



Nottingham Based Immigration Law Specialist, Paragon Law Achieves Ground Breaking Change in European Procedures for Asylum Seeking Children

Paragon Law were part of the legal team that brought the case of MA, BT and DA v Secretary of State for the Home Department to the Court of Justice of the European Union (ECJ). On 6th June 2013, the Court of Justice agreed with the position put forward for the Appellants. The result of this is an overhaul of the present approach taken by European Union countries towards asylum seeking children who journey across Europe in search of safety and it ensures that the best interests of such children remain a priority.

Deirdre Sheahan, who was instructed for DA in this case and is head of the human rights department at Paragon Law said *“The challenge brought in this case was about whether, if an unaccompanied child has claimed asylum in another European country before arriving in the UK, the child should be sent back to that other European country for their asylum claim to be dealt with. We argued before the ECJ that the correct interpretation of the existing law is that it does not in fact allow for the child to be removed to another European country in these circumstances. We argued that, read correctly, the law is that unless the child has family in another European country or it is otherwise in their best interests, the starting point must be that the child’s asylum claim is dealt with in the country where they presently are (in this case, the UK). The Court of Justice has now agreed with us and I am absolutely thrilled that this change in procedure will now give children in this situation the protection they need”*

Miss Sheahan went on to say *“The children in these situations have already gone through massive trauma in their lives. They have fled persecution in their own countries, they are young and vulnerable, they have been torn away from all that was familiar to them and they have been forced, in the majority of cases, to make an extremely frightening journey in the hope of finding safety. Many have been abused or exploited previously and many have simply had no choice where they are brought to next, their travel being dictated by the agents in control of bringing them to safety. Fundamental to the welfare of the child is stability and the quick resolution of decisions which affect their future. The previous interpretation of the law allowed children to be uprooted from the care of Social Services or others in the UK without any proper regard for what facilities would be available in the other European country they were to be sent to and without proper regard for what is best for the individual child involved. In some circumstances, removals were even carried out without any notice to the child or their legal representative creating a climate of absolute fear within these children that they could be snatched from their new homes at any time, in most cases many months after they arrived in the UK.”*

The Court of Justice has now agreed that unless the child has family members in another European Country, their asylum claim will be dealt with in the European country where they are currently present. Numerous children’s organisations, social workers and other lawyers have contacted Miss Sheahan at Paragon Law to express their support and thanks for this change that has been brought protecting the stability and welfare of these children. One social worker contacted Miss Sheahan to express her thanks saying *‘This is fantastic news. I’m so pleased. I hope that means I’ll never have to hear of another child being forcibly removed at 6am and us being asked to collude in that. Exuberance is definitely the word!!’*. Another organisation commented *‘An amazing result. On behalf of the clients that we work with, thank you for achieving this.’*

Miss Sheahan said *“The EU system for asylum seeking children has now completely changed. Children will no longer live in the fear of being automatically removed from the UK and that they will be able to put forward their claims in the knowledge that it will be considered by this country”*

Miss Sheahan concluded by saying that *“Paragon Law is dedicated to the advancement of the rights of asylum seeking children. I have worked for many years on cases to protect the rights of such children and I am thrilled with the progress we have made through this case.”*

A report of the case has been published in the ICLR Weekly Law Reports which can be found at <http://cases.iclr.co.uk/Subscr/search.aspx?path=WLR Dailies/WLRD 2011/wlrd2013-217>

The full decision of the Court of Justice can be found at:
<http://curia.europa.eu/juris/document/document.jsf?text=&docid=138088&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=571672>

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