

THE HIGH COURT

[2013 No. 3613P]

IN THE MATTER OF L.W., A MINOR, BORN ON 25TH SEPTEMBER, 2012 AND IN THE MATTER OF THE CHILDCARE ACT 1991 (AS AMENDED) AND IN THE MATTER OF COUNCIL REGULATIONS (EC) NO 2201/2003 OF THE 27TH NOVEMBER 2003 CONCERNING JURISDICTION AND THE RECOGNITION AND ENFORCEMENT OF JUDGMENTS IN THE MATRIMONIAL MATTERS AND MATTERS OF PARENTAL RESPONSIBILITY

BETWEEN

THE HEALTH SERVICE EXECUTIVE

PLAINTIFF

AND

M.W. AND G.L.

DEFENDANTS.

JUDGMENT of Mr. Justice Birmingham delivered the 14th day of June 2013

1. The matter before the court sees the plaintiff, the Health Service Executive (the HSE) urging that a request should be made by this court to the Courts of England and Wales that those courts should assume jurisdiction in childcare proceedings concerning L.W., a minor born on the 25th September 2012. The proposal is that the request should be made pursuant to Article 15(1)(b) of the Council Regulation EC/2201/2003. The HSE's position is supported by the *guardian ad litem*, and by G.L., the second named defendant who is the father of L.W., though in a somewhat qualified fashion, but is opposed strenuously by M.W., the mother of L.W.

Background

2. The background to the matter coming before the courts is that on the 22nd September 2012, M.W. presented at the Rotunda Hospital in Dublin heavily pregnant. On the 25th September 2012, M.W. gave birth to L.W. The HSE was informed of this fact and contact was made with D. County Council, a Local Authority in England.

The information provided by that local authority caused the HSE to apply for and obtain an emergency Care Order in the District Court. L.W. was placed with foster carers and there she remains.

3. The information provided by D. County Council which led to the application for an emergency Care Order was that:-

- (i) On the 18th April 2012, Ms. W. denied to D. County Council having any previous involvement with social care.
- (ii) It subsequently became apparent that Ms. W. had involvement with L. County Council Social Care Services.
- (iii) Ms. W. has a conviction for child cruelty, wilfully assaulting, ill treating and neglecting her own child.
- (iv) Ms. W. was also convicted of perverting the course of justice and possession of a firearm without a certificate.
- (v) Ms. W. has a diagnosis of personality disorder and anti-social personality disorder.
- (vi) Ms. W. has previously threatened to kill herself and her children.
- (vii) Ms. W. is viewed as a risk to her children and professionals working with her.
- (viii) Ms. W. has been subject to Mappa Level 3 as a high risk offender. Her licence stated that she was not to have any contact with any child. This licence expired in July 2011, and the conditions have therefore been lifted.
- (ix) Ms. W.'s three other children have been permanently removed from her care and contact has been terminated.
- (x) Ms. W. did not attend antenatal appointments on the 24th April 2012, and the 16th June, 2012.
- (xi) On the 28th June 2012, Ms. W. informed a midwife that she would flee the U.K. rather than be seen by U.K. Social Care Services. The midwife reports that Ms. W. had made no provision for follow up care following the birth and that she became very angry and aggressive with the midwife.
- (xii) The U.K. Social Care Services concluded at a Child Protection Conference that there was a significant risk of harm likely to the unborn baby, due to non engagement with antenatal services or social care services.
- (xiii) The conference further concluded that an Emergency Protection Order was to be sought at the birth of L. and care proceedings were to be initiated.
- (xiv) It was further decided that the police were to be present at the birth.

The Regulation

4. The starting point for any consideration of the effects of Council Regulation E.C./2201/2003 of 27th November, 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, is Article

8. It provides:-

"1. The Courts of a Member State shall have jurisdiction in matters of parental responsibility over a child who is habitually resident in that Member State at a time the Court is seised.

