



MALTA

**QORTI CIVILI
(SEZZJONI TAL-FAMILJA)**

**ONOR. IMHALLEF
RAYMOND C. PACE**

Seduta tal-5 ta' Settembru, 2005

Citazzjoni Numru. 334/2004

A

vs

B

Il-Qorti,

I. PRELIMINARI.

Rat ic-citazzjoni attrici datata l-1 t'Ottubru 2004 a fol. 1 tal-process fejn gie premiss:-

Illi l-kontendenti huma l-genituri naturali ta' A Borg li twieled f'Malta fl-4 ta' Frar 2000.

Illi l-konvenuta fil-bidu ta' Frar ta' din is-sena qabdet u telqet minn Malta bit-tifel A minghajr l-awtorizzazzjoni, kunsens u anzi *ad insaputa* ta' missieru l-attur.

Kopja Informali ta' Sentenza

Illi l-attur istitwixxa proceduri quddiem il-Qorti tal-Familja kontra l-istess B (Citaz numru 441/2004RCP).

Illi b'sentenza tal-Qorti Civili (Sezzjoni tal-Familja) tad-29 ta' April 2004, dik l-istess Qorti afdat il-kura u kustodja tal-minuri A Borg f'idejn l-attur *stante* li hu fl-interess suprem ta' l-istess minuri li hekk ghandu jkun awtorizzat lill-attur biex jiehu l-passi kollha necessarji halli l-minuri A Borg jigi ritornat lura Malta.

Illi wara l-imsemmija sentenza u bl-ghajnuna tal-awtoritajiet kompetenti f'Malta u l-Ingilterra, l-attur skopra fejn il-konvenuta kienet harbet b'ibnu minuri.

Illi in segwitu nbdew proceduri quddiem il-*High Court of Justice* fl-Ingilterra sabiex it-tifel A jinghata lil missieru u jingieb lura Malta.

Illi b'sentenza tas-27 ta' Lulju 2004 dik l-istess Qorti ordnat li t-tifel jingieb lura Malta minn ommu bil-kondizzjonijiet fost l-ohrajn li '*until following a hearing on notice to the defendant*' l-attur ma jimmolectax lill-konvenuta; ma jnehix lit-tifel mill-kura u kontrol ta' ommu; ma jezegwixxix is-sentenza tal-Qorti Maltija tad-29 ta' April 2004; u jaghti manteniment xieraq u allogg lil ibnu u ommu.

Illi l-konvenuta giet lura Malta fit-8 ta' Awwissu 2004 flimkien mat-tifel A.

Illi l-attur ipprovda manteniment u allogg kif impenja ruhu li jaghmel quddiem il-Qorti Ingliza.

Illi l-konvenuta minghajr ebda sinjal ta' rimors ghal dak li ghamlet lanqas qed thalli lill-attur jara lil ibnu.

Illi ma jirrizulta xejn fil-fatt u fil-ligi ghalfejn is-sentenza tal-Qorti Maltija ma ghandhiex tigi konfermata w ezegwita pjenament u in ottemporanza tad-dikjarazzjoni tieghu lil Qorti Ingliza.

Kopja Informali ta' Sentenza

Illi ghalhekk l-istess attur talab li l-konvenuta tghid ghaliex din il-Qorti ma ghandhiex:

1. tiddikjara u tiddeciedi u tordna illi s-sentenza tal-Qorti Civili (Sezzjoni tal-Familja) tad-29 ta' April 2004 fl-ismijiet Au B ghandu jkollha effett immedjat ghall-finijiet kollha tal-ligi b'dawk il-modalitajiet jew kondizzjonijiet li din l-Onorabbli Qorti joghgobha timponi;

2. konsegwentement tillibera l-attur minn kull obbligu assunt minnu lejn il-Qorti Ingliza fil-kawza bejn Au B deciza fis-27 ta' Lulju 2004 u dan fejn jirrigwarda l-kura u kustodja ta' ibnu minuri A, u manteniment u allogg ordnat mill-Qorti Ingliza.

