings and that undertakings were inapplicable.**

**The grave risk defence arises under article 13 which states:**

**"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 -**
**...**
**(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 learned trial judge made a determination on the facts. There was evidence before her which entitled her to come to the conclusion as to grave risk which she did. Thus, the discretion for the court envisaged under article 13 arose. The learned trial judge had evidence upon which she could find the facts she did and whereupon she could exercise the discretion in favour of refusing the application to return the children.**
**In relation to the plaintiff's claim that it was inappropriate on behalf of the learned trial judge to consider the social welfare reports and to rely upon them as evidence, it is relevant to note the final paragraph of article 13 which states:**

**"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."**

**In relation to this article, the Explanatory Report on the Convention on the Civil Aspects of International Child Abduction by Elisa Perez-Vera states at paragraph 117:**

**"... The third paragraph contains a very different provision which is in fact procedural in nature and seeks on the one hand to compensate for the burden of proof placed on the person who opposes the return of the child, and on the other hand to increase the usefulness of information supplied by the authorities of the State of the child's habitual residence. Such information, emanating from either the Central Authority or any other competent authority, may be particularly valuable in allowing the requested authorities to determine the existence of those circumstances which underlie the exceptions contained in the first two paragraphs of this article."**

**Applying this article it was appropriate for the court to consider the social welfare reports exhibited together with the affidavits. This was especially so in this case as counsel consented to such a process. This is a summary procedure and it is entirely in accordance with such a process that such an approach be taken. Consequently, I uphold the approach of the learned trial judge on this matter.**

**On this appeal counsel for the plaintiff laid stress on the third ground. It was submitted that the interviewing by the learned trial judge of the elder child and the reliance on same to ground the refusal to return the children was an error in law and in fact.**

**Counsel for the defendant, Mr. Cormac Corrigan, S.C., pointed out that there were no regulations providing how the courts should implement the Child Abduction and Enforcement of Custody Orders Act, 1991. He referred to the United Nations Convention on Children, article 12, which states:**

**"1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.**

**2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative of an appropriate body, in a manner consistent with the procedural rules of national law."**

**Counsel for the defendant submitted that the learned trial judge was a very experienced judge in family law and that she had approached the interviewing of this child and the weighing of the evidence of the child in an entirely appropriate manner. He submitted that the judge cannot be faulted for her method of interviewing the child.**
**The penultimate paragraph of article 13 of the Hague Convention states:**

**"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."**

**The Explanatory Report on the Convention on the Civil Aspect of International Child Abduction by Elisa Perez-Vera in discussing articles 13 and 20, i.e the possible exceptions to the return of the child, states at paragraph 113:**

**"... In general, it is appropriate to emphasize that the exceptions in these two articles do not apply automatically, in that they do not invariably result in the child's retention;**

**nevertheless, the very nature of these exceptions give judges a discretion - and does not impose upon them a duty - to refuse to return a child in certain circumstances."**

**In addition, it is stated at paragraph 30:**

**"In addition, the Convention also provides that the child's views concerning the essential question of its return or retention may be conclusive, provided it has, according to the competent authorities, attained an age and degree of maturity sufficient for its views to be taken into account. In this way, the Convention gives children the possibility of interpreting their own interests. Of course, this provision could prove dangerous if it were applied by means of the direct questioning of young people who may admittedly have a clear grasp of the situation but who may also suffer serious psychological harm if they think they are being forced to choose between two parents. However, such a provision is absolutely necessary given the fact that the convention applies, *ratione personae* , to all children under the age of sixteen; the fact must be acknowledged that it would be very difficult to accept that a child of, for example, fifteen years of age, should be returned against its will. Moreover, as regards this particular point, all efforts to agree on a minimum age at which the views of the child could be taken into account failed, since all the ages suggested seemed artificial, even arbitrary. It seemed best to leave the application of this clause to the discretion of the competent authorities."**

**This aspect of article 13 is a separate ground. The child's views alone are sufficient basis to refuse to return her. I agree with the approach in S. v. S.(Child Abduction) (Child's Views) [1992] 2 F.L.R. 492 where it was determined that the part of article 13 which relates to the child's objection to being returned is completely separate from paragraph (b) which referred to the grave risk of physical or psychological harm and that there is no reason to interpret that part of the article as importing a requirement to satisfy paragraph (b) or to interpret the word 'object' to mean something stronger that its literal meaning. However, this is an area where the exercise of the discretion of the judge must be done with great care. I agree with the approach of Balcombe LJ, in S. v. S.(Child Abduction) (Child's Views) where he stated at pages 500-501:**