2. Paragraph 1 shall be subject to the provisions of Articles 9, 10 and 12."

Attention should also be drawn to the terms of Recital (12) and Recital (13). These provide as follows:-

"Recital (12)

The grounds of jurisdiction in matters of parental responsibility established in the present Regulation are shaped in the light of the best interests of the child, in particular on the criterion of proximity. This means that jurisdiction should lie in the first place with the Member State of the child's habitual residence, except for certain cases of a change in the child's residence or pursuant to an agreement between the holders of parental responsibility".

"Recital (13)

In the interests of the child, this Regulation allows, by way of exception and under certain conditions, that the Court having jurisdiction may transfer the case to a court of another Member State if this Court is better placed to hear the case..."

It is Article 15 though which is particularly in issue in the present proceedings. That article so far as material provides as follows:-

"Article 15 -Transfer to a Court better placed to hear the case

(1) By way of exception, the Courts of a Member State, having jurisdiction as to the substance of the matter may, if they consider that a court of another Member State with which the child has a particular connection, would be better placed to hear the case, or a specific part thereof, and where this is in the best interests of the child;

(a) Stay the case or the part thereof in question and invite the parties to introduce a request before the court of that other Member State in accordance with paragraph 4; or

(b) Request the court of another Member State to assume jurisdiction in accordance with paragraph 5.

(2) Paragraph 2 shall apply:

(a) Upon application from a party; or

(b) Of the Court's own motion; or

(c) Upon application from a court of another Member State with which the child has a particular connection, in accordance with paragraph 3.

A transfer made of the court's own motion or by application of a court of another Member State must be accepted by at least one of the parties.

(3) The child should be considered to have a particular connection to a Member State as mentioned in paragraph 1, if that Member State:

(a) Has become the habitual residence of the child after the court referred to in paragraph 1 was seised; or

(b) Is the former habitual residence of the child; or

(c) Is the place of the child's nationality, or

(d) Is the habitual residence of a holder of parental responsibility;

or

(e) Is the place where property of the child is located and the case concerns measures for the protection of the child relating to the administration, conservation or disposal of this property.

(4) The court of the Member State having jurisdiction as to the substance of the matter shall set a time limit by which the courts of that other Member State shall be seised in accordance with paragraph 1. If the courts are not seised by that time, the court which has been seised shall continue to exercise jurisdiction in accordance with Articles 8 to 14.

(5) The courts of that other Member State may, where due to the specific circumstances of the case, this is in the best interests of the child, accept jurisdiction within six weeks of their seisure in accordance with paragraph 1(a) or 1(b). In this case, the courts first seised shall decline jurisdiction. Otherwise the courts first seised shall continue to exercise jurisdiction in accordance with Articles 8 to 14.

(6) The courts shall co-operate for the purpose of this Article, either directly or through the Central Authorities designated pursuant to Article 53."

Public Law

5. A question has been raised as to whether the Article can have any application to proceedings with a public law dimension. The argument made here is that it is in the nature of Article 15 that a case transferred sees the same parties engage in the proceedings in the courts from which the case is transferred and the courts to which the case is transferred. However, it is said that in the case of public law there is inevitably a change in the parties in that the Local Authority or Health Board or Social Services body involved will be replaced by an equivalent body from the State to which the case is transferred. In my view this regulation is concerned with the welfare and best interests of children and has to be interpreted in a purposive manner. The interpretation contended for by Ms. W. which seeks to exclude public law cases would significantly diminish its effectiveness. I note the views that I have formed on this question accord with the views expressed by Mostyn J. in *Re T. (A Child- Article 15 of Brussels II Revised)* [2013] EWHC 521 (Fam). See in particular his comments at paras. 23 and 24 and the case to which he refers including the case of *Health Service Executive v. S.C. and A.C. Case* (Case 92/12).

A particular connection

6. On the basis that Article 15 does have relevance, the question of whether it can be established that L.W. has a particular connection with another Member State, specifically the United Kingdom and more particularly with England and Wales, must be determined.

