



**CIVIL COURT  
( FAMILY SECTION)**

**MR. JUSTICE ANTHONY G. VELLA**

**Sitting of Thursday 9<sup>th</sup> May 2024**

**Sworn Application: 98 /2023 AGV**

**IG**

**vs**

**AB – B**

**The Court,**

**Having seen the Sworn Application of IM holder of identity card number**

**Humbly declares and on oath confirms the following facts he personally  
knows:-**

1. That the Parties were in a relationship, and of this relationship was born one child, NM , on the 15th October of the year 2020, in Malta, and this as results from the attached birth certificate, marked as **Document A**. The minor NM is therefore two years and a half.
2. That the relationship of the parties started on the thirteenth (13th) of August of the year 2019. Upon meeting, the Applicant had been living in Malta for a year whereas Respondent had been living in Malta for a circa nine years.
3. That the parties started to cohabit in March of the year 2020, whereby they started to reside at Flat 3, No. 27, San Gwann Battista Street, Sliema, by title of lease.
4. That the agreement of the Parties had always been that as travel was a possibility in light of the Covid-19 pandemic, they would travel with the Minor, as much as possible, and this before the Minor reaches the compulsory age of schooling.
5. That in fact the Parties and the minor went for a long holiday in Serbia in September 2021, for a month, which stay in Serbia was halted with the Parties return to Malta, in order to celebrate N's first (1st) birthday with family and friends in Malta. The Parties were meant to resume their stay in Serbia in November 2021, however this did not take place due to travel restrictions imposed on Serbia, which would constraint the Parties for further future travel. Due to this, the Parties decided to postpone their travel plans, and continued to reside in Malta.

6. That the Respondent ended the relationship, and following the Parties' reconciliation, in the beginning of February of the year 2022, the Parties once again decided that it would be a good idea to travel again, but this time for a longer period, for circa five / six months, either to Serbia (Applicant's home country) or to Latvia (Respondent's home country). Due to the fact that the Covid – 19 situation in Serbia was still not positive, the natural option was Latvia. The parties together with Nora travelled to Latvia on the 3rd March 2022, with the premise that this was for a temporary period of time, precisely that for five / six months.
7. That, whilst in Latvia, the Father retained his employment with the Maltese company Loqus Business Intelligence; continued paying his income tax and social security contributions in Malta, and the Respondent kept receiving children's allowance from the Maltese Social Security Department.
8. That the relationship between the Parties suffered from periods of difficulties both whilst living in Malta and aggravated further during their stay in Latvia. Upon the lapse of time, whilst in Latvia, the Respondent started implying that she had changed her mind and had no intention to return to Malta, and upon being questioned or confronted by the Applicant that their decision to travel to Latvia was never for a complete relocation to Latvia, the reaction of the Respondent was not constant in the sense that whilst at times she would say to the Father that he could just leave and return to Malta but without N at other times she said that he can return to Malta with N.
9. That whilst in Latvia, the Applicant was constantly underlining that he never accepted to stay in Latvia with N forever. Once again and during

their stay in Latvia, Respondent ended the relationship of the Parties. Despite this development, the Parties still resided under the same roof mainly due to financial reasons since the Father was always providing for the Respondent and the Minor, and also due to the fact that Applicant found himself in a situation whereby he could not return to Malta without the Minor, whilst hoping that Respondents' change of heart was temporary, and together they would return to Malta, according to their plan and understanding.

10. That the parties returned to Malta on the 31st January, 2023.

11. That it is in the best interest of the Minor child to continue to reside in Malta where she has family members.

12. That although the Respondent is Latvian, she filed mediation proceedings in Malta, a warrant of prohibitory injunction and attended a mediation sitting. No agreement could be reached since the Respondent insisted that the minor child was to return to Latvia with her, and for this reason this case was filed, in order for all matters relating to the Minor be settled.

13. That the applicant is authorised to file this case by a means of a decree dated the seventeenth (17<sup>th</sup>) March of the year 2032, copy attached and marked and marked as **Document B**.

For these reasons applicant humbly requests that this Honourable Court, save any other provision which it deems fit in the circumstances to:-

1. Order that the residence of the minor child NM be together with the Father in Malta, with access towards the Mother.
2. In the event that the first request is not upheld, order that minor child NM resides with the Mother in Malta, with ample access including sleepovers in favour of the Father.
3. Entrust the care and custody of the minor to both Parties jointly.
4. Order that all decisions, both of ordinary nature, as well as those of extraordinary nature regarding the upbringing, health, education, extra-curricular activities, as well as decisions regarding travel, issue of and extension of passport of the Minor be taken jointly by the Parties.
5. In the event that the second request is upheld, establish ample access in favour of the Applicant in accordance with the needs and the best interest of the Minor Child, and together with the order of access to regulate access in case of public holidays, feasts, Christmas and New Year and other special occasions.
6. Liquidate and establish maintenance for the minor, and this until the minor reaches the age of eighteen years if she decides to stop from her studies and starts working, or until she reaches the age of twenty three years, if she decides to continue studying on a full time basis and subsequently orders the Respondent to pay the said maintenance as liquidated; with all the modalities of payment, including provisions for the periodical increase in order to reflect the rise of living index, as well as orders that all expenses of health, education and extra-curricular activities of the minor be paid by

both parents in equal shares, as well as establishes the mode of payment of such expenses.

