Court Of Appeal

Judges

THE HON. CHIEF JUSTICE SILVIO CAMILLERI
THE HON. MR. JUSTICE GIANNINO CARUANA DEMAJO
THE HON. MR JUSTICE NOEL CUSCHIERI

Sitting of Friday 25th September 2015

Number:

Application Number: 101/15 RGM

Director of the Department for Social Welfare Standards

v.

Elaine Cordina

The Preamble

1. This is an appeal lodged by applicant ["the Director"] from a judgment given by the Civil Court [Family Section] on the 23rd July 2015 by virtue of which the first Court rejected the Director's request made on behalf of the Father of the two minor children, at present residing in Malta, to issue an order against respondent ["the Mother"] ordering the latter to return to Belgium their two minor children and to make the

necessary arrangements for their return to Belgium being the children's last place of habitual residence after the Mother moved to Malta on the 19th May 2014.

The Facts

2. The facts relevant to the appeal are the following. On the 19th May 2014 the Mother, a Maltese citizen, with the two children who at that time were habitually resident in Belgium came to Malta to vote in the European Parliament elections, which were being held during the 19th and the 25th of May, as well as to reflect on her matrimonial situation after she allegedly discovered that the Father, a Swedish national, was being unfaithful to her. Though she came to Malta on a subsidised ticket it was agreed that she return to Belgium at a later date on a regular ticket.

3. Between the months of July and August the Father came over to Malta to be with his children and on that occasion he stayed with his wife at her parents' home. At the end of his stay the Father returned to Belgium, whilst the Mother and the children remained in Malta living at her parents' house.

4. On his return to Belgium the Father sold the family car as had been agreed. He had also previously sub-let the studio flat for the remainder of the lease period which was due to expire in June 2015 At that time it was clear that the parties had no intention of renewing the lease as they had no further use for this apartment which had originally been leased by the Father to accommodate the Mother's parents when they came over to Belgium to help out with the children .

5. Also, the Mother had listed this apartment for rent with the consent of the Father.

6. On his return to Belgium the Father communicated with his children on a daily basis through Skype. He also spoke to the mother both through Skype and through the telephone informing her of the sale of the car and the sub-letting of the studio flat. Also, the Mother informed the Father that she had enrolled the children in a nursery and a playgroup in Malta and she even sent him photos via email. During the Father's stay in Malta between July and August, he had even attended one of the school activities.

7. During his stay in Malta, and even before as far back as 2013, the parties had been considering taking up residence in Malta. At the end of 2014 when the Father's employment contract was due to expire the

Father started looking for a job in Malta with the help of the Mother. When in Malta the Mother was living on parental leave allowance, whereas the Father was unemployed living on unemployment benefits of roughly €1,900.

8. Between November and December 2014 the Mother filed an application for personal separation in the Maltese courts on the basis of the Father's alleged infidelity. When the Father became aware of these proceedings he initiated abduction proceedings under the Hague Convention requesting that the children be returned to Belgium so that the care and custody issue be decided by the Belgian courts.

The Judgment

9. The first Court made the following considerations prior to arriving to its decision.

> "On the 5th March 2015 the Director of the Department for Social Welfare Standards in Malta filed an application before this Court requesting a court order (1) for the return of the two minor children B C W and R X M W to Belgium; (2) to establish the necessary arrangements so that the said two minor children be returned to Belgium; and (3) in the event that respondent J K does not abide by the return order, to enforce the return order with the assistance of the police, the court marshals and the social workers Applicant premised that the minor children were retained in Malta by the mother, claiming that although mother and children came to Malta with the father's consent this was on the understanding that she returns to Malta after the MEP elections, ie. between the 19th and the 25th May 2014.

"The department claims that once in Malta the mother decided unilaterally not to return to Belgium with the children. The Maltese Central Authority submits that the habitual residence of the two minor children prior to their retention by the mother in Malta is Belgium and according to the Belgian Civil Code both parents enjoyed and exercised joint care and custody over the two minor children. When the mother refused to return to Belgium with the children the father applied to the Belgian Central Authority in terms of Article 8 of the Hague Convention on the Civil Aspects of Child Abduction. The Belgian Central Authority forwarded the claim to its counterpart in Malta and the present proceedings were initiated.

