

**CIVIL COURT
(FAMILY SECTION)**

**THE HON. MADAM JUSTICE
JACQUELINE PADOVANI GRIMA LL.D., LL.M. (IMLI)**

Today 5th of December 2023

Sworn App. No. : 202/2022 JPG

Case No. : 27

TH

vs

**Dr. Joseph Brincat and Legal
Procurator Nadine Farrugia
nominated as Deputy Curators to
represent the absent AL by virtue of
Decree dated 26th October 2022.**

The Court:

Having seen the sworn applicant filed by the Applicant dated 16th September 2022, at page 1, wherein it was held that:

- 1. That the Parties got married in the Republic of Albania on the sixth (6th) of July of the year two thousand and fifteen (2015).*
- 2. That the Parties are the parents of the minor child AH born in Malta, on the X, and this as results from the attached birth certificate, marked as **Document A**.*

3. *That since her birth, the Minor have always lived in the exclusive care of her Mother, the applicant.*
4. *That the Respondent, presently, and never before, was ever present in the life of his daughter, and this as will be proven during these procedures.*
5. *That the applicant has on her own assumed all responsibilities as parent, and this as will be proven during these proceedings.*
6. *That the applicant is authorised to proceed with this sworn application by virtue of a decree given by this Honourable Court, dated the twenty eighth of July of the year two thousand and twenty-two (2022), a copy of which is attached and marked as Document B.*

Therefore, the applicant humbly requests that this Honourable Court, on the basis of the reasons above should:

1. *Trust the exclusive parental authority of the minor AH in the hands of the applicant;*
2. *Trust the care and custody of the minor AH in the hands of the applicant, whilst confirming that the residence of the minor shall be with the applicant.*
3. *Orders that all decisions, both those of an ordinary nature and also those of an extraordinary nature regarding the upbringing, health, education, extra-curricular activities of the minor together with all those decisions regarding domicile, trips and issuance and renewal of the minor's passport are taken exclusively by the applicant, and without the need for the signature of the respondent.*
4. *Liquidates and fixes maintenance for the minor, which maintenance should also cover the father's share for half the expenses relating to health, education and extra-curricular activities of the same minor, which maintenance must be payable until the same minor is eighteen years of age if she decides to terminate her studies and begin working on a full-time basis, or until they are twenty-three years of age if she decides to continue studying on a full-time basis and*

consequently orders the respondent to pay the maintenance so liquidated; together with all matters relating to payment, including provisions for the periodic increase to cater for the cost of living increases.

5. *Orders that the maintenance mentioned is directly deducted from the salary or income of the respondent, from the employment or work which he has or may have, or from such other social benefits of which he may be in receipt from time to time.*
6. *Orders that the same maintenance be deposited in a bank account indicated by the applicant.*
7. *Orders that the respondent be held responsible to pay arrears of maintenance together with expenses for health and education (and extra-curricular activities if that is the case) not paid by him, together with the cost of living increase expenses, and this as shall be proven during these proceedings.*
8. *Liquidates such arrears of maintenance together with the expenses for health and education (and extra-curricular activities if that is the case), together with the cost of living increase expenses, not paid by the respondent.*
9. *Condemns the respondent to pay the applicant the arrears of maintenance and expenses for health and education and extra-curricular activities if that is the case), together with the cost of living increase expenses, not paid by the respondent.*
10. *Orders that any social benefit and/or social assistance which is payable to the minor AH, is given to the applicant.*
11. *Makes such provisions as deemed necessary and opportune concerning the minor AH.*

With costs against the respondent who is hereby summoned to make reference on oath.

Having seen that the sworn applicant and this Court's decree have been duly notified according to law.

Having seen the reply filed by Dr Joseph Brincat and PL Nadine Farrugia as Deputy Curators, dated 2nd February 2023, at page 54, wherein the deputy curators inform the Court that in the best interest of the child and after proof being adduced that the father has been totally absent from the life of the minor, and following the confirmation of the mother's intention to maintain her residence in Malta, Plaintiff's requests numbered 2 to 11 ought to be upheld;

Having seen the note in the record of the proceedings dated 30th October 2023 (vide page 88);

Having seen the note filed by Dr Joseph Brincat as Deputy Curator for Defendant dated 1st November 2023, wherein he declared that he has no evidence to produce as it has been impossible for him to make contact with defendant.

