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IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 14 February 2023

IN PRIVATE

**IN THE MATTER OF THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS
OF INTERNATIONAL CHILD ABDUCTION
AND IN THE MATTER OF THE CHILD ABDUCTION AND CUSTODY ACT 1985**

IN THE MATTER OF Y (A CHILD) (ABDUCTION: ROMANIA: ART. 13(b))

Before:

MR DAVID REES KC
(Sitting as a Deputy Judge of the High Court)

(In Private)

B E T W E E N :

L

Applicant

and

P

Respondent

Mr Mani Singh Basi (instructed by Williams & Co) for the **Applicant**
Ms Martha Gray (instructed by Evolve Family Law Ltd) for the **Respondent**

Hearing date: 14 February 2023

APPROVED JUDGMENT

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.

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MR DAVID REES KC:

1. This is an application made under the 1980 Hague Convention (“the Convention”) and the Child Abduction and Custody Act 1985 for return of a boy, Y, to Romania.
2. Y is currently four years old but will celebrate his fifth birthday, next week.
3. The application is brought by Y’s father. The respondent is Y’s mother, with whom Y is currently living in England and Wales.
4. It is common ground that the mother brought Y to England and Wales in September 2022, having been given permission by the Romanian courts to take him on holiday for a month; the father having opposed that order. At the end of that month, the mother failed to return Y to Romania. The application before this court was issued on 5 December 2022.
5. The dispute between the parties is a relatively narrow one. The mother accepts that
 - i) The father has rights of custody in respect of Y.
 - ii) The father was exercising those rights at the time Y was retained by the mother in England and Wales.
 - iii) Y was, habitually resident in Romania at the time he was retained in England and Wales by his mother.
 - iv) Y is being retained in England and Wales without the father’s consent.
6. The mother defends the application on the basis of Article 13(b) of the Convention, that is to say that she argues that a return to Romania would subject Y to a grave risk of physical or psychological harm or otherwise place him in an intolerable situation.

Background

7. The background to this matter can be set out relatively briefly. Both parties and Y are Romanian citizens. The parties’ relationship began in 2011; they married in 2012 and Y was born in February 2018.
8. The mother’s case is their relationship has, throughout, been characterised by serious domestic violence towards her and, on at least one occasion, she believes, to Y. This is vehemently denied by the father.

9. Shortly after Y's birth, the mother was offered a job as a quality specialist in a car plant in England and Wales. The family, that is to say, the mother, the father and Y, moved to the UK in June 2018, and the mother started work the following month.

10. In April 2019, the mother left her job. She left the father and returned to Romania with Y. I will return to the reasons for this move in a moment.

11. The father followed the mother and Y back to Romania a couple of weeks later. The parties reconciled and the family moved into a flat in Bucharest, and the mother got a job there.

12. Later the same year, the mother moved back to her hometown in Romania with Y, having again separated from the father. The father followed her and moved in with mother and Y, again.

13. The parents eventually separated and divorced in 2021.

14. In mid-2022, the mother asked the father to allow her to take Y to England. The father refused and various sets of proceedings were initiated in the Romanian courts. These were, as follows:

(i) An application issued by the father on 28 June 2022 for an order for Y to live with him, for the mother to pay 25 per cent of her income to him, and for Y to spend two weeks per month with each parent.

(ii) An application issued by the mother on 18 July 2022 for full custody of Y.

(iii) An application issued by the mother on 15 July 2022 to take Y to the UK for a holiday from 20 September to 20 October 2022. Permission for that holiday was granted on 17 August 2022.

(iv) An application issued by the mother on 26 September 2022 for permission to permanently relocate with Y to England and Wales. It will be noted that that application was issued before the mother was due to return to Romania with Y, in October 2022. The first hearing of this relocation application was, originally, due to take place on 9 February but it has been

adjourned and I understand that the first hearing is now unlikely to take place until April 2023.

(v) An application issued by the mother on 7 December 2022 for permission for Y to remain in England and Wales, pending the determination of the other matters before the Romanian courts. I understand that this is due to be considered by the Romanian courts next Wednesday – that is 22 February 2023 – but there is a difference between counsel as to precisely what will be considered at that hearing.

