Neutral Citation Number: [2017] EWCA Civ 441
Case Nos: B4/2016/4751
B4/2016/4747
B4/2016/4674

**IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
FAMILY DIVISION
(MR JUSTICE FRANCIS)**

Royal Courts of Justice
Strand, London, WC2A 2LL
Tuesday, 9 May 2017

B e f o r e :

**LORD JUSTICE McFARLANE
LORD JUSTICE LINDBLOM
and
LORD JUSTICE FLAUX**

IN THE MATTER OF L (CHILDREN)

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Mr E Devereux QC and Mr J Green (instructed by Dawson Cornwell, LONDON WC1R 4QT) appeared on behalf of the Appellants
Mr M Gration (instructed by Freemans, LONDON WC2R 3JF) appeared on behalf of the Appellant Father
Mr P Hepher (instructed by LB Croydon, 8 Mint Walk, CROYDON CR0 1EA) appeared on behalf of the Respondent Local Authority
Mr S Momtaz QC (instructed by Duncan Lewis, HARROW-ON-THE-HILL HA1 38N) appeared on behalf of the Children's Guardian

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HTML VERSION OF APPROVED JUDGMENT

LORD JUSTICE McFARLANE:

1. The court has heard appeals brought by the mother and, separately, the father of two young children who have been the subject of proceedings before the High Court Family Division. In particular, two decisions have been made in the course of those proceedings: the first by Francis J on 2 December 2016, determining that the children were habitually resident in England and Wales; and the second by the same judge on 15 December 2016, making an order under the inherent jurisdiction to facilitate the return of the children to this

jurisdiction, when they had been resident in Romania since February 2016. It is against those two decisions that each of the two parents now appeals, permission when having been granted in relation to the second decision by King LJ and in relation to the first decision, later, by Black LJ.

2. The circumstances leading to the case coming before the court can be shortly stated. The mother originates from Nigeria and came to this jurisdiction in 2007 together with her daughter, V, who had been born [a date]. At some stage the mother formed a relationship with the gentleman who is the father of the two children with whom this court is concerned. He originates from Romania but had been working in the United Kingdom for a considerable period. In due course two children were born to their relationship: a boy, J, born in [a date] and therefore now [an age]; and a girl, R, born in [a date], now aged [an age].

3. Matters came to the notice of the social services in terms of a crisis in this family on Christmas Eve 2015 when the mother's older child, V, was seen to have been injured and when examined by a paediatrician had no less than 13 physical injuries, seemingly compatible with being struck a number of times by a belt which had on it a spiked buckle. The two younger children were accommodated by the local authority, with the parents' agreement, from 26 December 2015 until 15 January 2016, by which time the social services were reassured that it was safe enough for the children to go back to live with their parents. V, meanwhile, had been accommodated elsewhere and now lives with her father.

4. As was entirely their lawful right, the parents departed from England and went to Romania with the two younger children on 8 February 2016. There is no suggestion that this was in any way unlawful or an abduction. There were no pending proceedings brought by the local authority or indeed any other agency. Since that time, the children have been living with their father in his family home, together with his father and other family members, in Romania. The mother remained in Romania until 20 March 2016 but on that date returned to England. Certainly the history was, at the time that the judge was hearing the case, that the mother had remained in England following her return in March.

5. A criminal process, under which both parents had been charged in relation to the alleged assault on V, continued. That concluded on 16 September 2016 when the mother pleaded guilty to an offence of assault occasioning actual bodily harm. The father's not guilty plea was accepted, and no evidence was offered against him. The mother was sentenced to a period of 12 months' imprisonment, but that was suspended for two years, and she was ordered to undertake 200 hours' unpaid work for the benefit of the community.

6. By coincidence (as I now understand it), but almost at exactly the same time, the local authority issued care proceedings in relation to the two younger children, the allegations relied on in support of those proceedings all relating to what the local authority had come to understand about the assault on V the previous December and, more generally, the potential for V to have been the victim of further abusive behaviour at an earlier stage. The care proceedings were elevated to the High Court, leave was given to apply for wardship under the inherent jurisdiction, and wardship proceedings were commenced on 14 December. It was those proceedings that came before Francis J in December. As I have indicated, the primary issue for determination on 2 December was the question of the habitual residence of the children. They had by that stage been in Romania for some ten months, but the key date that was the focus of the judge's determination was the commencement of the care proceedings in early September, therefore a period of some seven months in Romania.