Considers:

Plaintiff testified vice voce on the 31st of May 2023, (vide pages 64 et seq) and explained that she met Defendant in a bar in Oslo, Norway in 2014 and eventually began a relationship with Defendant. Plaintiff adds that they moved in together shortly after. Plaintiff confirms that the parties cohabited until 2017, when Defendant was deported, since he had violated his visa requirements and because Defendant was being associated with various crimes. Plaintiff explains that Defendant was deported with a Schengen ban for five (5) years.

Subsequently the parties' daughter was born in Malta on the X. Plaintiff explains that she had relocated to Malta, since following Defendant's deportation, their lawyer had suggested that despite the ban placed on Defendant, the rules could differ from one State to the other. Plaintiff in fact gave up her job and her apartment in Norway, because she believed that it could still be possible for the parties to be together. She affirms that she first moved to Sweden, which was obviously the closest to Norway, and was in Sweden for eight (8) months, however, the company she worked with went bankrupt. From Sweden she decided to move to Malta and find work in customer service and also because Malta is closer to Albania, Defendant's home country. After

having checked with the relative authorities, she was told that Defendant had to wait for the lapse of the five year ban, before he could travel to Malta.

Plaintiff testified that when she married Defendant, a pregnancy was not in their plans, and when she did inform Defendant that she was indeed pregnant while visiting in March of 2019, Defendant, was unconcerned and uninvolved throughout the duration of the pregnancy. In fact Defendant did not even assist Plaintiff during the birth, that her birthing partner was her mother. Neither did Defendant call her when the baby was detained in hospital for three weeks. He remained impervious when she informed him that she had complications during the birth and delivery, and even refused to send a card to commemorate their daughter's birth.

Plaintiff affirms that the last contact with Defendant was in January of 2023, and that whenever he phoned throughout the years it was always to ask for money, and to threaten to kidnap the minor if she failed to comply with any of his requests. Plaintiff states that since the minor's birth she has always been the primary and sole carer of the child. Plaintiff confirmed that the parties did not purchase any property, nor did she acquire any property in her sole name. Plaintiff declared that she does not have a car, lives in rented property, and possesses a bank account in her own name. She added that she was the one who provided for Defendant ever since they met.

Plaintiff also filed an affidavit (vide page 59 et seq) and added that when she met Defendant, who is an Albanian national, in Oslo in 2014, she was twenty-six (26) years old at the time, and had just come out of an abusive relationship. The parties contracted marriage on the 6th of July 2015 in Albania. Defendant had told her that he had been dealing drugs in Norway but had stopped when he met her. Following the filing of an application on the basis of family reunion on the 11th of July 2015, which cost in excess of exceed EUR 600, Defendant could not work. Plaintiff in fact worked two jobs for most part of the three years leading up to Defendant's then deportation. During interviews as part of the family reunion process, Plaintiff was informed by the police that they had suspicions about Defendant's activities, and that they believed that Defendant had entered into a marriage of convenience with her.

Plaintiff explained that their relationship was characterised by constant fighting, however she always cling on in the hope that Defendant would change if and when his application was accepted. Plaintiff affirms that Defendant did hit her on occasions, and that she also suspected infidelity on his part. In July 2017, they were informed by the UDI that their marriage was believed to be merely one of convenience and that Defendant was to be deported within two weeks

and a five year Schengen ban was issued against him.

Despite having given up her job, her apartment, her family and her friends in Norway in light of the parties' lawyer recommendation to relocate to another country, Defendant never appreciated her efforts, and instead believed that Plaintiff did not want him with her. Plaintiff explains that she used to visit Defendant in Albania as much as she could, but they used to fight badly during such visits. She confirmed that the last time she saw him was in March 2019 when she got pregnant and that they have been de facto separated since March 2020.

In January of 2023, Plaintiff received a phone call from Defendant, who told her that he was in Italy and that he needed papers stating that they were happily married in order to get a job in Italy.

