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No. ZC71/14

Neutral Citation Number: [2015] EWHC 3274 (Fam)
IN THE HIGH COURT OF JUSTICE

FAMILY DIVISION

Royal Courts of Justice

Wednesday, 28th October 2015

Before:

MR. JUSTICE MOYLAN

(**In Private**)

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IN THE MATTER OF **THE ADOPTION AND CHILDREN ACT 2002**

A N D

IN THE MATTER OF **CB**

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MR. GRIFFIN (of Counsel) appeared on behalf of the Applicants.

MR. MILLER (of Counsel) appeared on behalf of Local Authority.

THE RESPONDENT MOTHER appeared in Person.

MS. CAREW (of Counsel) appeared on behalf of the Guardian.

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J U D G M E N T

MR. JUSTICE MOYLAN:

1 This is the hearing of an application for an adoption order in respect of a child, who I will call "CB" for the purposes of this judgment. She is now aged seven and a half. CB was born in and has always lived in England. She is a Latvian citizen because her parents are both Latvian nationals.

2 The parties to the proceedings are the proposed adopters represented at this hearing by Mr. Griffin; the Local Authority, the London Borough of Merton, as the relevant adoption agency, represented by Mr. Miller; CB's mother, who represents herself, but has been and is assisted by a Latvian lawyer who is also present in court; and CB herself represented through her Guardian by Ms. Carew. CB's father has had little or no involvement in her life and has not participated in any of the proceedings. Also present in court are CB's half-sister; His Excellency, the Latvian Ambassador; a member of the Latvian Embassy; and Mr. Skudra from the Latvian Ministry of Justice.

3 An adoption order, in its effect and consequences, is one of the most profound which a court in England and Wales can make. The decision I make today will have profound consequences for CB and for her birth family, in particular her mother and her half-sister. It is because of these profound consequences that this case has attracted a considerable amount of attention both in England and in Latvia. This is because it involves the proposed adoption in England and Wales of a national of Latvia.

<u>Background</u>

4 CB has been the subject of proceedings in England for over four years, namely since the commencement of care proceedings in June 2011. Care and placement orders were made on 10th July 2012. The mother's appeal to a Circuit Judge against those orders was dismissed on 8th October 2012. Her further appeal to the Court of Appeal was dismissed on 1st May 2013.

5 CB was then placed with the prospective adopters in May 2013, which is now two and a half years ago. The adoption application itself was made over a year ago in October 2014.

6 On 19th December 2014 I determined a number of applications. They comprised the mother's application under s.47(5) of the Adoption and Children Act 2002 ("the 2002 Act") for permission to oppose the adoption application; an application by the mother for contact; and an application by the mother and by the Latvian authorities for the transfer of jurisdiction to Latvia, pursuant to Art.15 of Brussels IIa. I dismissed those applications (*Re B, London Borough of Merton v LB* [2014] EWHC 4532 (Fam)).

7 The mother appealed. The Court of Appeal decided the appeal in a judgment given on 6th August 2015 (*CB (A Child)* [2015] EWCA Civ 888). By its judgment, the Court of Appeal dismissed the mother's appeal from my decisions.

8 The mother sought permission from the United Kingdom Supreme Court (our highest court) to appeal from the Court of Appeal's dismissal of her appeal from my decisions. Her application was dismissed by the Supreme Court on 8th October 2015. Unusually, exceptionally, the Supreme Court, in dismissing her application, gave extended reasons which I propose to quote in full:

a) "The panel (Lady Hale, Lord Wilson and Lord Carnwath) has decided, exceptionally, to accompany its refusal of the mother's application for permission to appeal with written reasons.

b) Before reaching its decisions the panel read numerous documents including, in particular, the mother's five grounds of appeal; her addendum ground; the submission of Mr. Rasnacs, the Latvian Minister of Justice, dated 27th August 2015; [a] supporting submission [on behalf of the mother], as well the respondents' grounds of objection.

c) The mother's proposed appeal is not arguable; it has no prospect of success.

d) CB's habitual residence in the UK conferred jurisdiction on the courts of England and Wales to make the care order: Article 8 BIIR.

e) The jurisdiction to make placement and adoption orders is conferred by English law and there is no European law with which it is inconsistent.

f) In particular BIIR does not apply to decisions on adoption and measures preparatory to adoption and so no transfer to the Latvian courts could have been made under Article 15, even if it had been in CB's interests.