7. Five possible bases for establishing a particular connection are set out in Article 15(3). Subparagraphs (c) and (d) are those that are in issue in the present case.

8. So far as (c) is concerned, the court has been provided with an affidavit of laws from Mr. Laurie Fransman Q.C. His opinion makes clear that L.W. was born a British citizen by descent by operation of s. 2(1)(a) of the British Nationality Act 1981. Acquisition under this provision is *ex-lege*, that is to say it occurs automatically by operation of law and is not dependent on the making of any application or other condition. However, it is appropriate to record that in addition to being a British citizen that L.W. is also entitled to Irish citizenship by virtue of the Irish Nationality and Citizenship Act 2004 as she is a child born in Ireland to a mother and father who are British citizens.

9. My attention has been drawn to the fact that subparagraph (c) refers to "the place of the child's nationality". It is said that one possible interpretation would be that the paragraph only applies to a child that has a single nationality. However, in my view, such an interpretation would be quite artificial and would be inconsistent with the reality of life in the EU with its guarantee of free movement of persons moving between States and children being born, who in many cases will have more than one nationality. Accordingly I am satisfied that a particular connection is established by virtue of Article 15(3)(c). In any event, the second named defendant's habitual place of residence is England and so a particular connection is also established by virtue of Article 15(3)(d).

10. The question of the place of habitual residence of L.W. has been addressed in the written submissions with which I have been provided but given the clear views that I have formed in relation to paras (c) and (d) it is unnecessary to address this issue.

The Courts which are better placed to hear the case

11. The particular connection having been established, it is appropriate to consider whether the Courts of England and Wales are better placed to deal with the case than are the Irish Courts. In that regard the HSE points to the prior role of the English Courts in the criminal proceedings which resulted in convictions for child cruelty, wilful assault, ill-treatment and neglect of a child as well as convictions for perverting the course of justice and possession of a firearm in March 2005, and the Child Care Proceedings of 2004 and 2005 which saw the other children of M.W. taken into care and says that the knowledge gained through the proceedings and the ready access to the various professionals who had an involvement in those proceedings renders it manifestly the case that the English Courts are better positioned. This is strongly disputed by M.W. She points out that whatever information is available from 2004/2005 is quite dated and she says that in assessing its significance regard must be had to the fact that the hearings in question pre-dated the sentence of imprisonment that she served and the counselling she received while in prison which was very beneficial for her.

12. Even the brief summary I have given of the information provided to the HSE by D. County Council on the day of L.W.'s birth will show that there are aspects of M.W.'s past which raised serious issues as to whether she would be regarded as a fit person to have custody of a child, or indeed whether she is someone who should be permitted on-going access to a child. I stress that I am expressing no concluded view at this stage, and it may be that whether the case is eventually decided in England and Wales or in Ireland, Ms. W. will persuade the Court that the risks that were present in the 2004 and 2005 period have abated so that she can safely be permitted to have contact with her daughter. Instead I am referring to Ms. W's history merely to indicate that a very serious issue is raised and that it is one that requires very careful consideration and very careful scrutiny.

13. Often the best indication as to what is likely to happen in the future is to be found in what has happened in the past. Any court trying to decide what is in L.W.'s interest and in particular trying to decide whether L.W.'s mother can safely have contact with her or be permitted to care for her will have to delve deeply into the history of M.W. and see what conclusion can be drawn from what emerges. That history prior to L.W.'s birth has taken place entirely in England. It is there that the answer to the question whether Ms. W. can safely care for her daughter is to be found. That is not to ignore the fact that since L.W.'s birth M.W. has had contact with her, in that she has been permitted supervised access with security arrangements in place and has exercised that right and has conducted herself appropriately at access sessions.