Louis Buhagiar on behalf of Jobsplus testified on the 4th of July 2023, (vide page 75 et seq) and exhibited Plaintiff's Jobsplus Employment History. Witness explained that no records pertaining to Defendant were found.

Saviour Theuma on behalf of the Social Security Department testified on the 4th of July 2023, NOT IN THE ACTS – exhibited document doc ST1 which indicates that Plaintiff has not received any social security benefits.

Ashleigh Parks, testified by means of an affidavit (vide page 82) and explained that she has known Plaintiff since 2019, after having met at a common place of work she added that she has lived together with Plaintiff between June 2020 and the 5th of May 2021, and divided the rent of an apartment in Swieqi. Witness contends that during the time she shared residence with Plaintiff, Plaintiff's minor daughter was always in her care, and Defendant did not provide any financial support, monetary assistance or presents, and it was Plaintiff who single-handedly assumed the responsibility of being the primary and sole provider for her daughter. Witness affirms that Plaintiff told her how she came to meet Defendant, about the Schengen Ban, and the advice their lawyer had given her at the time. Witness confirms that Defendant has not been to Malta and nor has he shown any form of support or interest in the minor child, and neither did any of Defendant's relatives.

Considers:

This is a judgement following a request on the part of Plaintiff to be entrusted with the exclusive care and custody of the parties' minor daughter, AH, born on X, and who is almost X years old.

Care and Custody

In proceedings which involve the rights of minors and those belonging to the parents, the Court has a duty to take into account that which is solely in **the best interests of the child** and this is due to the fact that in the majority of cases its decisions will inevitably have a lasting effect on the life of the child. The jurisprudence of the Maltese Courts has always been consistent in that, issues regarding the care and custody of children are to be solely regulated by the principle of the best interests of the child.¹

The Court also makes reference to the considerations of the Court of Appeal in its judgment in the names: *Sylvia Melfi vs. Philip Vassallo* decided on the 25th of November 1998:

In this case the Court must seek to do what is in the sole interest of the minor child in its decision whether the care and custody of the child should be given to one parent or the other the Court must solely be guided by what is most beneficial to the child [...] The Court should at all times seek the best interests of the child irrespective of the allegation, true or false, made against each other by the parties. Such allegations often serve to distance oneself from the truth and serve to render almost impossible the search of the Court for the truth. This is why it is the duty of the court to always look for the interests of the child. Exaggerated controversies between the parties often make one wonder how much the parents have at heart the interest of their children. Sometimes parents are only interested at getting at each other and all they want is to pay back the other party through their minor child.

Similarly, the European Court of Human Rights affirms:

The child's best interests may, depending on their nature and seriousness, override those of the parents (see Sahin v. Germany [GC], no. 30943/96, § 66, ECHR 2003-VIII).

The Court recognises that ordinarily both parents have an important and fundamental role in the

¹ **Maria Dolores sive Doris Scicluna vs Anthony Scicluna**, First Hall of the Civil Court, decided 27 November 2003: “*Apparti l-ħsieb ta’ ordni morali u dak ta’ ordni legali, li għandhom setgħa fil-materja ta’ kura u kustodja tat-tfal in general, il-prinċipju dominanti ‘in subjecta materia’, li jiddetermina normalment u ġeneralment il-kwistjonijiet bħal din insorta f’dina l-kawża, huwa dak tal-aktar utilita’ u dak tal-aqwa vantaġġ u nteress tal-istess minuri fl-isfond taċ-ċirkostanzi personali u ‘de facto’ li jkunu jirriżultaw mill-provi tal-każ li jrid jiġi riżolut...*”

upbringing and life of their children, and therefore should be excluded from the child's care unless there are serious reasons which constrain the Court to take such a drastic measure. In fact this has been the stance adopted in the judgement in the names of **AB vs CD** decided on the 23rd of February 2018, wherein the Court affirmed that it has the power to entrust the care and custody of a minor solely in the hands of one of the parents if this is the minor's best interests, in accordance with Article 56 of the Civil Code, and that while the parents' rights a relevant consideration, the child's best interests are the Court's primary consideration.²

The Court notes furthermore that according to Article 149 of the Civil Code:

“Notwithstanding any other provision of this Code, the court may, upon good cause being shown, give such directions as regards the person or the property of a minor as it may deem appropriate in the best interests of the child.”

