[2018] IEHC 161

THE HIGH COURT

Record No. 2018/89JR

Between:

P

Applicant

– and –

The Child and Family Agency

Respondent

– and –

Ceili O'Callaghan

Guardian *Ad Litem*

JUDGMENT of Mr Justice Max Barrett delivered on 15th March, 2018.

I

Background

1. On 1st July, 2014, Ms P, a United Kingdom national, gave birth to a baby boy in that jurisdiction. The boy, R, came to the attention of the United Kingdom social services on 1st August, 2014, following his attendance at a hospital in that jurisdiction. The injuries with which R presented were shocking. A consultant paediatrician who later prepared a report on the incident reported as follows:

> "*R* [a baby who was then about 1 month old] *was attacked by an adult and had his legs broken, his collar bone broken, one rib cracked and he was then dragged/thrown across the floor….The whole attack must have been excruciatingly painful for R, he would have screamed with pain and continued to scream for many minutes. He would have been distressed for 1-2 hours thereafter and would have cried out on being handled after this event, as indeed he did when he was admitted to hospital. The perpetrator will have known that R had been badly injured. An independent carer not present at the time of the incident would have known immediately that something dreadful had happened."*

2. On foot of this and other evidence, an application was made by the United Kingdom authorities to the courts of that jurisdiction for a care and placement order in respect of R. After a full hearing, the judge concluded that there was a real possibility that the significant harm done to R in the past might be repeated in the future if R was to be returned to the care of his parents or either of them. This Court understands that R has since been adopted by third parties.

3. Ms P came to Ireland in April 2015 at which time she was pregnant. She attended at one of the national maternity hospitals and the information she provided regarding her personal history prompted sufficient concern that a social worker at the hospital referred her to the Child and Family Agency (CFA). The CFA made enquiries with the United Kingdom authorities and, having learned about Ms P's past, a decision was made by the CFA that an application would be made for an emergency care order, following the birth of Ms P's second baby. That baby, J, was born in Ireland on 11th July, 2016, and an Irish passport has since been obtained for him. J has some extended family here in Ireland. Ms P has a sister who lives in Dublin, with whom she is in regular contact. It has recently come to light that Ms P also has a brother in Dublin. Ms P has three further siblings in the United Kingdom with whom she is in contact.

4. There is a question over the paternity of J. Ms P maintains that Mr D is the father of both R and J. The CFA accepts that Mr D is the father of R but does not believe him to be the father of J. Rather, the CFA believes that Mr. B is the father of J. In these circumstances, both Mr D and Mr B were joined to the District Court interim care proceedings but neither engaged with the proceedings. There is no suggestion that either man would be a suitable person to care for J. Mr D was implicated in the non-accidental injuries caused to R (described above). The United Kingdom authorities have indicated to the CFA that Mr B is an unacceptable risk to J, being an individual who is, in their view, both aggressive and volatile.

5. On the day that J was born, a member of An Garda Síochána informed Ms P that, pursuant to s.12 of the Child Care Act 1991, J was being taken from her and he was subsequently delivered into the care of the CFA. [Section 12 of the Act of 1991 provides, *inter alia*, as follows: *"(1) Where a member of the Garda Síochána has reasonable grounds for believing that – (a) there is an immediate and serious risk to the health or welfare of a child, and (b) it would not be sufficient for the protection of a child from such immediate and serious risk to await the making of an application for an emergency care order by a health board…the member, accompanied by such other persons as may be necessary, may, without warrant, enter (if need be by force) any house or other place (including any building or part of a building, tent, caravan or other temporary or moveable structure, vehicle, vessel, aircraft or hovercraft) and remove the child to safety."*] The matter came before the District Court on 13th July, 2015 and an emergency care order was made, that was to last for eight days. On the expiry of that emergency care order, Ms P signed a voluntary consent agreement with the CFA pursuant to s.4 of the Act of 1991. [Section 4 of the Act of 1991 provides, *inter alia*, as follows: *"(1) Where it appears to a health board that a child who resides or is found in its area requires care or protection that he is unlikely to receive unless he is taken into its care, it shall be the duty of the health board to take him into its care under this section. (2) Without prejudice to the provisions of Parts III, IV and VI, nothing in this section shall authorise a health board to take a child into its care against the wishes of a parent having custody of him or of any person acting in loco parentis or to maintain him in its care under this section if that parent or any such person wishes to resume care of him."*] An application for an interim care order came before the District Court in August 2015. However, the application was refused on the basis that a voluntary care arrangement was already in place.

