



Neutral Citation Number: [2020] EWHC 2878 (Fam)

**IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION**

COUNCIL REGULATION (EC) No.2201/2003

THE SENIOR COURTS ACT 1981

AND IN THE MATTER OF CHILD A (BORN JANUARY 2019)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 30/10/2020

Before :

Mr Justice Poole

Re: A (A Child) (Relocation)

Christopher Hames QC (instructed by **Goodman Ray**) for the **Applicant Father**
Anita Guha (instructed by **Dawson Cornwell**) for the **Respondent Mother**

Hearing dates: 12th to 16th October 2020

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Mr Justice Poole:

Introduction

1. A is the 21 month old daughter and only child of the Applicant father and Respondent mother. Her mother is Slovakian, her father British Algerian. They met in England, fell in love and brought A into the world in January 2019. Now they are separated and the mother wishes permanently to relocate A from England to live with her in the Republic of Slovakia (“Slovakia”). The father wants his daughter to remain in England. He would not go to Slovakia to live if she moved there with her mother. The mother would stay in England if A remained here.
2. In *Re L (Relocation: Second Appeal) [2017] EWCA Civ 2121* Peter Jackson LJ said at [46]:

“Relocation applications are among the more difficult applications that come before the Family Court. The effects of distance on relationships, often accompanied by cultural and linguistic factors that may shape a child’s lifelong identity, raise the stakes about those found in most domestic cases.”

The present case is the more difficult to resolve because the mother makes allegations of violence and abuse against the father which he says are entirely fabricated. In turn he alleges that the mother has frequently verbally abused and assaulted him.

3. The father alleges that the mother wrongfully retained A in Slovakia in late 2019. He applied for an order for her summary return and obtained a without notice passport order which was served on the mother during a mediation session that the mother had agreed to attend in England on 28 November 2019. A was brought to England by the maternal grandmother shortly afterwards, since when the mother has been compelled to live with A in England. And yet, despite the hostility generated by these allegations, denials and events, the parents have managed over the past 11 months to ensure that A has had regular contact with her father, including recent overnight contact.
4. The only formal substantive application before the court is the father’s dated 19 November 2019 under the inherent jurisdiction seeking the summary return of A from Slovakia. Events have overtaken that application, but it has not been discharged because welfare issues remain outstanding. The mother has been deemed by the court to have made an application for permission permanently to relocate A to Slovakia, and it is that application that is before me. Neither party has filed a formal application for a child arrangements order but each has set out their case on proposed arrangements depending upon whether the mother’s application for relocation is granted.
5. The mother’s proposal is that A should live with her and that she should have permission to relocate with A to Slovakia where they would live, at least initially, at her parents’ home. She would support contact with the father for one weekend a month,

in England, with a further weekend in Slovakia if he were to choose to take that up. There would also be regular video contact.

6. The father's proposal, which was articulated in closing submissions on his behalf by Mr Hames QC, was that A should remain living in England with the mother as the primary carer and with contact with the father from 10.00 am on Thursday to 1.00 pm on Saturday. He is not wedded to that particular arrangement but that is his proposal.
7. In the event that her proposal for relocation is rejected by the court, the mother proposes that A should continue to live with her in England, with contact with the father continuing on the current terms, that is weekly contact every Tuesday for 5 hours and from 2pm on Thursday until 7.30 am on Saturdays.
8. The mother would not relocate to Slovakia without A, so there is no realistic prospect of the father becoming the main carer for A in England.

History of Events

9. The parties have helpfully agreed a case summary. In short, the mother moved from Slovakia to England approximately 5 years ago. She met the father, a British Algerian national, she converted to Islam and the parties had a religious marriage in September 2016. The mother was working as a waitress, the father as a personal fitness trainer. The mother states that following her conversion to Islam, the father's behaviour towards her changed and he became controlling and violent. This is denied by the father who alleges the mother has been regularly abusive and violent towards him which she denies. The parties cohabited in the Slough area. A was born in January 2019. She was premature and delivered by Caesarean section. The mother suffered some complications and was in and out of hospital during the early weeks of A's life. Her mother came over from Slovakia to assist with caring for A. The mother suffered low mood and was seen by her GP for post-natal depression.
10. The maternal grandmother returned to Slovakia where she needed treatment for breast cancer. After the completion of her treatment the parties travelled to Slovakia in October 2019 to stay with the mother's parents for a holiday. They live in BC, an area in the north that is a tourist destination in particular during the skiing season. The mother was still on maternity leave. She and A travelled on single tickets as there was no set date for their return. The father, who was working part time, travelled on a return ticket and returned to England on 21 October 2019. There is a dispute about the parties' respective intentions at that time. A family meeting was held by video call on 2 November 2019 which appears to have triggered the father to take steps to secure A's return to England. On 19 November 2019 the father applied to the High Court under the inherent jurisdiction, accompanied by a C1A setting out details of domestic abuse, seeking the summary return of A. He obtained a passport order at a without notice application on 27 November. The mother was then in England having agreed to attend a mediation the following day. The order was executed during the mediation.
11. The mother had left A in the care of her parents at the maternal family home in Slovakia. In court proceedings in December 2019 the father undertook to move out of the family

home so that the mother and A could move in on return to England. He further undertook to pay the rent and outgoings on the family home up until 25 January 2020, including all taxes and utility bills as well as pay the mother £125 each week up until 8 January 2020. An interim regime of contact was put in place allowing for contact between A and the father on three occasions per week for 3 hours supported by the maternal grandmother. A returned to the jurisdiction on 7 December 2019 in the company of the maternal grandmother.

12. On 6 January 2020 the court held that the father's application for summary return had not been finally determined as no welfare evaluation had been undertaken and listed his application together with the mother's relocation application (having deemed the mother to have made such an application), providing for a 3 day hearing in April. Cafcass was directed to provide a report by 18 March 2020. The father indicated that he was unable to afford to continue to pay the rental costs and outgoings for the family home beyond 25 January 2020. The mother stated that she was eligible for universal credit living in England but thought she would not have sufficient funds to remain living in the current family home failing which, she and the child would be rendered homeless. Ultimately the father indicated that he was prepared to pay child maintenance, pending the final hearing as below, of £273 per month.
13. Both parties complain that the other has been abusive during handovers. Nevertheless, contact has continued more or less as directed by the court. Contact was initially increased by Moor J in March 2020 when the time spent during each contact session was increased. Then on 22nd April 2020 Newton J increased the time for contact even further and listed the matter for 10th July 2020 to consider an increase to overnight contact. This was ordered by Newton J initially for one night (Thursdays) and this was later increased to two nights a week (Thursdays and Fridays) and Tuesday afternoons from 2pm – 7pm. The parties are now using a contact book which is proving useful.
14. The Cafcass officer, Emma Huntington, filed and served her report on 20 March 2020. She recommended that in light of the allegations made by each party, the matter be listed for a fact finding hearing after which an addendum report could be prepared to address child arrangements. The pre-hearing review took place on 24 March 2020 before Mr Justice Moor when case management directions were given for the filing of further evidence. The judge directed that the hearing in April be a rolled-up fact finding and welfare hearing but instead the hearing became a directions hearing and a hearing to consider an increase in interim contact. Mr Justice Newton did not deem it was appropriate to hear the case and evaluate the evidence by video link. The mother's application for Universal Credit was processed more quickly than anticipated resulting in her receiving benefits as of 5 May.
15. On 19 May the father's solicitors wrote to Dawson Cornwell seeking to vary the order in respect of the father's maintenance payments on the basis that he was no longer receiving an income because of the COVID-19 pandemic which impacted on gyms nationwide and resulted in closure. The court order of 10 July 2020 contains a recital that the father shall use his best endeavours to reinstate the monthly payments of maintenance of £273 in August 2020 and provide payment for the arrears of £546 for the months of May and June. The monthly maintenance payments have not recommenced as the father says that his employment situation has not improved since the last hearing.

16. The mother was given indefinite leave to remain in England in July 2020.
17. An addendum to the Cafcass report was filed and served on 28 September. The parties have filed updating statements. Ultimately the Cafcass officer, Ms Huntington, was unable make a recommendation on the mother's application for leave to remove pending any findings being made by the court.

The Legal Framework

18. In *Re F (A Child) (International Relocation)* [2015] EWCA Civ 882, [2017] 1 FLR 979, the Court of Appeal made clear that whether an application is being considered under s 8 or s 13 of the Children Act 1989, the only authentic principle is the paramount welfare of the child. In *T K v K (Relocation: Shared Care Arrangement)* [2011] EWCA Civ 793, [2012] 2 WLR 941, [2012] 2 FLR 880, Black LJ said at [141]:

“the principle – the only authentic principle – that runs through the entire line of relocation authorities is that the welfare of the child is the court's paramount consideration. Everything that is considered by the court in reaching its determination is put into the balance with a view to measuring its impact on the child.”