"Respondent J K filed her reply on the 20th March 2015 contesting the Department's application. Her main defences are the following: (a) that she is not in breach of Article 3 of the First Schedule of Chapter 410 of the Laws of Malta (The Child Abduction and Custody Act) since she maintains that the father of the two minor children "had consented to or subsequently acquiesced in the removal or retention" of the children in terms of Article 13 (a) of the First Schedule of Chapter 410 of the Laws of Malta; (b) she denies there was an agreement between her and her husband, the father of the children, to return to Belgium after the MEP elections. The mother claims that following marital problems between the married couple, they were in agreement that she comes to Malta together with the two minor children for an indeterminate time following their fallout after what respondent describes as "the discovery of her husband's double life" which she describes as being harmful to the minor children; (c) that her husband's request for a return order was made under false pretences since according to the mother, the father invoked the 1980 Convention as a reaction to her filing for personal separation before the Maltese Courts where respondent is requesting the exclusive care and custody of the children; (d) there is a grave risk that the return of the children to Belgium will expose them to "physical or psychological harm or otherwise place the child in an intolerable situation".

"**Wrongful Retention.**

"**Direttur tad-Dipartiment ghal Standards fil-Harsien Socjali vs Michael Caruana**" decided by the Court of Appeal on the 3rd August 2008:-

""……il-Qorti tinnota li r-regolament in kwistjoni jolqot kemm *wrongful removal* kif ukoll *wrongful retention*, b'din tal-ahhar tavvera ruhha meta minuri li jkun barra mill-pajjiz tar-residenza ordinarja tieghu ghal perjodu temporanju, ma jigix ritornat lura f'gheluq dak il-perjodu. Il-protezzjoni, f'kull kaz, ghandha tintalab minn min ikollu "drittijiet ta' kustodja". Din il-Qorti sejra, minn issa 'l quddiem, tirreferi b'mod generali ghal ktieb "**Bromley's Family Law"** (10th Edition 2007 ta' **Nigel Lowe u Gillian Douglas, Oxford University Press**), peress li dan jaghti trattat meqjus u car tar-Regolament applikabbli fost diversi stati tal-Unjoni Ewropeja. Dwar kif ghandhom jigu stabbiliti dawn id-drittijiet fil-ktieb jinghad hekk

(pagna 639): “The general approach in determining this issue has been well summarised by **Dyson LJ in Hunter v. Murrow (Abduction: Rights of Custody)**. The first task, the so called ‘domestic law question’, is to establish what rights, if any, the applicant had under the law of the state in which the child was habitually resident immediately before his or her removal or retention. This question is determined in accordance with the domestic law of that State and involves deciding what rights are recognised by that law and how these rights are characterised. The second task, the so-called ‘Convention question’, is to determine whether those rights are properly to be categorised as ‘rights of custody’. This is a matter of international law and depends upon the application of the autonomous meaning of the phrase ‘rights of custody’ as understood by the English courts.” …jew, fil-kaz taghna, mill-qrati ta’ Malta.”

“**Subsequent Acquiescence**.

“Reference is made to a judgment of the Court of Appeal of the 25th February 2011 in the names “**Direttur tad-Dipartiment ghal Standards fil-Harsien Socjali vs Lara Maria Merlevede nee’ Borg St. John**”. The facts of that case resemble in many respects the facts of the present case. In that case the parents resided with their children in France and they agreed that the mother visits Malta for three months together with the children while the father remained in France. When time was up for their return to France the mother refused and after almost a year the father instituted proceedings under the Hague Convention. The Court of Appeal had this to say regarding ‘subsequent acquiescence’:-