6. Since being entrusted to the CFA, J has been placed with foster-carers. Ms P has access to him three times a week, with each visit lasting 2–2½ hours. In January 2017 the CFA reduced access to twice a week. However, this was later increased to three times a week by District Judge Toale. Ms P has a positive relationship with J's foster parents and believes that he is receiving a high quality of care from them.

7. J remained in voluntary care until August 2016, following which an interim care order was made by the Dublin Metropolitan District Court on 9th August, 2016. J's current foster-parents have indicated that they are not in a position to care for J on a long-term

basis. However, they are satisfied to retain care of J until the resolution of the care proceedings. If J is not returned to Ms P's care, it will be necessary for the CFA to find a new foster care placement for him. The uncontroverted expert evidence before the District Court was that any subsequent placement must be available to J on a long-term basis and that an interim placement would be detrimental to his welfare.

8. No social work department in England and Wales has ever had any involvement with J. The pre-birth initial assessment conducted in respect of J was conducted by the CFA in Ireland. As of the date of the hearing of the within application, it does not appear that any child protection authority in the United Kingdom has any intention of taking responsibility in respect of J in the event of a transfer of jurisdiction in respect of J to England and Wales pursuant to Art.15 of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000 ("the Regulation of 2003"). The CFA has confirmed that R's adoptive parents are not in a position to care for J. All social work and medical teams involved in J's life are based in Ireland. There have never been any social workers from England and Wales involved in J's care.

II

The District Court Proceedings

9. In or about December 2016, the District Court commenced an inquiry pursuant to Art.17 of the Regulation of 2003. [Article 17 ("*Examination as to jurisdiction*") provides as follows: "*Where a court of a Member State is seised of a case over which it has no jurisdiction under this Regulation and over which a court of another Member State has jurisdiction by virtue of this Regulation, it shall declare of its own motion that it has no jurisdiction."*] District Judge Toale, a judge with notable experience in the area of child law, presided over that inquiry during a 5-day hearing and delivered two written judgments (with four eventually issuing before the effective cessation of the proceedings before him). District Judge Toale concluded that the Irish courts have jurisdiction in respect of J on the basis of his presence in Ireland. [Article 13(1) of the Regulation of 2003 provides, *inter alia*, as follows: "*Where a child's habitual residence cannot be established and jurisdiction cannot be determined on the basis of Article 12 ["Prorogation of jurisdiction"], the courts of the Member state where the child is present shall have jurisdiction."*

10. Subsequently, an application was brought by the CFA before the High Court seeking to transfer jurisdiction in respect of J to the courts of England and Wales, pursuant to Art.15 of the Regulation of 2003. [Article 15 ("Transfer to a court better placed to hear the case") provides, *inter alia*, as follows: "*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 a court of another Member State to assume jurisdiction in accordance with paragraph 5. 2. Paragraph 1 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 shall 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 court first seised shall decline jurisdiction. Otherwise, the court first seised shall continue to exercise jurisdiction in accordance with Articles 8 to 14."*] That application commenced in September 2017. The matter was subsequently transferred to the District Court as the court most appropriate to deal with the application in light of the judgment of the Supreme Court in *Child and Family Agency v. JD* [2017] IESC 56. At the end of September 2017, the CFA, for whatever reason, withdrew its application. Thereafter, on 4th October, 2017, District Judge Toale, of his own motion, commenced consideration of whether a transfer of jurisdiction under Art.15 of the Regulation was appropriate. The CFA indicated that it would only consent to the transfer of jurisdiction if same did not require the child to be transferred to the United Kingdom in the short-term.

