

## Dawson Cornwell acts for father seeking return of his children to Spain

The latest episode of a high-profile international children law dispute came before the High Court on 31 March 2014 (reported as *Cambra v Jones & Palacin* [2014] EWHC 913 (Fam)). Dawson Cornwell represented the father based in Spain whose children had been abducted to England by their mother. The case has highlighted the real difficulties that clients can face when trying to secure their children's return following an abduction, even within the European Union.



### Background

All five of the parties' children had been abducted to the UK from their home in Spain by their mother in 2012. This was the second time the mother had abducted the children. Since their abduction, three of the children had been returned to the father. As for the remaining two children – Jessica and Tomas aged 16 and 14 respectively – the father asked the court to commit the mother to prison for breach of the court order requiring their return to Spain. For further background, see [www.bbc.co.uk/news/uk-wales-19968450](http://www.bbc.co.uk/news/uk-wales-19968450).

### What was the issue?

The Judge had to consider whether the eldest child, Jessica, should be made a party to the proceedings. This would give Jessica more control and the ability to influence the course of proceedings, including the ability to directly oppose applications made by other parties.

### A balancing exercise

Representatives for Jessica and the mother argued that Jessica should be made a party. It was argued that Jessica did not want to see her mother be held accountable for refusing to return her to Spain since it was not her mother's fault: Jessica herself wanted to stay in the UK. She was also at an important junction of her education (embarking on GCSEs) and wanted to play a part in any future attempts by the father to get her to return to Spain. On the other hand, the father argued that it was more appropriate that Jessica be heard as a witness. She would have her views heard and it would avoid her being dragged further into the proceedings. This might 'prove very damaging to family relationships', enabling a child 'to adopt a directly confrontational stance' towards a parent.



### Decision

The Judge decided to add Jessica as a party: it would not be in her best interests to exclude her from the proceedings and her views could not adequately be represented by her parents. As to the father's view that it would place Jessica in a damaging situation, the Judge noted that she had long since been drawn into her parents' battles and that her freedom of expression should be protected. Whether the mother should be sent to prison would be dealt with at a later stage.

*The lawyers in this case, Carolina Marín Pedreño (pictured above) and Caroline Korah, can be contacted on +44 (0)20 7242 2556 or [cmp@dawsoncornwell.com](mailto:cmp@dawsoncornwell.com).*