““Fl-ewwel lok, din il-Qorti trid twarrab is-sottomissjoni tad-Direttur appellant, bazata fuq il-kaz Ingliz **In Re W (Abduction: Procedure)** deciza minn Wall J. fl-1995. F’dik il-kawza l-Qorti qalet li l-kunsens irid ikun “clear and compelling” u, anzi, “in normal circumstances, such consent will need to be in writing or at the very least evidenced by documentary material”. Din il-Qorti ma taqbilx ma’ din l-ahhar stqarrija li, fuq kollox ma tidhirx li giet aktar segwita lanqas fl-Ingilterra. Fil-ktieb **Bromley’s Family Law** (10th Edit, 2007 f’pagna 650) intqal hekk fuq din il-kwistjoni: “**In Re W (Abduction: Procedure)**, Wall J considered that to establish consent the evidence needs to be clear and compelling, which in his Lordship’s view means that the evidence normally needs to be in writing or evidenced by documentary material. Accordingly, a parent must establish the defence ‘on the face of the documentation’ since, if he cannot do so, ‘oral evidence is unlikely to affect the issue and will not be entertained’. However, in **Re C (Abduction: Consent)** Holman J, while agreeing that the evidence needs to be clear and cogent, took issue with Wall J over the need for writing. As he pointed out, ‘Article 13 does not use the words “in writing”, and parents do not necessarily expect to reduce their agreements and understandings about their children to writing even at the time of marital breakdown’. In his view it is sufficient that the defence is clearly established. He also disagreed with Wall J that consent had to be ‘positive’ if that meant ‘express’. In Holman J’s views it is possible in an appropriate case to infer consent from conduct..

In **Re K (Abduction: Consent)** Hale J, preferring Holman J's views on both counts to those of Wall J, said that while it was obvious that consent must be real, positive and unequivocal, it did not necessarily have to be in writing. She further held that once given (and acted upon) it cannot subsequently be withdrawn by the parent who gave it subsequently thinking better of it. Wall J has now reconsidered his view and accepts Holman J's analysis."

"Ghalhekk, il-kunsens mhux mehtieg li jkun la bil-kitba u lanqas espress, pero`, irid ikun car u inekwivoku. Fl-Ingilterra hu ammess ukoll li l-kunsens jista' jirrizulta minn kondotta. Fil-kaz **Re: H (Minors) (Abduction: Acquiescence)** deciza mill-House of Lords fl-1998, apparti li ntqal li akkwiexxenza tiddependi mill-"actual state of mind" ta' dak li jkun, il-Qorti osservat li, min-naha l-ohra, b'mod oggettiv; "Where the words or actions of the wronged parent clearly and unequivocally show and have led the other parent to believe that the wronged parent is not asserting or going to assert his right to the summary return of the child and are inconsistent with such return, justice requires that the wronged parent be held to have acquiesced."

"Reference is also made to a judgment delivered by the Court of Appeal in England in the names: **Re. S. (Abduction: Acquiescence) [1998]**.1 :

""The defence of acquiescence is to be found in Art 13 of the Hague Convention and is an exception to the general requirement under the Convention embodied in Art 12 that 'the authority concerned shall order the return of the child forthwith'. The relevant part of Art 13 reads as follows:

"'Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that-

"(a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; ...'

"The English approach to this part of Art 13 is now summarised in the speech of **Lord Browne-Wilkinson in Re H (Abduction: Acquiescence) [1998]** AC 72, [1997] 1 FLR 872. At 87G-88D and 882A-E respectively he said:

"'What then does Art 13 mean by "acquiescence"? In my view, Art 13 is looking to the subjective state of mind of the wronged parent. Has he in fact consented to the continued presence of the children in the jurisdiction to which they have been abducted? This is the approach adopted by Neill LJ in Re S (Minors) (Abduction: Acquiescence) [1994] 1

FLR 819 and by Millett LJ in Re R (Child Abduction: Acquiescence) [1995] 1 FLR 716. In my judgment it accords with the ordinary meaning of the word "acquiescence" in this context. In ordinary litigation between two parties it is the facts known to both parties which are relevant. But in ordinary speech a person would not be said to have consented or acquiesced if that was not in fact his state of mind whether communicated or not.

“In my judgment, therefore, in the ordinary case the court has to determine whether in all the circumstances of the case the wronged parent has, in fact, gone along with the wrongful abduction. **Acquiescence is a question of the actual subjective intention of the wronged parent, not of the outside world's perception of his intentions.**

“Then at 90D-G and 884E respectively Lord Browne-Wilkinson summarised it:

“'To bring these strands together, in my view the applicable principles are as follows:

“(1) For the purposes of Art 13 of the Convention, the question whether the wronged parent has "acquiesced" in the removal or retention of the child depends upon his actual state of mind. As Neill LJ said in Re S (Minors) "the court is primarily concerned, not with the question of the other parent's perception of the applicant's conduct, but with the question whether the applicant acquiesced in fact".