7. The judge delivered an extempore judgment at the conclusion of a two-day oral hearing in which he had heard evidence from amongst others both the father, over a video link, and the mother, who was appearing directly in the courtroom here in London. The judge's judgment, to which I will turn in detail, makes a number of adverse findings as to the mother's credibility and the parents' overall good faith in relation to their case. The judge concluded that the children were still habitually resident in England and Wales notwithstanding the period that they had spent in Romania. The judge went on at the subsequent hearing on 15 December, which was a short half-day hearing at which no oral evidence was given, but submissions were made, to direct that it was in the children's best interests to be returned to England and Wales.

8. The appeal brought to this court by the mother and, separately by the father, effectively relies upon similar grounds in seeking to challenge the judge's determination. It is therefore necessary for me to set the background to the appeal by drawing attention to a number of the findings made by the judge. But first of all it should be stressed that the judge gave himself a succinct self-direction as to the law. This is an area of the law which has been the subject of a number of decisions of the Supreme Court in recent years. The judge

referred to each of those decisions, and they are, as it were, the bread and butter of High Court judges of the Family Division dealing with cases of this sort and other cases involving the issue of habitual residence across the family law jurisdiction. The judge then quoted in full from paragraph 17 of the judgment of Hayden J in the case of Re B (A Minor: Habitual Residence) [2016] EWHC 2174 (Fam). I do not intend to set out the 13 detailed sub paragraphs that the judge relied upon, but they are plainly intended to be (and have been taken to be by this judge) a distillation of some 13 separate principles, all designed to focus the court's mind upon the correct test for determining habitual residence, which it is accepted, at bottom, is a determination of fact. No point is taken in these appeals questioning the judge's approach as a matter of law. I also stress that we have not been asked to consider in detail Hayden J's list. If that falls for audit, as it were, by the Court of Appeal in some later case, that should be approached without there being any endorsement of it by this court in these proceedings or indeed any criticism. Looking at it as we have, it certainly seems to be (as this judge took it to be) a helpful aide-memoire as to the relevant factors. It is also the case that Francis J added emphasis to the various points listed by Hayden J, which were of particular relevance to this appeal. Again, no point is taken to the judge's apparent interpretation of those points for these purposes.

9. The oral evidence before the judge, whilst covering no doubt a wider canvas, focussed in part upon the intentions of the parents. And the judge was plainly struck by the fact that the mother had been in England and Wales from March onwards without returning to Romania. She put forward an excuse to explain her continued presence here relating to her inability to renew her Nigerian passport. The judge was not impressed by that explanation. He also held that there was no feature of the criminal process which required the mother to remain in this jurisdiction. The father, who was also subject to the same criminal process, came and went, returning to Romania when he was able to do so. The judge, having reviewed the mother's evidence from paragraph 34 onwards, concluded at paragraph 40,

> "It is, in my judgment, inherently more likely that these two professional witnesses correctly recorded the evidence that they gave ..."

Pausing there, that was a reference to a probation officer and an independent social worker, both of whom stated that on different occasions the mother had told them that the children were going to be returning to her care in England. The judge went on:

> "... I have no difficulty at all in finding that they were right and that the mother is wrong, and that she is probably lying, and that she did tell both of them that the children would return to England."

The judge then went on, at paragraph 42, to list the factors which indicated positively that the children had developed a connection with their new country of residence in Romania.

> "When considering the extent of the connection which the children have with Romania, I am struck by the following factors: a) they have lived continuously in Romania at one address for about nine and a half months; b) the living arrangements in Romania have been assessed by child care professionals and the children appear to be physically well-cared-for and there is no need in the judgment of that reporter for a further for a further assessment; c) the children are at nursery school in Romania; d) the children appear to be registered with a doctor in Romania; e) the children have dual Romanian and British Nationality and dual British and Romanian passports."

At paragraph 43 he set out points to the contrary in these terms:

> "Factors which weigh heavily against the strong connection with Romania and which point to a strong connection with England include the following: a) until February of this year these children spent their lives in England; b) the mother still lives in England; c) their sister Victoria still lives in England; d) when they left England for Romania it is common ground that this was described by the parents as being a holiday; e) I am satisfied the principal reason why the parents took the children to Romania was to avoid the investigation to which they were being subjected, in their view unreasonably, either or both by the London Borough of Croydon and by the police; f) there was no preplanning, for example no notice was even given to the children's nursery school and we all know the pressure on places in nursery schools at the moment; g) the

father has travelled repeatedly between Romania and England."