g) In the light of Article 8, it is debateable whether any transfer to the Latvian courts, otherwise than under Article 15, could entitle them to exercise jurisdiction in matters of parental responsibility over CB.

h) The Court of Appeal was correct to hold that there had been no relevant change in circumstances since the placement order was made and so it was unable to grant leave to the mother to oppose the adoption order. But, even had it been able to do so, it would not have done so because CB's welfare would have precluded it.

i) In the material filed in support of the appeal there is no focus on CB's current and future welfare even though, under English law, it is the paramount consideration in decisions relating to adoption.

j) In this regard the facts are:
    i. In March 2010 the mother left CB alone at home in a disgusting condition and Merton began to accommodate her. The circumstances of that incident were fully investigated by the District Judge in July 2012 who disbelieved the mother's account. He decided that CB should be placed for adoption and that the mother's consent be dispensed with.
    ii. The mother brought two unsuccessful appeals against his orders. In the present proceedings the mother is not entitled to challenge the District Judge's findings nor, by her addendum ground, the conclusion in the second appeal that Merton had been entitled to hold the adoption panel meeting on 9th March 2012.
    iii. In view of her contentions that Merton was trying to meet a higher target for adoptions and was therefore "biased", the mother should note that it was the court, not Merton, which took the decision to authorise the placement of CB for adoption.
    iv. In May 2013, following the dismissal of the second appeal, CB was placed with the prospective adopters. So she has lived with them for almost 2½ years. She last saw the mother in March 2013.
    v. The adopters would have understood that the path to CB's adoption was clear. Instead there has been a prolonged challenge to her placement with them, supported with all the authority of the Latvian State. The pressure to date on the adopters, and indirectly on CB, is obvious.
    vi. Moylan J accepted evidence that CB was at risk of significant emotional harm if removed from the adopters. It is not arguable that it would be in her interests to be removed from them at this late stage and to be placed wherever the Latvian Court might direct.
    vii. The loss of CB's national and cultural identity is a substantial factor and was rightly weighed by Moylan J. He held however that it was outweighed by other aspects of her welfare and this court would not disturb his assessment.

k) The hearing of the application for an adoption order should therefore proceed next Thursday 15th October and, if an adoption order is made, there will in our view have been no breach of the rights of the

mother or of CB, whether under Articles 6 or 8 of the European Convention on Human Rights or otherwise."

9 Given the extensive detail contained in earlier judgments (referred to above), it is not necessary for me to set out the background to the application I am determining today at any length. This judgment has to be read with those earlier judgments.

Legal Framework

10 The statutory framework is contained in the 2002 Act. By section 1(2):

> "The paramount consideration of the court … must be the child's welfare, throughout her life."

By s.1(3):

> "The court … must at all times bear in mind that, in general, any delay in coming to the decision is likely to prejudice the child's welfare."

By s.1(4):

> "The court … must have regard to the following matters (among others):-
> (a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding),
> (b) the child's particular needs,
> (c) the likely effect on the child (throughout her life) of having ceased to be a member of the original family and become an adopted person,
> (d) the child's age, sex, background and any of the child's characteristics which the court considers relevant,
> (e) any harm (within the meaning of the Children Act 1989) which the child has suffered or is at risk of suffering,
> (f) the relationship which the child has with relatives, and with any other person in relation to whom the court or agency considers the relationship to be relevant, including-
> (i) the likelihood of any such relationship continuing and the value to the child of its doing so,
> (ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs,
> (iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child."

11 By s.47(1):

> "An adoption order may not be made if the child has a parent or guardian unless one of the following three conditions is met..."

The second condition which is set out in s.47(4) provides:

> "The second condition is that -
> (a) the child has been placed for adoption by an adoption agency with the prospective adopters in whose favour the order is proposed to be made,
> (b) either -
> (i) the child was placed for adoption with the consent of each parent or guardian and the consent of the mother was given when the child was at least six weeks old, or
> (ii) the child was placed for adoption under a placement order, and
> (c) no parent or guardian opposes the making of the adoption order."

Subparagraph (5) provides:

> "A parent or guardian may not oppose the making of an adoption order under the second condition without the court's leave."

It is the second condition which applies in the circumstances of this case.

12 As a result of the course of these proceedings, the consent of the parents was dispensed with when the placement order was made. As neither have permission to oppose the making of the adoption order, under s.47(5), I do not again need to address the issue of consent. However, for the avoidance of doubt, I will do so at the end of this judgment.