“(2) The subjective intention of the wronged parent is a question of fact for the trial judge to determine in all the circumstances of the case, the burden of proof being on the abducting parent.

“(3) The trial judge, in reaching his decision on that question of fact, will no doubt be inclined to attach more weight to the contemporaneous words and actions of the wronged parent than to his bare assertions in evidence of his intention. But that is a question of the weight to be attached to evidence and is not a question of law.

“(4) There is only one exception. Where the words or actions of the wronged parent clearly and unequivocally show and have led the other parent to believe that the wronged parent is not asserting or going to assert his right to the summary return of the child and are inconsistent with such return, justice requires that the wronged parent be held to have acquiesced……the extent of the father's knowledge of his rights is in my view crucial to the consideration of acquiescence and whether he formed the subjective intention to agree to the child remaining in the UK.

“In earlier decisions of this court the lack of knowledge and misleading legal advice have been considered relevant factors to which the court should have regard, see Re A (Minors) (Abduction: Custody Rights) [1992] Fam 106, sub nom Re A (Minors) (Abduction: Acquiescence) [1992] 2 FLR 14 and Re S (Minors) (Abduction: Acquiescence) [1994] 1 FLR 819. In Re AZ (A Minor) (Abduction: Acquiescence) [1993] 1 FLR 682 this court held that it is not necessary, in order for the defence under Art 13 to succeed, to show that the applicant had specific knowledge of the Hague Convention. Knowledge of the facts and that the act of removal or retention is wrongful will normally usually be necessary. But to expect the applicant necessarily to have knowledge of the rights which can be enforced under the Convention is to set too high a standard. The degree of knowledge as a relevant factor will, of course, depend on the facts of each case.”

“The House of Lords sitting as the Superior Appellate Court had this to say in the case re. H and Others (Minors) (Abduction: Acquiescence) [1988]2:-

“"The phrase 'subsequently acquiesced in the removal or retention' has been elaborated in England by case law. The governing authorities are *In re A. (Minors) (Abduction: Custody Rights)* [1992] Fam. 106, *In re A. Z. (A Minor) (Abduction: Acquiescence)* [1993] 1 F.L.R. 682 and *In re S. (Minors) (Abduction: Acquiescence)* [1994] 1 F.L.R. 819. Their general effect, to summarise it shortly, is as follows. In order to establish acquiescence by the aggrieved parent, the abducting parent must be able to point to some conduct on the part of the aggrieved parent which is inconsistent with the summary return of the child to the place of habitual residence. 'Summary return' means in that context an immediate or peremptory return, as distinct from an eventual return following the more detailed investigation and deliberation involved in a settlement of the children's future achieved through a full court hearing on the merits or through negotiation. Such conduct may be active, taking the form of some step by the aggrieved parent which is demonstrably inconsistent with insistence on his or her part upon a summary return; or it may be inactive, in the sense that time is allowed by the aggrieved parent to pass by without any words or actions on his or her part referable to insistence upon summary return. Where the conduct relied on is active, little if any weight is accorded to the subjective motives or reasons of the party so acting. Where the relevant conduct is inactive, some limited enquiry into the state of mind of the aggrieved parent and the subjective reasons for inaction may be appropriate."

“**Considerations of this Court**.

"Applicant, in its capacity as the Central Authority in Malta, is requesting a return order in respect of the minor children on the strength of Chapter 410 of the Laws of Malta, the 1980 Hague Convention on the Civil Aspects of Child Abduction which has the force of law in Malta and of Council Regulation number 2201/2003 (Brussels II Bis).

"The court heard the testimony of both parents and of several other witnesses. In essence both parents are in agreement as to the facts leading to the mother coming to Malta together with the two minor children in May 2014. As a married couple they resided in Belgium were both worked with one of the European Union institutions. At the time their son was two and a half years of age and the daughter was six months old. It is not contested that at the time Belgium was their habitual place of residence and that under Belgian law both had and exercised equal parental authority and custody rights over their two minor children.

"They had serious marital problems, their marriage was breaking down and they agreed that the mother together with both children come to Malta, the mother's country of origin, in order to clear her ideas about their marriage. Both are in agreement that no date was set for their return to Belgium. However the father contends that he expected her to return within a couple of weeks while the mother contends that no return date was agreed and the matter of returning was left open since one of the options discussed at the time to save their marriage was that both parents together with their children relocate to Malta.

