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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

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IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

IN THE MATTER OF THE CHILD ABDUCTION AND CUSTODY ACT 1985

Between:

AG

Plaintiff

and

JW

Defendant

[Hague Convention: Article 13(b) Grave Risk; Children's Objections]

Gráinne Murphy KC with Alana Hughes (instructed by Caldwell & Robinson) for the
Plaintiff

Joanne Hannigan KC with Sarah O'Reilly (instructed by Reid Black Solicitors) for the
Defendant

Sinéad O'Flaherty KC with Anna McHugh (instructed by the Official Solicitor)
representing the interests of the children

HUMPHREYS J

Introduction

This judgment has been anonymised as it involves children. The ciphers given to the parents and the child are not their initials. Nothing must be published which would identify the children or their parents.

[1] The plaintiff in these proceedings is the mother of two children, namely MW, aged 11 and SW, aged 3. She seeks a return order, pursuant to article 12 of the Hague Convention on the Civil Aspects of International Child Abduction 1980 ("the Convention") which was incorporated into United Kingdom domestic law by the Child Abduction and Custody Act 1985.

[2] The defendant is the father of the children who took the subject children from Ireland to Northern Ireland on 16 February 2026 and has refused to return them. It was not in dispute in this case that:

- (i) The children were habitually resident in Ireland;
- (ii) The children have been in Northern Ireland since 16 February 2026;
- (iii) The plaintiff was entitled to and was exercising rights of custody at the date the children were retained in Northern Ireland;
- (iv) The children are aged under 16;
- (v) Less than one year has elapsed since the retention occurred.

[3] Accordingly, the retention is wrongful and the court must make a return order unless the defendant can avail of any of the exceptional defences provided for by article 13 of the Convention.

The evidence of the parties

[4] The mother's evidence is that she met the father in 2008 and they married in 2015. They have nine children aged between 17 and 1. The relationship was on and off for many years before they finally separated in August 2025. He had been living in Northern Ireland since 2022 and all the children live with their mother.

[5] The mother says that the relationship was characterised by significant domestic violence and she obtained an ex parte protection order from the Irish District Court on 29 October 2025.

[6] By agreement, the father came to collect MW to take her for a half term break on 16 February 2026. On his way he asked if he could bring SW also but the mother refused. The father replied that the mother was a "dickhead" and a "cunt." The family went to meet the father at the prearranged location so MW could travel back with him. At this time he reached into the car and took SW as well. The mother protested that he had no clothes packed and could not go. The father replied that she was a "tramp" and a "cunt." Ultimately, to avoid further confrontation, the mother agreed that SW could go. The father promised to bring the children back on 22 February.

[7] On arrival in Northern Ireland, the father indicated that the children would not be returning. As a result the mother made contact with An Garda Síochána ("AGS") and was advised to wait until the children were scheduled to return. On 19 February 2026 she obtained a further ex parte protection order from the District Court.

[8] On 23 February, the mother travelled north and involved the PSNI. The police said that this was a “civil matter” and the father refused to permit them access to his property. As a result, the mother travelled back home without the children. She then made contact with a solicitor and the Central Authority in order to commence these proceedings. The originating summons in this case issued on 11 March 2026.

[9] In the father’s replying affidavit, he asserts that he was the mother’s carer during the time they lived together as she suffers from a debilitating illness. His case is that he looked after the children whilst the mother was out most of the day and that they do not receive adequate care without him. At times in 2023 and 2024 some of the children, including MW and SW, came to live with him in Northern Ireland until the mother “tricked” them into returning to Ireland.

[10] At that time, in February 2025, the father states that MW rang him, screaming and crying, and he could hear what sounded like slaps. He concluded that the mother was hitting her for having made contact with her father. He made no referral to the police or social services.