13 As referred to above, I fully recognise that the decision I am making will have profound consequences for CB and for her birth family. That is why, to quote Lord Wilson from *Re B (Care Proceedings: Appeal)* [2013] 2 FLR 1075 (para 34), a "high degree of justification" is required when a court is determining whether a child should be adopted. In the same decision, Baroness Hale said at para.198:

> "it is quite clear that the test for severing the relationship between parent and child is very strict: only in exceptional circumstances and where motivated by *overriding requirements* pertaining to the child's welfare, in short, where nothing else will do."

I repeat, "in short, where nothing else will do". Other phrases from *Re B* were highlighted by the Court of Appeal in its decision, *Re B-S (Adoption: Application of s.47(5))* [2014] 1 FLR 1035. Those phrases include "a very extreme thing"; "a last resort"; "where no other course (is) possible in (the child's interests)"; and "the most extreme option".

14 Clearly, of particular importance in this case are the nature of and the effect on CB's Latvian connections if I make an adoption order. I recognise, as Mostyn J did in *Re D (Special Guardianship Order)* [2015] 2 FLR 47 that, if I make an adoption order, CB's Latvian heritage will (to adopt his words) "being realistic, either be extinguished or reduced to insignificance". I also recognise, as he did, "the unique irrevocability of an adoption order". I agree with him that these factors have a prominent place when I am deciding whether or not to make an adoption order.

15 These factors are reflected, of course, in Art.8 of the European Convention on Human Rights and in the United Nations Convention on the Rights of the Child 1989 to which I have been referred during the course of this hearing. Article 3 of the 1989 Convention provides:

> "In all actions concerning children…the best interests of the child shall be a primary consideration"

Article 8 provides:

"(1) State Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference."

Article 20 provides:

"(1) A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
(2) State Parties shall in accordance with their national laws ensure alternative care for such a child.
(3) Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background."

Article 21 provides:

"State Parties that recognise and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration."

16 The above factors are reflected in the Court of Appeal's judgment of 6th August 2015. I propose to quote at some length from this judgment, starting at para.80, under the heading "Grounds of Appeal: Nothing else will do". This is from the judgment of the President:

"(80) I am acutely conscious of the concerns voiced in many parts of Europe about the law and practice in England and Wales in relation to what is sometimes referred to as "forced adoption" but which I prefer, and I think more acutely, to refer to as "non-consensual adoption". Many manifestations of these concerns are to be found, both in the Borzova report and in the letter from Saeima of the Republic of Latvia to which I referred in para.39 above. I refer also to the fact that at its meeting on 19th - 20th March 2014 the Committee on Petitions of the European Parliament considered and declared admissible a petition by the mother making allegations about the Local Authority's behaviour in the present case. It would not, however, be appropriate for me to say anything more about that particular matter …

(82) … there are two important points to be borne in mind: There is, first, the point I made in *Re R (A Child)* [2014] EWCA Civ 1625, para 45:

"The fact that the law in this country permits adoption in circumstances where it would not be permitted in many European countries is neither here nor there ... The Adoption and Children Act 2002 permits, in the circumstances there specified, what can conveniently be referred to non-consensual adoption. And so long as that remains the law as laid down by Parliament, local authorities and courts, like everyone else, must loyally follow and apply it. Parliamentary democracy, indeed the very rule of law itself, demands no less.

(83) The second point is that, whatever the concerns that are expressed elsewhere in Europe, there can be no suggestion that, in this regard, the domestic law of England and Wales is incompatible with the United Kingdom's international obligations or, specifically, with its obligations under the European Convention on Human Rights. There is nothing in the Strasbourg jurisprudence to suggest that our domestic law is, in this regard, incompatible with the Convention. For example, there is nothing in the various non-consensual adoption cases in which a challenge

has been mounted to suggest that our system is, as such, Convention non-compliant.

(84) The lessons of this and other cases are clear but bear repetition. We must be understanding of the concerns about our processes voiced by our European colleagues. We must do everything in our power to ensure that our processes are not subject to justifiable criticisms. This means ensuring that [passing over (i) and (ii)]:

(iii) if there is no transfer in accordance with Article 15, the court, if the Local Authority's plan is for adoption, must rigorously apply the principle that adoption is 'the last resort' and only permissible 'if nothing else will do' and, in doing so, must make sure that its process is appropriately rigorous …

(iv) in particular, the court must adopt, and ensure that guardians adopt, an appropriately rigorous approach to the consideration of the welfare checklist in section 1(4) of the 2002 Act, in particular to those parts of the checklist which focus attention, explicitly or implicitly, on the child's national, cultural, linguistic, ethnic and religious background and which, in the context of such factors, demand consideration of the likely effect on a child throughout her life of having ceased to be a member of her original family."