Maintenance

The legal principle regulating maintenance is based on article 7(1) of the Civil Code which provides as follows: ***“Parents are bound to look after, maintain, instruct and educate their children in the manner laid down in article 3B of this Code.”***

The parents, therefore, have the same legal obligation towards their children, with both parents having to contribute to the upbringing of their children. The quantum of this obligation of a child's maintenance is calculated according to the parents' needs, and the criteria set out in article 20 of the Civil Code.

Article 20 of the Civil Code provides that:

(1) Maintenance shall be due in proportion to the want of the person claiming it and the means of the person liable thereto.

(2) In examining whether the claimant can otherwise provide for his own maintenance, regard shall also be had to his ability to exercise some profession, art,

² *“Il-Qorti għaldaqstant, għandha s-setgħa illi jekk ikun fl-aħjar interess tal-minuri, tafda wieħed biss mill-ġenituri bil-kura u l-kustodja tal-minuri u dana ai termini tal-Artikolu 56 tal-Kodiċi Ċivili. Illi kif kellha l-okkażjoni ttenni din il-Qorti diversi drabi, l-interess tal-minuri huwa iprem mid-drittijiet tal-ġenituri. “Il-Qorti ttrileva illi filwaqt li dejjem taġġti piż għad-drittijiet tal-ġenituri, l-interess suprem li żżomm quddiemha huwa dejjem dak tal-minuri, kif anke mgħallma mill-ġjurisprudenza kostanti taġġna hawn ‘il fuq iċċitata.””*

or trade.

(3) In estimating the means of the person bound to supply maintenance, regard shall only be had to his earnings from the exercise of any profession, art, or trade, to his salary or pension payable by the Government or any other person, and to the fruits of any movable or immovable property and any income accruing under a trust.

(4) A person who cannot implement his obligation to supply maintenance otherwise than by taking the claimant into his house, shall not be deemed to possess sufficient means to supply maintenance, except where the claimant is an ascendant or a descendant.

(5) In estimating the means of the person claiming maintenance regard shall also be had to the value of any movable or immovable property possessed by him as well as to any beneficial interest under a trust.

In the case in the names of *Georgina Schembri pro et noe vs Dino Schembri* decided on the 28th November 2002, the Court held that:

“L-obbligi ta’ manteniment tal-konjugi huma regolati bl-artikolu 3 tal-Kap 16...jirriżulta mid-disposizzjonijiet tal-Liġi, li l-ġenituri għandhom l-istess obbligi versu l-ulied tagħhom, u għalhekk it-tnejn li huma għandhom jikkontribwixxu għat-trobbija tal-istess, aktar u aktar meta illum il-miżewwġin huma f’posizzjoni ta’ ugwaljanza u għandhom l-istess drittijiet, u allura anke skont l-artikolu 2 tal-Kap 16, “jerfghu responsabbiltajiet indaqs matul iż-żwieġ tagħhom” (Ara Eoll Jennifer Portelli pro et noe vs John Portelli (Rik Nru 2668/1996) deċiża fil-25 ta’ Ġunju 2003).³

The obtaining Jurisprudence illustrates that the obligation of the parents is an absolute obligation, and persists even where the parents are unemployed (*Vide Maria Bugeja pro et noe vs Spiridione sive Stephen Bugeja First Hall Civil Court (FD) (154/94)*).