11. District Judge Toale heard the Art.15 application over a period of four days (another notable stretch of time for a District Court hearing) and delivered two further judgments. District Judge Toale determined that J has a particular connection to England and Wales. He also held that the courts of England and Wales are better placed to hear the care order proceedings in respect of J owing to of (i) the compellability of R's father in any proceedings that may be commenced in England and Wales, and (ii) the greater availability of documentary evidence in England and Wales concerning the circumstances which gave rise to the previous proceedings in England and Wales concerning R.

12. District Judge Toale found that there are currently no proceedings pertaining to J in existence in the courts of England and Wales; moreover, no competent and/or local authority in England and Wales has indicated that it intends to institute proceedings in respect of J. District Judge Toale did not accept the following two propositions put forward by Ms P, viz. that (i) it is not possible to transfer the entirety of jurisdiction without transferring the child in question, and (ii) the risk of an interim placement could not be avoided if a transfer was made.

13. On 11th December, 2017 District Judge Toale ordered that the proceedings before the District Court, brought under s.18 of the Child Care Act 1991 [Section 18 of the Act of 1991 provides, *inter alia*, as follows: *"(1) Where, on the application of a health board with respect to a child or resides or is found in its area, the court is satisfied that – (a) the child has been or is being assaulted, ill-treated, neglected or sexually abused, or (b) the child's health, development or welfare has been or is being avoidably impaired or neglected, or c) the child's health, development or welfare is likely to be avoidably impaired or neglected, and that the child requires care or protection which he is unlikely to receive unless the court makes an order under this section, the court may make an order (in this Act referred to as a "care order") in respect of the child."*] , be stayed and that the parties be invited to make an application to the courts of England and Wales for the transfer of jurisdiction in respect of J. District Judge Toale placed a stay on the order until 5th January, 2018 and directed that thereafter the CFA had six weeks within which to make an application to the courts of England and Wales.

III

Reliefs Now Sought

14. Ms P comes now before this court seeking, *inter alia*, the following reliefs:

> (i) an order of *certiorari* quashing the order of District Judge Toale of 11th December, 2017 inviting the parties to introduce a request before the courts of England and Wales to accept jurisdiction in respect of J in accordance with Art.15 of the Regulation of 2003;
>
> (ii) if necessary, and further or in the alternative, an order directing the District Court to retain jurisdiction in respect of J;
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> (iii) a declaration by way of an application for judicial review that the order of 11th December, 2017 was (a) based on an error of law and was for that reason *ultra vires*, void and of no effect, and (b) unreasonable and/or irrational and was for that reason *ultra vires*, void and of no effect;
>
> (iv) if necessary, a reference to the Court of Justice of the European Union (CJEU) pursuant to Art.267 of the Treaty on the Functioning of the European Union (TFEU) in order to obtain a preliminary ruling on the following questions on the law of the European Union: (a) whether it is possible to transfer the entirety of the jurisdiction in respect of a child to the courts of another Member State pursuant to the Regulation of 2003 without also transferring the child to that other Member State, and (b) whether a court considering the request of a transfer of jurisdiction in respect of a child to the courts of another Member State pursuant to the Regulation of 2003, and having regard to Articles 3, 4, 7 and 24 of the Charter of Fundamental Rights of the European Union, is required to satisfy itself that the transfer will not be detrimental to the child's best interests in any circumstances or is entitled to rely on the possibility of a subsequent fining on best interests by the courts of a member state; and
>
> (v) an interim and/or interlocutory order restraining the CFA, its servants and/or agents from making a request to the courts of England and Wales to accept jurisdiction in respect of J pending the outcome of the within proceedings.

IV

Habitual Residence

15. Ms P contends that the learned District Judge erred in law in failing, refusing and/or neglecting to consider whether J's habitual residence had changed by the time the court was considering whether the courts of England and Wales were best placed to determine the proceedings and/or at the time of delivering his judgment. This contention is respectfully not accepted by the court for the reasons set out hereafter.