19. At [19] of his judgment in *Re F*, Ryder LJ endorsed the following summary from Munby LJ in *Re F (Relocation)* [2012] EWCA Civ 1364, [2013] 1 FLR 645 where Munby LJ said, at paras [37] and [61]:

“[37] ... There can be no presumptions in a case governed by s 1 of the Children Act 1989. From the beginning to the end the child's welfare is paramount, and the evaluation of where the child's interests truly lie is to be determined having regard to the “welfare checklist” in s 1(3) ... [61] The focus from beginning to end must be on the child's best interests. The child's welfare is paramount. Every case must be determined having regards to the “welfare checklist”, though of course also having regard, where relevant and helpful, to such guidance as may have been given by this court.”

20. Ryder LJ then set out guidance on the approach that a court should take when determining the child's best interests.

“[28] The recrafting of s 8 orders from residence and contact into child arrangements orders has, inter alia, the benefit of emphasising, absent adverse circumstances and welfare conclusions, the equality of parental responsibility that each parent has. Parents are to be expected to exercise their autonomy and to respect the autonomy of their children by entering into

arrangements that plan for their children's long-term welfare by providing for a meaningful relationship between each adult and each child. Where they cannot agree there is likely to be more than one proposal for the court to consider.

[29] In *Re W (A Child) (Care Proceedings: Court's Functions)* [2013] EWCA Civ 1227, [2014] 1 WLR 1611, [2014] 2 FLR 431, at [76]–[78], I held that in relation to public law children proceedings the welfare analysis of realistic options that is required would be facilitated by a balancing exercise first recommended by Thorpe LJ in the different context of a medical treatment case in *Re A (Male Sterilisation)* [2000] 1 FLR 549, at 560. That approach had been identified by my Lord, McFarlane LJ in *Re G (Care Proceedings: Welfare Evaluation)* [2013] EWCA Civ 965, [2014] 1 FLR 670, at [54]: 'What is required is a balancing exercise in which each option is evaluated to the degree of detail necessary to analyse and weigh its own internal positives and negatives and each option is then compared, side by side, against the competing option or options.' It was subsequently approved by Sir James Munby P in this court in *Re B-S (Children) (Adoption Order: Leave to Oppose)* [2013] EWCA Civ 1146, [2014] 1 WLR 563, sub nom *Re B-S (Adoption: Application of s 47(5))* [2014] 1 FLR 1035, at [36] and at [46] where the approach was described by him in these terms: 'We emphasise the words "global, holistic evaluation". This point is crucial. The judicial task is to evaluate all the options, undertaking a global, holistic and ... multi-faceted evaluation of the child's welfare which takes into account all the negatives and the positives, all the pros and cons, of each option.'

[30] That approach is no more than a reiteration of good practice. Where there is more than one proposal before the court, a welfare analysis of each proposal will be necessary. That is neither a new approach nor is it an option. A welfare analysis is a requirement in any decision about a child's upbringing. The sophistication of that analysis will depend on the facts of the case. Each realistic option for the welfare of a child should be validly considered on its own internal merits (ie an analysis of the welfare factors relating to each option should be undertaken). That prevents one option (often in a relocation case the proposals from the absent or 'left behind' parent) from being side-lined in a linear analysis. Not only is it necessary to consider both parents' proposals on their own merits and by reference to what the child has to say but it is also necessary to consider the options side by side in a comparative evaluation. A proposal that may have some but no particular merit on its own may still be better than the only other alternative which is worse.

[31] Finally, a step as significant as the relocation of a child to a foreign jurisdiction where the possibility of a fundamental

interference with the relationship between one parent and a child is envisaged requires that the parents' plans be scrutinised and evaluated by reference to the proportionality of the same.... international relocation cases engage Arts 6 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950 [2017] 1 FLR Ryder J Re F (A Child) (International Relocation Case) (CA) 991 (European Convention).

And at [34]

“Section 1(2A) and 1(2B) of the CA 1989, as inserted by the Children and Families Act 2014, are as follows: ‘A court, in the circumstances mentioned in subsection (4)(a) ... is as respects each parent within subsection (6)(a) to presume, unless the contrary is shown, that involvement of that parent in the life of the child concerned will further the child’s welfare ... In subsection (2A) “involvement” means involvement of some kind, either direct or indirect, but not any particular division of a child’s time.’ [35] These provisions like s 1(3) are not directly applicable to s 13 of the CA 1989 applications but I have no doubt that they will in future heighten the court’s scrutiny of the arrangements that are proposed by each parent.”

The Evidence

21. The hearing was conducted in person, as the Court had previously directed. I heard evidence over four days: from Emma Huntington, Cafcass officer, A’s maternal grandmother, the mother, the father, the paternal uncle, the father’s sister-in-law, and the father’s sister. The last two witnesses gave evidence by video link. The maternal grandmother required a Slovakian interpreter, the paternal uncle and paternal aunt required an Arabic interpreter. I have been provided with medical and police disclosure and many printed text messages between the parents. The mother invites the Court to make five specific findings of violence and abuse perpetrated by the father as set out in a Scott Schedule. The father seeks three specific findings of abuse, violence and fabrication of allegations of abuse by the mother set out in his own Scott Schedule. I have been assisted by thoughtful submissions from both Counsel. I am grateful to all concerned for the careful preparation of this case and for the efforts made to ensure an effective hearing notwithstanding the practical difficulties created by the current Covid-19 pandemic. I am also grateful to the parties who conducted themselves with dignity throughout the hearing.
22. Prior to conducting a welfare analysis, it is necessary to make findings of fact about contested matters that will affect that exercise, including the findings sought by each party in their respective Scott Schedules. The burden of proof is on the party that makes the allegation, and the standard is the civil standard on the balance of probabilities. I must make my findings based on the oral and documentary evidence presented to me and not speculate on evidence that might have been given but was not. I remind myself that a finding that a party has lied about an issue relevant to an allegation made against them does not provide direct proof that they are guilty of the allegation – see *Re: H-C (Children) [2016] EWCA Civ 136*, per McFarlane LJ at [99]-[100]. There may be

reasons other than their guilt why they have lied either in statements outside court or at the hearing itself.

23. The mother has made eight witness statements in these proceedings, one to the police, and gave oral evidence for several hours before me. I found her to be articulate and perceptive. She appeared to me to have reflected on past events and to have become a self-aware woman who now has clear convictions about what is in her daughter's best interests. She frankly accepted many of her own shortcomings, such as her having sworn and shouted at the father on many occasions, and her vulnerabilities, such as her recently fragile mental health, her desperation to hold on to the relationship in the past, and her jealousy of the father's contact with other women. She appeared to be open to criticism whilst steadfast in her goal to begin a new life for her and A in Slovakia.
24. She told me that she was brought up in Slovakia and had a good relationship with her parents but left for England, where one of her two sisters already lived, without completing her further education, in order to seek out new opportunities. She obtained work as a waitress. She met the father and fell in love with him. The father told her about his faith, and she wished to explore it and ultimately to adopt it because she wanted to be the kind of woman he wanted her to be. It was his expectation that she would convert, she said, and she did convert to Islam on the day of their religious marriage ceremony.
25. After her conversion and the marriage, the dynamics of their relationship began to change. The mother told me that the father was *"always very pushy about what to do, what to wear. I thought he was helping me to be a good person, a good Muslim, and I tried my hardest to be that way. But it all got too much and out of control. If I didn't like something he would say if you do not like it, you are not the woman I want to be with. I tried to study harder ... He would say do it, otherwise I leave.... It was his way or no way."*
26. The mother said that the father urged her to change jobs. As a waitress she served non-halal food and alcohol. He thought she was flirting with male customers. Accordingly, she changed jobs to become a receptionist. Even then, she told me, the father was unhappy with her wearing lipstick, a uniform that he felt was too revealing, and her relationships with male colleagues.
27. She knew that her parents did not approve of her relationship with the father because he was nearly twice her age and came from a very different culture and background. The mother and father agreed to keep their private matters to themselves and not to involve others – the mother withdrew from her relationship with her parents. That withdrawal and the change of jobs led to the mother becoming increasingly isolated. There were also, she alleges, incidents of violence against her by the father which I shall address later in this judgment.
28. After A's birth, as already noted, the mother suffered complications. She was away from her new baby for much of the first few weeks of her life. She then suffered from low mood. On 16 April 2019 she and her husband attended her GP who noted postnatal depression and offered antidepressants. The mother declined but two days later re-attended and was prescribed Sertraline 50mg one each day. She told me that she chose

not to take them. She did self-refer to Talking Therapies and had some telephone sessions.