[11] The remainder of the father’s evidence consists largely of disclosures made to him by MW:

- (i) The mother took her phone off her and smashed it;
- (ii) At the time she was in her mother’s care, MW reported that she was abused mentally and physically and neither she nor SW were fed or clothed properly;
- (iii) On one occasion MW sent a photograph of her arm which appeared red and bruised and told her father that her mother had done this;
- (iv) In January 2026 MW contacted her father to say that she and SW were being abused on a daily basis and that they were in danger;
- (v) This prompted the father to arrange the half term visit for MW and he took SW also because he presented as so distressed;
- (vi) When she came north, MW told her father of being hit and abused, and having to look after the other children, a situation he described as being “very unsafe”;
- (vii) SW was hit, locked in a bathroom in his soiled nappy to the extent that he smeared faeces on the walls;
- (viii) SW was regularly punched, slapped, scratched and shaken violently by his mother;
- (ix) The mother may be taking drugs;

(x) MW had considered ending her own life.

[12] The father says that, on his own observations, the children were underweight and poorly clothed when they came to Northern Ireland.

[13] Despite all these revelations, which spread over the course of a year, and his own conclusions that his children were being neglected and abused in their mother's care, the father chose not to make any report to AGS or to Tusla.

[14] The mother, in her rejoinder, absolutely denies all allegations of abuse and neglect. In relation to the specific allegation relating to the reddening of MW's arm, the mother states that she does not recognise that to be MW's arm or her house. She denies that any of the children have been struck by her, and that SW was locked in a bathroom. She explains that SW did have a sensory issue with faeces but she sought assistance for this and it has now passed.

[15] The mother asserts that MW has been placed under extreme pressure by her father who has given her everything she wants, including a phone and nose piercing.

The text messages

[16] The court was able to gain an insight into the relationship between the mother and father through sight of an extensive set of text messages. It is noteworthy that only four of these messages were sent by the mother, the remainder all emanated from the father.

[17] Considered as a whole, these messages paint a disturbing picture of relentless vulgar abuse and controlling behaviour by the father, using the children to undermine and manipulate their mother at every turn.

[18] Prior to the abduction the following represent a selection of the communications:

"I hope and pray you die so slowly and painfully for you stopping me speaking to my kids out of pure spite."

"You showed your true colours you smelly inbred piece of shit."

"You let me speak to my kids or there will be serious consequences you dirty smelly tramp."

"This u last warning I'm telling you now."

"All hell coming with me."

“I’ve had enough of your games you sick cunt.”

[19] Following the issue of proceedings, the father sent a large number of messages between 17 March and 24 April. Again, just a selection is reproduced here:

17 March “[MW] want to talk to you, she want tell you she doesn’t want to go back”

“She has a phone unlimited everything has it on her all day and has like 20 friends calling her all day long”

“It not going to work and you going to stress everybody out I had things to do with kids making me go to courts”

“Can you just tell you solicitor to leave it so I can do the things I had planned rather dragging kids to courts”

18 March “I would be grateful if you can come to an agreement rather than cause distress to [MW] and remove her from the court proceedings. She thinks you are trying to take her away from her friends, her school she loves so much and her sports and it’s making her upset more with you and making her not want to talk to you even more than she already doesn’t”

“[MW] going grammar school that’s like private school do u even care about her”

“She has a legal right and is mature age to decide what she wants”

“I starting to question is anyone safe with you”

“So I am asking you nicely to clear the shit out of your eyes and see what the fuck you are missing”

“The child is threatening suicide if she is forced to go back”

“You are showing there is something wrong with you”

“Don’t know how long it takes to die hanging yourself or jumping from height it takes seconds”

“Like you are actually still mentally abusing her and that’s probably why you doing this cos you get off on it”

“I had to hide all my knives and razors and keep the balcony door keys hidden”

"She doesn't want to go back there and I'm telling you know that I won't let her anyway"

1 April "You are only making her hate you...u clearly don't give a shit about her"

16 April "[SW] gets disturbed after calling you because you was abusing him don't call me no more your nasty and spiteful to [MW] and him"

"I'm not facilitating contact with you any more and I don't legally have to it's not in the order...you only care about not losing your income...you see the kids as an income stream"