17 Then, in para.85, after quoting from Mostyn J's decision of *Re D*:

> "That is not, I wish to make clear, a reason for not making an adoption order where the circumstances *demand* and *where nothing else will do*. But it does serve to underscore the gravity of the decision which the court has to make in such cases and the pressing need for care and rigour in the process."

18 In addition in the case of *In re B (S) (An Infant)* [1968] 1 Ch. 205, Goff J said (at p 212 starting at D):

> "In my judgment, therefore, where the child is or may be domiciled abroad or is a foreign national or was until recently ordinarily a resident there, the court should consider whether its order will be recognised elsewhere unless the case is one in which it is clearly for the welfare of the child that an order should be made irrespective of its consequences elsewhere ..."

He then goes on to address issues of evidence.

The Adoption Application

19 The application itself was made on 16th July 2014. As required, there is (what is known as) an Annex A report. This is a report which contains an extensive assessment of the circumstances and of the merits (or otherwise) of the adoption application. It is dated 16th October 2014. There is also a report from the Guardian, dated 11th December 2014.

20 Following the Court of Appeal's decision and the dismissal of the mother's application for permission to appeal by the Supreme Court, the adoption application came before Mostyn J on 15th October 2015. He gave directions which included requiring the Local Authority to file and serve short updating evidence. He refused the mother's application to file further evidence or a position statement. He gave permission for representatives of the Latvian authorities, including the Latvian Ambassador, to attend this hearing.

21 At this hearing I have read the evidence filed in support of the adoption application. I have read the previous judgments in the case and I have read and heard submissions on behalf of the Local Authority, the prospective adopters and the Guardian. In addition, and despite the terms of Mostyn J's order, I have read a position statement from the mother, prepared for her by her Latvian lawyer, and I have heard brief additional arguments from her. I also heard, again briefly, from Mr. Skudra from the Latvian Ministry of Justice.

22 The Annex A report and the Guardian's report were before me at the hearing in December 2014. The Annex A report notes that: "There are lots of visible signs that CB is part of this family", namely of her prospective adoptive family. She is settled and happy and making very good progress, although she has also voiced fears that she will be taken away from this home.

23 The report makes clear that, if an adoption order is made, the prospective adoptive parents are well able to care for, to provide a home for and to be CB's parents. They are said to have shown a deep understanding of her needs and, "They ensure that she knows that she is a valued and deeply loved member of the family".

24 The prospective adopters also understand the importance of CB's Latvian heritage, which they are keen to promote. They will seek to encourage her to learn about and to value this heritage. They are also willing for there to be indirect written contact.

25 The Annex A report, as required by s.1(4)(a) of the 2002 Act, directly addresses CB's wishes and feelings. The report states that she knows that her adoption by the prospective adopters is proposed and says:

> "CB is anxious that this be the case and speaks about fears that she will be taken away from her prospective adopters. When asked about living where she does, she said that I should tell the court that it is 'Great. No, fantastic'."

26 The Guardian was also impressed by the prospective adopters understanding of CB's needs. In her assessment CB has built an attachment to her prospective adopters which is gaining in strength as time goes by. It is also clear from the Guardian's report that CB has sought reassurance that she will be with her prospective adopters for forever. This evidence clearly reflects CB's views.

27 It is the Guardian's opinion, as expressed in December 2014, that the delay in concluding these proceedings is detrimental to CB's welfare, as it is preventing her from settling completely with her prospective adopters. In the Guardian's view, even introducing CB's mother through contact, would "be detrimental, delay her recovery and cause her greater distress".

28 Quoting from my judgment in December 2014:

(123) "If I was persuaded that there had been a sufficient change of circumstances I would next have to assess the mother's prospects of success. [This was in respect of her application under s.47(5) of the 2002 Act.] Having regard to the 2012 judgments and the evidence in the Guardian's report for these applications, it is clear to me that the mother's prospects of success lack any solidity. In my view, the mother realistically has no prospect of successfully opposing the adoption application. I appreciate that it will be extremely painful to the mother to hear this, but my decision on this part of the case has to be governed by my assessment of what is in CB's best interests throughout her life. There is, in my judgment, no other option available to the court because every other option would introduce an element of instability which would cause CB significant harm.