**"(2) *The establishment of the facts necessary to 'open the door' under Article 13***
**(a) The questions whether:**
**(i) a child objects to being returned; and**
**(ii) has attained an age and degree of maturity at which it is appropriate to take account of its views;**
**are questions of fact which are peculiarly within the province of the trial judge. Miss Scotland submitted that the child's views should not be sought, either by the court welfare officer or the judge, until the evidence of the parents has been completed. We know of no justification for this submission. She also asked us to lay down guidelines for the procedure to be adopted in ascertaining the child's views and degree of maturity. We do not think it is desirable that we should do so. These cases under the Hague Convention come before the very experienced judges of the Family Division, and they can be relied on, in those cases where it may be necessary to ascertain these facts, to devise an appropriate procedure, always bearing in mind that the Convention is primarily designed to secure a speedy return of the child to the country from which it has been abducted.**

**(b) It will usually be necessary for the judge to find out why the child objects to being returned. If the only reason is because it wants to remain with the abducting parent, who is also asserting that he or she is unwilling to return, then this will be a highly relevant factor when the judge comes to consider the exercise of discretion.**

**(c) Article 13 does not seek to lay down any age below which a child is to be considered as not having attained sufficient maturity for its views to be taken into account. Nor should we. In this connection it is material to note that Art 12 of the UN Convention on the Rights of the Child ... provides as follows ....**

**(d) In our judgment, no criticism can be made of the decision by Ewbank J, to ascertain C's views, nor of the procedure which he adopted for that purpose. There was evidence which entitled him to find that C objected to being returned to France and that she had attained an age and degree of maturity at which it was appropriate to take account of her views. Those are findings with which this court should not interfere."**

**The learned trial judge had a discretion. It was entirely appropriate for the learned trial judge to have interviewed the elder child. The method by which she interviewed the child, whilst not exclusionary of other appropriate methods, was not inappropriate. Nor was it an error of law. Nor was the learned trial judge in error in relying, as she did, upon the interview with the child. The convention is quite clear on its face that a child who objects to being returned and who has attained an age and degree of maturity is entitled to have his or her view taken into account. The learned trial judge addressed specifically the age and maturity of the child and her views. Consequently, the learned trial judge was entitled to rely upon the child's view as she did. It was entirely appropriate that the trial judge did so in such a way as to make it quite clear that the child's view accorded with other determinations which she had made in this case so as to protect the child's long-term psychology. Whilst it is a separate ground, a decision not to return a child to the country of its habitual residence is a decision of the court and care should be taken, as here, that it is not, nor does it appear to be, the decision of the child.**

**The fourth and final ground of the appeal by the plaintiff related to the test of the welfare of the child in relation to abduction proceedings as being incorrect in law. Counsel for the defendant, Mr. Cormac Corrigan, S.C., submitted that the learned trial judge did not deal with the welfare of the children in the context of a custody dispute. He submitted that there is authority that the interests of the children are paramount. He referred to the preamble of the convention and In the matter of R. (A minor): P. v. B. (No. 2) [1999] I.L.R.M. 401. He also referred to Re: M [1997] 2 F.L.R. 690. He submitted that all these cases state that the interest of the child is paramount. He argued that it is appropriate and permissible to take into account such evidence as establishing the interest of the child within the context of article 13 of the Convention. He accepted that the broad sweep of evidence relevant to the welfare of the child, for example under the Guardianship of Infants Act, 1964, would be impermissible. But, he submitted, the learned trial judge considered the welfare of the child in the context of article 13(b), and that that is permissible.**

**It was quite clear that the convention does not require the court to consider the welfare of the child in the same way as is required under the Guardianship of Infants Act, 1964, and other child related legislation in Ireland. Indeed such plenary hearings are contrary to the summary procedure envisaged under the convention. Nor is the issue of any balancing between the care under the abductor or under the person from whom the child was abducted a factor in the Convention. The Convention envisages summary proceedings to return infants to the place of their habitual residence unless the exceptional circumstances under the Convention arise. However, it was equally clear that the Convention does enable the court to look at the interests of the child. In the explanatory report by Elisa Perez-Vera on the Convention it is stated at paragraph 116:**

**"The exceptions contained in [Article 13] b deal with situations where international child abduction has indeed occurred, but where the return of the child would be contrary to its**

**interests, as that phrase is understood in this sub-paragraph. Each of the terms used in this provision is the result of fragile compromise reached during the deliberations of the Special Commission and has been kept unaltered. Thus, it cannot be inferred, *a contrario*, from the rejection during the Fourteenth Session of proposals favouring the inclusion of an express provision stating that this exception could not be invoked if the return of the child might harm its economic or educational prospects, that the exceptions are to receive a wide interpretation."**

**Consequently, the learned trial judge was entitled to consider the interests of the child as she did. The interests of the child as envisaged under the Convention are not identical to the concept of the welfare of children under national legislation.**

**Delay**

**It is with concern that once again I note that in a child abduction case there has been considerable delay in processing the application. Proceedings under the Hague Convention are intended to be summary and completed in a speedy fashion. This is the type of case which should be on a fast-track management process.**

**Conclusion**

**For the reasons set out in this judgment I would dismiss the plaintiff's appeal on all grounds.**

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