The Court recognizes the fact that according to law, parents have an obligation to maintain their children according to their means. However, local Courts have always stressed that:

³ Translation: “the obligations of maintenance by spouses are regulated by article 3 of Chapter 16... according to the obtaining provisions of law, parents have the same obligation towards the children, and therefore, both have to contribute to the upbringing of the same, this applies even more so today, since the spouses are now equal under the law and have the same rights, and therefore, in terms of Article 2 of Chapter 16, are burdened with equal responsibilities during marriage.” (Vide also Jennifer Portelli pro et noe vs John Portelli (App np. 2668/1996) decided 25th June 2003)

Il-Qorti dejjem irriteriet illi l-ġenituri ma jistgħux jabdikaw mir-responsabilità tagħhom li jmantnu lil uliedhom materjalment, hu kemm hu l-introjtu tagħhom. Dejjem kienet tal-fehma illi kull ġenitur għandu l-obbligu li jmantni lil uliedu anke jekk il-meżzi tiegħu huma baxxi jew jinsab diżokkupat. Il-Qorti ma tista qatt taççetta li persuna ġġib it-tfal fid-dinja u titlaq kull responsabbiltà tagħhom fuq il-ġenitur l-iehor jew inkella fuq l-istat.” (Vide Tiziana Caruana vs Redent Muscat (272/2018) deċiża mill-Prim’ Awla Qorti Ċivili fl-24 ta’ Ġunju 2019; Liza Spiteri vs Lee Farrugia (219/2018) deċiża mill-Prim’ Awla Qorti Ċivili fit-2 ta’ Ottubru 2019)⁴

Of relevance is also the dicta of the Court of Appeal in *Marina Galea vs Mario Galea* decided on the 31st of January 2019:

“Il-manteniment tat-tfal, fil-verità iżjed milli dritt tal-ġenitur li qed irabbihom, huwa dritt tat-tfal minuri li ma jisfawx m’cahhdin minn dawk l-affarijiet li d- dinja tal-lum tikkunsidra bhala neçessità għall-edEazzjoni u għall-iżvilupp tagħhom.”⁵

Considers:

From the evidence produced, it transpires that the parties met in Oslo, Norway in 2014 and shortly after contracted marriage in Albania on the 6th of July 2015. The parties cohabited till 2017, when Defendant was then deported from Norway back to Albania, after having violated his visa requirements and in consequence of Defendant’s associations with illicit activity. A five-year Schengan ban was imposed on Defendant. Acting on the advice of the parties’ legal counsel. Plaintiff relocated first to Sweden and then to Malta. Following Defendant’s deportation Plaintiff would visit Defendant in Albania as frequently as possible and became pregnant in March of 2019. The parties minor daughter was then born on the X in Malta (Vide birth certificate at page 10 of the acts.)

⁴Translation: “The Court has always reiterated that parents cannot abdicate their responsibility of materially maintaining their children, and this independently of the quantum of their income. It was always the considered opinion of the Courts that a parent is in duty bound to maintain his children, even where his income is low or when he is unemployed. The Court can never accept a situation where a person brings a child into the world and assigns all responsibility to the other parent or to the State. (Vide Tiziana Caruana vs Redent Muscat (272/2018) decided from First Hall (Civil Court) on the 24th of June 2019; Liza Spiteri vs Lee Farrugia (219/2018) decided from First Hall (Civil Court) on the 2nd of October 2019)”

⁵ Translation: “With regard to maintenance due to children, in reality, rather than being a right of the parent who is looking after them, maintenance is a child’s right in order that children are not denied material things which are in today’s world considered as necessary for their education and development.”

The Court also observes that the parties have been *de facto* separated since March of the year 2020 and that Defendant is and has been absent from Malta. In fact it appears that since his deportation in 2017, the parties have lived separately and that Defendant has resided solely in Albania and has never been to Malta.

The Court notes that the Deputy Curators have failed to make contact with Defendant, despite the fact that Plaintiff tendered Defendant's correspondence details, and thus, this Court is compelled to determine the case solely on the evidence produced by Plaintiff.

The Court notes that by means of a *pendente lite* decree, dated 22nd November 2022 (vide page 50) this Court authorised Plaintiff to take both ordinary and extraordinary decisions regarding the minor's health and education, without Defendant's consent, signature, authorisation or presence.

Furthermore this Court also observes that during the sitting of the 30th of October 2023, *seduta stante*, following a request made by Plaintiff⁶ ordered in the best interest of the minor child that the care and custody of the minor child shall be vested exclusively in the hands of the Plaintiff, who alone shall take all ordinary and extraordinary decisions relating to the minor, without the consent, signature or presence of the Defendant; and this in all matters relating to the child's education, health, application of and the renewal of passport and their consignment, together with all travel arrangements and this without the consent, signature or presence of the Defendant. Furthermore, *pendente lite*, all social welfare benefits that are eligible to the minor shall be received solely by Plaintiff.