(124) In coming to this conclusion I accept the Guardian's opinion that, if CB were moved from her current carers, the distress to her would cause such damage that she would be at significant risk of suffering significant and emotional harm. The Guardian also refers to the resultant deterioration in her emotional health and the development of behavioural problems. This is not a freestanding piece of evidence, but can be linked with the evidence given during the course of the care proceedings in particular as to CB's attachment disorder and the consequences of the parenting she had received.

(125) The evidence establishes that CB is a particularly vulnerable child who has a compelling need for long-term security and stability. The only outcome in this case which can provide that long-term stability and security is adoption. Every other option introduces instability and uncertainty which would, inevitably, destabilise CB in a way which would be likely to cause her significant emotional harm.

(126) In 2012 the psychiatrist's opinion was that no chance could be taken with CB's next placement because of the likely harmful consequences if that were not to succeed. The Guardian's opinion is that, even the reintroduction of contact, would be detrimental."

I, therefore, dismissed the mother's application for permission to oppose the adoption application.

29 The further statement filed by the social worker, pursuant to Mostyn J's order, is dated 21st October 2015. The social worker notes that CB is settled and has made "enormous progress". She has formed a secure and loving bond with the prospective adopters. At para.9, the social worker says:

> "At home CB is relaxed and settled. She relates very well to both her prospective adopters and is appropriately reliant on them. She is developing a secure attachment to them."

30 The prospective adopters, as referred to above, recognise the importance of CB's heritage.

31 In the opinion of the social worker, it is in CB's best interests for an adoption order to be made. It is in her interests for her to remain with her prospective adopters: "Any move at this stage would be extremely detrimental to her emotional well-being". It is clear from the statement that there are no other options which, in the opinion of the social worker, would be compatible with promoting and safeguarding CB's welfare. An adoption order, in her opinion, is required to protect her from "immediate and future harm".

Submissions

32 The Local Authority submits that it is only an adoption order which is consistent with CB's best interests and will meet those interests. Any other order would, not only, not be consistent with her welfare, but would be significantly detrimental to it. CB has settled well with the prospective adopters, is thriving in their care and has formed a strong bond with them. Mr. Miller acknowledges that CB's Latvian heritage will be significantly diminished. However, he submits that CB's needs demonstrate that adoption is

required to meet those needs. In his submission, the benefits resulting from adoption clearly outweigh any losses, including in respect of CB's heritage.

33 Mr. Griffin, on behalf of the prospective adopters, also submits that the only outcome which is consistent with CB's welfare is an adoption order.

34 In the course of her submissions, the mother requested me to adjourn the hearing. In support she says that, given the date of the Supreme Court's decision, she has not had time to prepare properly for this hearing and to finalise the arrangements she is making to obtain representation.

35 The hearing of this application was originally listed for 15th October 2015. It was listed by an order made on 24th August. In my view, the mother has had sufficient time to prepare for this hearing especially given that her application under s.47(5) was refused.

36 The mother's position statement refers to the European Convention on the adoption of children, 1967 and revised in 2008, and to the 1989 UN Convention on the Rights of the Child. These instruments emphasise that (to quote again from the 1989 Convention): "In all actions concerning children, the best interests of the child shall be a primary consideration".

37 Article 21 provides, to repeat:

> "State Parties that recognise and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration."

These provisions are reflected in s.1(2) of the 2002 Act, which to quote again, stipulates that:

> "The paramount consideration of the court must be the child's welfare, throughout her life."

38 The mother has also referred to CB's position and the terms of Article 5(1)(b) of the Revised European Convention, which requires the consent of a child considered by law to have sufficient understanding. In addition she has raised the position of CB's father and questions whether his consent is required. She also questions whether, if the Latvian authorities had been notified or aware of the proceedings earlier than October 2012, the outcome would have been different.

39 The mother contrasts what is said in para.8(c) of Mr. Miller's submissions, where he states that "CB has settled well and has formed a strong bond", with what is set out in para.9 of the social worker's statement, namely that CB is developing a secure attachment. I do not, myself, see any inconsistency

between those two statements. One refers to the fact that CB is developing a secure attachment and the other that she already has a strong bond.

40 I have received letters from the Latvian Minister of Justice and from His Excellency, the Latvian Ambassador. These letters make clear that the Latvian Government strongly opposes the making of an adoption order. They point to the fact that, if an adoption order is made, CB's connections with her Latvian heritage will be lost or severely diminished. They stress CB's right to maintain her cultural identity and her citizenship and the loss which would result from an adoption order in respect of "language, nationality, citizenship, culture and religion". It is stated, in addition, that Latvia would not recognise any adoption order made by this court as a result of which CB would have a "dual identity".