Bl-ispejjes u bl-ingunzjoni tal-konvenuta ghas-subizzjoni

Rat id-dikjarazzjoni attrici a fol. 6 tal-process;

Rat il-lista ta' xhieda u d-dokumenti esebiti a fol. 8 sa 58 tal-process;

Rat in-nota tal-eccezzjonijiet tal-konvenuta tat-2 ta' Novembru 2004 fejn gie except illi:

1. L-attur ma jistax jagixxi f'isem ibnu A li tieghu jallega li ghandu l-kura u l-kustodja. Ghalkemm fis-sentenza tad-29 ta' April 2004 fil-kawza fl-ismijiet **'Avs Dr. Beppe Fenech Adami et noe'** (Citazz. Numru 44/04 RCP) gie deciz li *'f'dan l-istadju'* l-attur jigi afdat il-kura u l-kustodja tal-minuri A Borg, sussegwentement, fil-proceduri legali istitwiti minnu stess quddiem il-*High Court of Justice (Family Division)* tal-Ingilterra, l-attur obbliga ruhu fis-27 ta' Lulju 2004 illi *'he will not therefore seek to enforce the order for A's custody made in his favour by the Maltese Court on the 29Th April 2004'* u *'he will not remove the child A Borg (born 4th February 2000) from the care and control of the defendant'* u dan kif jirrizulta ahjar mill-anness dokument immarkat bhala DOK. 'PL 1.'

2. Subordinatament u minghajr pregudizzju ghal premiss, l-ewwel u t-tieni talba attrici huma legalment

Kopja Informali ta' Sentenza

insostenibbli a tenur tal-**Artikolu 56 (4) tal-Kap 16** tal-Ligijiet ta' Malta billi din l-Onorabbli Qorti mhijiex illum marbuta bid-decizjoni tal-kawza fl-ismijiet '**Avs Dr. Beppe Fenech Adami et noe**' (Citaz. Nru. 44/04) deciza fid-29 ta' April 2004 u lanqas bid-decizjoni tal-**High Court of Justice (Family Division)** fuq riferita u dan peress li din l-Onorabbli Qorti '*tista', f'kull zmien (sottolinear tal-eccipjenti) tirrevoka jew tibdel dawk l-ordnijiet dwar l-ulied, meta l-interessi ta' l-ulied hekk jitolbu'* kif inhu l-kaz in kwistjoni, u dan dejjem fl-interess tal-minuri li huwa suprem.

Salvi eccezzjonijiet ohra.

Rat id-dikjarazzjoni u l-lista tax-xhieda tal-konvenuta a fol. 61 sa 63 tal-process.

Rat il-kontro-talba tal-konvenuta rikovenzjonanti fejn ipremettiet:

Illi l-konvenuta rikonvenjenti, li hi ta' nazzjonalita` Ingliza, zzewget fit-18 ta' Settembru 1995 lil certu Joseph Agius u miz-zwieg taghhom twieled tifel li jismu Jordan u li illum ghandu disa' (9) snin kif jirrizulta mill-annessi dokumenti markati bhala DOK. 'PL 1' u 'PL 2'.

Illi l-konvenuta rikonvenjenti sseparat minn mal-imsemmi zewgha permezz ta' kuntratt ta' separazzjoni konsenswali fl-atti tan-Nutar Joanne Cauchi datat 2 ta' Dicembru 1999, anness u markat bhala DOK. 'PL 3'.

Illi l-konvenuta rikonvenjenti kellha relazzjoni extra-matrimonjali mal-attur rikonvenut minn liema relazzjoni twieled tifel li jismu A u li illum ghandu erba' (4) snin, u dan skond ma jirrizulta mill-anness dokument immarkat bhala DOK. 'PL 4'.

Illi tul din ir-relazzjoni t-tifel minuri tal-konvenuta rikonvenjenti Jordan Agius u t-tifel minuri tal-kontendenti A ghexu u trabbew flimkien bhala ahwa ma' ommhom u l-attur rikonvenut.

