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Home Office unlawfully removed child asylum seeker from UK, High Court rules

Judge orders government to arrange return of 'exceptionally vulnerable' boy in unprecedented move after finding his removal to Germany unlawful

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Government officials will now have to return the boy to the UK (*Getty/Peter Macdiarmid*)

The **Home Office** unlawfully removed a child **asylum seeker** from the UK and has been ordered to arrange his return in a landmark High Court ruling.

An Afghan boy, who cannot be named and has been described by his lawyers as “exceptionally vulnerable”, was removed to Germany in April 2017 despite the fact he was underage and had been living with his uncle and other relatives.

Under EU law asylum seekers may be sent back to the country where they have previously claimed asylum but the rule does not apply to minors. The law

stipulates if a child has relatives in an EU country they should have their asylum claims processed there.

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The Home Office was also found to have acted unlawfully because it only gave the boy one working day's notice of his removal from the UK – government policy stipulates the minimum is five working days' notice.

The boy, who was 17 at the time, had provided the Home Office with an Afghan identity card proving he was under 18 and his uncle provided further

evidence of his age. However, the Home Office based its estimate of the boy's age on a local authority assessment – which the court ruled was “flawed”.

In court, the Home Office accepted the boy's removal breached its policy, but argued it didn't make any difference as he would have been removed anyway.



The department also argued that now the boy was in Germany, UK courts did not have jurisdiction over him and therefore could not order his return.

The judge disagreed, ruling the boy had been unlawfully removed as a child and must be reunited with his relatives.

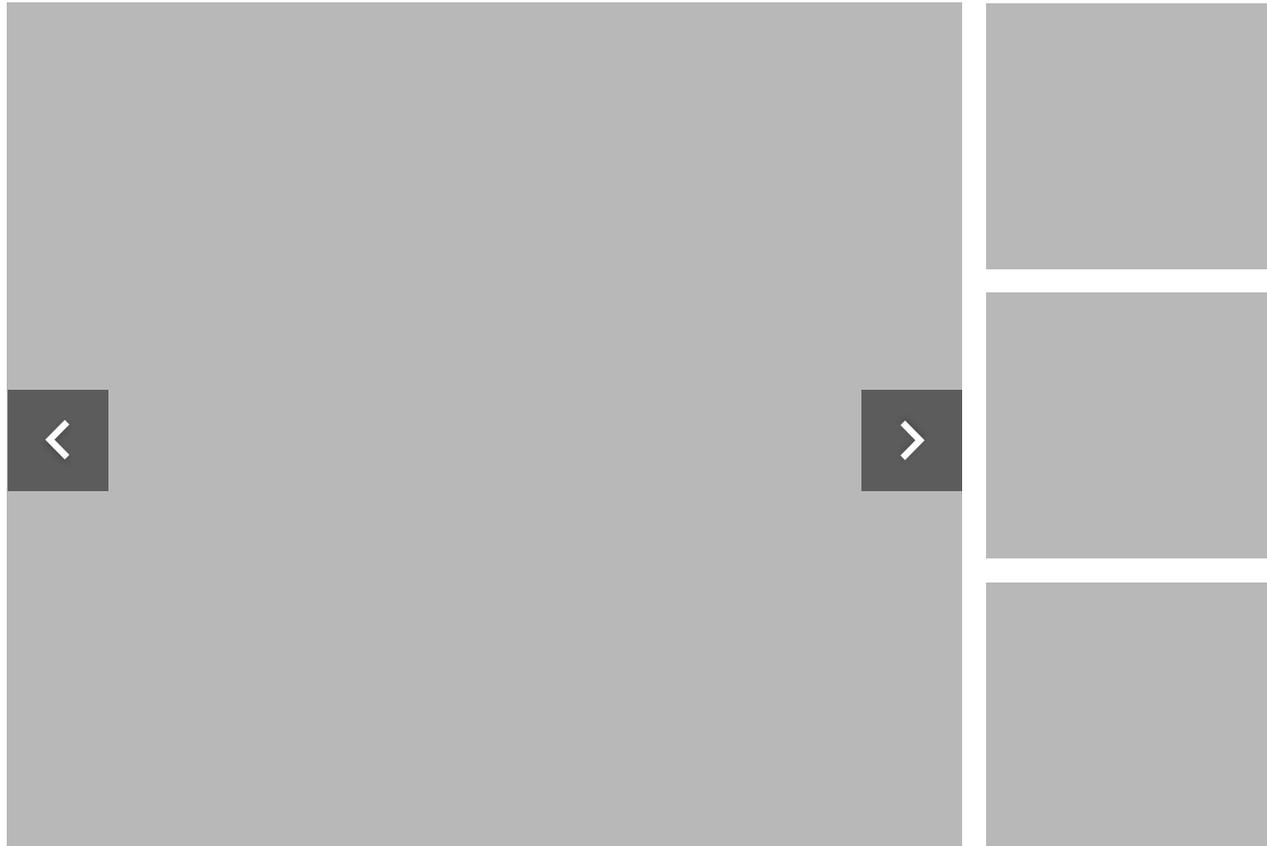
Since being moved to Germany the asylum seeker, said to have been a victim of torture in Afghanistan and to suffer from severe mental health problems as a result, has been living in foster care and shared asylum accommodation, without family support.

Hannah Baynes, of Duncan Lewis Solicitors, which represented the boy, said: “This is an important and unprecedented result and it means that my client will be able to have his asylum claim processed in the UK and to resume his recovery from his past experiences of torture in Afghanistan.

“The detrimental impact on my client resulting from being wrongfully removed to Germany and separated from his family and support network in the UK has been significant.

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“I hope that the court’s decision here will make the Home Office wake up to the reality that their administrative errors have serious repercussions, affecting real

people, and that proper consideration in the future will mean that other vulnerable children are not wrongfully removed from the UK.”

The ruling was made after the Home Office came under fire for failing to allow an Eritrean child and former Calais Jungle resident to come to the UK despite the fact his aunt lives in the country.

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Lawyers representing the Eritrean boy said the UK government was “playing games” with his life by failing to act swiftly and grant him the right to join his aunt in Britain.

A Home Office spokesman said: “We have noted the judgment and are taking steps to comply with the court ruling.”

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