18 April "Can u write her a letter please. I will let you speak to [SW] every day. And I get her to talk to you too. I tell her you being nice about it... Will you agree she can stay and we work out [SW]"

"You don't even have to tell anyone you gave her permission you could just say they said she has to stay"

"I'm asking you nicely but your seriously affecting her mentality now and your crossing a line"

19 April "Leave her stay here and make a deal with me I will calm her down and get her speaking with you"

"She hates you for what you are doing"

"You are a complete disgrace, your behaviour and lies are disgusting"

[20] The rest of the messages are replete with the same themes:

- (i) Demands that the mother "write a letter", ie give her permission for MW to remain;
- (ii) Insistence that MW will not be returning regardless of the outcome of the court proceedings;
- (iii) Polite requests followed by foul and vulgar abuse;
- (iv) The offer to sort out arrangements for SW provided it is agreed that MW can stay;
- (v) References to MW's suicidal ideation;
- (vi) Allegations in relation to the mother's parenting abilities;

(vii) Demands that the mother purchase toys and send money.

[21] During that same period, just four messages were sent by the mother to the father:

19 March "Oh I just wanted to say bye to [SW]"

"I love him so much and miss him and [MW]"

22 March "I would like to call [MW] and [SW] today"

31 March "I'm at appointment with twins, I'll call [SW] around 11 when the twins finished"

[22] The court heard two voice notes sent by MW to her mother, and had the transcript of a third voice note, all from her father's phone. These made for deeply disturbing listening. In one of these MW stated:

"You dirty little horrible fucking cunt, you junkie handicap bitch let me stay here now I'm gonna make your life a living fucking hell when I get there or whatever if you take me back."

[23] The father states that, at times, his language was "inappropriate" but that he was simply trying to reach an agreement in relation to the children's future.

[24] I completely reject this. His language was not inappropriate. It was foul, demeaning and disrespectful. The similarity between his language and that adopted by his 11 year old daughter is striking.

[25] It is evident that he was not trying to reach a consensual position. He was attempting to bully the mother of his children into abandoning these proceedings, at least in relation to MW, while he used SW as a bargaining chip. The approaches used by the father are well recognised as being characteristic of coercive and controlling behaviour. The exploitation of children, the undermining of a former partner, the manipulation of arrangements around residence and contact, the vulgar abuse and threats, the demands for obedience, the threat of self-harm and suicide and the humiliation of an individual who demonstrates any illness or weakness are the stock in trade of the coercive and controlling partner. The text messages which I have read in the course of this case present striking and contemporary evidence of this conduct.

The Official Solicitor's report

[26] The court has had the benefit of a detailed report from Deaglan Barrett of the Official Solicitor's office. He met with MW on two occasions, SW being too young to be interviewed.

[27] MW made a number of disclosures to Mr Barrett. She stated that her mother hit her when she was contacting her father and that her mother took her phone and smashed it to prevent further contact. MW referred to an incident when SW was locked in his room and smeared faeces on the walls, causing his mother to hit him too. On another occasion she alleged:

“mum went crazy and when we got into the car she said she was going to kill us all. She had a knife and said she would kill herself.”

[28] Further incidents of self-harm by the mother and threats with a knife were referred to. MW also claimed that she was frequently sent to school with no lunch.

[29] In relation to contact with her mother since she was moved to Northern Ireland, MW stated that her mother said she “would kill her when she gets back down.”

[30] MW expressed a clear and unequivocal objection to returning to Ireland. When asked how she would feel if a return order were made, she replied:

“I'd feel really sad. I'd say to the Judge even if I had to go back, I won't. I will just run away and come back here somehow. If I was down there I would run away from the house and figure something out to come up here.”

[31] In her second interview, MW made an unprompted assertion that her mother does not really love MW or SW, “it's only for money.” When asked further about this, she claimed that the mother only sought return of the children “when the money stopped.” Mr Barrett asked how she came by this information and MW explained that she overheard a conversation.