14. The papers in this case indicate that there is much in the past of M.W. which must be of interest and concern, even if it is concern which is found capable of being allayed by whatever court deals with the child care issue. It is necessary to refer to some of that history in greater detail. Again, in doing so, I stress that I am not seeking to draw any conclusions in relation to the matters to which I am referring but am doing so simply for the purpose of identifying the scope of material available in England which is potentially relevant to future child care proceedings. I regard that as an appropriate and indeed necessary exercise. To state the obvious, if an individual has never had any relevant contact with the legal system or with social services, then one court is likely to be as well positioned as another to deal with the matter. Conversely, if an individual has an intense engagement with the legal system and social services of a particular area or State over a prolonged period, there would appear to be real advantages in having the courts close to that area deal with the matter.

15. M.W. has three other children who have been in long term care in Britain:

(A.), a girl born in October 1994,

(J.), a boy born in September 1992, and

(B.), a girl born in April 2002.

A. and J. have attained their majority while B. remains in care. Ms. W. I should say, enjoys a good relationship with her son, J.

16. M.W. has been known to L. Social Care Services since 1992 when J., aged six months sustained a fractured skull. The injury was enquired into, as no explanation was provided and Ms. W. had waited ten days to obtain medical advice, even though J. had swelling to the head. It appears that the initiation of care proceedings was considered but this did not happen at that stage. In light of what subsequently occurred it may be that this issue merits reevaluation.

17. So far as A. was concerned, M.W. reported her as having an eating disorder, but, it is noted by the authorities this did not manifest itself at school or when she was with other family members. Psychologists concluded that it was the anxiety that she experienced in relation to her mother that prevented her from eating when at home.

18. After initial contact with L. Social Service, thereafter there were various periods of registration on child protection registers with L. County Council. There were various referrals including occasions when A. was displaying bruises caused by her mother and there were incidents of A. being forced to eat off the floor. A. was removed from her mother's care. B. was also removed from her mother's care, in her case in 2003, due to suffering a bum stated to have been caused by neglect.

19. Some measure of the extent of M.W.'s interaction with the authorities in England is provided by a time line which is contained within the papers. The first entry for the 15th September 1990, records that M.W. was charged with assault, occasioning actual bodily harm to a police officer. The final entry for the 23rd September 2012, records that M.W. presented at the Rotunda Hospital in Dublin. There are over 70 entries in respect of 2003 alone and approximately a dozen in respect of 2004. Merely to state these numbers is to give an indication of the extent of the engagement of the authorities but some of the individual entries make for very disturbing reading indeed.

20. Child care proceedings came before her Honour Judge Deely in the County Court who delivered a detailed judgment on 29th September 2004, running to some 103 paragraphs. The judgment at various stages refers to the evidence of experts, including medical experts who gave evidence. Because of the way the judgment has been redacted it is not possible to say with certainty just how many of these there were, but there were certainly a considerable number. Judge Deely delivered a second judgment on 12th August 2005, this time running to over 156 paragraphs or over forty pages. Also among the papers is the ruling on sentence of His Honour Judge Burgess of the 16th March 2005. It is of interest that he was satisfied that the sentence that he had first indicated was called for was not adequate to protect the public and so proceeded to provide for what was described as an "extended sentence" with a custodial element of four years and extension period of five years.

21. In the course of the English Court proceedings Dr. Anderson, Consultant Psychiatrist and an Analytical Psychotherapist reported that Ms. W. was suffering from borderline personality disorder with a history of treated depressive episodes, the most likely diagnosis of which was so called cluster B disorder. The doctor commented:-

"This is a cluster of disorders that includes borderline antisocial narcissistic and histrionic personality disorders, a group of disorders that show overlapping features. Mostly Ms. W shows traits for borderline personality disorder, although she shows some antisocial and narcissistic traits. The particular problems are connected with emotional instability and a tendency to polarise people into being very good or very bad".

Dr. Richardson, a consultant forensic psychiatrist reported that:-

"Ms. W could be described as having an emotionally unstable personality disorder. However, I would also add that Ms. W shows traits of other personality disorders too. In my view Ms. W's extremely violent, neglectful and generally negative behaviour and attitude towards her children are not based on a primary mental illness such as depression, but arise from her disordered personality."