15. The father brought these proceedings under the Convention. They were issued on 5 December of last year, and came before Russell J, the same day, when a without notice location order was made. An on-notice directions hearing took place on 14 December 2022, and the application was originally listed for a final hearing on 31 January of this year. However, Y had scarlet fever and the mother was unable to attend and the final hearing was adjourned. The hearing was instead used to deal with various applications concerning evidence that had been made by the mother.

16. The matter comes before me for final hearing today. The father is represented by Mr Basi of counsel and the mother by Ms Gray of counsel. I am grateful to both counsel for their detailed skeleton arguments and their submissions before me this morning.

17. As I have already mentioned, there is no dispute that the mother has retained Y in breach of the father's rights of custody and that at the time of the retention Y was habitually resident in Romania. The issue that I need to decide today relates to the mother's defence under Article 13(b) of the Convention.

The Convention

18. As Article 1 makes clear, one of the objects of the Convention is "to secure the prompt return of children unlawfully removed or retained in any Contracting State". The wrongfulness of a removal or retention is governed by Article 3 which provides that:

"The removal or retention of a child is to be considered wrongful where:

a. It is in breach of rights of custody attributed to a person, an institution, or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and

b. at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.”

As I have already mentioned, it is accepted here that both parties enjoyed rights of custody in relation to E within the meaning of Article 3 of the Convention.

19. The substantive obligation to return is provided for by Article 12 of the Convention. This provides that:

“Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith”.

Article 13(b)

20. The Convention provides for a number of limited exceptions to the obligation to return. These are set out in Article 13. The mother relies on Article 13(b). This provides that:

“Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution, or other body which opposes its return establishes that:

... (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.”

21. In relation to this Article 13(b) defence, there was broad agreement among counsel on the law. Although the parties referred me to a number of authorities, I do not understand there to be any issue as to the approach that I must adopt.

22. Ms Gray, for the mother, referred me to the summary of relevant principles that can be found at paragraph [47], of the judgment of Baker LJ in the case of *Re IG* [2021] EWCA Civ 1123.

“The relevant principles are, in summary, as follows:

1. The terms of Article 13(b) are, by their very nature, restricted in their scale. The defence has a high threshold, demonstrated by the use of the words, “grave” and “intolerable”.
2. The focus is on the child. The issue is the risk for the child in the event of his or her return.
3. The separation of the child from the abducting parent can establish the required grave risk.
4. When the allegations on which the abducting parent relies to establish grave risk are disputed, the court should first establish whether, if they are true, there would be a grave risk that the child would be exposed to physical or psychological harm or otherwise placed in an intolerable situation. If so, the court must then establish how the child can be protected from the risk.
5. In assessing these matters, the court must be mindful of the limitations involved in the summary nature of the Hague process. It will rarely be appropriate to hear oral evidence of the allegations made under Article 13(b) and so neither the allegations nor their rebuttal are usually tested in cross examination.
6. That does not mean, however, that no evaluative assessment of the allegation should be undertaken by the court. The court must examine in concrete terms the situation in which the child would be on return. In analysing whether the allegations are of sufficient detail and substance to give rise to the great risk, the judge will have to consider whether the evidence enables him or her confidently to discount the possibility that they do.
7. If the judge concludes that that allegations would potentially establish the existence of an Article 13(b) risk, he or she must then carefully consider whether and how the risk can be addressed or sufficiently ameliorated so that the child will not be exposed to the risk.
8. In many cases, sufficient protection will be afforded by extracting undertakings from the applicant as to the conditions in which the child will live when he returns and by relying on the courts of the requesting State to protect him once he is there.
9. In deciding what weight can be placed on undertakings, the court has to take into account the extent to which they are likely to be effective, both in

terms of compliance and in terms of the consequences, including remedies for enforcement in the requesting State, in the absence of compliance.

10. As has been made clear by the Practice Guidance on “Case Management and Mediation of International Child Abduction Proceedings” issued by the President of the Family Division on 13 March 2018, the question of specific protective measures must be addressed at the earliest opportunity, including by obtaining information as to the protective measures that are available, or could be put in place, to meet the alleged identified risks.”

23. For his part, Mr Basi, for the father, referred me to the summary of the relevant authorities, including the decision of MacDonal J in the case of *MB v TB* [2019] EWHC 1019 (Fam) at paragraphs [31] and [32]. I do not need to set those out in this judgment given that they, to a large extent, reflect the guidance of Baker LJ that I have just outlined.