29. The mother accepted that she had had thoughts of ending her own life but says she would never have acted upon them. She accepted that she sometimes said that she was thinking of killing herself as a way of attracting attention. She denied ever having taken an overdose. She denied ever having said that she would kill or harm A.
30. The mother told me that she had a lovely holiday in Algeria with the father's family before going to Slovakia with the father and A in October 2019. She had had a difficult year since A's birth. Her relationship with the father had become "toxic" but she had become highly dependent on him – she was isolated in England, she was depressed, and she was financially dependent on him. Even though he had assaulted her and was controlling of her behaviour and activities, she felt she needed him and wanted to keep the relationship going.
31. It was always planned, she told me, that whilst the father had to return to England for work after about a week, she and A would stay in Slovakia for another two weeks or so. On the day of the father's departure he told her that he regarded their relationship as over. I have been provided with many text messages from about that time. She understood the father to be offering to support her to stay with A in Slovakia where he felt her condition would improve with the support of her family and were she to take medication. She tried to convince him to give the relationship one more try but he was adamant that it was over. A family meeting, conducted by video call was held on 2 November 2019, at which she understood that it was agreed that she would stay in Slovakia with A. She was later served with the father's application for summary return on 22 November 2019, but she and the father arranged to attend mediation in England. She believed that this was to avoid involving the court and would help to sort out the detailed arrangements about contact and so forth. The father wanted her to bring A to England when the mother came over, but she did not think A would have anywhere to stay when she and the father were at the mediation, so she left her with her mother in Slovakia. She came to England on 26 November, met the father for discussion over a coffee on 27 November, and attended the mediation on 28 November during which the passport order, obtained without notice, was served on her.
32. The mother told me that she has had a very difficult year since being compelled to remain in England. She was separated from A for an initial two weeks. Since being reunited in England she has been alone with A, she has very few people she knows, and no close friends, here, she has felt financially very vulnerable. The father has provided no financial assistance for the past five months or so. In May 2020 the mother was prescribed 50mg of Sertraline (increased to 100mg in July and 150mg in September).
33. The mother longs to be able to return to Slovakia with A. She and A would have accommodation at her parents' house and benefit from their emotional and financial support. She considers that her mental health would be likely to improve and that she could enjoy some better times with A whilst her daughter is still an infant. She wants A to experience being with a mother who is not depressed, lonely and vulnerable. She told me that she regards it as very important that A has contact with the father. She would support her daughter to speak English. She practised the Islamic faith herself and believes that, whilst there are very few Muslims in Slovakia, there is no more prejudice

against them than there is in England. She would be happy for her daughter to learn about Islam from the father, and for him to take A to Algeria to see his family there, when A is a little older.

34. The maternal grandmother appeared to give straightforward answers under cross-examination. Both she and the mother were frank about a difficult period in their own relationship from the time when the mother started her relationship with the father, until the final breakdown of that relationship in late 2019. The mother had decided not to share with her mother her concerns about her relationship with the father, his behaviour toward her, or her post-natal depression, but the maternal grandmother could sense that something was wrong. This put a strain on their relationship. Nevertheless, the maternal grandmother came to England during the first six weeks of A's life to provide help whilst the mother was suffering from complications and had to be admitted to hospital. The maternal grandmother has had health problems of her own with a diagnosis of breast cancer which has required repeated treatment. She said that she was not receiving treatment presently.
35. The maternal grandmother lives with her husband who works for a transport company and as a self-employed mechanic, in a large house. No-one else lives there presently. There are two lower floors that are unoccupied and would be suitable for the mother and A. They live about 45 minutes east of an airport that has direct flights twice a week to Luton Airport, and within a three hour drive of the capital, Bratislava. Her sister owns a property five minutes from her own where the father could stay on visiting A in Slovakia, alternatively there are plenty of reasonably priced hotels in the vicinity. She told me that she and her husband would give full support to the daughter and A and would not charge rent. I have seen photographs of the accommodation which is in an attractive rural setting but close to a town. Her evidence was that the two lower floors have been unoccupied for decades, but the photographs show them to be decorated and furnished.
36. The maternal grandmother told me that after the father had left Slovakia on 21 October 2019 he wrote a text to her, a translation of which is at C113 of the hearing bundle: *"send me a bank account number in Slovakia. I am transferring money to you every month for [mother] and [A]. I want to continue to support them, but she is more than welcome if she wants to come back and live in England..."* A few days after the father's departure, the mother opened up to her own mother about everything that had happened. She showed her photographs of injuries she said she had sustained at his hands. This released the tension from their own relationship and the maternal grandmother has continued to be very supportive to the mother and A.
37. The maternal grandmother brought A back to England to comply with the court's order. She sought to supervise contact and manage handovers in December 2019 and January 2020, in tense circumstances and even though she did not speak Arabic or English. On one such occasion on 14 December 2019 the father was due to return A to the mother's flat and to leave by 16.00 hrs. He appeared to the maternal grandmother to be lingering and not willing to go. She struggled to communicate with him and called the mother on her mobile phone to explain what was happening. She says the father tried to grab the phone and it fell to the floor. The mother told me that she tried to call back but could not get through, so she called the police. This was all in the presence of A. The maternal

grandmother gave a statement to the police. I have seen short video footage from the father's phone which shows him in a somewhat agitated state, complaining about the actions of the maternal grandmother. This may seem to be a trivial incident about which to call the police, but in context the maternal grandmother's concerns were understandable. She was in a foreign country, alone with A and the father, whom she had been told could be violent and who did not seem to her to be keeping to the contact arrangements. She had no shared language with him. He caused her phone to fall to the floor. He was agitated as his own video footage shows. Notwithstanding this incident the maternal grandmother went on to facilitate further contact between A and the father.

38. The maternal grandmother is a Catholic, her husband an evangelical Christian. She told me that there are very few people practising the Muslim faith in Slovakia. She said that she and her husband had raised their own daughters to make their own minds up about religion. I was struck by how affectionately the maternal grandmother described A and her relationship with her. She is clearly a loving grandmother who has raised three daughters herself and has the emotional and financial resources to be able to offer support to the mother and A.
39. The father was a talkative witness who tended to respond to a direct question by giving a lengthy speech of self-justification. He told me that the first years of his relationship with the mother were happy ones – they enjoyed many activities together and although there were “ups and downs here and there” there were no significant problems. It changed after A was born. This was due to the mother's depression. He said that he had not sought to control the mother and that her conversion to Islam was purely her choice, although he did say that it was something he expected her to do.
40. I heard from the father's sister by video and with the aid of an interpreter. She gave long and discursive answers to straightforward questions. That made life difficult for the interpreter and, together with some technical difficulties, this led to her evidence taking a long time to complete. She went out of her way to say that she was not taking sides and that she loved the mother as a sister, but her evidence, like that of the other members of the father's family, was wholly one-sided. Her potentially important evidence that the mother had confessed to her to self-inflicting the injuries on 9 March 2018 was undermined by the fact that she gave oral evidence that the mother had been referring to knife wounds to her wrist and abdomen/rib-cage to which there is no other reference either in this witness' evidence or elsewhere. Her written evidence that the mother had made a threat to kill A at the family meeting on 2 November 2019 (as well as to her privately) [C372 at para. 13] was not supported by any other evidence, not even by the father who participated in that meeting. She was not an impressive witness and I was not assisted by her evidence.
41. The paternal uncle (father's younger brother) gave evidence. He had a pleasant demeanour but was clearly determined to give absolute support to his brother and no credit at all to the mother. His account of the father's arrest in March 2018 was that it was all due to the mother having fabricated an assault on her, and the fact that his brother had not been charged showed that the allegations had been untrue. His evidence was partisan and not helpful to the court.
42. The father's sister-in-law gave evidence. She was clearly a nervous witness reluctant to give any specific answers to questions. She told the court that she had not heard

arguments between the mother and father when she, her husband and they had all lived in the same flat. Her statement says that she would sometimes hear the mother shouting and screaming at the father. When reminded of that, she said initially that she heard the mother crying in her room. Belatedly, she added that she had heard her shouting. She denied knowing the father now had a new partner (whom he told me has had a baby (not his)) and denied the mother telling her anything more about what had happened on 9 March 2018 other than that she had bruised arms due to being held. I am afraid to say that I am unable to give any credence to what this witness told the court. I cannot speculate as to the reason why, but she was clearly unwilling to tell the court all that she knew.

