



## AOX and LSX

The International Family Law Group LLP represented the Ukrainian mother in the reported case of **AOX and LSX** at the Fact-Finding Hearing at the Royal Courts of Justice on 16-18 July 2024. The case was heard before Simon Colton KC, sitting as a deputy High Court Judge. His judgment has since been placed in the public domain.

This case is one of a number presently going through the English family courts that relate to Ukrainian families. Anecdotally, the number of Ukrainian cases has risen sharply following the Russian invasion in 2022, and many of the cases currently going through the courts relate to families in which one or more of the parties have relocated to England under the UK's Homes for Ukraine Scheme. Ukrainian cases in particular can often throw up complex issues of law, including the safety of children potentially travelling to or being returned to Ukraine, the connections each parent has with the countries in question, and how corroborative evidence can be obtained in a country that is presently in the throes of war.

In the matter of **AOX and LSX**, both parties were making exceptionally serious cross allegations, and the Judge was tasked with determining them in circumstances whereby extensive evidence had been filed by the parties in both English and Ukrainian proceedings.

Significantly, the mother was successful in obtaining a finding that the father had *violently abducted* the child [87], and that the father had with him a masked accomplice and a gun at the time of abduction. The Judge agreed with the mother's counsel that this was *an act of intense cruelty* [54].

This finding is summarised at paragraph [51] of the Judgement where it was held that:

*we find that this was a pre-meditated and planned abduction; that father deliberately hired a car so that he could get close to Ludmila without being recognised; that, in addition to his own mother, father had another male accomplice, who was masked; that father acted first in attacking the maternal grandmother; and that father had with him a gun which he showed to the maternal grandmother in the course of the attack.*

A brief summary of the case has been set out below and a link to the full judgment can be found



here:

[AOX v LSX \[2024\] EWHC 2379 \(Fam\) \(18 July 2024\) \(bailii.org\)](#)

## Background

By way of broad background, the mother and father are both Ukrainian nationals. They share one child together, referred to as "Ludmila" in the judgment. Ludmila was 4 years old at the time of the Fact-Finding Hearing.

On 16 September 2021, the father took Ludmila from the care of her mother and maternal grandmother in Zaporizhzhia and travelled to Kyiv. Following this date, Ludmila lived with her father in Kyiv and the mother did not see her for around 6 months thereafter.

On 9 March 2022, and following the Russian invasion, the father tried to leave Ukraine with Ludmila, but he was detained at the border. This was the last time that the father had seen Ludmila. Ludmila was subsequently returned to her mother, who then left Ukraine with Ludmila and the maternal grandmother the following day, travelling to England via Poland. They were accommodated in England via the "Homes for Ukrainians" scheme from 19 April 2022. The father remains living in Ukraine.

Proceedings relating to the arrangements for Ludmila initially took place in Zaporizhzhia in May 2021 following the father's application to the court. The mother subsequently issued proceedings in Kyiv in September 2021, in which she obtained an order providing for Ludmila to continue to live with her. The Father has sought to appeal this decision, and this matter has not yet been resolved. Extensive evidence had been filed by both parties in the Ukrainian proceedings.

At the fact-finding hearing, the Judge considered the documents filed within these Ukrainian proceedings which included psychologist reports served in the context of those court proceedings, local criminal reports, and the written evidence of both parents.

## Allegations

As has been summarised at paragraphs 8 – 11 of the Judgment, the parties were pursuing numerous allegations against each other.

The Father sought the following allegations against the mother:



- The Mother changed Ludmila's location twice without the father's knowledge, permission, or consent. In November 2020, she took the child to Zaporizhzhia. In March 2022, she then took the child to the UK through Poland.
- On both occasions that the mother removed the child, she provided false information to the competent authorities to conceal the child's whereabouts. (However, in closing submissions, this was limited to a complaint that mother did not register with the Ukrainian consulate in the UK from April 2022 onwards.)
- The mother prevented the child from seeing the father during the periods she was removed from his care and that she did not provide any information about the child's health, welfare etc.,

The mother sought following allegations against the father:

- The father kidnapped Ludmila and physically assaulted the maternal grandmother on 16 September 2021.
- The father subjected Ludmila to emotional and psychological harm including during the period from September 2021 to March 2022.
- The father threatened to kill Ludmila and the mother on 9 March 2022.
- The father organised an attempt to kill the mother on 24 February 2022 and there were corrupt dealings between the father and Ukrainian officials.
- The father was physically abusive towards both Ludmila and the mother.



- The father engaged in coercive and controlling behaviour of the mother.

Notably, the father made several admissions within his position statement filed immediately prior to the hearing, which included the following;

- *“The father separated Ludmila from the care of her mother and maternal grandmother on 16 September 2021 by removing the child from her pushchair when she was with her grandmother. The father accepts that he pushed the grandmother when she attempted to take the child away from him and he removed the child from her mother’s home in Zaporizhzhia to his home in Kyiv.*
- *The father accepts that Ludmila did not see her mother again for 6 months until March 2022.*
- *The father accepts that Ludmila suffered emotional and psychological harm as a result of his actions.*”

## **Kidnapping Incident on 16 September 2021**

A significant proportion of the evidence related to the mother’s allegation that the father had kidnapped Ludmila on 16 September 2021, which was the most serious allegation in the case.

The mother’s position was that the kidnapping was violent, and she relied on evidence in the form of statements provided to the Ukrainian police to support her allegations. This included a witness statement from a neighbour of the maternal grandmother which described that two men had come running up to the maternal grandmother, and that one of the men attacked the maternal grandmother before driving off with Ludmila in a red car [46]. The witnesses also described that one of the men was wearing a mask [43,46]. As has been described at paragraph [44] of the Judgement, the manager of the car rental company had also provided a statement to the Ukrainian police on 17 September 2021 confirming that the father had rented a red Ford car, which the father had driven to Zaporizhzhia, and that the father informed him the following day that the



rental car had been left in the Komunarskyi district.

Whilst the father accepted that he did take Ludmila from the care of the maternal grandmother on 16 September 2021, he did not accept that the kidnapping was pre-planned, and he denied the mother's account of the violent circumstances of abduction. Crucially, he denied that he had a gun with him at the time of abduction. The father was also *insistent* that there was no second man [48]. The father's account of events was that he had driven to Zaporizhzhia with the intention of simply spending time with Ludmila. He explained that he had taken Ludmila from her pram, following which the maternal grandmother attacked him. The father explained that he was so frightened by the maternal grandmother's behaviour that he decided to take Ludmila away to keep her safe [48].

The Judge did not find the father's evidence to be credible on several bases, commenting that:

*He struck me as someone being careful to give the answer, he felt would best assist his case. On occasion for example, regarding the events of 16 September 2021 I was sure he was lying.* [18]

## Conclusion

This case serves as a reminder of the importance of consistency of evidence in international cases where proceedings span multiple jurisdictions: central to obtaining the findings was a forensic analysis of what each parent had said to different bodies, in different proceedings, and in different jurisdictions.

The finding obtained that the father violently kidnapped Ludmila in 16 September 2021 and that he had with him a gun and a masked accomplice at the time of the incident will significantly influence the court's determination of the welfare matters in this case moving forwards.

James Netto, Partner Rosa Schofield, Associate and Beatrice Holt, Paralegal, represented the mother in this matter, and William Tyler KC of 36 Chambers and Liz Andrews of 1GC were instructed to represent the mother as Counsel.



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