It is of note that the judge commenced paragraph 43 by indicating that the factors that he listed within it weighed "heavily" against the children having established a strong connection with Romania. It is also of note that at (e) the judge stated that he was satisfied that the principal reason why the parents took the children to Romania was to avoid the investigation to which they were being subjected. That was a finding not only with respect to the mother but included both parents. The judge also held at (g) that the father had, certainly prior to September, "travelled repeatedly" between the two countries.

10. The judge went on to consider what degree of integration the children had in terms of their family and social environment with Romania. He noted that there was some degree of integration into the environment of Romania and he came to that conclusion having received two separate reports from social work authorities in Romania, one only a few days before the hearing. Those reports, which this court has seen in detail, give a straightforward account of the lives of the two children, indicate that the reporters, in addition to visiting the paternal family home, had engaged with the crÃ¨che and the nursery attended by one or other of the two children and spoken to the staff who were seeing these two children on a day-to-day basis. Nothing untoward is reported, and indeed the reports were positive in the sense of the children being brought to their respective daytime placement on time, well presented, children engaging well and appropriately for their age and, so far as the elder child is concerned, indicating an ability to speak some Romanian and both children beginning to settle quickly into those placements and form relationships and friendships with the other young people who were attending with them. The judge, having noted that, also noted, conversely, that the children's mother and their elder sister both remained in England.

11. Further, the judge also noted that, despite what was said in these reports, there was some inconsistency in the identity of the primary carer for the children in Romania, that changing between the father, the paternal grandfather and on occasions another individual. The judge therefore concluded, at paragraph 44, in these terms, "It seems to me that their life in Romania is not at all settled". Thereafter the judge reviewed various of the Supreme Court authorities including the case of KL [2013] UKSC 75, which indicates that parental intent does play a factor in determining habitual residence but that it should not be an overarching factor. The judge went on, having looked at those various matters, to conclude as follows, at paragraph 50:

> "... the mother remains in England and yet, on her own case, she is not required to stay in England as a result of the criminal sentence, but her reason for being here is, in my judgment, an altogether more flimsy one and I find her explanation in relation to her passport to be questionable."

The judge therefore held that affording the burden of proof to the local authority, he was satisfied on the civil standard, that the children were habitually resident in England and Wales. Indeed he said that he was "completely clear" in that respect.

12. Finally, and as it were returning to different factors in the case, at paragraph 54 and 55, the judge pulled his conclusion together in these terms:

> "54. The evidence that I have read and the evidence that I have heard persuades me that I am satisfied that the children have not sufficiently integrated into their Romanian environment for me to be able to regard them as habitually resident there. Two, the factual enquiry that I have made has been centred throughout on the circumstances of the children that it is most likely to help me to understand and decide where lies their habitual residence. Three, I note in relation to the habitual residence of the parents that, certainly insofar as the mother is concerned, her habitual residence is in England. It is not necessary for me to find where the father is habitually resident and I am sure that there is room for argument in relation to whether it is in England or Romania and I, for the purposes of this judgment, am prepared to give him the benefit of the doubt that it may well be in Romania. Even if it is, it does not undermine my findings in respect of the children. "55. Four, I recognise that parental intention can be relevant to the assessment but it is not determinative. I have, though, found that the parental intention is that the children will return to England. Give, I bear in mind that it is the stability of the children's residence as opposed to its permanence which is relevant, and I have not found the environment in Romania to be a particularly stable one, albeit that I accept the evidence that has been put before me,

> unchallenged as it is, that they attend nursery school there and appeared to be physically well-cared-for and are registered with a doctor there."

It was on that basis that the judge concluded as he did.

13. The appeal brought by the parents is based on the following grounds. Mr Devereux QC, who did not appear at the habitual residence hearing below, is the principal advocate for both parents in this respect. He puts forward four grounds, which are related, and a separate distinct argument. The four related grounds all, in my view, go to the question of what weight the judge did or did not attribute to the factors that were relevant in his determination.

14. Ground 1 is that the judge adopted a simple balance sheet approach without indicating the attribution of any particular weight to any particular element in the balance sheet. In making that submission, Mr Devereux picks up a sentence in a judgment of mine in the case of Re F (A Child) [2015] EWCA Civ 882 at paragraph 52 where, having referred to the possible benefit of balance sheets, I said this:

> "A key step in any welfare evaluation is the attribution of weight, or lack of it, to each of the relevant considerations; one danger that may arise from setting out all the relevant factors in tabular format, is that the attribution of weight may be lost, with all elements of the table having equal value as in a map without contours."