Illi din ir-relazzjoni ntemmet f'Ottubru 2002 unilateralment, arbitrarjament u bla kliem u bla sliem mill-attur rikonvenut billi qabad u keccieha 'l barra mid-dar li kienu jghixu fiha.

Illi l-imsemmija zewg ulied minuri tal-konvenuta rikonvenjenti kienu ghaddejjin minn trauma fizika u psikologika minhabba s-sitwazzjoni li f'daqqa wahda sabu ruhhom fiha. L-iben minuri A esperjenza trauma psikologika f'ambjent xejn konducenti ghal trobbija b'sahhitha ta' tifel minuri u jirrakonta, fost ohrain, esperjenzi skandaluzi minn naha tal-attur rikonvenut. B'konsegwenza ta' hekk l-iben minuri A soffra minn *alopecia*. L-iben minuri Jordan kien fizikament u mentalment abbuzat minn missieru u sahsitra minn genituri paterni tieghu Ghawdxin u zijuh li ghex maghhom ghal perjodu ta' zmien, u dan kif jirrizulta dettaljatament mill-anness rapport psikologiku ta' Ms. Ruth Aitken - *Chartered Psychologist* - markat bhala DOK. 'PL 5'.

Illi f'dawn ic-cirkostanzi l-konvenuta giet kostretta, wara parir legali (mhux tal-avukati sottofirmati), biex titlaq minn Malta fit-2 ta' Frar 2004 flimkien mal-imsemmija zewg uliedha minuri Jordan u A u marret tghix flimkien mal-imsemmija uliedha f'Hastings l-Ingilterra. It-tifel minuri Jordan beda jattendi regolarment il-'*Junior School*' u rregistra progress edukattiv notevoli skond ma jirrizulta mid-dokument anness u markat bhala DOK. 'PL 6'. L-istess jinghad ghal minuri A skond kif jirrizulta mir-rapport tan-*Nursery* fejn kien jattendi, anness u mmarkat bhala DOK. 'PL 7'.

Illi, in segwitu nbdew proceduri legali mill-attur rikonvenut u l-imsemmi Joseph Agius quddiem il-*High Court of Justice* fl-Ingilterra sabiex l-ulied minuri tal-konvenuta rikonvenjenti jingiebu lura hawn Malta u b'sentenza moghtija mill-Qorti Ingliza fis-27 ta' Lulju 2004, il-konvenuta rikonvenjenti giet kostretta tiritorna lura hawn Malta flimkien ma' uliedha u dan taht certu provvedimenti li jirrizultaw mill-imsemmija decizjoni hawn annessa u markata bhala DOK. 'PL 8'.

Illi, l-attur rikonvenut mhux qed jamministra l-manteniment għall-konvenuta rikonvenjenti u għal ibnu minuri A, kif gie ordnat li jagħmel mill-Qorti Ingliża fid-decizioni tagħha fuq riferita tas-27 ta' Lulju 2004.

Illi għalhekk il-konvenuta rikonvenzjonata talbet li l-attur rikonvenut jgħid għaliex m'għandhiex din l-Onorabbli Qorti għar-ragunijiet premessi u prevja n-nomina ta' esperti fil-materja, fosthom '*social worker*' u '*child psychologist*':

1. A tenur tal-**Artikolu 56 (4) tal-Kap 16** tal-Ligijiet ta' Malta tirrevoka u/jew tbiddel l-ordnijiet kif jemanu mid-decizioni fil-kawza fl-ismijiet '**Avs Dr. Beppe Fenech Adami et noe**' (Citaz. Nru. 44/04 RCP) deciza fid-29 ta' April 2004 u tiddikjara li l-kura u l-kustodja tat-tifel minuri A tigi fdata esklussivament favur il-konvenuta rikonvenjenti, u dan dejjem fl-interess suprem tal-minuri, salv id-dritt tal-access taht supervizjoni lill-attur rikonvenut.