The Alleged Wrongful Retention in Slovakia

43. Having carefully considered the text exchanges and witness evidence, I find that the following sequence of events occurred in October to December 2019:
- i. The mother, father and A travelled to Slovakia to stay with the maternal grandparents on 16 October 2019.
 - ii. It was always intended that the father would return to England after about one week, whereas the initial intention was that the mother and A would remain in Slovakia for a further two weeks or so.
 - iii. The father informed the mother on leaving Slovakia on 21 October 2019 that their relationship was over.
 - iv. The father offered financially to support the mother staying in Slovakia with A by paying monthly amounts to the maternal grandmother. He wrote to her by text saying that he might move to Algeria.
 - v. The father's family learned of the end of the relationship and a family meeting was arranged for 2 November 2019.
 - vi. The mother opened up to her own mother about the state of the relationship, her depression and past domestic violence she said had been perpetrated by the father.
 - vii. The mother sought a reconciliation. The father was initially determined to end the relationship. He clearly envisaged that the mother would remain in Slovakia with A. Indeed, he told me in Court that he expected the mother to stay for one to two months at least. He offered to send A's clothes and other belongings to Slovakia.
 - viii. At some point in early November the parties each changed their position. The mother began to accept that the relationship was over and that she and A would benefit from being with her family in Slovakia. The father, on the contrary, decided that he did not want to allow the mother never to return to England with A. He therefore decided to insist on them coming back – a complete *volte face*. Text exchanges on 5 November at [E256] and following pages, show that the father had spoken to a client of his who was a solicitor. He began to talk about court proceedings and not “giving up” on his daughter; “*by law u don't have a right to keep her there without my permission.*” [E259].

- ix. By 11 November, the father was making his new view clear: he did not agree to A being kept in Slovakia. His application for summary return which was served on the mother on 22 November 2019.
 - x. The parties agreed to a mediation in England to take place on 28 November 2019.
 - xi. The father obtained a without notice passport order on 27 November, executed on 28 November during the mediation.
44. It is quite evident that the father misled the court in his very first statement in these proceedings when at paragraph 10 he said: “*On 28 October [the mother] told me that she had decided that she would stay in Slovakia with A and would not be returning. I was so upset and told her that she must come back.*” In fact, the text evidence and witness evidence demonstrates clearly that as at 28 October 2019 the father had ended the relationship, expected the mother to stay with A in Slovakia for at least a month or so, and that the mother was still seeking a reconciliation. He also told the court at paragraph 7 [C3] that although he returned to England on 21 October 2019 the mother “*agreed that she would return the following week*”. This was not true. At the time he left Slovakia and during the days afterwards, he told me, and the text evidence confirms, that he expected the mother to stay with A in Slovakia for several weeks at least. He selectively exhibited parts of text exchanges – for example he exhibited a text from the mother timed at 9.48 pm on 27 October without including the preceding exchange in which the mother referred to “*the time you hit me first time*” and sent him a photograph of her bruised arm and shoulder that gave the proper context for her comments. The mother exhibited the fuller exchange to her first statement. The father then exhibited the same fuller exchange to his third statement, showing that he had always had the fuller exchange in his possession.
45. The father’s first statement was the only statement from the parties before the court when it made a Passport Order at a without notice application on 27 November 2019. It seems to me to be unfortunate that a mediation session was used as the opportunity to serve a passport order however the Court had been informed of the mother’s very recent arrival in England and that she and the father would be attending mediation with Thames Valley Mediation the following day. Nevertheless, as noted, the father’s statement – the only statement before the court on 27 November - was misleading in material respects. I cannot say whether the Court would still have made the passport order had his statement not been misleading, but I do take into account his failure to be candid and truthful in that first statement when considering his credibility more generally.

Allegations of Violence, Abuse and Fabrication

46. I am invited to make findings as set out in the parties’ respective Scott Schedules. In considering the allegations made I have considered all the evidence in the case, not just the parties’ own evidence. I take into account the evidence of other witnesses, medical records, police disclosure, and photographs. I have also been provided with text messages. These do provide important evidence for the court to consider but printed text messages do not always reveal the context in which they were sent. The parties

may have had discussions alongside the messages which have not been recorded. Texting is a form of communication that often relies on a tacit understanding between the texters which they shared at the time, but which is not fully understood by those reading the texts months or years later in a courtroom. Many text messages are written hurriedly, sent and received out of natural order, and are not checked before sending. Texts sent in the heat of an argument may not represent the true, settled views and sentiments of the texter.

47. Ms Huntington reported that a Family Support Worker Sarby Lakhani had worked with the mother who had reported experiencing domestic abuse perpetrated by the father. Ms Lakhani had made telephone contact with the father who had denied the abuse. Ms Huntington told me that Ms Lakhani told her that in her view the father did not present in a way that she would expect of a perpetrator of domestic violence. I respect the fact that Ms Lakhani is experienced in the field of domestic violence, but I do not believe it is helpful to have any pre-conceived ideas of how a perpetrator of domestic violence would present. I approach the determination of findings of fact on the evidence before me.

48. The findings that the mother invites the court to make are:

- a. *On 11.07.17 the mother was upset because she had been at home all day whilst the father was out with friends. The father was upset with the way the mother spoke to him on this occasion and hit her on the top half of her body.*
- b. *On 09.03.18 the father kicked the mother on her shin, punched her arms and mouth, put his hand around her throat, took a knife to her finger and put a pillow over her face because he was angry that friends were messaging her. During this incident the father hit the mother with a belt and a mobile phone charging cable.*
- c. *Around mid-end January 2019 the father took the mother by the neck during an argument about A's name. The mother was holding A at the time.*
- d. *On 20.07.19 whilst on holiday in Portugal during a discussion about their relationship the father became angry, slapped the mother and pushed her causing her to fall to the floor.*
- e. *On 13.10.19 the father became angry with the mother when she asked for his help to cook his meal. He called her "useless", shook her, put her up against the bathroom door and slapped her face. When the mother attempted to call the police, he grabbed her phone and threw it violently on the floor causing it to smash.*

49. The findings that the father invites the court to make are:

- a. *M would frequently shout and swear at F at times would hit/punch F from May 2017 to December 2018 (increasing in frequency to every 2-3 days in Feb/Mar 2018 but thereafter reducing in frequency). F only seeks a finding in relation to M's behaviour during this period (i) in response to M's reliance upon false allegations she made against him in March 2018 when her colleagues phoned the police. F seeks a finding that the domestic incident on 9th March 2018 was one of those occasions when M assaulted him when he tried to end their relationship, but was a one off incident in that F had to physically restrain M in*

order to stop her from hurting him (ii) in the context of M's behaviour escalating to abusive behaviour towards F.

- b. *The frequency and seriousness of these assaults escalated quite suddenly in February 2019 shortly after A's birth, when M's mood became unpredictable, volatile and extremely aggressive. F alleges that M behaved angrily, aggressively and erratically towards him on a regular basis after A was born, losing her temper not only with him but with A, that M would scream at A and on one occasion shook A in anger. One occasion in Oct 2019 M overdosed with tablets.*
- c. *M has fabricated allegations of domestic abuse against F in response to F not giving his consent/permission to M to relocate to Slovakia with A. Specifically F relies on the following fabricated incidents:*
 - i. *M contacted the police on 5.11.19 reporting that F was abusive towards M on 13 or 14/10.10 prior to the parties going on holiday to Slovakia; that he smashed her phone and hit her and held her by the throat;*
 - ii. *M telephoned the police on 14.12.19 following MGM's complaint that F had smashed her phone on the floor and shouted at her and refused to leave the flat;*
 - iii. *M is relying on the false allegations she made to the police on 10th March 2018 (following her friend/colleague calling the police) regarding a domestic incident on 9th March 2018;*
 - iv. *In her statements to the court on 3.12.19 and 30.1.20, M makes false allegations against the F regarding domestic abuse in Jan 2019, July 2017 and July 2019.*

50. Having considered all the evidence before me, I make findings in relation to all these allegations as follows.

51. I start with the mother's allegation at 48(b) above because it is the most serious allegation that she makes. The mother was cross-examined at length about this incident on Friday 9 March 2018. Her evidence is that the father was upset that she had been given a lift in another man's car. Before going out to Friday prayers, the father argued with the mother and became violent. They were in the bedroom. He went to the kitchen and returned with a large black handled knife which he pointed at her throat as he approached her saying that he would send her to her grave. She put up a hand and her finger sustained a cut. He grabbed her upper arms forcibly and pushed her onto the bed. He covered her face with a pillow. He hit her in the chest. He whipped her legs with a mobile phone lead, and took his belt as if to strike her, but missed. He kicked her legs and left. She went into the hallway of the flat as he was leaving and, leaning with her hand against the wall, left a bloodstain there.