24. Mr Basi also referred me to the comments of Moylan LJ in the case of *Re A (Children) (Abduction: Article 13(b))* [2021] EWCA Civ 939 at paragraph [94], regarding the need to consider the allegations and whether they are of sufficient detail and substance. In that paragraph Moylan LJ stated,

‘In the *Guide to Good Practice* at [40], it is suggested that the court should first “consider whether the assertions are of such a nature and of sufficient detail and substance, that they could constitute a grave risk” before then determining, if they could, whether the grave risk exception is established by reference to all circumstances of the case. In analysing whether the allegations are of sufficient detail and substance, the judge will have to consider whether, to adopt what Black LJ said in *Re K*, “The evidence before the court enables him or her confidently to discount the possibility that the allegations give rise to an Article 13(b) risk”. In making this determination, and to explain what I meant in *Re C*, I have endorsed what MacDonal J said in *Uhd v McKay (Abduction: Publicity)* [2019] EWHC 1159 (Fam) at [7], namely, that “the assumptions made by the court with respect to the *maximum level of risk* must be reasoned and reasonable assumptions” (my emphasis). If they are not “reasoned and reasonable”, I would

suggest that the court can confidently discount the possibility they give rise to an Article 13(b) risk.’

25. Mr Basi also referred me to comments of McDonald J in the case of *G v D (Article 13(b): Absence of Protective Measures)* [2021] 1 FLR 36, at paragraph [39], a passage which was later quoted with approval by the Court of Appeal in the subsequent case of *Re C (A Child) (Abduction: Article 13(b))* [2021] EWCA Civ 1354 at [60]. That quotation reads as follows:

“Finally, it is well established that the court should accept that, unless the contrary is proved, the administrative, judicial and social service authorities of the requesting State, are equally as adept in protecting children as they are in the requested State (see, for example, *Re H (Abduction: Grave Risk)* [2003] EWCA Civ 355, *Re M (Abduction: Intolerable Situation)* [2000] 1 FLR 930 and *Re L (Abduction: Pending Criminal Proceedings)* [1999] 1 FLR 433. In this context, I note that Lowe et al observe in *International Movement of Children: Law, Practice and Procedure* (Family Law, 2nd edn), at paragraph 24.55 that:

‘Although, as has been said, it is generally assumed that the authorities of the requesting State can adequately protect the child, if it can be shown they cannot, or are incapable of or, even unwilling to, offer that protection, then an Art 13(b) case may well succeed. It seems evident, however, that it is hard to establish a grave risk of harm based on speculation as opposed to proven inadequacies in the particular cases?’”

The Allegations of Domestic Violence

26. I turn then to consider the allegations of domestic violence in this case. In doing so, I note that I have not heard oral evidence from either party and I am dealing with this case (as is usual when the Article 13(b) exception arises) solely on the basis of written evidence.

27. As I have already mentioned, the mother’s case is that there has been a significant history of domestic violence here. Her evidence is that the father has been violent towards her throughout their relationship. She describes him snapping - suddenly turning rage on

either her or upon himself; throwing breaking and hitting things. She says she found his mood swings unpredictable and in her evidence she describes feelings of shame and embarrassment for having endured such treatment.

28. She gives examples of a continuing pattern of such incidents, saying that he would grab her by the neck and attempt to strangle her and she identifies occasions on which he is said to have broken windows, mugs, glasses, light switches and mobile phones. She claims that he has twice destroyed their marriage certificate.

29. In terms of specific incidents, in her witness statement she recounted an occasion in 2011 when she said the father hit her head on the floor until she almost lost consciousness. She describes him tying her to a heater, blindfolding her and putting a pair of socks in her mouth and threatening to kill her.

30. Another incident took place in December 2018 whilst they were living together with Y in the UK. The mother describes the father punching and strangling her and holding her, forcibly, towards the wall by her neck.

31. The mother also describes the father hitting her in February 2019, causing bruising to her face. That was the occasion when the mother says she returned with Y to Romania, leaving her job in the UK and, for a brief period, leaving the father behind in the UK as well. The mother has exhibited a letter from her then employer in England, confirming that she left her job very suddenly and unexpectedly at this time.