2. Tikkundanna lill-attur rikonvenut sabiex ihallas manteniment xieraq u adegwat għall-iben minuri A, b'dawk il-modalitajiet kollha tal-pagament, inkluz provvediment għaz-zieda perjodika biex tagħmel tajjeb għall-gholi tal-hajja;

3. Tawtorizza lill-konvenuta rikonvenjenti sabiex fic-cirkostanzi tallontana ruhha flimkien ma' binha A minn dawn il-Gzejjer u tmur tghix f'pajjizha l-Ingilterra, u dan taht kull provvediment xieraq u opportun li jogħgobha taghti din l-Onorabbli Qorti.

Bl-ispejjez u bl-ingunzjoni tal-attur rikonvenut għas-subizzjoni.

Rat id-dikjarazzjoni tal-konvenuta rikonvenzjonanti, il-lista tax-xhieda u d-dokumenti eseblti a fol 66 sa 108 tal-process.

Rat in-nota tal-eccezzjonijiet tal-attur rikonvenzjonat fejn eccepikka:

Kopja Informali ta' Sentenza

1. Illi hu fl-interess tal-iben minuri A li jkun fil-kustodja u li jabita mal-missier kif ghamel ghall-perjodu twil ta' zmien qabel ma l-konvenuta harbet minn Malta bih.

2. Illi l-konvenuta wriet mhux biss b'dan l-atteggjament taghha izda wkoll bil-passat taghha kif ser jigi pruvat waqt il-kawza illi mhix persuna adatta biex tinghata l-kustodja u l-kura tal-imsemmi minuri A izda kien dejjem il-missier li ha hsiebu u mantnih kif ghadu jaghmel sillum.

3. Illi zgur mhux fl-interess tal-minuri li l-konvenuta tithalla titlaq minn Malta bil-minuri A *stante* li tweled u ghex Malta sakemm ommu harbet bih iktar minn sitt xhur ilu, u illi l-uniku familja li A jaf hi dik ta' missieru li magghom qatta hafna minn hinu.

4. Illi ma hemm l-ebda cirkostanza gdida li ghandu jbidel il-fehma tal-Qorti kif espressa fis-sentenza taghha tad-29 t'April 2004 ghal dak li jirrigwarda l-kustodja u kura ta' A u ghalhekk it-talbiet tal-konvenuta ghandhom jigu respinti.

Rat id-dikjarazzjoni tal-attur rikonvenzjonat u l-lista tax-xhieda a fol 112 u 113 tal-process.

Rat id-digriet tal-Qorti fejn il-kawza giet appuntata ghas-17 ta' Jannar 2006. Rat id-digriet tal-affidavit moghti lill-partijiet fit-28 ta' Gunju 2005 fejn il-Qorti pprefiggiet terminu ta' tletin (30) gurnata lill-attrici sabiex tipprezenta x-xhieda kollha taghha producibbli bil-procedura tal-affidavits bin-notifika lill-kontro-parti jew lid-difensur taghha, li jkollu wkoll l-istess terminu sabiex huwa wkoll jipprezenta l-affidavits tieghu. Giet nominata bhala Assistent Gudizzjarju Dr Josette Demicoli biex wara tali termini tiffissa seduta ghal kull parti ghall-konkluzjoni tal-provi tal-partijiet. Gie ordnat ukoll li jithalsu r-rapporti lill-Dr Anna Cassar u lil Claire Sammut, li kienu gew nominati b'digriet tal-4 ta' Novembru 2004 u l-istess jistghu jigu mahlufa fir-Registru.