52. There are inconsistencies in the mother's evidence about this alleged assault. I take into account that her first statement was drafted at short notice and with little time for her solicitor to take full instructions. I bear in mind that the alleged assault would have been traumatic for her, she was in a very distressed state at the time as all accounts agree, and it would be surprising if she could remember every detail in precise sequence. Nevertheless, there were some significant inconsistencies:

- a. She mentioned for the first time in oral evidence that she had been punched on the chest on two occasions by the father – on 9th and again on 11th March 2018. I do not accept that evidence. It was not part of her extensive written evidence and she was evasive when questioned about it.
 - b. She was inconsistent about the timings of events from 9th to 11th March, giving different answers at different stages of her cross-examination. She began by suggesting that the assault occurred at about 4.00pm to 5.00pm but later that it occurred before the father went to prayers for about 2.00pm. Photographs were later disclosed with timings on them from her phone, which indicated that the injuries had been sustained by 12.30 pm.
 - c. According to the police disclosure, the mother told the police at the time that the father had “held a knife to her throat”. The account she gave to the court was of the father approaching her with the knife pointed at her throat rather than holding it to her throat.
53. The father’s response to the alleged assault on 9 March 2018 is that it is “fabricated”. He says that the mother was the perpetrator, “punching and hitting out at me”. He accepts that he held her arms in order to stop her punching him and to allow him to get out of the way and leave. In his oral evidence he said that he works as a doorman as well as a personal trainer and he was used to managing people by holding their arms. He was a wrestler in Algeria and teaches boxing. After some hesitation he accepted he was stronger than the mother. He said that they were in the sitting room not the bedroom when they argued. Everything about the mother’s account is wrong, save that he effectively accepts that he may have caused bruising to her arms when he held her.
54. The mother attended hospital with a work colleague on the evening of 10 March 2018. There is a discharge summary at C58. There is no detailed account of the incident in that record but there is a note of bruising to the upper arms and graze to the right knee and “*rib fractures*”. X-rays appear to have ruled out fractures. There is no mention of a cut finger but at C 52 to C56 the mother has exhibited photographs she says were taken at the time, showing bruising to her upper arms, a graze or bruise just below her right knee, a grazed/damaged lower lip, and streaks of blood on a wall that she says came from her cut finger.
55. On the morning of day four of the hearing the mother produced a photograph of a small cut to one of her fingers, and three other previously produced photographs of injuries and blood on the wall of the flat that now had the time of the photograph on them. The photograph showing bruising to both arms was taken on 13 March 2018, the blood on the wall at 12.14 on 9 March and the cut lip and finger at just after 12.30 on 9 March.
56. The father relies on evidence from his sister but whereas in her first statement she states in relation to the incident in March 2018 that the mother later showed her photographs on her phone of blood on the wall “*and said she had just lost control and wanted to hurt herself and die. She said that she had hit herself and hurt herself...*” [para. 9 at C371, in oral evidence she said that the photograph at C55, reproduced with a time at C56a, was not the photograph shown to her by the mother, but other photographs were shown revealing knife wounds to the mother’s wrist and stomach or rib cage. These are not mentioned in her witness statement and there is no evidence from the hospital or

police records of any such injuries. If the mother wanted to fabricate an assault having caused herself injury with a knife as described by the father's sister, and had wrist and abdominal knife wounds to show, she would surely have incorporated them in her fabricated account. If there was a true incident of self-harm with a knife as described but at another time, then surely the father would have been aware of such injuries and/or he would have included this in his allegations against the mother. I can only conclude that no-one, not even the father, was aware of this particular allegation from his sister before she uttered it during the hearing. I do not find it to be in the least credible.

57. The photographs of the bruising to the arms show quite extensive bruising. The photographs are consistent with the mother's account in my judgment, the lighting of the photograph at C53 partially obscures the bruising to her upper left arm, but I am satisfied that it is consistent with the bruising shown at C52. The father accounts for the bruising to the mother's arms as resulting from her holding her to protect himself and to move her out of the way so he could leave the flat. He said that he has worked as a professional doorman and was used to moving people in this way. It would be surprising if he caused bruising as shown in the photographs by moving customers. In any event he could not account for the injury to the mother's leg or the suspected broken rib. The photograph at C54 showing a grazed lip was, said the father a cold sore which had emerged a day or so before 9 March 2018. His brother, in contrast, said the mother often had a cracked or sore lip like that shown in the photograph but that it had not been there on the morning of 9 March. The mother was able to produce evidence that the photograph in question was taken at 12.32 on that day [C55a]. This was not contested. It means that the damage to her lip had very recently occurred. The father's version of events was not consistent with the photographic evidence of injuries sustained.
58. The police disclosure at D23-26 shows that the police were contacted by a "concerned friend" of the mother. Statements were in fact given to the police by two colleagues. They said that they were so concerned about the injuries suffered, and then about the mother not being at work and not answering their messages the following day, that they attended at the parties' flat. They told the police that the father answered the door and was aggressive and intimidating. At court, the father told me that he went to the door when those two women called round, but he did not answer it. There was no conversation, he said. By that time he and the mother had talked and reconciled, and the mother did not want to talk to her colleagues. I take into account that the father has not had an opportunity to test the evidence of these colleagues at court, nevertheless his evidence is at odds with the evidence given by these women to the police on the night in question. It was also inconsistent with unguarded evidence given by the paternal uncle in answer to my questions. He and his wife were in the flat when the police attended and arrested the father. He was also there when the mother's colleagues called at the flat. Contradicting the father's evidence, he said that the father had opened the door and had spoken to the two colleagues of the mother.
59. The mother says, and I accept, that she had not wanted to contact the police. She did not want the father to be in trouble with the police. She wanted to remain with him. The police attended their flat and arrested the father. The mother was extremely upset. The police station was very close to the flat and, having taken the father there, officers returned to speak to the mother. She told them that she did not want to make a statement but did say that the father had assaulted her, causing bruising to her arms and legs, striking a punch to her chest which was painful, threatening to kill her and holding a

knife to her throat. She had pushed him away and the knife had cut her hand. There is no mention of the father holding a pillow over the mother's face. There is no mention of the use of a cable or lead, or a belt.

60. The mother did not want to make a statement and so the father was released from custody. The police referred the incident to the Multi-Agency risk Assessment Conference as a high risk case of domestic violence.
61. The father accepted that he had been upset earlier on 9 March 2018 because the mother had received a lift in the car of a male colleague.
62. By text messages at [C463] on 12 March 2018 the mother told the father that she had thought she was going to die, she was in pain and she had bruises everywhere. The father's texts in sequence read, "*I'm always clam. U pushed me over my limit. That is why I want to rain from u* [he said in evidence that he meant to write "run"]. *I feel bad about myself.*"
63. In assessing the credibility of the parties I take into account my findings in relation to the alleged wrongful retention of A in Slovakia and the father's misleading statement to the court dated 19 November 2019 as set out above.
64. Having considered all the evidence I am quite satisfied that at about midday on 9 March 2018 the father assaulted the mother during an argument at their home that arose because he was unhappy that the mother had been given a lift by a male colleague. He grabbed her arms causing significant bruising. He punched her chest. He brought a knife into the bedroom and advanced on her whilst pointing it at her. She suffered a cut to a finger from the knife when trying to protect herself. He kicked her legs causing bruising to the right leg just below the knee. He caused minor damage to the mother's bottom lip.
65. These matters are corroborated by photographic evidence, the discharge summary from local hospital Emergency Department, and the police disclosure including the mother's contemporaneous account to the police and that of her work colleagues. The mother's account has been inconsistent about some of the details of this assault and I am unable to find, on the balance of probabilities, that she was struck with a cable, that the father tried to strike her with a belt, or that he held a pillow over her mouth. She has not proved those elements of the assault to the requisite standard.
66. The fact that the mother did not want to make a statement to the police and that she was desperate for the father not to leave her does not cause me to doubt her evidence that he had assaulted her in the way alleged. It is entirely plausible that she should both be assaulted and intimidated by the father, and yet want to hold on to the relationship. Sadly, this is a well-worn path for those who suffer abuse.
67. The father's account does not satisfactorily explain the extent of the bruising to the mother's arms, the bruising to her legs, why the hospital suspected she had a fractured rib, or the blood stain on the wall. It was put to the mother that the photographs were taken on other occasions, for example when she had accidentally cut herself with a knife. The subsequently disclosed timed photographs show that at least some of the photographs including of blood on the wall were taken on the day in question. These

were unconvincing attempts by the father to undermine what is in fact quite clear evidence that the mother sustained multiple injuries on the day in question. The suggestion these injuries were sustained after the mother attacked the father and when he sought to restrain her, is implausible given the variety and extent of the injuries to the mother and the absence of any injury to the father. The father's account cannot be squared with the mother's behaviour – she was persuaded by work colleagues to go to hospital and would not be persuaded by them to go to the police. If the mother wished to fabricate an assault on her as a punishment to him for his threat to leave her, as he believes, she would have been more eager to share her story with others. The father's account involved a significant inconsistency. He told me in clear terms that he did not open the door to the mother's colleagues, but his brother said that he had done. The colleagues told the police that the father had been intimidating when speaking to them. The texts between the parties are consistent with the mother's account but not the father's. The father's texts at C463 reveal the truth – he sees himself as a calm man, but he was pushed over his limit. He would not have written that text if the mother had attacked him and he had simply defended himself. I am quite satisfied that the father lost his temper at about midday on 9 March 2018 and carried out an alarming assault on the mother in their home, causing her injury and emotional trauma.