16. Article 15 of the Regulation of 2003 commences "*By way of exception, the courts of a Member State having jurisdiction…"* As such, it is clear that a stay or request under Art. 15 can only take place if the staying/requesting court has jurisdiction. Once a court determines that it has jurisdiction on the basis of one of the grounds set out in Arts. 8–14 of the Regulation of 2003, it continues to have such jurisdiction unless and until a transfer of jurisdiction is effected under Art. 15. In the within case, the learned District Judge concluded in his judgment of 3rd May, 2017, that he had jurisdiction under Art. 13 of the Regulation of 2003, *i.e.* on the basis that J is present in Ireland. Article 15 simply provides a mechanism whereby jurisdiction that has arisen under Arts. 8–14 can be transferred to a court better placed to hear the case. This proposition is acknowledged by the Court of Justice in *P v. Q* (Case C-455/15 PPU), para.44, where the Court states that

> "[I]*t must be noted that Article 15 of Regulation No 2201/2003…supplements the rules of jurisdiction in Articles 8 to 14… by introducing a means of cooperation by which a court of a Member State which has jurisdiction to hear the case under one of those rules may, by way of exception, transfer it to a court of another Member State which is better placed to hear the case.".*

17. It follows from the foregoing that as of the 3rd May, 2017, there is and has been no need to conduct a separate assessment as to whether a different basis of jurisdiction might or might not be applicable as at the date of a determination under Art.15.

V

Particular Connection

18. Ms P contends that District Judge Toale erred in finding that J has a particular connection to England and Wales in circumstances where she argues that he has, in fact, a particular connection to Ireland. This contention is respectfully not accepted by the court as correct for the reasons identified hereafter.

19. Whether a child has a particular connection to a Member State falls to be determined by reference to Art. 15(3) of the Regulation of 2003. There is nothing in that provision or elsewhere in the Regulation of 2003 to suggest that the concept of "*particular connection*" connotes a degree of exclusivity whereby a particular connection to Member State A necessarily precludes a simultaneous particular connection to Member State B, whether the particular connection in respect of Member State A is based on the same ground or otherwise. Indeed, looking at matters more broadly, why would European Union legislation introduce such a notion of exclusivity? One of the consequences of the free movement of persons under European Union law is that life in the various member states has been enriched by European Union nationals from one or more Member States settling within the respective boundaries of other Member States. The resulting trans-national aspect of many personal relationships and family structures that arise as a consequence of that free movement brings with it the inevitable result that children of such relationships and families may enjoy a particular connection with more than one Member State. That this is so is reflected by the European lawmakers who chose not to introduce any notion of exclusivity in Art. 15. Support for the proposition that the concept of "*particular connection*" is not an exclusive concept is to be found, inter alia, in *Child and Family Agency v. SL* [2017] IEHC 684, para.47).

VI

Court Better Placed

20. It will be recalled that a stay/request issues pursuant to Art. 15(1) of the Regulation of 2003 where, *inter alia, "the courts of a Member State having jurisdiction as to the substance of the matter…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"*. District Judge Toale, as mentioned above, considered that the courts of England and Wales are better placed to hear care order proceedings in respect of J because of (i) the compellability of R's father in any proceedings in England and Wales, and (ii) the greater availability of documentary evidence in England and Wales concerning the circumstances which gave rise to the previous proceedings in England and Wales concerning R. These are rational reasons to which the learned District Judge was entitled to have regard, not least pursuant to the decision of the Court of Justice in *Child and Family Agency v. JD* (Case C-428/15). There was a suggestion at hearing of the proceedings before this court that Ms P will not be compellable if she remains in Ireland and the courts of England and Wales garner jurisdiction. That does not address the point as regards the greater availability of documentation in England and Wales. Moreover, it does not seem to the court that any prejudice arises *vis-à-vis* Ms P in this regard; she can always agree to give evidence to the courts of England and Wales on a voluntary basis.

VII

Transfer of Jurisdiction Entails Transfer of Child?