Rat il-verbal tal-1 ta' Settembru 2005 fejn dehru l-partijiet assistiti u talbu li l-ftehim li prezentaw f'dik il-gurnata u li

qablu dwaru, jissostitwixxi il-minuta ta' ftehim minnhom prezentata fl-atti tar-rikors li kien qiegħed jinstema' fl-istess seduta. Il-Qorti laqgħet it-talba u l-konvenuta ndikat l-indirizz attwali tagħha u fejn setgħet tigi kkomunikata w obligat ruhha li tindika r-residenza eventwali tagħha lill-kontro-parti. Il-Qorti spjegat lill-partijiet il-kontenut tal-istess ftehim, kollox bil-lingwa Ingliza; il-partijiet qablu mal-premess, għamlu l-emendi necessarji u ffirmaw l-istess ftehim *seduta stante* fil-presenza ta' l-avukati tagħhom li ffirmaw l-istess ftehim u fil-presenza tal-Qorti. Il-partijiet qablu li tali ftehim jigi nkorporat f'sentenza, u li għandu japplika għall-istess ftehim il-*Council Regulation (EC No:2201/2003)*. Il-Qorti pposponiet il-kawza għas-sentenza.

Il-Qorti tordna li r-rapport ta' l-Agenzija Appogg tas-26 ta' Jannar 2005 jigi mdahħal fil-process b'dan li kull parti għandha thallas il-parti tagħha tal-ispejjez ta' l-istess rapport.

Rat id-dokumenti eseħiti.

Rat l-atti kollha l-oħra tal-kawza.

II. KONSIDERAZZJONIJIET.

Il-Qorti rat li kif jirrizulta mid-dokument prezentat fis-seduta ta' l-illum stess il-partijiet qablu dwar il-kura u l-kustodja w access tal-minuri ta' binhom A u wara li ezaminat l-istess ftehim, din il-Qorti thoss li l-istess ftehim huwa fl-interess tal-minuri w għandu jigi addottat bħala decizjoni ta' din il-Qorti fil-kuntest tal-kawza attrici u tal-kontro-talba tal-konvenut, b'dan li l-Qorti tirreferi wkoll għall-verbal ta' l-istess seduta u l-osservazzjonijiet minnha mogħtija.

III. KONKLUZJONI.

Illi għalhekk għal dawn il-motivi, din il-Qorti, **taqta' u tiddeciedi**, billi filwaqt li tichad l-eccezzjonijiet tal-

konvenut biss inkwantu l-istess huma b'xi mod inkompatibbli ma' dak maqbul bejn il-partijiet u in forza tal-ftehim bejn il-partijiet iffirmit minnhom fil-5 ta' Settembru 2005, u mmarkat bhala Dokument RCP1, tilqa' z-zewg talbiet attrici biss fis-sens li l-kura, l-kustodja w access tal-istess minuri A Borg ghadu jigi regolat bid-disposizzjonijiet specifici ta' l-istess ftehim li qed jigu nkorporati f'din is-sentenza, u cioe`:

The parties declare that they had a personal relationship with each other out of which relationship they had a son named A Borg who was born in Malta on the 4th February 2000.

The parties further declare that their relationship broke down.

*The Father sued the Mother in the Maltese Civil Court (Family Division) so that full care and custody of the parties' son A be entrusted to him and that A be brought back to Malta after he had been taken by the Mother to the United Kingdom. By means of a judgment of the Maltese Civil Court (Family Division) delivered on the 29th April 2004 in the names **Avs B**, the Court entrusted the Father with full care and custody of the parties' son A and ordered that A be returned to Malta.*

The Father sued the Mother in the High Court of Justice (Family Division) in England for the return of the parties' son A back to Malta. By means of a judgment dated 27th July 2004, the Court ordered the Mother to return to Malta with the minor son A by not later than the 3rd August 2004 provided that the Father does not remove the child from the care and control of the Mother, and that he does not seek to enforce the above-mentioned judgment delivered by the Maltese Courts on the 29th April 2004. The Court also granted permission that the records of the suit be made available to the Maltese lawyers for any action they might take in the Maltese Courts.