Additionally this Court has seen that in their reply to the sworn application at page 54 of the acts, the Deputy Curators declared that following the submission of evidence that the father was absent from the child's life and that the mother has every intention of residing in Malta, all Plaintiff's requests ought to be upheld, since it was in the minor child's best interest in the circumstances.

Deliberates:

Article 154 of Chapter 16 of the Laws of Malta provides that:

⁶ in view of the reply submitted by Dr Brincat noe, dated 2nd February 2023, (vide page 54 of the acts), wherein it was declared that inter alia requests 2 to 11 ought to be upheld by this Court.

(1) Saving any other punishment to which he may be liable according to law, a parent may be deprived, by the said court, wholly or in part, of the rights of parental authority, in any of the cases following:

(a) if the parent, exceeding the bounds of reasonable chastisement, ill-treats the child, or neglects his education;

(b) if the conduct of the parent is such as to endanger the education of the child;

(c) if the parent is interdicted, or under a disability as to certain acts, as provided in articles 520 to 527 inclusive of the Code of Organization and Civil Procedure, and articles 189 and 190 of this Code;

(d) if the parent mismanages the property of the child;

(e) if the parent fails to perform any of the obligations set out in article 3B in favour of the child.

(2) If the interests of the child so require, the Court may order that only one of the parents shall exercise the rights of parental authority and the Court may also restrict the exercise of these rights and, in serious cases, exclude both parents from the exercise of these rights.

(3) The Court may also restrict the exercise of the aforementioned rights where one or both of the parents are charged with one or more of the offences listed in Title VII of Part II of Book First of the Criminal Code. (4) Nevertheless, the court may, even in the cases mentioned in sub-article (1) of this article, reinstate the parent in the exercise of the rights of which he has been deprived, when the cause of such deprivation ceases to exist.

Article 3B of Chapter 16 of the Laws of Malta provides as follows:

Marriage imposes on both spouses the obligation to look after, maintain, instruct and educate the children of the marriage taking into account the abilities, natural inclinations and aspirations of the children

Article 149 of Chapter 16 stipulates:

Notwithstanding any other provision of this Code, the court may, upon good cause being shown, give such directions as regards the person or the property of a minor as it may deem appropriate in the best interests of the child.

After careful examination of the evidence produced, the Court finds no reason to doubt the credibility of the version of events tendered by Plaintiff. It is patently obvious that the parties' marriage, was simply one of convenience for Defendant, who profitted from an opportunity to live rent free, even before the birth of the parties' daughter, since it was always Plaintiff who supported their family in all aspects. Although the Court is cognisant of the fact that Defendant had a five year ban from all Schengen zones, the Court has also seen that, when the ban was indeed lifted, Defendant **still** refused to return to Malta to live with his family but chose to travel to and is living in Italy instead. It is this Court's considered opinion that this corroborates Plaintiff's testimony that Defendant has been totally absent in all aspects from their child's life.

Thus, this Court finds that Defendant's behaviour is in violation of Article 3B of the Civil Code and the abandonment of the child of the parties merits Defendant to be divested of parental authority on the said child in terms of article 154 of the Civil Code. Therefore, Plaintiff's request to be vested with the sole and exclusive care and custody of the parties' minor child shall be upheld. Furthermore whilst confirming its interim decrees, this Court orders that the minor child's primary residence shall be with the mother, and that the minor child's domicile and habitual residence are to be the same as those of the mother. It furthermore authorises Plaintiff mother to make any decisions both those of an ordinary nature and also those of an extraordinary nature with regards to the minor child's upbringing, health, education, extra-curricular activities together with all those decisions regarding domicile, travel and the issuance and renewal of the minor's passport and the consignment of the child's passport without the need for Defendant's signature, consent or presence.

