

W and Re Z (EU Settled Status for Looked After Children)

[2021] EWHC 783 (Fam)

31/03/2021

Barristers

Henry Setright KC
Greg Davies

Court

High Court

Practice Areas

Public Children Law

This case addresses important questions of law and procedure concerning children's immigration status under the United Kingdom's European Union Settlement Scheme (EUSS). Specifically, the court provides clear and comprehensive guidance for all local authorities in respect of looked after children, care leavers and children in need.

Two cases (W and Re Z) came before the court sequentially to consider applications under the inherent jurisdiction for the issuing of Polish passports and settled status for the subject children. In the first case, the mother's consent to the applications was predicated on the children being returned to her care. The father opposed. In the second case, neither parent engaged save to state their unreasoned opposition to the applications.

The court addressed the following urgent questions:

- i) Where the parent or parents of an EU national child who has been made the subject of a care order under Part IV of the Children Act 1989 (a) oppose an application being made on behalf of the child for immigration status under the EUSS or (b) cannot be located in order to ascertain whether they agree, does the local authority need the authorisation of the court to proceed with an application for immigration status under the EUSS with respect to the child, or may it proceed pursuant to the power conferred upon it by s.33(3) of the Children Act 1989.
- ii) Where the parent or parents of an EU national child who has been made the subject of a care order under Part IV of the Children Act 1989 (a) oppose an application being made on behalf of the child for passports or national identity documents to support an application for immigration status under the EUSS or (b) cannot be located in order to ascertain whether they agree, does the local authority need the authorisation of the court to proceed with an application for a passport or national identity card with respect to the child, or may it proceed pursuant to the power conferred upon it by s.33 of the Children Act 1989.
- iii) Where an EU national child who has been made the subject of a care order under Part IV of the

Children Act 1989 requires a passport or national identity card to be issued by the EU Member State of the child's nationality in order to progress an application under the EUSS and (a) the parent or parents of the child oppose a passport or national identity card being issued or cannot be located in order to ascertain whether they agree and (b) in such circumstances the EU Member State requires a court order before it will issue a passport or national identity card, does the court have the power make such an order and, if so, what order?

To read the full judgment [click here](#).

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