"In its application the Central Authority states that there was agreement between the parents that the mother returns to Belgium with the children as soon as the MEP elections were over ie. between the 19th and the 25th May 2014. In his testimony however Mr W stated that he knew that mother and children would not return on the date of the subsidised return ticket. He agreed to a later return date but no specific date was established or agreed upon.

"Applicant claims that the mother's decision not to return to Belgium with the children amounts to a wrongful retention in terms of Article 3 of the First Schedule of Chapter 410 which corresponds to Article 3 of the 1980 Hague Convention. On her part the mother claims that she came to Malta with the children with the father's consent at a time when they were seriously considering relocating to Malta once the employment contract of the father expired at the end of the year.

"On the basis of these facts it is amply clear that there is no case of illegal removal of the children from one jurisdiction to another. Both knew that this was not the normal short visit by the mother to her family and country of origin. The father, a lawyer by profession, was well aware of his rights under the 1980 Hague Convention so much so that by October/November 2014 he started mentioning to his wife that unless

they reached an amicable agreement regarding the care and custody of the children he would invoke the 1980 Hague Convention before a year lapses.

"The fact that no specific date was established for the return of mother and children to Belgium does not mean that the father agreed to an indefinite stay in Malta. This in a way is also acknowledged by the mother when she testifies that when they agreed to the visit the return date was left open. The court therefore concludes that at that moment in time the father had good reasons to believe that the mother will return back to Belgium together with the children within a short time. At the onset of the visit to Malta in May 2014 neither the mother requested nor the father consented to an indefinite stay. It is clear that a time frame for the return was not established or agreed upon. At that moment in time the mother did not tell her husband that she will not be returning to Belgium and that she will stay in Malta indefinitely together with the children.

"Having established that the father was justified in expecting the mother to return to Belgium together with the children within a reasonable time of a couple of weeks, the Court is of the opinion that when sometime through the visit the mother made up her mind not to return to Belgium with the children, at that moment in time an "unlawful retention" occurred and the father was well within his rights to protest her unilateral decision which was in breach of his parental and custody rights over his children.

"The pivotal question which now needs to be addressed is whether there was a moment in time between the mother's unilateral decision not to return indefinitely and the father's decision to proceed under the 1980 Hague Convention when the father "acquiesced" in terms of Article 13 of the Convention which provides that the Court is not bound to order the return of the child if the parent opposing the return establishes that the requesting parent ***"had consented to or subsequently acquiesced in the removal or retention;***"

"Once the mother travelled to Malta with the children with the father's consent, the visit cannot be considered under the heading of "removal". Applicant rightly points out in its note of submissions that "consenting" and "subsequently acquiescing" are distinct from each other. "Consent" means prior approval whilst "subsequent acquiescence" means approval *ex post facto*.

"The Court shall now embark on an examination of the evidence tendered by both parties with respect to the father's actions following that point in time when it became apparently clear that the mother did not intend to return to Belgium with the children.

"Taking account of the testimony of both parents the Court concludes that when the mother came to Malta in May 2014 the parents were already seriously considering relocating to Malta. The Court will not delve into the reasons why these two parents were discussing relocating from Belgium to Malta. Suffice it to say for the purposes of the present court case that for respondent the only way to salvage their marriage was to remove her husband from the environment of promiscuity to which he admits forming part.

"The Court therefore concludes that although it is true that both parents had been for long discussing relocation to Malta, when the visit to Malta actually took place in May 2014 the discussion was at its full throttle so much so that both a couple of weeks before respondent's return to Malta and just two weeks after respondents arrival in Malta, Mr W was applying for jobs in Malta. He was applying for long term jobs and not for summer jobs.

"It is the opinion of this Court that by latest October/November of 2014 Mr W was aware that his wife was definitely not going to voluntarily return to Belgium with the children. This is why at that time he started telling his wife that unless they came to an agreement regarding the care and custody of the children he would invoke the 1980 Hague Convention.