32. The mother says that a further incident occurred in or around April 2019 after they had returned to Romania. The father was very angry and on that occasion kept the mother and Y out on the balcony at their apartment. She describes him then hitting her hand several times with a screw driver.

33. The mother also recounts a number of threats that have been made by the father to kill himself, and describes at least two occasions upon which she says the father made attempts to do so by self-strangulation. One of these incidents (which the mother alleges took place in April 2019) is said to have occurred whilst the father was in sole charge of Y. The father is

also said to have tried to jump off a bridge in October 2021, on the day that the parties' divorce was finalised.

34. The mother has exhibited an email from the father dated 20 July 2021 in which he apologises to her for his behaviour towards her, and specifically apologises for having hit her and for having created panic and fear. The father does not deny sending this email and has not sought to challenge the translation that has been provided by the mother.

35. The mother has not witnessed the father directly perpetrating violence towards Y although some of the incidents that she recounts of rage and violence directed towards her clearly took place in Y's presence. She does, however, identify an incident which she says took place in May 2022 when Y returned from having spent time with the father and came back complaining that his neck hurt. She claims that Y told her the father hit him and that he picked him up by his neck and the mother has exhibited a photograph which does appear to show some mark on Y in the area of his neck.

36. The mother states that Y would return crying from time spent with the father but that although she went to Child Protection Services in Romania they did not accept her complaint, nor did the police.

37. The father, for his part, vehemently denies the mother's accusations of domestic violence. He accepts there have been verbal disagreements between them in the past, usually, he says, over money but he says he has never been physically violent to her. He specifically denies the allegations that he tied the mother to the heater or hit her head on the floor and he also denies hitting Y. There is a stark difference in the parties' evidence as to Y's relationship with his father and the father has produced a number of emails in which the mother admits having lost her temper with Y.

38. Mr Basi seeks to make the point that the mother has not provided any evidence of a contemporaneous complaint being made to the Romanian authorities in relation to domestic violence, nor any finding by the Romanian authorities that the father has acted in the way that is now alleged by the mother. He also identifies that the mother, in her application to the Romanian court for permission to change Y's residence to England and Wales, specifically proposes that Y should spend a month each summer and a week in the winter and spring

vacations with the father and Mr Basi makes the point that that proposal is not consistent with a concern on the behalf of the mother that the father poses a risk to Y.

39. Mr Basi, therefore, invites me to conclude the mother's allegations against the father are simply not credible and that the mother's Article 13(b) defence never gets off the ground. I cannot accede to this submission.

Discussion

40. Mr Basi is correct that there is little contemporaneous or corroborative evidence of the mother's allegations of domestic abuse. However, the family courts are well aware that it is a sad feature of domestic abuse cases that there may be a lack of contemporaneous or corroborative evidence because the victim is trapped in a cycle of abuse and does not have the wherewithal to escape or to make complaint. That, Ms Gray submits, is what has happened here, with the mother being trapped in a cycle of abuse, followed by repentance by the father with him begging for forgiveness and reconciliation.

41. I am not, given the summary nature of these proceedings, in a position to make any findings as to the details or truth of the mother's allegations against the father. However, I have decided I cannot, as Mr Basi urges me to do, reject them simply as not being credible. The nature of domestic violence means I should tread very carefully before rejecting allegations on the basis that a lack of past complaint means that an allegation has been fabricated. Moreover, the mother's own evidence, when she speaks of her shame and embarrassment of having been a victim of abuse, and the steps that she took to hide the abuse and the injuries she says she sustained from others, provides an explanation for the lack of any past complaint.

42. Additionally, the mother's statement that she left a well-paid job in the UK in 2019, suddenly and without warning, is corroborated by her erstwhile employer and no alternative explanation for this has been provided by the father. Nor has the father made any attempt to explain the email of July 2021 in which he referred to his temper and to having hit the mother in the past.

43. In the light of these matters, I cannot confidently discount the mother's allegations insofar as they relate to violence against herself as lacking credibility.