Following the return to Malta of the Mother with the parties' son A, the Father instituted Court proceedings in

*the Maltese Civil Court (Family Division) in the names **Avs B (Citazzjoni Numru 334/04 RCP)** and asked for a declaration by the Maltese Court that there were no new considerations to be made following its judgment of the 29th April 2004 and that therefore that judgment shall be upheld.*

The Mother pleaded that there was sufficient cause for the Maltese Court to alter the judgment delivered on the 29th April 2004 and by means of a counter-claim she asked the Civil Court (Family Division) to entrust her with full care and custody of the parties' son A and that she be allowed to leave these islands together with the minor son.

The parties further declare that the lawsuit is still pending before the Maltese Civil Court (Family Division).

The parties have since reached an amicable settlement to this dispute and therefore agree as follows:

1. The Mother shall have full care and custody of the parties' son A subject to the Father's right of access as stipulated in paragraph 2. A shall live with his Mother at her place of residence which shall be either in Malta or in the United Kingdom at her sole discretion. The Mother binds herself to inform the Father immediately of any change of residence giving precise contact details and in default she shall forfeit her right to the care and custody of her son A which care and custody shall devolve automatically on the father.

2. The Father shall have access to the minor son A as hereinafter stipulated:

a. One whole week during the month of December provided that the child spends every alternate Christmas day with the father.

b. One week during the Easter holidays.

c. Three consecutive weeks during the month of August.

d. *Any weekend from Friday to Sunday.*

3. *The right of access can be exercised both in the United Kingdom and in Malta at the father's discretion and for this purpose the father can bring over the child to Malta without any restrictions during his right of access as stipulated in paragraph 2. The Father binds himself to give a pre-notice of two weeks to the Mother informing her about the exact date and time of the commencement and termination of the right of access. The parties agree that if the child is coming to Malta he shall be taken to the airport being an airport as close as is practically possible to his place of residence by the mother and that he be picked up from the same airport by the Father or the Father's parents limitedly in those cases where the Father cannot pick up his son from the airport and returned by the Father or the Father's parents, limitedly in those cases where the Father cannot return his son to the airport, on the agreed date and time to the same airport to be picked up by the mother. All travel expenses of the child and all other necessary expenses for the care of the minor child while he is with the Father shall be borne by the Father. The parties further agree that the minor son's passport shall be kept by the Mother who binds herself to pass it on the Father when he picks his son from the airport. When the Father returns his son at the airport of departure he shall also return the minor son's passport to the Mother. The father binds himself to return the child to the mother on the day of termination of the right of access and in default he shall automatically lose his right of access.*

4. *The parties agree that in those cases where the Father exercises his right of access from Friday to Sunday as stipulated in paragraph 2 (d), the son shall be picked up and returned by the Father from a mutually agreed pick-up point being a point close to the minor son's place of residence in the United Kingdom.*

5. *The parties further agree that throughout the above stipulated days during which the Father shall have access to the child, if such access is carried out in Malta, the*

minor son shall reside with the Father's parents. In any other case the child shall reside with his Father. The Father binds himself to inform the Mother immediately of any change of residence and in default he shall forfeit his right of access to his son A.

6. The Mother furthermore concedes and grants permission to the paternal grandparents to visit the minor child once a month for a total of twelve times a year and for the duration of eight (8) hours per visit. The paternal grandparents shall give a two weeks notice to the Mother of their intention to visit the child. These visits shall be exercised on a day during the weekend. The parties shall agree on the day and time when the child has to be picked up and returned to the Mother. The Mother shall inform the paternal grandparents of the pick up and returning points of the child which shall be in place as close as possible to the Mother's residence. The parties to this clause bind themselves to be civil and cooperative with each other in the interests of the minor child. This permission shall cease on the child attaining majority.

7. The parties also agree that, without prejudice to what is above stipulated, they cannot take the child out of the United Kingdom or Malta without the express consent in writing of both parents. Furthermore, the parties bind themselves to inform each other and give precise details as to where they intend to go with the minor son and the duration of their stay outside the United Kingdom or Malta.