"That development in the chronology of events requires a thorough in depth analysis. The Court observes that the father was not telling his wife that he would file an application under the 1980 Hague Convention in the event that she does not return to Belgium with the children but that he would file such an application in the event that they did not reach an amicable settlement regarding the custody of the children. That statement by the father by its very nature shows that by that time the father was prepared to accept a permanent relocation by the mother and the children to Malta on condition that they reached an agreement regarding his parental rights over the children. Understandably, at that time he was not insisting that the children return to Brussels but that an agreement is reached regarding his parental rights over the two children, whether they reside in Belgium or Malta. So much so that at least till January 2015 the father kept on applying for jobs in Malta in order to relocate and be near the children. The father not stated that he stopped is search for a job in Malta.

"This shows that at that moment in time the father was fully aware that the mother would not return to Belgium with the children. Their marriage was given the proverbial fatal blow when during the father's visit to Malta for Christmas of 2014 Ms K discovered that in spite of all his promises her husband continued with his promiscuous life back in Belgium.

"By that time it was amply clear to both parties that the wife would not return to Belgium with the children. The change brought about by that event was that all chances of recouping the marriage were now lost. What is relevant to this case is the fact that even at that late stage when it was amply clear that the marriage could not be salvaged and therefore husband and wife were not going to reconcile, Mr W was showing around the matrimonial home in Brussels to potential tenants with the intention of renting out the matrimonial home and come to Malta. The email sent by Mr W to his wife on the 15th January 2015 confirms that he had taken photos of the matrimonial home to be used in the listing of the property to be rented out. The email of the 21st January 2015 is evidence that Mr W was personally showing the property to prospective tenants.

"At the same time Mr W continued his search for a job in Malta, actually intensifying his efforts.

"In April 2014, just a month prior to the mother's visit to Malta, Mr W asked **Mr Victor Rizzo** to look for a job for him in Malta. In his affidavit Mr Rizzo explained: "I personally met D in April 2014…D confirmed to me that he was really interested in working in Malta and I asked him to provide me with a CV. I said that if I come across a suitable opportunity I will immediately let him know about it. D was pleased with this proposal …..". On the 6th May 2014 Mr W emailed his CV to Mr Rizzo. On the 19th May 2014 Ms K came to Malta with the children.

"In her testimony by affidavit **Dr Rapa Manche** states that on the 31st May 2014 respondent sent to her an email with Mr W's curriculum vitae. The email included an email sent by Mr W to his wife dated 29th May 2014 with the subject matter "My CV for your cousin". In his email to his wife who at the time was already in Malta with the children Mr W writes: "Attached the same CV I shared with uncle Victor. I suppose it would be useful as a start also with your cousin… I can of course always update if needed for a particular case…."

"Another witness, **Dr Juanita Brockdorff** testified "That in the second half of the year two thousand and fourteen (2014) I became aware of D W's intention to search for an occupation on an indefinite basis in Malta. That as a result of the above I proceeded to forward his C.V. to two of the largest online gaming companies in Malta known to me. That in pursuit of the above I called the HR Manager at one of such two companies to explain and explore the possibilities of a Swedish lawyer, being the nationality and profession respectively of D W, gaining employment with such firm (Betclic/Everest Group based in Sliema) in Malta".

"An email dated 22 August 2014 is exhibited as Doc D with a note filed by respondent. It is an exchange between Mr W and **Mr Micallef of B3W Ltd** discussing employment opportunities for Mr W in Malta.

Dok 1C attached with respondent's affidavit is an email exchange dated 12th November 2014 between Mr W and **Ms Maria Camilleri, the Recruitment Officer at CSB Group in Malta** which is proof that as late as November 2014 Mr W was still applying for jobs in Malta after his wife and children had been staying in Malta for six months.

"During the same period Mr W met a certain **Mr Nicholas Genovese, Recruitment Consultant at Pentasia** in connection with the former's pursuit of a job in Malta. In his email Mr Genevose states: "…..was nice getting to know you and looking forward to helping you make the move to Malta". This email shows that Mr W was externalising his plans to move and relocate to Malta to join his wife and children albeit not necessarily reconciling but at least to be near his children.

"Relevant also is an email dated 7th November 2014 (Doc 1b attached to respondent's affidavit) in which Mr W asks Mr Genovese of Pentasia to consider Ms K for a job in Malta.