44. I take a rather different view in relation to the allegations regarding any risk the father is said directly to pose to Y. I note that even now the mother's position in Romania is that she is willing for Y to stay for a month in the summer with the father and for a week in the spring and winter holidays and given this, it does seem to me, that the mother has little concern that Y would actually be at direct risk, himself, in the father's care. I therefore take the view that there is relatively little substance in the allegation that is now put forward by the mother that Y is directly at risk if he spends time with the father.

45. Nonetheless, given the view I am taking regarding the mother's allegations against the father in relation to her, I must consider whether, if those allegations are true, there would, nonetheless, be a grave risk that Y would be exposed to physical or psychological harm or otherwise face an intolerable situation.

46. Given the seriousness of the allegations that have been made, including serious physical violence, threats, the breaking objects, outbreaks of considerable anger and suicide attempts, I am wholly satisfied that if those allegations are true – a point which I emphasise I am not determining today – there would, indeed, be a grave risk that absent any protective measures, Y, if living with the mother in Romania, would be exposed to physical and psychological harm or otherwise placed in an intolerable situation.

47. I make clear that is not because I consider that Y is, himself, at risk from the father but because of the indirect risks that he would run of witnessing serious physical violence by the father towards the mother.

48. I therefore turn to look at the protective measures that have been proposed in this case and consider whether they are sufficient to address the risk that I have identified. First, and most importantly, is the fact that this is a case where the mother is not returning to live with the father. Even if I order a return, the parties' relationship is at an end and neither party suggest that the mother and the father would be living in the same property. As such, it is considerably less likely that Y would be exposed to the risk of violence taking place between the father and the mother. He can be protected further by undertakings and by the other protective measures that have been proposed.

49. There is some measure of agreement as to suitable protective measures in this case. The father submitted a draft order to the court, this morning, in which he proposed the following undertakings:

- a) That he would not use or threaten violence against the mother or Y; that undertaking being given on a “without admissions” basis.
- b) That he would not attend at or go within 100 metres of any address at which the mother and Y may be living save for the collection and return of Y for contact in accordance with the notarised agreement dated 25 October 2021 (or any other contact agreed in writing between the parents or ordered by courts in Romania).
- c) That he will not support, whether presently existing or in the future – any criminal proceedings in any jurisdiction in respect of the mother’s wrongful retention of Y in England.
- d) That he will not attend the airport on the mother’s return with Y, nor will he instruct, allow, or encourage any other person to do so.
- e) That will reimburse the mother for Y’s flight ticket to Romania – for a single one-way ticket that is; upon the mother paying it in the first instance.

50. Following argument before me, this morning, I understand there has been further movement. The father has indicated through his counsel that he is willing to give a further undertaking not to attend at or remove Y from any school he may attend in Romania unless that has been agreed in writing between the parties. He has also agreed that he will not initiate any civil proceedings in any jurisdiction which seeks financial compensation, damages or other punitive measures arising out of Y’s retention in England. For her part I understand the mother not to be pressing a request for £300 for kindergarten fees.

51. Nonetheless, there remain two points of substance between the parties in respect of protective measures that have been sought and offered.

52. First, in the mother’s original evidence, she stated that it was not possible to obtain orders protecting her from physical violence from Romania as such orders are granted only where there has been recent physical abuse. This is challenged by the father, and he points to an email dated 19 January 2023 from Adrian Tapu, a Romanian lawyer who the mother proposed instructing to provide expert evidence in this case. Mr Tapu suggests that Romania

does have a number of personal protection measures, but their efficiency will vary from case to case, as everywhere else.

53. Ms Gray suggests that undertakings by the father not to use or threaten violence or to attend the address where she and Y are to be living provide insufficient protection and that what is required is an order which could be obtained from the court in Romania with the father's consent; effectively akin to a non-molestation order. She says that undertakings are insufficient and that only such an order will do because, she informs me, that although an undertaking would be binding and enforceable in Romania, only an order of the court would attract a power of arrest, as well.

54. The father objects to Ms Gray's proposal that he should consent, effectively, to a non-molestation order being made against him. His objection stems from the fact that he is unwilling to submit to an order which may require him to accept the veracity of the mother's allegations against him.