8. The Mother binds herself to maintain continuous contact with the Father regarding the education and health of the minor son A as well as supply the Father with precise means of communication with his son including telephone or mobile numbers and shall inform the Father immediately of any change. The father shall have the right to maintain continuous contact with the child by means of telephone or other means of communication.

9. The Father binds himself to maintain continuous contact with the Mother by means of telephone calls while

the minor son is in his custody. The Mother shall have the right to maintain continuous contact with the child by means of telephone or other means of communication throughout the stipulated days during which the father shall have access to the child.

10. The minor son shall maintain his English and Maltese nationality.

11. The Father binds himself to maintain his son A and to this effect binds himself to give the Mother the sum of sixty Malta liri (LM 60) per month as maintenance to his minor son which sum shall cover all the child's needs and which shall be adjusted every two years in accordance with the cost of living index. The Father binds himself to pay maintenance on the first (1st) day of each month by means of a standing order to a bank account in the United Kingdom held in the Mother's name. All bank charges for the transfer of the maintenance shall be borne by the Mother. This maintenance shall remain in force until the child reaches the age of eighteen years. Provided that this maintenance shall cease if the child finds full time employment, marries or otherwise does no longer reside with his mother at her place of residence.

12. The Mother is also bound to maintain her son A according to her means and she is not claiming maintenance for her needs from the Father for whatever reason.

13. The Mother binds herself to supply detailed information to the Father regarding any community or social worker help or psychological intervention in relation to their son A and authorizes before hand any such person to give information as requested by the Father.

14. The parties bind themselves to use their utmost prudence and diligence whilst A is under their care and this especially in regard to his physical, moral and psychological upbringing.

15. *The parties further bind themselves not to molest one another directly or indirectly and not intervene in each other's private lives.*

16. *The parties agree that this agreement forms part and parcel of the pending law suit before the Maltese Civil Court (Family Division) and that judgment on this law suit be given to reflect the agreement reached.*

F'dan is-sens ghandha tigi regolata l-kura u kustodja ta' l-istess minuri A b'dan li l-Qorti qed taghti effett lil dan il-ftehim u din is-sentenza anke *ai termini* ta' *Council Regulation (EC No 2201/2003)* u abbazi ta' l-istess regolamenti nkluz l-**artikoli 21** u **41** tal-istess qed tinkorpora bhala parti minn din is-sentenza c-certifikat relattiv skond Annex III ta' l-istess regolamenti.

Dwar spejjez kull parti thallas l-ispejjez taghha tal-kawza.

Illi dwar il-kontro-talba tal-konvenuta din il-Qorti taqta' u tiddeciedi billi filwaqt li tichad l-eccezzjonijiet ta' l-attur ghall-istess kontro-talba in kwantu l-istess huma b'xi mod inkompatibbli mal-ftehim milhuq bejn l-istess partijiet u ma din is-sentenza, tilqa' t-talbiet attrici biss fis-sens premiss, b'dan illi:

1. Tilqa' din it-talba u tirregola l-kura u l-kustodja tat-tifel minuri A fil-kuntest ta' dak mifthiem bejn il-partijiet skond id-dokument datat 5 ta' Settembru 2005 – Dok RCP1, inkorporat aktar il-fuq f'din is-sentenza u dan fl-interess suprem tal-minuri.

2. Tikkundanna lill-konvenut rikonvenut sabiex ihallas il-manteniment ndikat fl-istess ftehim, u kollox skond il-kundizzjonijiet indikati fl-istess ftehim.

3. Tilqa' t-tielet talba biss fil-kuntest ta' dak pattwit bejn il-partijiet fil-ftehim premiss, liema ftehim u din is-sentenza ghandu jirregola l-kura u l-kustodja u l-access tal-minuri bejn l-istess partijiet.

Kopja Informali ta' Sentenza

Kull parti ghandha thallas l-ispejjez taghha anke fil-kaz tal-kontro-talba.

Moqrija.

< Sentenza Finali >

-----TMIEM-----