[32] MW was able to tell Mr Barrett what her mother had said in evidence in relation to the injury to her arm. When asked how she knew this, she admitted that her father had told her

[33] MW confirmed that she had not spoken to any adult previously about these matters which she had volunteered to Mr Barrett. He took the opportunity to speak to her school principal in Ireland who stated unequivocally that she had no welfare concern in relation to MW. The family had been involved in a neighbour dispute which resulted in some engagement with Tusla. The principal said that no one, including the child's father, had ever raised any issue with her or any of the teachers in relation to MW or any of her siblings. It was also pointed out for the last three or four years every child in Ireland has been entitled to a free hot meal at lunchtime.

[34] Mr Barrett also spoke with the leader of the pre-school attended by SW. She indicated there were no child welfare concerns at all, no issue had been reported and SW's interactions with his mother were always positive.

[35] Neither of the two individuals spoken to had ever met or seen the children's father. He had never, in their experience, attended any school meetings or events.

[36] By contrast, the school attended by MW in Northern Ireland since February reported that disclosures were made to them on 25 March 2026, two days before the service of the father's replying affidavit in these proceedings. The Deputy Designated Teacher for Child Protection was told by MW that her mother hit her and SW was left in his room crying for a prolonged period of time and smeared faeces on the wall. The father had not informed the school of any such issues at the time of admission. When the school contacted the father to notify him of the disclosures, he requested that the school provide written confirmation to be provided to his solicitor. Oddly, the school states that they have not referred the matter on to Social Services.

[37] The school also commented that JW has interacted well with them and recently attended a school concert.

[38] Information has also been obtained from Tusla to the effect that six referrals had been received in relation to MW since 2020 and three concerning SW in 2026:

- (i) Two were made by An Garda Síochána ("AGS") on 19 and 23 February 2026 relating to the removal and retention of the children by the father.
- (ii) A referral was received from social services in Belfast on 27 February 2026 "in relation to concerns that Dad would not return the two children back to mum." No other indication of harm was outlined.
- (iii) On 12 November 2025, an initial assessment was completed following a referral from council social workers. Concerns had been raised in relation to physical and emotional abuse which were not substantiated. It seems likely that this was prompted by the mother's application for a protection order.
- (iv) A referral was made on 15 September 2023 by AGS which was closed at screening with no indication of parental harm.
- (v) A referral was made by AGS on 15 September 2020 in relation to a parental access dispute, closed at screening with no harm indicated.

[39] Mr Barrett concludes:

"I am not satisfied that she has reached an age or sufficient level of maturity for her views to be considered competent.

In our discussions there were indicators in what she told me and in the manner in which she told me that suggested to me that her account may have been shaped, at least in part, by exposure to the views of others. I was also concerned that [MW] had been exposed to adult conversation in respect of financial incentives and allegations made within the course of these proceedings.”

The Hague Convention

[40] Article 1 of the Convention sets out its twin aims:

- (i) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- (ii) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

[41] As Lady Hale stated in *Re D (Abduction: Rights of Custody)* [2007] 1 AC 619:

“The whole object of the Convention is to secure the swift return of children wrongfully removed from their home country, not only so that they can return to the place which is properly their “home”, but also so that any dispute about where they should live in the future can be decided in the courts of their home country, according to the laws of their home country and in accordance with the evidence which will mostly be there rather than in the country to which they have been removed ...”

[42] Article 12 mandates the return of a child wrongfully removed from the state in which he was habitually resident:

“Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.”

[43] Article 13 of the Convention provides:

“Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the

person, institution or other body which opposes its return establishes that –

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence."

Grave risk

[44] I have recently undertaken a review of the law relating to the grave risk exception under article 13(b) of the Convention in *PK v DK* [2026] NIFam 3.