68. The mother's work colleagues should be commended for taking the care to ensure that the mother went to hospital and that the police were alerted to the incident.
69. The mother gave convincing accounts of the incidents alleged at 48(a), (c), (d) and (e) above. She was able to give fluent and detailed evidence under cross-examination. There is little by way of corroboration save that I note that in text messages, for example at C65, the mother occasionally referred to the father having hit her, and he does not respond with any question, denial or other challenge. In the same exchange, on 27 October 2019, the mother sent the father a photograph of bruising to her upper left arm and shoulder which she suggested he had inflicted after "the first argument". This, she alleges was on 11 July 2017 (48(a) above). The father did not challenge her, but instead said he told her what he expected of her as his wife, and that he was planning on leaving the UK to "move back home".
70. The father's first allegation in his Scott Schedule is that the mother would frequently hit or punch him from May 2017. When asked in cross-examination by Ms Guha when the mother had first been physically violent towards him, he said December 2017. He described her assaults on him as pushing him and holding him, not punching as alleged in the Scott Schedule. In his C1A form details of domestic violence are given stating, "*The respondent started to become verbally abusive towards me screaming and then physically abusive towards me on a regular basis. This started in Feb 2019...*" In his first statement at paragraph 8 the father describes the mother's allegedly abusive behaviour but says that it was "*not at all like this prior to the birth.*" In short, the father's allegations of the mother's violence to him have been fundamentally inconsistent. He accepted that he had not suffered injuries beyond scratches, but nevertheless it is striking that he could not specify any one incident other than his allegation about the incident on 9 March 2018. I have no doubt that he made a specific allegation about that incident to try to deflect the mother's own allegations about his assault on that day.
71. The mother accepted in evidence that she had often sworn at the father, and I am sure that she has raised her voice to him and had many arguments with him. She may have

suffered at the hands of the father, but she was capable of perceiving unfairness and of speaking up for herself. She was not wholly submissive and I am sure that the father disliked this part of her character and tried to control her as I set out more fully later in this judgment. Nevertheless, the mother denied having used physical violence against the father. The father's serious allegations of frequent punching and hitting by the mother lack credibility because his evidence has been so inconsistent and non-specific. The father's brother and his wife lived together for about a year with the mother and father up to the summer of 2018 – yet, whilst they say they heard the mother shouting and swearing, and even though their evidence is unsatisfactory for the reasons already given, it is noteworthy that they have not given any evidence of the mother being violent towards the father.

72. I have already made findings about the father's violent behaviour on 9 March 2018. For the avoidance of doubt I do not accept that his conduct was triggered by the mother being violent to him.
73. I do not accept the father's allegation that the mother shook A. The father uses the slightest pretext to criticise the mother and to seek to exercise control over her. I cannot accept that he saw her shake his daughter but took no action over it or use it against her until these proceedings. The mother strongly and credibly denied the allegation.
74. Similarly, I accept the mother's denial that she took an overdose of 14 tablets in an attempt to kill herself or cause serious self-harm. The father may have misheard the mother saying that she had taken four (which is too many in any event) as "fourteen". The mother accepted that she had spoken (and texted) about having thoughts of killing herself, but that they had been designed to gain the father's attention when he was ignoring her. She said, frankly, "it worked". That is not an attractive admission, but it was at least honest, as I find. I accept her evidence that she had no intention at any time to cause herself serious self-harm or to take her own life.
75. In relation to the father's allegations at 49(c) above, I do not accept that the mother has fabricated the allegations referred to.
76. In conclusion I make the findings of fact which the mother invites me to make set out at paragraph 48(a), (c), (d) and (e) above. I make findings of fact in relation to the allegations at paragraph 48(b) to the extent that I have set out at paragraph 64 above. I do not make the findings the father invites me to make at 49 above.

Other Findings

77. Having regard to all the evidence, and having had the advantage of seeing and hearing the parties give extensive oral evidence at court, I also make the following findings:
 - a. The father sought to exert control over the mother during their relationship. For example, after the mother texted him a photograph of injuries she said he had caused in July 2017 (see above), he replied [C68]

“Only I want to live Islamic live full of respect and dignity, and I live proud of my faith, I want a woman with same thinking, not the one I say wear something under ur knee and argue with me, like I’m wrong, I have to c my wife taken her hijab front of me and I have to accept it like a hypocrite, which the worse think in my faith, so I come to conclusion, we better we split and both of us choose the way we want to live.”

After the incident on the 9 March 2018 and the father’s arrest in the early hours of 11 March 2018, discussed in detail earlier, the mother was fearful of the father ending the relationship. On 16 March 2018 he wrote [C204];

“to go back together u have to wear Conservative way. U have to stop showing any of nigate things and u promise me to stop arguing with me or when I say something to u, have to take it as positive.

U have to stop showing anger to anyone even if they did bad or said something to u.

U have to learn ur faith and read.

U have to change ur number and ur fb [facebook] and ur delete ur snap chat.

No more bad friends.

No more hiding.

No more talking about our relationship to anyone who ever is.

And u have to follow wot I say. U have to stop chatting to any of ur old fd only girls and ur family/

U have to apologise to [his brother and sister-in-law] and tell them sorry for all wot happened and u say them u hope u can work with them...”

The father told me that this was a list of demands that he did not expect the mother to accept – it was a way of ensuring the end of the relationship. I do not accept that. He had, as I have found, carried out a serious assault on the mother. Well-meaning colleagues had tried to look after her interests by reporting it to the police. The mother was very upset that her husband was in trouble. She was at a low ebb emotionally and here was the father, the perpetrator of the assault, laying out his terms for the future relationship. This is compelling evidence of using violence and then emotional control to coerce the mother into acting as he wanted her to act.

Again, on 29 October 2019, after prolonged and anguished text exchanges over the previous day or so, in which the father was repeatedly saying that the relationship was over and that the mother should stay in Slovakia, and the mother begged for a reconciliation, he wrote [E162]:

“OK fair enough we give it a go, u will swear in Quran when u get back u will never get angry or thing negative. And u have to practice ur faith much better. And try to learn more. And when I say something never take it to the wrong way. But if the situation goes back to this square than I have to move on. Coz no more excuses left ... the reason I’m doing this coz my dad said give her another chance. Coz my family likes u.”

This is another example of the father trying to impose expectations and rules on the mother when she was emotionally vulnerable in order to allow him to have

his own way. This is a form of emotional abuse. The father's conduct, including acts of violence, had contributed to the mother's vulnerability, and he then exploited that vulnerability to seek to control her actions and behaviour to suit him.

Under PD12J "*controlling behaviour means an act or pattern of designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.*"

In my judgment as well as being a perpetrator of domestic violence against the mother, the father's conduct has fallen within that definition. He has been a perpetrator of domestic abuse as defined in paragraph 3 of the practice direction.

- b. The mother did suffer from depression after the birth of A. She had an unexpected Caesarean section, A was a few weeks premature, the mother suffered complications requiring hospital admissions, she was apart from her new-born baby for prolonged periods, she reflected on the fact that the father had assaulted her in 2018 and she had not dealt with it as she should, she felt under his control and isolated. The medical disclosure does not suggest that she had severe depression. She was prescribed a common anti-anxiety drug at a standard dose and I accept that she chose not to take it. She had a short course of talking therapy. Her depression has deteriorated in 2020, such that she returned to her GP, was prescribed a higher dose of Sertraline and continues to take it. Her GP labels her current condition as "depressive disorder" and the GP's notes show that it is due to her current situation – the proceedings, the delay due to Covid-19, financial hardship and the father's conduct.
- c. I am satisfied on the evidence that the mother has never attempted to take her own life and has not taken an overdose of tablets with a view to self-harm. The father's evidence to me that the mother had twice taken an overdose did not withstand scrutiny. His account of saving the mother's life by making her vomit after she had taken 14 tablets, was not credible. The mother said that she had taken 4 paracetamol for a bad headache and the father was concerned that it would affect her breast milk. He gave her something to drink to make her vomit. I accept the mother's version of events. The father sought to bolster his case on this issue by calling his sister. Her evidence was in general unsatisfactory and inconsistent. In relation to this particular issue, she said that the mother had told her that she had taken an overdose to try to kill herself, but the text she exhibited to prove this assertion is a question from the mother as to whether the father had ever told his sister that she had taken an overdose – an allegation which of course she denies.
- d. The only evidence that the mother has ever had thoughts of harming A comes from the paternal aunt whose statement of 8 July 2020 says at [13] that during the family meeting on 2 November 2019, the mother "*was trying to force [the father] to reconcile with her and was threatening to kill herself and A if he did not.*" The father has never made that allegation even though he participated in

the same meeting. The mother flatly denies it. The paternal aunt's evidence on this issue is not credible and I do not accept it.