7. Order that the said maintenance be deposited in a bank account in the name of the Applicant.
8. Order that all social benefits and/or social assistance which is payable to the Minor Child be paid to the Applicant.
9. Order that any passport in the name of the Minor Child be held by the Applicant.
10. Give all those orders, which are appropriate, that concern the minor Child N.

With costs against the respondent, who is summoned so that a reference to her oath be made.

**Having seen the Sworn Reply of AB B**

Respectfully submits:-

1. That the first demand should be rejected since it is not in the best interest of the minor child, NM , that she reside with the plaintiff father in Malta, rather it is in the Minor Child's supreme interest that she continues to

reside with the Defendant mother – who has always been the child’s primary carer – and that the said minor continues to live together with Defendant – in Carnikava, Latvia.

2. That the second demand that the minor child N reside with the Mother is not opposed, provided that the minor child should live with the Defendant mother in Carnikava, Latvia as was the parties’ and the minor child’s residence before the Plaintiff decided to “trick” the Plaintiff into coming to Malta on holiday, and orchestrated the illegal retention of the minor child. Such that the Defendant mother should be entrusted to set up residence of the minor child outside of Malta, since otherwise the Court would be ordering a foreign national and domiciliary to live in Malta simply because the Father – Plaintiff – who tricked her into – *ex admissis* – coming to Malta wishes to exercise access at low cost and high convenience to himself. Access should therefore be exercised in the place of residence of the Defendant and child, in Latvia.
3. That the third demand should be rejected since the care and custody should be entrusted to the Defendant mother, alone, in light of the behaviour and decisions made by the Plaintiff, which have certainly not been in the minor child’s best interest.
4. That the fourth demand should be rejected since it arises from the law if parties are resident in Malta.
5. That the fifth demand that the father has access to the minor child is not opposed provided that the minor child is residing in Carnikava, Latvia with the Mother, and access ordered by this Honourable Court to the Defendant is virtual when the minor and the mother are residing in Latvia and physical

during academic holidays, when the Plaintiff father visits the minor in Carnikava, Latvia.

6. That the sixth and seventh demands should be rejected by this Honourable Court primarily since the parties' daughter, NM , should reside with her mother in Latvia as she did before she was taken from her mother's arms, and therefore maintenance should be paid to her for the needs of the minor child, especially considering that since applicant's "trick" Defendant has been away from her employment in Latvia and is reaching the end of her financial tether.
7. That the eighth demand should be rejected by this Honourable Court since the beneficiary of social benefits paid by the State is identified by the legislation regulating such payment, rather than by Court Judgement, particularly where the state authority effecting payment would be Latvia.
8. That the ninth demand should also be rejected, since the minor child's passports should be held by the Defendant mother, with whom the minor child should reside, in Latvia. From all of this it is clear that the Serb having planned and tricked the Plaintiff a Latvian into coming to Malta on holiday with the child, wishes to ensure that the mother and the child are entrapped in Malta, for his convenience.
9. That the tenth demand is illegal and should be rejected, since the Court cannot be enjoined to devise orders not contemplated by either party.
10. That judicial costs of the lawsuit filed by the Defendant number 70/2023 and the lawsuit filed by the Plaintiff, including the costs of the mediation proceedings 148/2023/1 and 160/2023/1 and those of the Prohibitory Injunction number 32/2023/2 should be borne by the Plaintiff, *inter alia* since



it is his actions of deceit which have cause the upheavel in the minor child's life and led to the filing of the judicial proceedings.

Save other pleas.

Having considered all the acts and documents in this case.

Having considered that this case is being heard and treated jointly with the case in the names ABB vs IM , **Rik. Nru. 98/2023**, all evidence and considerations are hereby declared to form part and parcel of this case, and for ease of reference and in order to avoid the duplication of evidence heard and arguments brought, the considerations of one case are applicable to this case.

**DECIDE:**

Having considered all the above, the Court concludes and decides as follows:-

- i) Rejects Plaintiff's first claim, having granted the full care and custody to Defendant.
- ii) Rejects Plaintiff's second claim considering that it is not in the child's best interests.
- iii) Rejects Plaintiff's third claim due to having granted full care and custody to the Defendant.
- iv) Rejects Plaintiff's fourth claim due to having granted full care and custody to the Defendant.

- v) Upholds Plaintiff's fifth claim, limited to what the Court has decided in the sub-title "Access."
- vi) Rejects Plaintiff's sixth and seventh claims.
- vii) Rejects Plaintiff's eighth claim since the minor child N will be residing in Latvia.
- viii) Rejects Plaintiff's ninth claim since all passports shall be retained by Defendant and every renewal shall take place without the necessary consent or authorisation of Plaintiff.

All costs are to be borne by Plaintiff, including those of the prohibitory injunction 32.2023.

**Hon. Mr. Justice Dr. Anthony J. Vella**

**Registrar**