[45] The court does not carry out a fact-finding exercise but must evaluate the evidence presented. The approach has been analysed in three stages:

- (i) Does the evidence enable the court confidently to discount the possibility that the allegations made give rise to an article 13(b) risk?
- (ii) If not, taking the allegations at their highest, do the allegations establish a grave risk that return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation?
- (iii) If so, are there protective measures available which are capable of meeting the level of risk assumed? (see MacDonald J in *EN v RN* [2026] EWHC 21 (Fam))

[46] The evaluative exercise which the court must engage in at the first stage is necessarily limited. The Supreme Court in *Re E* [2011] UKSC 27 described the tension

between the inability of the court to resolve factual issues and the risks the children may face if the allegations are true. This has led to the “confidently discount” approach which requires the court to consider the detail and substance of the allegations and the available evidence. If a judge has doubts about the validity and cogency of the evidence, that does not necessarily mean that the allegations can be confidently discounted. Williams J stated in *T v L* [2023] EWHC 3455 (Fam):

“...the ‘confidently discounted’ territory is really a relatively limited territory where the court is satisfied, on good evidence or absence of evidence, that really there is no substance to the allegations which are made.” (para [50])

[47] The court must consider the evidence in relation to the risk of physical and psychological harm to each child.

[48] In terms of SW, the only available evidence emanates from MW and her statements about him being regularly physically abused and, on one occasion, locked in a bathroom. There is no direct evidence of psychological harm but it can readily be inferred that if a young child is being subjected to this level of physical abuse by his mother that psychological harm will ensue.

[49] MW has made disclosures to her father, to her school in Northern Ireland and to the Official Solicitor in relation to the harm caused to her. She has referred to regular physical punishment for contacting her father, injuries being caused to her arm by her mother, her property being damaged and her mother threatening the family with knives.

[50] I harbour serious reservations about the credibility and cogency of the allegations made. It is striking, indeed verging on the incredible, that a concerned father hearing about the level of abuse and neglect of his children would take absolutely no action with the relevant authorities. It is also extraordinary that his only actual response was to abduct two of the children and leave the other seven in an environment he regards as unsafe and dangerous without seeking any intervention.

[51] I have already found that the father is an individual who exhibits coercive and controlling behaviour. I have no doubt that he is able to control the behaviour of his 11-year-old daughter by what she perceives to be kindness in order to achieve his goal. I am particularly struck by the father’s readiness to agree that SW could return, to this unsafe, neglectful and abusive environment, provided MW is permitted to remain. It cannot be the case that the father believes SW to be at grave risk of physical or psychological harm if he is prepared to countenance this outcome.

[52] In these circumstances, I am able to confidently discount the possibility that the allegations made give rise to a grave risk of physical or psychological harm to SW, or that a return would otherwise place SW in an intolerable position.

[53] On that basis, the grave risk defence in relation to SW must fail.

[54] I remain, however, concerned about MW's situation and, in particular, the psychological impact of a return order upon her in light of her stated suicidal ideation. Having listened to her voice notes and read the detail of what she has said to the Official Solicitor, it is quite clear that therapeutic intervention is required in her case.

[55] I am unable to confidently discount the allegations in MW's case and it is clear that, if they are true, these allegations meet the grave risk threshold.

[56] The next question is whether adequate protective measures can be put in place to meet the level of assumed risk.

[57] As I outlined in *PK*, a cornerstone of the Hague Convention system is that:

“unless the contrary is proved, the administrative, judicial and social services in another Contracting State are as adept at protecting children as they are in this jurisdiction (see *Re H (Abduction: Grave Risk)* [2003] 2 FLR 141).

[58] Furthermore:

“There is no reason to believe that the judicial and administrative functions of the neighbouring state would provide any lesser degree of protection to the children than would be available in this jurisdiction.” (*PK* para [58])

[59] The objection to return made by the father is predicated on the return being to her mother's care. However, this is not the function of the Convention arrangements which focus on a return to the State of habitual residence, not to a particular address or family arrangement. The father in this case is not currently working and I have been presented with no evidence that he could not return with his daughter and son to Ireland to provide a level of care to them.