55. The dispute between the parties on this point risks descending into details of Romanian civil procedure which I am simply not in a position to resolve. However, it seems to me that, firstly, the father is clearly willing to undertake to this court and the Romanian court, not to use or threaten violence against the mother or the child or to go within 100 metres of any address at which they are living, save for the exceptions already recounted. Those undertakings are enforceable here and in Romania and Mr Basi reminds me that Romania is a party not only to the 1980 Hague Convention but also the 1996 Hague Convention as well. Secondly, I consider that I am entitled to assume that the Romanian police have at their disposal, powers to prevent a breach of the peace or threat and assault in the way that the police would have here, and that the practical difference between undertakings by the father – which can be supported by other civil and criminal remedies – and the type of the order that is now sought by the mother may, in terms of their practical effect, be relatively small.

56. As MacDonal J set out in *G v D*, it is well established the court should accept, unless the contrary is proved, that the administrative, judicial and social service authorities of the requesting State are equally as adept in protecting children as they are in the requested State. I am not satisfied that it has been proved by the mother that the Romanian order which she asks that the father to submit to is available in this case, or indeed, that it would provide a

substantially greater level of protection to Y than the undertakings that have been offered by the father. Taking these matters into account, I am satisfied that the undertakings that have been proposed by the father provides proper protection, both to the mother and for Y.

57. The other area of dispute relates to a request by mother that father should pay £1,000 to cover the costs of her first month's accommodation in Romania. The father has refused to pay this but has agreed, as I have already mentioned, that he will pay Y's air fare for his return. The father's finances are not formally in the evidence, but I was told by Mr Basi in the course of his submissions this morning, that the father earns the equivalent of £450 per month of which he is required to pay 25 per cent to the mother for E's upkeep under a Romanian court order.

58. By contrast, the mother has a well-paid job in the UK. She has exhibited her employment contract to her evidence, and I can see from that that she is currently receiving a salary of £70,000 a year, or around £6,000 a month.

59. The flat to which it is proposed the mother will return is owned by the parties, but it is currently occupied. It is suggested by Mr Basi there may be other relatives with whom the mother can stay in the meantime whilst possession of that property is obtained, and it may also be possible for the mother to continue to earn from her current job at least on a temporary basis, given that she is able to work remotely.

60. I am not satisfied that there is any need for me to make the financial provision sought by the mother as a protective measure. Given the mother's own evidence of her salary, I am not satisfied that the provision that she seeks – which is about one week's take home pay and which I am not in a position to find that the father can afford – is a necessary protective measure which would be required to protect her or Y on a return to Romania.

61. In the circumstances, I am satisfied that the protective measures that have been outlined above are sufficient to address or ameliorate the risks that I have identified, such that Y will not be exposed, if these measures are put in place, to a grave risk of physical or psychological harms on a return to Romania. I therefore consider that the mother's Article 13(b) objection

has not been made out and I am therefore required by the Convention to order the return of Y, forthwith.

62. However, in setting a date for the return, it seems to me to be an important factor that the mother's application for temporary leave to relocate to England and Wales is back before the courts of Romania next week, on 22 February. I am told by the mother's counsel (but I appreciate that this is disputed) that absent any procedural problems on the next occasion a substantive decision will be taken on that application for temporary leave to relocate. Bearing that in mind, and the very limited delay to the return date that will be caused I have formed the view that it would not be in the interest of Y, or the parents, for me to require them to take steps to implement my order before that application has been considered by the Romanian courts next week.

63. I will therefore make an order, as follows:

- a. The mother is not obliged to take any steps under my order until 4 pm on Friday 24 February 2023.
- b. If by 4 pm on Friday 24 February 2023, the mother has permission from the Romanian court to remain in the UK, my order can be stayed and an application should be made to me for the variation and discharge of that order. I will deal with that application on the papers in the first instance.
- c. If the mother does not have permission to remain from the Romanian court by that time, then the mother must notify the father's solicitors that she has booked flights by 4 pm on 3 March 2023 and the mother must return Y to Romania by 11.59 pm GMT on Sunday 12 March 2023.

64. That is my judgment.

Postscript

I understand that the mother's application to the Romanian Court for permission to remain in the UK was refused on 22 February. An application by the mother to the High Court for a stay of my order pending an appeal of the Romanian decision was refused by Mr Nicholas Cusworth KC sitting as a deputy judge of the High Court on 9 March 2023 see *Re Y (A Child)* [2023] EWHC 583 (Fam).