21. Ms P contends that there cannot be a transfer of jurisdiction without the transfer of the child in question. An immediate difficulty that arises with this as a proposition is that under Art.15 it is possible for there to be a transfer of jurisdiction with regard to specific parts of a case without necessitating the transfer of the entirety of the proceedings. Patently, in those circumstances it would be possible for a child care case to be live in one jurisdiction without the child being present there. So why, logically, would matters be different in a situation in which there is a complete transfer of jurisdiction? In fact, there is nothing to suggest that the situation is any different. If anything, Art. 15(3)(a) of the Regulation of 2003 is indicative of the situation being precisely the same in the context of a complete transfer. It expressly contemplates that a child could be habitually resident in another Member State, even though the best interests of that child may mean that no transfer is considered appropriate under Art.15(1). An example of a case in which a decision is reached in one European Union Member State (Spain) but a child is (or, as in that case, children are) resident in another Member State (the United Kingdom) is offered by *Re AE* [2017] EWHC 2298 (Fam). As to Ms P's argument that no legal authority in England and Wales may have responsibility in regard to J or authority to commence proceedings in relation to him, that seems to the court to be very much a matter that the courts of the United Kingdom are better placed to adjudicate upon than their Irish counterparts.

22. As to the criticism that the learned District Judge relied on two Art. 17 cases (*Child and Family Agency v. RD* [2014] IESC 47 and *Child and Family Agency v. JD* [2016] 1 IR 710) in the context of a determination under Art. 15, this criticism is respectfully not accepted by the court. It seems to the court that when it came to his reliance on those judgments the learned District Judge did so to establish that, as a general proposition, jurisdiction and the presence of a child are severable. That this is so is, as the court identified above, clear in any event from the wording of Art.15.

VIII

Best Interests of Child

23. Ms P's contentions as to the best interests of J rely heavily on her perception that a transfer of jurisdiction necessarily entails the transfer of J to the United Kingdom. In this regard, Ms P is mindful of the uncontroverted expert evidence before the District Court that any subsequent placement to J's current fostering arrangements must be available to J on a long-term basis and that an interim placement would be detrimental to his welfare. However, as the court indicated in the previous section of its judgment, a transfer of jurisdiction does not necessarily entail a transfer of a child. That it does not do so is reflective of the key principle that informs Art.15 *viz*. the best interests of the child. In the within case, the learned District Judge concluded, *inter alia*, in his judgment of 6th December, 2017 that it is in J's best interests that the court better placed to hear the case be those of England and Wales but that it is not in J's best interests that he should be transferred to the United Kingdom at this time. This was consistent in both respects with what was urged upon him by the CFA and the guardian *ad litem*. There is no reason at law why such a conclusion cannot be reached or acted upon pursuant to the Regulation of 2003. Indeed, were matters otherwise the perverse scenario that would present is that a European Union regulation which has the interests of children as a guiding principle (see recital 13) [Recital 13 provides that "*In the interest of the child, this Regulation allows, by way of exception and under certain conditions, that the court having jurisdiction may transfer a case to a court of another Member State if this court is better placed to hear the case…*". [Emphasis added].] could yield a consequence that was contrary to the best interests of a child. At present, the courts of England and Wales may or may not elect to accept jurisdiction in J's care proceedings. A decision in this regard has not yet been made. If they do accept jurisdiction, they will then decide, in accordance with the laws of England and Wales, how best to proceed with J's case. The courts of England and Wales may consider, on the basis of all the evidence before them, that J's best interests require that he be physically present in the United Kingdom. If that is what they decide, in accordance with the laws of England and Wales, then that is what they decide. Equally, however, the courts of England and Wales may decide to place J in care in Ireland (an approach adopted by the High Court of England and Wales in In *re E (A Child) (Care Proceedings: Placement Outside Jurisdiction)* [2017] 4 WLR 99). Of course, there remains the possibility that the courts of England and Wales will decline jurisdiction, in which case the courts of Ireland will, under Art.15(4) or (5) of the Regulation of 2003, as appropriate, continue to hear J's case. Regardless of the how the courts of England and Wales decide to proceed with J's case, it cannot preclude a decision of the Irish courts (here the learned District Judge) to reach the conclusion that he reached pursuant to Art. 15.