- e. The father's response to the mother's post-natal depression was unsympathetic. The evidence shows that he viewed it primarily through the prism of how it affected him and his own peace of mind. On his behalf it is said that, to the contrary, the father caringly offered to support the mother to stay in Slovakia to get well again and encouraged her to take her medication. In fact, he was (initially) encouraging her to stay in Slovakia so that there would be a clean break in the relationship. His repeated texted references to the mother taking medications appear to me to have been designed to remind her of her own vulnerability rather than a genuine wish to see her post-natal depression.
 - f. On 14 December 2019, the father was in the mother's flat with A and the maternal grandmother slightly over the time allowed. The maternal grandmother had no shared language with the father and was concerned that he was not leaving. I am satisfied that the maternal grandmother's account of this incident, as set out above, is correct and I find accordingly. The father's video footage taken on his own device at the time does not cover the whole incident. It does show him to be frustrated and upset, and the maternal grandmother asking him to go.
 - g. On 7 September 2020, the mother became ill and called on the father to look after A. He responded quickly and the mother commended him at court for his actions and help that day.
 - h. On 12 September 2020, following contact with the father, A was returned without her necklace. The necklace was of sentimental value to the mother and she asked the father for it. She felt she had to chase him for it and that he was deliberately delaying returning it, although he had said he would. She saw this as another attempt to exercise control over her and she reported it to the police. She accepted in oral evidence that she overreacted.
78. It follows from my findings of fact that the father's evidence has been substantially dishonest. With the help of his witnesses he has presented a case that has maligned the mother as an aggressive, even violent woman, rendered even more unstable by severe depression, controlling of him, and who has attempted suicide, shaken A and threatened to kill A. I reject all those allegations.

Welfare Analysis

79. Much of the focus of this judgment so far has been on A's parents. The findings I have made do form part of the basis on which I must consider A's welfare, but they are not in themselves determinative of the applications before me. It is a striking feature of this case that notwithstanding the hostility between the parents, and the history of abuse that I have found, the father clearly has a good and caring relationship with A, the mother acknowledges that, and the mother has honoured the contact arrangements, and even agreed to increased contact with the father. I have no doubt that both parents care deeply

about their daughter. So too do members of the family on both sides. She is a much-loved little girl.

80. Ms Huntington rightly did not wish to trespass into issues of fact. She was troubled by the allegations of violence and abuse, but she was unable to make a firm welfare recommendation on the relocation application in the absence of findings of fact on the allegations of abuse and fabrication.
81. Were the court to make findings as invited to by the mother in her Scott Schedule, Ms Huntington recommends that the father should undergo a Domestic Abuse Perpetrator Programme. This would last for about 26 weeks. She had been opposed to overnight contact with the father but accepted that it was difficult to “row back” on such contact now since it had started. Having made the findings above, I must have regard to PD 12J. When deciding the issue of child arrangements, I should ensure that any order for contact will not expose the child to an unmanageable risk of harm and will be in the best interests of the child. I am quite satisfied that contact with her father will not expose A to a risk of harm. The father loves A and there is no evidence that he has ever harmed her or, during contact, exposed her to a risk of harm. The mother makes no such case, and Cafcass has not raised concerns that A is at risk of harm from contact.
82. The risk of harm to A is from the father’s abuse of her mother. Contact can provide an opportunity for conflict between the parties and for the father to seek to exercise further control over the mother. In order to help manage that risk I accept the recommendation that the father should undergo a DAPP. DAPP reports should be made available to the mother and to the courts in Slovakia on any further child arrangements applications. However, both parties’ proposals include overnight contact with the father in England. Such contact has been taking place and it is of benefit to A - I am satisfied that it is safe and will be of future benefit to A for such contact to continue.
83. The mother’s proposal would bring some significant benefits to A. Her mother has been her main carer. A strong and healthy mother-daughter relationship is vital for meeting A’s physical and emotional needs. The mother’s mental health is suffering because she is currently compelled to live in England with financial insecurity, a degree of social isolation and no family in the country other than her ex-husband and his relatives who are hostile to her as their evidence in support of the father’s allegations that she has fabricated evidence of violence against him demonstrates. In Slovakia she would be with her parents, in the town where she grew up, with suitable accommodation provided at no charge to her. She is convinced, and I agree, that a move to Slovakia would be likely to have a positive effect on her own mental health. This will be an important benefit for A. The mother feels that the events since A’s birth have deprived her of a relationship with a contented mother – she wants to make up for that loss by spending time with A in happier circumstances.
84. The mother’s relocation with her to Slovakia would reduce the opportunities for the father to continue to exercise control over the mother. His violence towards and abuse of the mother in the past creates a risk that if perpetrated again in the future it would cause harm to A. Although the parents would not be living together under any of the proposals for me to consider, the greater separation between the parties that relocation would create, would help to protect the mother from the harm caused by the father’s controlling behaviour. This lowers the risk of harm to A and be of benefit to her. First,

her mother would be able to flourish as the suffocating influence of the father on her is further weakened. A would enjoy a relationship with a mother who is freer from the harmful effects of the father's control over her. Second, A will be less likely to witness or be affected directly herself by the behaviour of her father towards her mother, a model of behaviour to which it is not in her best interests to be exposed.

85. Relocation as proposed by the mother would, I am quite satisfied, amply provide A's physical and educational needs and development. She would have a secure and substantial home, in an area with access to town life as well as beautiful countryside. I am assured and accept that there is access to suitable education. The mother would be able, in due course to obtain employment given her personal and language skills, her experience in waitressing and reception work, including at a managerial level, and the opportunities for work in the tourist industry as well as with her own father.
86. A would benefit from being in the same house as her maternal grandparents. I have not heard evidence from the maternal grandfather, but the maternal grandmother gave oral evidence in Court and I have no doubt that she loves A very much, is a capable carer and will give all the support to the mother and A that they need. There are many members of the wider family on the maternal side in the area.
87. Relocation would involve a change in environment for A. She has been to Slovakia and the house where she would live, but only for a few weeks and not for nearly a year. She has managed several holidays, to Algeria and Portugal as well as Slovakia, during her short life, but otherwise she has lived in England. However, she is very young, she will be familiar with her Slovakian grandparents, particularly the maternal grandmother, and so the change involved in moving to Slovakia should be a comfortable one for her. The most important factor is that A would continue to live with her mother as she has done, with contact with her father, as she has also enjoyed to date.
88. The impact of relocation on A's contact with and relationship with her father is a most important consideration. Notwithstanding the findings I have made, the father has a positive relationship with A, she is confident in his company, and it is accepted by all that it is crucial to her welfare that she continues to enjoy a strong relationship with him. Regular video contact is beneficial but continuing direct contact with her father is also essential to A's welfare. Contact with the father will also help to ensure that she can gain knowledge and experience, as she matures, in the Muslim faith. This is part of her heritage and it is in her interests to know about it. I must take into account A's age, sex, background and any characteristics of which I consider relevant: the Muslim faith of her father is an important aspect of her background and relocation to Slovakia would tend to weaken rather than strengthen that link to his Muslim faith even if the father takes steps to teach A about it as she grows during contact or even on holidays to Algeria in the future.
89. The same point should be made about A's ability to speak English. There is undoubtedly a risk that with relocation A might not gain the ability to speak English, which is vital for her to communicate with the father. The mother speaks English with A now when they are outside the home. I expect her to commit to continuing to help her daughter to learn English in the future, and to commit to allowing her daughter to learn about Islam.

90. The mother's proposal is for contact one weekend per month in England, together with a further weekend per month in Slovakia if the father wishes to visit that country. Ms Huntington is sceptical about the practicality of this arrangement. She states in her second report at para 29 [D111]:

“[the mother] has proposed in her most recent statement that she would return A to the UK for monthly spending time arrangements with her father and whilst this is a positive gesture, it is likely to be difficult to maintain in the long term and the current pandemic increases difficulties and restrictions in international travel.”

91. I should also bear in mind the current Covid-19 pandemic. It has not prevented the maternal grandmother from travelling to England from Slovakia and back, but the father would currently have to “quarantine” on return from Slovakia. The pandemic will be likely to provide a barrier to contact across international boundaries at least for the next few months.