22. Dr. Richardson further expressed the view that it was unlikely that medical treatment would alleviate or prevent the deterioration of Ms. W.'s condition. He further expressed the opinion that:-

"Ms. W's continued denial, lack of responsibility and blaming others with respect to both past incidents of violence and aggression and the current alleged offences represents, in my opinion that she will continue to exhibit a high risk of further aggressive acts. In my view Ms. W's children continue to be at serious risk of physical and emotional harm from her if they were allowed to be in contact with her at present."

23. Dr. Di Lusterio, a forensic psychiatrist agreed with Dr. Richardson that Ms. W. represented a significant risk and expressed the view that "she will continue to pose a risk to others unless the presentation described above alters significantly". Because of the extent, both in terms of duration and intensity, of the engagements of the authorities with Ms. W. there must a great number of individuals with potentially relevant evidence. Apart from the experts who prepared reports and gave evidence in the childcare and criminal proceedings there are childcare workers, social workers, Local Authority personnel, teachers and probation officers, who are likely to be in a position to offer relevant evidence. How many of these will be required to give evidence is impossible to say. It must be stressed this is not a case of witnesses as to fact that may be required to deal with a single incident or a small number of clearly identifiable professional witnesses being required to give evidence. If that was the case, then it might well be realistic to bring them to Ireland to give evidence or to arrange for the taking of their evidence by video link. Rather, there is a body of potential witnesses, some as yet unidentified, who may be required to give evidence. It is possible that the evidence of some of these, which at the moment might not seem particularly significant, may acquire a much greater significance depending on the run of the proceedings. There is a further factor to which I have regard, Ms. W.'s approach to litigation in the past has been unpredictable, one might say erratic. In that regard I would instance the circumstances surrounding her conviction for attempting to pervert the course of justice. Ms. W. felt intense ill will towards a particular individual, a former boyfriend. He had witnessed her cruelty to her children and indeed was listed to be a witness in the criminal proceedings. Ms. W. procured a firearm, shot herself with it, and then reported she had been shot by her former boyfriend. While she initially stuck to her story, she eventually admitted her guilt and pleaded guilty to possession of the firearm and to the attempt to pervert the course of justice. However, in the course of the childcare proceedings, she returned to the version that she had been shot by her boyfriend and indeed she embellished the story considerably. As a result, Judge Deely had to consider forensic evidence relating to line of fire, projectory of bullets and so on before concluding that on the evidence it was clear that M.W. had indeed shot herself. I refer to this because it seems to me entirely possible that Ms. W.'s approach to litigation might, in the future see issues that had not been thought to be in dispute contested unexpectedly. For that reason it seems to me

highly desirable that the court dealing with the case, and the local authority on the other side of the case should have ready access to all those who may have relevant evidence to give.

24. There are a number of other factors that also serve to convince me that the Courts of England and Wales are better equipped to deal with this case. If the experts who gave evidence in 2004 and 2005 are to give evidence, and that would seem very likely, and it may be said, very desirable then it is probable that they will need to update their reports. As they are all based in England it is obviously more realistic to expect that the updating should take place in England. A further factor is that Ms. W. says that she is a changed person having spent time in prison. It is possible that she will seek to establish this through personnel from the Prison Service. On the other hand if Ms. W. contents herself with asserting that all is changed, her opponent may wish to explore her conduct in prison, and the extent to which she engaged with available services and call witnesses or produce reports from the Prison Service. One way or another, if her time in prison becomes relevant which it may do, it is an issue that is much more easily explored in England.

25. I would conclude this section of the judgment with this observation. Ms. W. is recorded as having told the staff in the Rotunda Hospital that she has moved to Ireland to start a new life with her husband and her unborn child. Leaving aside that her husband does not agree with this statement, and says that he was certainly not a party to any plan for her to move to Ireland, they had separated in summer 2011, having married in mid February 2011, that a person who has experienced difficulty will want to move on and start a new life is perfectly understandable.