41 The Ambassador and the Latvian authorities, through Mr. Skudra, also question whether, if they had been given earlier notice of the previous proceedings, the outcome would or might have been different. During the course of his oral presentation to me, Mr. Skudra also questioned whether proper or sufficient regard had been had to CB's views or opinion, having regard to the fact that the Guardian has not seen her since she completed her report in 2014.

42 Ms. Carew submits that only the making of an adoption order accords with CB's best interests. The Guardian is of the opinion, very strongly, that CB's placement needs to be secured by the making of an adoption order. CB, in her opinion, needs to be confident of her place in her new family and to know that it is permanent. The benefits of an adoption order significantly outweigh any loss to CB, including the loss of her connections with her birth family and her Latvian heritage.

43 Ms. Carew also responded to the point made by Mr. Skudra and raised by the mother that CB has not been seen by the Guardian since 2014. She explained, as set out in her position statement, that the Guardian decided not to see CB again. CB has expressed anxieties about whether her placement is secure. The Guardian did not want to increase those anxieties by further questioning her. She has carried out a full assessment and it did not appear to her that anything has occurred which undermines her earlier assessment. It is, for example, clear to the Guardian from the social worker's recent statement that CB is thriving in the prospective adopters' care.

Determination

44 When determining this application, I have at the forefront of my mind the "high degree of justification" required, as referred to above. Is this a case in which nothing other than an adoption order will do?

45 When giving judgment in December 2014 I set out the reasons (to which I have referred above) for my conclusion that no order other than an adoption order would be consistent with CB's welfare. No other order would safeguard and promote her welfare throughout her life. In my view the position is the same today.

46 I am required, specifically, to have regard to the likely effect on CB throughout her life of having ceased to be a member of her birth family and becoming an adopted person. In this case, the likely effect includes the loss of her close connection with her Latvian heritage and the other consequences referred to in the letters from the Latvian authorities. These are clearly significant losses, even if mitigated by the prospective adopters' intention to seek to promote CB's Latvian heritage.

47 I also propose to determine this application on the basis that any adoption order will not be recognised in Latvia.

48 However, even on this basis and taking all the relevant factors into account, it is clear to me that *only* an adoption order is consistent with CB's best interests. Any other order would not provide the degree of certainty and security which comes with an adoption order and would be inconsistent with her welfare as it would be likely to cause her significant emotional harm as referred to in my earlier judgment.

49 This is a case in which, in my judgement, the "overriding requirements pertaining to the child's welfare" requiring the making of an adoption order. Given the history and given CB's current circumstances, there is no other order which "will do".

50 I have come to this conclusion giving due weight to all the circumstances of the case including, in particular, the matters set out in s.1(4) of the 2002 Act. CB has an overwhelming need for her placement with her prospective adoptive parents to become permanent. This is the only way in which she will feel, and be, sufficiently secure to progress and develop in a manner which is consistent with her best interests. Any other order would be likely to cause her significant harm because any other order would, inevitably, be fragile and subject to challenge and dispute.

51 Finally, I make two additional points in part to address matters raised in the mother's submissions and by the Latvian authorities.

52 CB's views have been obtained, both through the Annex A report and through the Guardian. They are views which have, therefore, been heard by this court. I have given them due weight and I consider that they support the making of an adoption order. I accept that it was not necessary or indeed appropriate for the Guardian to see CB again. This would have created, in my view, a significant

and unnecessary risk of destabilising her. The Guardian's decision was a balanced welfare decision. Further, I should point out the United Kingdom is not a party to the Revised European Adoption Convention.

53 Secondly, although it is not necessary for me to address this hypothetical point, in my view it is not correct to say that, if earlier notice had been given to the Latvian authorities, the outcome of this case would have or indeed might have been different. Given the circumstances of the case, given the evidence and given the enquiries and investigations which have been conducted over the course of the proceedings over the years, I cannot myself see how earlier notice would have been likely to have an effect on the outcome.

54 Finally, for the avoidance of doubt, if I am required to do so, I dispense with the parents' consent. By s.52 of the 2002 Act, the court can only dispense with the consent of a parent if this is *required* in the child's best interests. In my view, it is clearly required in CB's best interests.

55 Accordingly, I will make an adoption order and I will dispense with the consent of the parents (although I do not think it is necessary for me to do so).