With regards to Plaintiff's request for maintenance and maintenance arrears, the Court notes that Plaintiff exhibited a number of receipts indicating some of the expenses she incurred for the minor's schooling, together with a copy of her lease agreement. From the evidence produced the Court has seen that Plaintiff works as a self-employed content creator. As previously indicated, it is patently obvious that Defendant never contributed towards his daughter's upbringing and basically lived off Plaintiff throughout their relationship, compelling Plaintiff to naturally bear alone the responsibilities and burdens of child rearing. It also appears from Plaintiff's testimony that Defendant has been unemployed for a number of years and has recently travelled to Italy to

find a job.

In light of the above considerations, the Court orders Defendant to pay the sum of three hundred and fifty euros (€350) each month by way of maintenance for the minor child, which amount also includes Defendant's share from the educational, medical and extracurricular expenses. The Court orders that this sum is to be deducted directly from any wages, salaries, social welfare benefits, or other income Defendant may be receiving. This maintenance allowance shall increase according to the cost of living adjustment each year, until the minor reaches the age of eighteen (18) years should the minor stop pursuing his studies and starts working on a full-time basis or payable up to the age of twenty-three (23) years should the minor child decide to pursue his studies on a full-time basis. The said amount is to be deposited directly in a bank account of Plaintiff's choosing. The Court orders that any benefits, and/or allowances offered by the State of Malta are to be received by Plaintiff as previously indicated in its decree during the sitting of the 30th of October 2023.

With regards to arrears, the Court has seen that article 2123(b) of Chapter 12 of the Laws of Malta provides that:

Prescription does not run

...

b) as between the parent and the child ... ;

This Court deems that from the minor's date of birth, that is the X, up until the date of this judgment, the maintenance arrears due are not prescribed.

Thus this Court orders Defendant to pay the sum of EUR 250 a month, to Plaintiff by way of arrears for the period commencing X until the date of this judgment, which sum includes Defendant's share in relation to the child's educational and medical expenses.

For these reasons, the Court:

- 1. Upholds Plaintiff's first request and vests Plaintiff mother with the exclusive parental authority of the minor child and divests Defendant of his parental authority over the said child in terms of article 154 of the Civil Code;**

- 2. Upholds Plaintiff's second request and vests Plaintiff with the sole and exclusive care and custody of the parties' minor child; and orders that the minor child's primary residence is to be with the mother and that the minor child's domicile and habitual residence are to be the same as those of the mother;**
- 3. Upholds Plaintiff's third request and authorises Plaintiff mother to make any decisions both those of an ordinary nature and also those of an extraordinary nature with regards to the minor child's upbringing, health, education, extra-curricular activities together with all decisions regarding domicile, travel and the issuance, renewal and consignment of the minor's passport and identity cards without the need for Defendant's signature, consent or presence;**
- 4. Upholds Plaintiff's fourth request and orders Defendant to pay the sum of three hundred and fifty euros (€350) each month by way of maintenance for the minor child, which amount also includes Defendant's share from the educational, medical and extracurricular expenses. Such amount is to increase according to the cost of living adjustment each year, until the minor reaches the age of eighteen (18) years should the minor stops pursuing his studies and starts working on a full-time basis or payable up to the age of twenty-three (23) years should the minor child decide to pursue his studies on a full-time basis.**
- 5. Upholds Plaintiff's fifth request and orders that the monthly maintenance is to be deducted directly from any wages, salaries, social welfare benefits, or other income Defendant may be entitled to;**
- 6. Upholds Plaintiff's sixth request and orders that the said maintenance is to be deposited directly in a bank account of Plaintiff's choosing;**
- 7. Upholds Plaintiff's seventh, eight and ninth request and orders Defendant to pay the sum of EUR 250 a month, to Plaintiff by way of arrears for the**

period commencing X to the date of this judgment, which sum includes Defendant's share in relation to the educational and medical expenses.

- 8. Upholds Plaintiff's tenth request and orders that any benefits, and/or allowances offered by the Maltese State shall be received by Plaintiff.**

All costs are to be borne by Defendant but shall be provisionally paid by the Plaintiff.

Read.

Mdm. Justice Jacqueline Padovani Grima LL.D. LL.M. (IMLI)

Christabelle Cassar

Deputy Registrar