26. However, it is not possible to wipe clean what has gone before. If L. is to be safeguarded and what is in her best interest identified, and put in place then it is imperative that a detailed scrutiny of what has occurred in the past be undertaken. It is manifest that that can take place more easily in the Courts of England and Wales. According to the affidavit sworn by her, when M.W. attended a medical centre in April 2012, she told the midwife there, that her child B. was living with her father, and she did not disclose the previous involvement of social services with her family as she did not believe that these were relevant and as she puts it, because she was also attempting to make a fresh start. Now that may or may not be the view of Ms. W, however, in my view, the previous involvement with social services is highly relevant and it is a subject that requires to be addressed with great care and in great detail. It is very clearly the case that the Courts of England and Wales are better equipped to undertake that task. Accordingly, I conclude that the Courts of England and Wales are better placed to hear the case.

Best interests of L.W.

27. I turn now to the question of whether it is in the best interests of the child that the case be dealt with by the English Courts. At the outset I should say that there is a degree of overlap between this issue and identifying the Courts best able to deal with the case. That is because it will usually be in the child's best interest that the Court best able to deal with the case should be the one to do so. There may be exceptions to that general proposition but they are likely to be rare. It is particularly likely to be the case that a child's best interests are served by having his or her situation dealt with by the Court best able to deal with the case when the decisions to be taken are as momentous as will arise in the present case. On one view of what has occurred in the past placing L. with her mother or permitting on-going access to L. by Ms. W. would be to put the child at grave risk of harm. On the other hand if the risks that existed in the past have been eliminated or have been reduced to a manageable level it would be a grave wrong to prevent contact between them. The decisions to be taken, wherever they are to be taken will have enormous consequences. They will not be easy decisions, but they are decisions that have to be got right. It is clearly in the best interests of L. that these decisions be taken by the Court in the best positioned to do so.

28. There are however some additional factors that merit consideration. On behalf of the HSE the argument has been made that if L. is in England there is the possibility of contact for her with her half siblings and that this would potentially be of benefit to her. Again the argument is made that the possibility of finding carers for her among her father's extended family could be explored. However, Ms. M.W. has stated that she recorded a conversation with a social worker in England in which it was made clear that a move towards an early adoption was what was being proposed by social services in England. If that is the case then the prospect for contact for L. with her half siblings would seem unlikely. Furthermore, counsel for G.L., the second named defendant has made clear that a placement with members of his client's extended family is not seen as realistic at present. Accordingly, I do not attach significance to these suggested possibilities.

29. Ms. M.W. has pointed to factors which she says establish that it is in L.'s best interests that the Irish Courts continue to deal with the matter. It is said that Ireland is the only country with which L. has any links and that she has never even visited Britain. Her links are with her foster carers and with her mother, with whom she has bonded during access. If she is to move to England, in the context of a transfer of jurisdiction, she will be taken from her foster carers where she has settled well. So far as the foster carers' point is concerned, it must be appreciated that at present she is placed with short term foster carers and it appears that irrespective of what the future holds for her that her time with her present foster carers is time limited.

30. While it may be the case that L.'s present placement was never going to be a long term one, it is obviously desirable that the number of placements be kept to a minimum. Associated with that is the need to deal with child care proceedings as expeditiously as possible. In that regard I have to express some disappointment that the plenary summons was issued only on the 10th April 2013, even though the question of seeking a transfer was under consideration from an early stage. If similar cases arise in the future every effort should be made to bring the matter before court at the first available opportunity and every effort made to keep delays to an absolute minimum.

31. Linked with this issue of delay is the fact that L. is having access visits from her mother at present and that this is potentially beneficial for her. Again, what the future holds in that regard is uncertain irrespective of what courts system deals with the case eventually, it remains to be seen whether access continues on the present basis, is expanded or reduced or eliminated.