92. Mindful of those reasons to be cautious I am nevertheless satisfied on the evidence given at the hearing before me that:

- a. The mother genuinely wishes such contact to take place. Not only has she told me that, and I accept her sincerity, but she has demonstrated a steadfast commitment to contact continuing, and increasing, even in very difficult circumstances. It might be said that she has done so only to impress the court, and to hide her real intentions for once relocation has occurred, but that is not the judgment I make. She has been committed to A having contact with her father even during acrimonious litigation, against a background as I have found on the facts, and when the Cafcass officer herself has had significant reservations about the level of contact. Her conduct to date is good evidence that she has a genuine commitment to contact continuing.
- b. The mother's parents' house in Slovakia, where she would live, is reasonably close to air links to England. From the evidence produced to me I am satisfied that if, as is proposed, the parents share travel costs for the purposes of contact, then it is a perfectly feasible that contact can in fact take place in England, once a month as proposed.
- c. The father is reluctant to travel to Slovakia for any additional contact. I accept the mother's evidence that there would be suitable accommodation available for him, but the father is concerned about the reception he would have from the mother's family and in the country itself. There are very few Muslims in Slovakia. However, he has not suggested that he experienced any hostility on account of his appearance or faith when he did visit Slovakia, I have no other evidence to suggest a racist culture there, and I am sure that the mother's family will respect the mother's wishes that A has ample contact with the father including, should he chose to visit, in Slovakia. It may be that his visits to Slovakia will be less frequent than once a month, but such additional visits, on top of once a month weekend contact in England would be sufficient, with

indirect contact, to maintain the relationship between father and daughter. In addition, more substantial holiday visits to England can be arranged in the future as A matures, perhaps amounting to a further two weeks a year – I would hope with the agreement of the parties.

- d. The current restrictions during the pandemic are not a sufficient reason to postpone making a decision on this application, nor in my judgement to postpone any relocation should that be permitted.
93. Although contact has increased in the past few months, it does remain a source of significant conflict between the parents which will soon be noticed by A if she does not already do so. The conflict between her parents is in any event an unhealthy aspect of life for A. Relocation to Slovakia will inevitably reduce the number of handovers and that might, at least in the next year or so, be of benefit to A.
 94. A sees very little of the paternal side of the family at present even though she has been in England since December 2019. Her mother has few friends here although she has formed a friendship with a man called C. Relocation would not involve a loss to A of an active social of family network.
 95. The mother has suffered from post-natal depression and more recently a depressive disorder. I am nevertheless satisfied that she is perfectly capable of meeting A's needs were they to relocate to Slovakia. The father has not suggested that the mother is not suitable to be A's main carer, indeed he suggests it as part of his proposal. In my judgment the mother would be better able to meet A's needs after relocation because she would be freer from the influence of the father which has been a cause rather than a protection against her difficulties.
 96. Were the mother and A to remain in England then the main advantage to A would be that regular contact with her father would be facilitated. He would be nearby and there would be minimal costs involved in contact taking place once a week. There would be more contact than there would be were A to be in Slovakia (although there would be more opportunities for contact to provide a source of conflict between the parents). A would benefit from regular contact with her father. She would be more likely to have a stronger connection to her father's heritage and his Muslim faith. Her English language skills would be likely to develop so that communication with the father would be easily maintained. She would have access to a good education and health system.
 97. Set against these benefits would be the impact on the mother, and its effect on A. As Ms Huntington notes in paragraph 31 of her second report at [D111]:

“Central to [the mother’s] motivation to relocate with A to Slovakia is the reported combined effect of the instability of her circumstances in the UK and the impact of what she reports as the hostile, undermining and controlling behaviours of [the father]. Notwithstanding the fact that [the mother] has secured her status to remain in the UK and is now in receipt of benefits, she depicts an uncertain and perilous position here, where she is reliant on [the father] to continue to act as a guarantor for her accommodation, and has experienced significant financial hardship in the absence of financial maintenance from him. [The

mother] *has questioned how she would survive if she were required to stay in the UK*”

98. The mother’s rental agreement, due to end in or about July 2021 depends on the father standing as guarantor. Therefore, she would have a continuing dependency on the father were the mother to remain in England. However, the mother has been entirely financially dependent on benefits and help from her parents over the past few months and the father has not made any financial contributions at all. To that extent she would be no worse off in Slovakia than in England – and she would be free from the dependency on the father to guarantee the tenancy.
99. The father has no connection with Slovakia whereas mother does have with England. She has few friends here, but she does have some. She would be able to build a social life, having a pleasant personality and good English language skills. She has been able to find work here in the past and should be able to in the future. She would be able to provide for A and help to place her in a social network in England.
100. It is true that the father came to the mother’s aid, and to A’s aid, when the mother became suddenly unwell and needed hospital treatment on 7 September 2020. That was in line with his general willingness to spend time with A. It is to his credit that he helped the mother out on that occasion, but that credit has to be set alongside his abusive behaviour over many months. Nevertheless, the father would be here in England at hand to help the mother to look after A if a sudden need should arise in the future. He would not be so readily available were the mother and A in Slovakia, but the maternal grandparents would be there to assist.
101. Were permission to relocate be refused and the mother had to stay in England with A, there would be a significant risk of the father continuing his controlling, abusive behaviour towards the mother, of her feeling trapped by him, of her continuing to be isolated, away from her family, and of her mental health deteriorating.
102. At the hearing Ms Huntington was asked what her recommendation would be were findings made that the father had been violent and abusive towards the mother as she alleged. She told me,

“I find that really difficult because there are real vulnerabilities re A’s relationship with her father were she to relocate. The impact of domestic abuse on A and her mother is a very significant factor but not the only consideration. However, if findings are made against the father and the mother’s allegations are found to be true and his allegations untrue, that does present a very concerning picture for A and the mother in context of her vulnerabilities and there would be merit in them having a period of reparation in Slovakia, in a secure place where contact could be facilitated in safe circumstances.”

103. Allowing relocation would restrict the father's enjoyment of family life compared with a refusal of permission to relocate. It would mark an interference with his Article 8 rights. On the other hand, a refusal of permission to relocate would be an interference with the mother's Article 8 rights. A's own rights are also engaged but the welfare analysis itself involves a balance of interference with and promotion of her rights. Neither the granting nor the refusal of permission to relocate would, in my judgment, involve a disproportionate interference with the rights of either parent.
104. Putting the parties' competing proposals alongside each other, having regard to proportionality, and keeping firmly in mind that A's welfare is the paramount consideration, I am sure that her welfare is best served by granting the mother's application for permission to relocate. The effects of the father's past domestic abuse compounded by his dishonest evidence about that abuse and his lack of insight into the effects of his conduct on the mother, mean that there would be a significant detriment to A's welfare should the mother not be permitted to relocate. There would be a risk of harm to A were the mother to remain in England. In contrast there would be significant benefits to A from allowing relocation to Slovakia where her mother will be liberated from the worse aspects of the abusive relationship with the father and will have the loving support of her parents and wider family and community. The main risk of permitting relocation is that there will be an erosion of contact and therefore an adverse impact on A's relationship with her father but the mother has honoured and facilitated contact to date in the most difficult of circumstances and that augurs well for future contact provided the father acknowledges his past actions and he commits to making contact a benefit for A rather than an opportunity to undermine the mother.
105. My conclusion is that A should reside with the mother and the mother should have permission to relocate to Slovakia. Contact with the father should take place as the father now proposes until relocation. After relocation contact should be as the mother has proposed. The parties may agree further contact, for example for holiday periods in the future. The only qualification I would make is that if the mother is minded to relocate soon after the making of this judgment, then in the current pandemic it might be appropriate, subject to any submissions from the parties, to have contact for longer than a weekend but every two months until travel restrictions are lifted.
106. Contact arrangements need to be made so that handovers are clearly set out and structured. There is no need for supervision of contact, but some provision should be made to protect against the father removing A from the jurisdiction during those periods when he is caring for her. He has expressed a wish at some points in the past to move to Algeria, he has been dishonest in his evidence to this court, and this gives rise to some concern that he should not be given the opportunity to remove A from the jurisdiction when she is in his care.
107. The parents must share information about A's health, education and welfare. There should be regular indirect contact with the father.
108. Cafcass should make a referral for the father to participate in a DAPP with reports from the DAPP to be provided to the mother and the courts in Slovakia.
109. Permission is granted to the parties to disclose the papers in these proceedings to the court and any lawyers instructed in proceedings issued in respect of A in Slovakia.

110. I invite the parties to agree a detailed consequential order. In default of agreement I shall list the matter for further submissions on the substance of the final order.