Mr Devereux submits that a similar approach is required to a judge approaching a finding of habitual residence, and I agree. There are dangers in using a balance sheet, with the balance sheet process becoming an end in itself and the judge in some way omitting to go through the crucial evaluative stage of deciding where and how each of the particular factors may lead and what weight they are to be afforded.

15. Running through the grounds, the second ground is this, that the judge failed properly to take account of the accounts from the Romanian social services and from the parents of how the two children had settled in Romania. This is a point particularly endorsed by Mr Gration, counsel for the father, who did appear below. Mr Gration submits on this point that the reports from Romania, given the limitations to the process, were really very detailed and the judge's treatment of them, particularly at paragraph 42 of his judgment, really did not do justice to the degree which was required. In making that submission, Mr Gration rightly says that, as the list of factors in Hayden J's direction on the law indicate, particularly factors (i) and (v), the focus of the court, in determining habitual residence, must be on the child's life and whether the child has achieved sufficient stability and integration with the circumstances and environment in the new country. Mr Gration submits that the judge skated over the surface (to use my phrase) of the welfare reports from Romania without looking at the detail described, which would have indicated the quality of life that the children now experienced. To that extent, Mr Gration submits the judge minimised the impact of the evidence from those reports.

16. The third point made by Mr Devereux is that the judge's conclusion that the children were "not at all settled" in Romania was simply unsustainable, and this was also endorsed by the separate submissions of Mr Gration. The father had given direct evidence on this in his statement to the court. The father had stressed the ordinariness of family life in Romania: that he, the father, had returned to his family home, that he had taken up work as a tractor driver there and that the children were fully integrated into life in Romania. It was just not possible, argued both Mr Devereux and Mr Gration, for the judge to hold that the children were "not at all settled".

17. The fourth point in this group of points about weight is to submit that the judge placed too much weight on his findings as to the parents' intentions and that that attribution of weight was simply not justified. Mr Devereux submitted that this was used by the judge as something of a determinative or trump card in a way which the previous decisions of the Supreme Court have indicated is simply impermissible.

18. The separate ground relied on by Mr Devereux is one that is raised today for the first time and is not one that it is possible to cast in terms of the pleaded Grounds of Appeal. It is this, that critical to any determination of the habitual residence of these two young children was a consideration of the position of their primary carers. In this, it is submitted, the primary carers are the father and the grandfather. And they, in the way that I have already described, referring to Mr Gration's submissions, were fully integrated into Romanian life. They are

Romanian men. The father has gone home to Romania and the children are part of that life with those two primary carers. It is submitted that the judge simply did not address that issue at all.

19. In summarising those Grounds of Appeal, primarily put forward by Mr Devereux, I have included the father's case in so far as it added to the grounds. In approaching my determination on the appeal, I accept and understand the basis of the arguments that have been put forward by the parents. But in looking at the case overall, it is important to step back and look at the process undertaken by the judge. This was an extempore judgment, and full allowance has to be given for the fact that that was so. It is not a judgment given after days of being able to address and fine-tune every paragraph and bring into account every possible point. I am assisted in coming to that view by Mr Momtaz's reference to the decision of this court in the case of Re J (A Child) [2017] EWCA Civ 80, a decision of Black LJ, where at paragraph 62 Black LJ says this:

> "In endorsing certain of Mr Turner's criticisms of Judge Cushing's judgment, I do not wish to be taken as suggesting that there is only one way in which to approach the making of a finding of fact about habitual residence. Habitual residence is a question of fact and the scope of the enquiry depends entirely on the particular facts of the case. What is important is that the judge demonstrates sufficiently that he or she has had in mind the factors in the old and new lives of the child, and the family, which might have a bearing on this particular child's habitual residence. The court's review of all of the relevant evidence about habitual residence cannot be allowed to become an unworkable obstacle course, through which the judge must pick his or her way by a prescribed route or risk being said to have made an unsustainable finding. In some cases it will be necessary to carry out quite a detailed analysis of the situation that the child has left; in other cases, less detail of that will be required and the judge will be able to explain shortly why that is and focus more on the circumstances in the new country."