32. In considering what is in the best interests of L. regard has to be had to the fact that Ms. M.W. has indicated that her intention is to remain in Ireland. She also revealed that she is five months pregnant at this stage. Being in Ireland would open up the prospect of L. having contact in the future with her half sibling as yet unborn. This it is said and I accept, is potentially beneficial for L. and it is a matter that I weigh in the balance.

33. Again, being in Ireland and in contact with her mother would offer the prospect of contact with J., son of M.W. As I have indicated M. is in contact with J. and enjoys a good relationship with him and J. is prepared to have contact with his half sister. Again, it is said and I accept that this is potentially beneficial for L. and again it is a factor that I weigh in the balance.

34. There are two further factors to which I have some regard. In the past M.W. was seen as presenting a risk to her children and to their carers. She was prepared to go to very considerable lengths to track them down. If this was to be repeated and to become a factor in the future, then the fact that Britain is a much bigger country than Ireland, might mean that the risk would be less there.

That this was seen in the past as an issue of major concern emerges from the judgment of Judge Deely. In the context of a proposal by the probation service to place Ms. W. in a hostel close to a sensitive address, a proposal that did not proceed, Judge Deely observed as followed:-

"I regard it as essential that those responsible for locating the mother on her release liaise with those who have responsibility for the care of these children and respond to their views. They should do all in their power to ensure that the mother is placed in an area far away from any of the children.

This unsurprisingly was the view of Dr. X. This is a case in which it is essential for the safety of the children and the carers that there is excellent liaison between the police and all relevant arms of the social services in the relevant area. It is almost inevitable that the social workers who know this case so well and whose assessment in respect of the children are so valuable will move on. It is in the nature of life that as time passes, complacency creeps but for these children the passing of time does not bring the passing of risk. Sadly the reverse. It therefore, calls for all those currently involved in the case to take particular measures to ensure that those who may be involved in the case in the future remain aware of the risks and that the protection and communication by the various agencies is maintained."

35. These remarks by Judge Deely are an eloquent statement of the importance of continuity in this particularly sensitive case.

36. A further aspect to which I have regard is that the range of options available to the Courts of England and Wales would seem to be wider than would be available to the Irish Courts. In particular the question of placing L.W. for adoption would be an available option in Britain but would not appear to be an option readily available at present in Ireland. Given that one possible view of the facts that may emerge would result in a conclusion that M.W. will never be in a position to care for her daughter, it seems desirable that the court dealing with the situation should have the widest possible range of options available to it. That the wider range is to be found in England and Wales is a further factor that leads me to conclude that it is in L.W.'s best interest that the case be transferred to England and Wales, if the courts there are prepared to accept jurisdiction, and indeed it represents a further confirmation of the view that I have formed that the Courts in England and Wales are better placed to hear this case. The observations of Judge Deely that I have quoted on the desirability of continuity in this case provide a further confirmation that the Courts in England and Wales are better placed to hear the case and that it is in L.W.'s best interest that the request be made. In all the circumstances I am indeed satisfied that it is in the best interests of L.W. that her case be dealt with by the Courts of England and Wales. Accordingly being satisfied that L.W. has a particular connection with England, and that the Courts of England and Wales are better placed to hear the case and it is in the best interests of L.W. that her case should be dealt with by those Courts, I will make the request that the Court of England and Wales accept jurisdiction.

37. I will discuss with counsel what needs to be done to give effect to the decision that I have reached. I would indicate though that I am of the view that the request should be conveyed through the competent authorities, but in addition I would intend to have the request processed through the channels that exist for judicial co- operation and in that regard would propose to seek the assistance of Finlay Geoghegan J., the liaison judge for such purposes. In addition, I will seek an undertaking from the HSE that it will, to use the language of Cobb J. in the matter of *L.M (A Child)* [2013] EWHC 646 (Fam.) "drive along" the request and seek directions for the judicial determination of the request in the requested State.