24. As to Ms P's contention that the learned District Judge had no basis for being satisfied that the transfer of jurisdiction would not be detrimental to J's situation, given what she alleges is the high degree of uncertainty as to what will occur in the United Kingdom, this, respectfully, is not accepted by the court. The learned District Judge did have basis for so proceeding: he relied, in light of the mutual trust which underpins the Regulation of 2003, on the best interests test being applied by the courts of England and Wales and on their undoubted ability to take into account relevant evidence in the event that they do accept jurisdiction.

IX

Reference to the Court of Justice

25. The High Court, as a court of a European Union Member State, is competent to make a reference under Art. 267 TFEU. There is

no practice whereby its competence in this regard has been yielded by it to the appellate courts. The preliminary ruling procedure is an essential mechanism whereby uniform interpretation and application of European Union law across the Union is sustained. As a cooperative mechanism between judges, it provides national courts with the competency to apply European Union law with a means of obtaining an interpretation of that law by the body tasked with ensuring uniform interpretation of European Union law across the Union. The aim of Art. 267 TFEU is to foster co-operation between national and European judges so as to facilitate the uniform application of European Union law. Any national court dealing with a dispute where such law poses, *inter alia*, interpretative issues, is enabled and entitled to make a reference to the Court of Justice for a preliminary ruling where, as here, it considers that a decision on the question raised is necessary to enable it to give judgment. For courts of last resort, references under Art. 267 TFEU can be mandatory. Through Art. 267 TFEU, the High Court is afforded an avenue of approach to the Court of Justice that is not afforded to individuals. It would damage the uniform interpretation and application of European Union law, diminish the preliminary ruling procedure, and be a disservice to persons coming before the courts with arguments arising out of, or pursuant to, European Union law if the High Court were to seek single-handedly to resolve disputes, in instances where the need for a preliminary reference is *necessary*, in the hope that such a reference might in the future be made by an appellate court. However, no reference is necessary in the application now before the court as the issues raised can clearly and readily be answered by reference to the text of the Regulation of 2003, or to borrow from the phraseology of Keane CJ in *Ryanair v. Aer Rianta* [2003] 2 IR 143, 150 the correct application of the Regulation of 2003 in the context presenting seems to the court to be "*so obvious…as to leave no scope for any reasonable doubt as to the correct construction*" of that regulation.

X

'Brexit' and *Zambrano*

(i) 'Brexit'.

26. Ms P contends that the United Kingdom will cease to be a Member State of the European Union as of the 29th March, 2019 and that any order that may be made whereby J is transferred to the United Kingdom will have the effect of J spending the greater part of his minority in a non-European Union Member State. However, it is not suggested that if the United Kingdom does accept jurisdiction in J's care proceedings that the care decision to be made in the context of those proceedings will be made on or after 29th March, 2019. Any decision made before that time will be decided in accordance with the European Union Charter of Fundamental Rights (and indeed the European Convention on Human Rights). So the court does not see that the United Kingdom's decision to leave the European Union is of any practical import as regards the determination of the care proceedings at this time.

(ii) Zambrano.

27. As to the issue of fundamental rights more generally, Ms P sought to place reliance on the decision of the Court of Justice in *Zambrano v. Office national de l'emploi (ONEm)* (Case C-34/09). The court respectfully does not see that the decision of the Court of Justice in that case is relevant to the case at hand. In *Zambrano*, the Court of Justice ruled that Art. 20 TFEU precludes a European Union member state from refusing (i) a third country national, upon whom his European Union citizen infant children are dependant, a right of residence in the Member State in which those children enjoy residency and citizenship, and (ii) the grant of a work permit to such parent insofar as such refusals deprive the children aforesaid of the genuine enjoyment of the substance of the rights attaching to their status as an European Union citizens. The court does not see that the decision in *Zambrano* has relevance in a non-immigration law case, as is the situation herein, where J and his parents are all European Union citizens and where the issue arising is the operation of the Regulation of 2003, including, most particularly, Art.15 of same.

XI

Conclusion

28. For all of the reasons aforesaid, the court does not see any legal deficiency or flaw or unlawfulness presenting in the impugned decision of the learned District Judge. That being so, the court must respectfully decline all of the reliefs sought by Ms P at this time.