[60] This return would enable the Irish courts to deal with all welfare issues, including, if the father so wishes, a relocation application. This is, of course, the lawful and proper way to approach the movement of children between different states, rather than unlawful child abduction.

[61] It would seem that there is a current referral to Tusla and that there are extant proceedings before the District Court listed in May. These would provide the basis for necessary work to be identified and all the associated welfare issues to be addressed. These protective measures correlate with those proposed by the Official Solicitor and I am satisfied provide the necessary level of protection and mitigation against the identified risks in the case of MW. Had I found that the grave risk

threshold was met in the case of SW, I would equally have found that the protective measures available in Ireland were sufficient to protect against any such risk.

Children's objections

[62] In *Re M (Republic of Ireland) (Child's Objections)* [2015] EWCA Civ 26 the Court of Appeal in England & Wales held that there are two stages to the inquiry in relation to the objections expressed by children:

- (i) A gateway stage entailing "a straightforward and fairly robust examination of whether the simple terms of the Convention are satisfied in that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his/her views." (para [69]); and
- (ii) An exercise of discretion by the court in which the child's views are not determinative of the application but are one factor to be considered.

[63] In this case, I am satisfied that the gateway stage has been passed with respect to MW. She has expressed an unambiguous objection to returning to Ireland. However, I must also take account of:

- (i) Her age and relative maturity; and
- (ii) The influence of her father on her expressed views.

[64] As stated by Mr Barrett, whilst MW is able to articulate her views strongly, she is aged 11 and would not be regarded by the law as competent. Nonetheless, the voice of the child in any proceedings of this nature must be given due weight.

[65] I have already set out my serious concerns about the behaviour of the father and his undoubted ability to influence MW. This is evidenced in particular by:

- (i) MW's reference to only wanting the children as an income stream which is a direct reflection of the father's allegations;
- (ii) Her knowledge of the contents of the mother's affidavit in relation to the arm injury which can only have come directly from her father; and
- (iii) In his text messages the father admits how he can control MW's behaviour by stating to the mother that he will get the daughter to speak to her.

[66] It is simply implausible that MW just overheard some "adult issues." The overwhelming likelihood, as illustrated by his other behaviours, is that the father has used these legal proceedings in a wholly inappropriate manner in order to influence his daughter's conduct and views. I also pause to reflect on how any father could

permit his daughter to use his phone to send the voice notes to her mother. The idea that the phone was just left lying around is, frankly, risible.

[67] In *Re G (Abduction)* [2010] EWCA Civ 1232 Thorpe LJ stated:

“Courts of trial and appellate courts have to consider the implementation of a judgment for return. A court needs to be alive to the difficulty of implementing a return order, where the subject of the return order is an articulate, naturally determined and courageous adolescent.”

[68] I am conscious that MW has stated that, whatever the outcome of this application, she will not return. This again echoes statements made by her father in text messages to the mother. However, she remains a primary school pupil and it cannot be that the Convention principles can be subverted by a stated intention not to return, particularly where this has emanated from a relatively young person and has clearly been influenced by the abducting parent.

[69] The court is entitled, in the exercise of its discretion, to take into account the primary aims of the Convention. I do so and, in light of all the circumstances, I decline to exercise my discretion to refuse to make a return order.

Conclusion

[70] MW and SW were habitually resident in Ireland in February 2026 and their mother held and was exercising custody rights. Accordingly, the removal to Northern Ireland was wrongful. In accordance with article 12 I must therefore make a return order, requiring the children to be returned to Ireland, unless one of the exceptions provided for by article 13 is made out.

[71] For the reasons set out above, the grave risk defence in relation to each child fails. I have taken into account the expressed objection of MW but decline to exercise my discretion to refuse to make a return order.

[72] I therefore order that both children be returned to Ireland.

[73] It will be for the District Court in Ireland in due course to determine any relocation application and/or any other welfare issue. I direct the release of this judgment and the papers in this application to the Irish courts and to the parties' legal representatives.

[74] I will hear the parties as to the precise terms of the order.