



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

**ONOR. IMHALLEF  
NOEL CUSCHIERI**

Seduta tat-22 ta' Marzu, 2012

Citazzjoni Numru. 55/2011

Number on list: 35

**T U  
vs  
X V**

**The Court,**

Having seen the sworn application by virtue of which plaintiff is requesting this Court [1] to authorise her to relocate to the United Kingdom together with Zak V, the parties' minor son, and for this purpose to grant her exclusive care and custody of the said child in his best interests; [2] to obtain on his behalf a British<sup>1</sup> passport, for this purpose; [3] to give those directions which the Court deems fit for the above purposes;

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<sup>1</sup> During the sitting of the 13<sup>th</sup> March 2012, the parties agreed that the Court authorizes plaintiff to apply for and obtain a British passport – Fol.118

Having seen the relevant facts stated by plaintiff in support of the above requests: that the parties, now divorced, have a common child, Zak V, born in the United Kingdom on the 29<sup>th</sup> November 2009; that plaintiff is now married to Stephen U, and has another child, from this marriage; that by virtue of a court judgment the parties have joint care and custody of the minor child Zak, who however is living with his mother, with visitation rights in favour of his father; that according to the above court judgment the habitual residence of Zak is Malta, which can only be changed with the written consent of both parties, or through the court's intervention; that plaintiff, an English national having relatives living in the United Kingdom, has taken the child, together with his step-brother, to the United Kingdom to meet her relatives, as authorized; that now plaintiff lives with her second husband in Malta, and together with Zak and his step-brother, they form a stable family unit; that they are both musicians by profession and an opportunity for advancement has arisen which however necessitates that they relocate to the United Kingdom, thereby increasing their standard of living; that plaintiff and her second family have a residence in the UK and she has already made the necessary verifications regarding Zak's education there; that she is the child's primary carer and has a strong bond with the child; that defendant is unwilling to give his consent for the relocation of the child to the UK; that she has obtained the necessary authorization to file these proceedings;

Having seen the reply, by virtue of which defendant is opposing plaintiff's requests on the grounds: that they are not based on the supreme interests of the child, but on the personal ambition of plaintiff and her husband; that relocation is not in the best interests of the child; that defendant denies that his refusal is not based on valid grounds;

Having seen the report of the court-appointed psychological expert, Mrs. Carmen Sammut;

Kopja Informali ta' Sentenza

Having seen the note filed jointly by the parties containing their agreement on the issue in question, and their request that same be incorporated in the final judgment;

Having seen all the acts of the case, including the affidavits presented;

Having heard the evidence on oath;

Having considered;

That plaintiff, who at present lives in Malta, together with her second husband, Zak, the parties' common child, and his step-brother, wishes to relocate to the United Kingdom with her new family, including Zak; on the grounds that an opportunity for advancement in her profession has arisen which will lead to her enjoying a higher standard of living.

That initially defendant was opposed to this idea on the grounds that relocation was not in the best interests of the child.

That after the court-appointed psychologist presented her report, the parties came to an amicable settlement on the matter, a copy of which, in Maltese, is being hereby attached to form an integral part of this judgement [Appendix A]<sup>2</sup>;

That, in the light of the legal referee's report, and the contents of the agreement, this Court does not consider plaintiff's requests to run counter to the child's interests; and therefore considers these requests to be justified in fact and at law;

For the above reasons the Court decides this case, by accepting to plaintiff's request in terms of and on the conditions, indicated in the attached agreement.

Parties are to bear their own costs.

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<sup>2</sup> Fols.119 *et seq.*

Kopja Informali ta' Sentenza

**< Sentenza Finali >**

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