20. We should be keen not to establish some form of unworkable obstacle course through which a judge must pick in order to produce an acceptable judgment before this court. Mr Momtaz submits that the judge's judgment, when looked at as a whole, is sufficiently clear to be acceptable as an explanation of his findings and that it shows that he conducted a sufficiently clear and acceptable process. Uppermost in my mind in looking at the judge's judgment is that he was a judge who had sat for two days and had heard the oral evidence in this case. We have not had that privilege. We have not seen either of the parties in this court, as the judge will have done and, in the mother's case, will have done over an extended period. Further, we have not even seen a transcript of the oral evidence that was given before the judge. It is plain from looking at the judge's judgment that he formed a particularly adverse and negative view of each of these two parents. He did not trust their good faith in their description of the process and he concluded that the move of the children to Romania in February was a tactic (to use my word) designed to avoid scrutiny and engagement with the child protection authorities in this country and he did not accept that it was an indication of a permanent move of this family abroad. It is impossible for this court to re-evaluate the quality of the evidence that the judge had in front of him, and we must accept (as I readily do) his evaluation of it. In coming to this appeal, which in the end is an appeal against a fact-finding judgment of a High Court judge who has heard evidence over the course of two days, that is the most important factor in my mind in determining the outcome of the appeal.

21. Also important is the fact that there is no real criticism of the judge's approach to law. It is an appeal based largely, if not entirely, upon what weight the judge did or did not attribute to the various factors. It is of course always possible for a judge who has listed factors to indicate in more detail the weight to be attached to one or other of them. In relation to the evidence from Romania, that comment is particularly appropriate. But it is difficult for this court to say that the judge failed to have an adequate understanding of that material or include it adequately in his overall fact-finding evaluation. For the judge, on my reading of the judgment, that was not entirely the focus of the case. The case included for him a view of the parents' intentions and their motives, and his findings in that respect are plain from the judgment.

22. Looked at overall, the judge concluded that the children were in a state of limbo in the period that he was concerned with, February to September 2016. By the middle of 2016 the mother's and the father's engagement with the criminal process was at an end, but for all of the period up to that date, there was no clarity as to how the criminal process would end, let alone the child protection process. In my view, the judge was entitled, on the evidence before him, to come to the conclusion that he did, that the facts that had played themselves out in that seven-month period were insufficient to shift the children's habitual residence from

where it had plainly been before their departure to Romania, namely England and Wales, to establishing a new habitual residence in the father's home country. While I understand the grounds for concern that have been raised so clearly, forcefully and effectively by Mr Devereux and Mr Gration, I find it impossible to say that the judge was in error either in terms of the process he undertook or the outcome to which he came in holding that the children remained habitually resident in this country. I therefore would dismiss the parents' respective appeals in relation to the finding of habitual residence.

23. So far as the judge's welfare determination is concerned, as I have indicated, that was concluded at the end of a short hearing, and the judge again gave a short extempore judgment. He rehearsed the background, of course in part referring to the previous judgment that he had given in which he had given more detail of the assault on the older child, V. The judge indicates the significant and justified high level of concern in relation to that individual assault with this 10- or 11-year-old child sustaining some 13 or so separate injuries as, given her guilty plea, was established to be at her mother's hand. The judge was also concerned that the father continued to refer to that incident as "an accident".

24. The judge had before him a schedule of findings that were going to be sought by the local authority in the course of the care proceedings. We have seen that schedule. It shows that the local authority, through their counsel, Mr Hepher, who appears before us, considered that there was sufficient evidence at least to make allegations of a number of earlier assaults and abusive behaviour by the mother principally towards V but at a time when the father was, or probably was, present and when the father was certainly a member of the family. With respect to the Christmas Eve assault on V, which led to the criminal proceedings, the father was present in the home, as were the two young children, and (as it happens) also was the paternal grandfather. The social worker had filed a statement setting out the local authority's case in accordance with directions given by the court some four working days prior to the welfare hearing on 15 December. That is a detailed document. To a large extent, it does not include, as it were, "new" material that was unknown to the parties, but it does draw the local authority's case together. One ground of appeal relied on by the mother is that there was no opportunity for the parents to challenge the social worker's evidence. Mr Devereux, who did appear at the welfare hearing, applied without notice for the judge to adjourn the proceedings so that the social worker could be cross-examined. That application was refused, and the judge in his judgment describes his reasons in short terms. The court was looking at a lengthy adjournment before the case could come back for a two-day hearing and, if it did come back early in the following year, that would have to be before a different judge. In short terms, Francis J concluded that the benefit of having an oral hearing on those issues was disproportionate to the degree of delay and he refused the adjournment.

