



**CIVIL COURT  
(FAMILY SECTION)**

**MR JUSTICE HON ANTHONY VELLA**

**Sitting of Thursday 16<sup>th</sup> February 2023**

**Application number; 198/2022 AGV**

**SP**

**Vs**

**Dr. Mario Caruana and PL  
Gerald Bonello as Curators to  
represent the absent I I P as per  
decree dated 14th September  
2022**

**The Court;**

**Having seen the Sworn Application SP , c/o 19 St. Mark Street, Valletta, dated 7<sup>th</sup> September 2022;**

**Respectfully exposes and under oath SP , confirms that she personally knows the following facts:**

1. That the parties got married in Malta at the Public Registry, Valletta, on the twenty-second of August of the year two thousand and twelve (22.08.2012);
2. That from this marriage there was the birth of SO .P who was born on 26 April of the year two thousand and thirteen (26-04-2013) and is therefore a minor;
3. That the parties separated amicably by means of a contract of separation in the acts of Notary Doctor Fiona Zammit Armeni on 13 November, 2017 as is demonstrated in the attached document marked "**Dok A**";
4. That with regards to the minor SOP , the parties had agreed that although care and custody was being entrusted to the plaintiff, the extraordinary decisions related to the minor had to be taken conjointly by the parties;
5. That in addition, in relation to the maintenance payable for the minor, the defendant obliged himself to pay to the plaintiff the sum of two hundred and fifty Euro (€ 250) monthly. This notwithstanding, he has never paid any sum for the minor;
6. That despite the above, the defendant completely abandoned the minor as he left Malta for good and went to live in Russia. The only contact that the defendant kept with the minor is that on her birthday he calls her to

give her his best wishes. Apart from that, the defendant is refusing to cooperate with the plaintiff regarding extraordinary decisions relating to the minor and therefore since he has changed his residence and no longer lives in Malta - it is necessary for the plaintiff to have the complete autonomy to take all those decisions relating to the minor;

7. That despite that he has been called upon several times in this regard, he has still remained in default and continues to refuse to contribute to his daughter;
8. That considering that the attempts to reach an amicable agreement were to no avail, therefore these present proceedings had to be instituted;
9. That the applicant has obtained the due authorisation of the Honourable Court (Family Section) to be able to proceed with this same instance and this in terms of the attached decree.

**The defendant therefore says why this Honourable Court shall not:**

1. Give and entrust the complete care and custody of the minor to the plaintiff such that she will have the power to take all the necessary extraordinary decisions regarding the minor, SOP without the consent of the defendant.
2. Declare that the defendant is in breach of his obligations to pay the maintenance due according to the separation deed in the acts of Notary Fiona Zammit Armeni and condemns him to pay such maintenance in arrears until today.
3. Liquidate a lump sum for the maintenance due to the minor that the defendant has to pay to the plaintiff in settlement of the maintenance due

from him for the future and this until the minor becomes of age and condemn him to pay such liquidated sum.

WITH COSTS – including those of the proceedings incurred at the mediation stage and of the Decrees that were delivered at the mediation stage against the defendant who is from now on called upon to testify under oath.

**Having seen the curators' reply filed in the Maltese language:**

**Rat ir-Risposta tal-Avukat Dr. Mario Caruana u l-Prokuratur legali Gerald Bonello fil-kwalita taghhom ta' kuraturi Deputati sabiex jirrapprezentaw l-interessi tal-assenti IIP datat 17 ta' Settembru 2022;**

Jesponu bir-rispett :

1. Illi huma m'humix edotti mill-fatti;
2. Illi l-esponenti jitolbu illi jinghataw kull informazzjoni dwar l-ahhar indirizz maghruf tal-assenti II P barra minn Malta u/ jew stat iehor u kif ukoll dettalji maghrufa dwar kwalunkwe mezz ta' komunikazzjoni li premezz tieghu jista jsir kuntatt mal-assenti II P inkluz indirizz elettroniku, numru tal-mobile tal-istess. Ir-rikorrenti ghandha wkoll tipprovdi, jekk dan hu possibbli l-ismijiet tal-familjari tal-assenti u kif ukoll l-ahhar indirizz maghruf tal-assenti II P;

3. Illi n-Nutar Fiona Zammit Armeni Ghandha tikkonferma bil-gurament taghha l-kuntratt ta' separazzjoni personali bejn il-kontendenti datati t-13 ta' Novembru 2017;
4. Salv eccezzjonijiet ohra permessibbli skont il-Ligi f' kaz fejn il-kuraturi deputat noe jirnexxilhom jaghmlu kuntatt mal-istess assenti wara li jigu provduti bl-ahhar dettalji jew id-dettajli maghrufa mir-rikorrenti.

**Bl-ispejjez.**

Having seen the documents exhibited.

Having heard all the evidence.

**CONSIDERS:**

Plaintiff is requesting full care and custody of the parties' minor child, since defendant has left these islands and plaintiff mother wishes to regulate her child's needs with regard to all health and educational expenses. The parties had been married in Malta in 2012, out of which marriage So. was born in April 2013. They separated by means of a contract dated 13 November 2017, wherein which they had decided that the mother would be granted care and custody of their child, but that all extraordinary decisions pertaining to the child would be taken jointly between them. They had also agreed that the sum of maintenance payable by the father for the child would be €250 per month.

It resulted that soon after the signing of this contract, the father left Malta and went to live in Russia, and plaintiff has since then lost all contact with him. She

is therefore seeking to regulate matters for the greater benefit of her child. She confirms that the father never paid any maintenance whatsoever, and that she wants all the arrears in maintenance due to her to be liquidated by this Court. She is also requesting that she be granted full care and custody of Sophia and to be able to take all the decisions relating to the child's health and educational needs on her own without seeking the prior consent of the father.

Given that the father has been absent all these years in the life of his daughter, plaintiff's first two demands shall be upheld. Since the signing of the contract, five years and three months have passed, meaning that there are 63 months of maintenance due in arrears, amounting to **€15,750.00.**

Plaintiff is also requesting that the Court liquidates a lump sum as maintenance for the future. The Court may do this exercise on the basis of the maintenance order already agreed to in the contract, for the remaining period until the child turns 18, that is up to April 2031. In this case, therefore, a lump sum is thus being so liquidated for the rest of the years until the minor is of age, with the total due would be €500 up to April 2023, and €24,000 for the following eight years until she turns 18, amounting to **€24,500.00**

### **DECIDE:**

Now, therefore, for these reasons, the Court:

UPHOLDS Plaintiff's demands.

1. Gives and entrusts the complete care and custody of the minor to the plaintiff such that she will have the power to take all the necessary extraordinary decisions regarding the minor, SOP without the consent of the defendant.
2. Declares that the defendant is in breach of his obligations to pay the maintenance due according to the separation deed in the acts of Notary Fiona Zammit Armeni and condemns him to pay such maintenance in arrears until today, in the sum of €15,750 as aforesaid.
3. Liquidates a lump sum for the maintenance due to the minor that the defendant has to pay to the plaintiff in settlement of the maintenance due from him for the future in the amount of €24,500.00, and this until the minor becomes of age, and condemns him to pay such liquidated sum.

All costs are to be borne temporarily by plaintiff and shall become due from defendant as soon as his whereabouts are determined.

**Hon Anthony G Vella**

**Cettina Gauci- Dep Reg**