25. Moving on, the court had position statements filed by the Children's Guardian. The only report in standard form prepared by the Guardian had been prepared on 3 November at a time when the necessary information was not available, and the Guardian kept her recommendation open. In a position statement on 1 December the Guardian indicated that she would be arguing for the children to be returned to this jurisdiction if the habitual residence decision offered up that outcome. Also in the position statement prepared for the court for the 15 December hearing, that basic position was repeated. But no detailed welfare analysis was provided on paper by the Guardian. This is the second point of contention raised by Mr Devereux, he submitting that the judge simply did not have before him necessary input from the Guardian in terms of an adequate welfare analysis.

26. The third point taken both by Mr Devereux and by Mr Gration is that the judge wholly failed to give any proper account to the life of these children as it had become established in Romania. The judge had the reports from Romania to which I have already made reference but, in his short welfare analysis, he simply notes in the course of three sentences in paragraph 15 the basic points which included his recognition that the children did have a connection with that country, were living there, were developing language and were attending school or similar facility. The judge goes on, having given that list, to say this, "But none of that, it seems to me, makes it plainly wrong for them to come here."

27. Both Mr Hepher and Mr Momtaz accept that, in so far as the judge may have been expressing a test in those words, the use of the phrase "plainly wrong" was incorrect. For my part, I do not read that sentence in that way. The judge there (giving full allowance, as I do, for the fact that this was an extempore judgment) is indicating that there was no insurmountable obstacle for the children to come to England and Wales if it was otherwise in their interests to do so. But the bigger point relied upon by the parents is that the judge simply did not give any weight to the status quo (if I can call it that) that had been established in Romania over the

previous ten months.

28. Finally, in terms of criticism of the welfare judgment and in addition to the judge's refusal to grant an adjournment, Mr Devereux for the mother submits that the father, in particular, was denied a fair hearing at the welfare hearing on 15 December. Because he was not in attendance, he was therefore unable to take delivery of, or give instructions upon, the Guardian's skeleton argument and position statement delivered at court and he would have been in difficulty in giving instructions on the social worker's statement that had been delivered only three or four days beforehand. In relation to that point, it has to be borne in mind that the judge had expressly directed that the father should attend that hearing, that direction being backed up a penal notice, but the father had failed to attend. If that were the only point in the appeal, it would not carry therefore any great weight in my mind.

29. Again, Mr Momtaz for the Guardian submits that the court should step back and not apply a nit-picking approach to analysis of the judge's welfare judgment. Again, he submits that the judge was on this occasion sufficiently clear as to the basis of his decision. Mr Hepher carefully set out to this court the basis of the local authority's case. I have referred to the schedule that had been drawn up. And the crucial element of the local authority's case, which is demonstrated to a degree in the social worker's statement, and certainly contained both in Mr Hepher's submissions to us and in the judge's judgment is that, so far as the local authority saw the position, the children were simply not safe in the care of the father and the paternal grandfather in Romania, that assertion arising from the fact that both the father and the paternal grandfather had been present on at least one if not more occasions when it was said that V had been assaulted and at the very least had failed to intervene if not, more significantly, been more complicit in what was alleged to have gone on. It is therefore against that basis that Francis J goes on to say, at paragraph 15, the following:

> "What I have to ask is how I can best protect these children, who it seems to me may be at risk of suffering significant harm by remaining in the environment where they are in Romania. There is evidence that the paternal grandfather is unwell and was so unwell that he was unable to look after the children for a day or two while the father travelled to England to give his evidence."

The judge therefore held that the criteria, as he put it, were properly met and that the children should return to this country.

30. In the end these were child protection proceedings. Given the material before the judge, it seems to me that he had an ample basis to come to the view that he expresses in paragraph 15 that the children may be currently at significant risk by remaining in the environment in Romania. No matter how outwardly attractive, mundane, normal or safe that environment may have been seen to be by the authors of the social work reports in Romania, the judge had a great deal more evidence before him in terms of the schedule provided by the local authority and the evidence that will have sat behind that schedule. It seems to me, therefore, that this was a decision for the judge, informed also by the knowledge he will have had from the earlier hearing, where he had seen the mother and formed such an adverse view of her oral evidence. I therefore conclude that none of the matters that have been raised in criticism of the judge's judgment satisfy me that he was in error in the process that he adopted in coming to his conclusion or that that conclusion itself was wrong in welfare terms. I therefore would dismiss the parents' appeals in that respect as well.

LORD JUSTICE LINDBLOM:

31. I agree.

LORD JUSTICE FLAUX:

32. I agree.

Order: Appeal dismissed.