"In December 2014 during the second visit of W since respondent came to Malta in May 2014, she discovered that in her absence and in spite of all his promises Mr W continued with his promiscuous activities back in Belgium. This event seems to have shattered the last possibilities of a reconciliation and salvaging the marriage. After that occasion Mr W acknowledged with Ms K that at that point there was no way that she would consider returning to Belgium. In spite of that dramatic development shattering the last hopes of salvaging a crumbling marriage and aware that Ms K will definitely not reconcile with him nor return voluntarily to Belgium with the children he continued his pursuit for a job in Malta.

"On the 23rd January 2015 **Mr Andrew Zammit of CSB Group** wrote to Mr W: "It was good to meet you earlier today. Thank you for coming over. As discussed earlier today please find attached the outline of the objectives to establish Malta as an IP hub." The following day Mr W replied (Doc 1c) to Mr Zammit suggesting that he be employed "as the director of the department". During his testimony Mr W said that when interviewed by Mr Zammit it was made amply clear by Mr Zammit : "…. have no illusions I am not going to offer you a job here,……". In the context of the present court case what is relevant is not what Mr Zammit was ready to offer Mr W but Mr W's intentions when he applied with CSB. It is amply clear that for the whole duration of Ms K 's return to Malta till a couple of days before filing proceedings under the Hague Convention Mr W was applying for jobs in Malta initially with the intention of relocating to Malta and hopefully reconciling with his wife and

salvaging his marriage and subsequently to be in regular contact with his children although the marriage had broken down and respondent filed for personal separation.

"It is the Court's view that when the mother unilaterally decided not to return to Belgium, her action amounts to an "unlawful retention". However by his words and actions the father "subsequently acquiesced". The words and actions of the father following the mother's decision not to return to Belgium and retain the children in Malta may be summarized as follows:

"1. Mr W intensified his search for a job in Malta.

"2. He was actively involved in renting out the matrimonial home in Belgium in order to come and stay in Malta.

"3. He was promoting his wife's CV for a job in Malta.

"It is true that at the same time Mr W was applying for jobs in Belgium and in Sweden, his country of origin. However those applications do not neutralise the fact that the preponderance of the evidence produced show that Mr W had acquiesced to the mother's decision to retain the two minor children in Malta. Actually his application for a job in Sweden shows that he was prepared to cut all connections with Belgium and relocate to Sweden in the event that he found a job there.

"It is not contested that since the mother came to Malta with the children a studio flat they rented in Belgium to accommodate respondent's parents when they regularly visited was sub-let; their car was sold and the matrimonial home was listed to be rented out. Mr W testified that this was done after a drastic reduction in their income following respondent's termination of employment with the Commission. He denies that this was done in line with their intention of relocating to Malta. Ms K on her part reiterates that this was done in consonance with their plans for Mr W to join them in Malta. During his testimony Mr W tried to give the impression that the matrimonial home was listed to be rented out without his intervention. The Court is of the view that Mr W was economical with the truth here knowing full well that renting out the matrimonial home is compatible with a decision to relocate. As late as the 21st January 2015 Mr W agreed with respondent to show the matrimonial home to a certain Ms Beata Bartosova with a view of renting it out to her. In an email dated 15th January 2015 sent by Mr W to Ms K , he states that he took pictures of the apartment in view of being listed to be rented out. Taking photos of the rooms forming part of the matrimonial home and opening the matrimonial home for viewing by potential tenants is compatible with his acquiescence that the children remain in Malta with their mother.

> "It is the Court's view that once the father decided to rent out the matrimonial home, find a job in Malta and relocate here he was acquiescing to the retention. It is also established jurisprudence that once a parent acquiesces to a retention he or she may not withdraw that acquiescence. As has been declared by the Court of Appeal in England in the above quoted judgment se **Re. S. (Abduction: Acquiescence) [1998]:-**
>
> "Once the father …….did acquiesce in the retention of M by the mother, as I believe he did, his subsequent change of heart for whatever reason in September 1997 is irrelevant, **since acquiescence had already taken place. Acquiescence is not a continuing state of affairs and, once given, cannot be withdrawn.**"

The Appeal

10. Applicant is basing his appeal on three grievances: [1] that a mistake made by applicant's representative has been raised twice in the judgment; [2] that the exposition of the relevant legal principles contained in the judgment is insufficient as other relevant principles were not mentioned; [3] that the First Court made a wrong appreciation of the evidence produced before it.

11. On the strength of the above, and on the basis of the detailed analysis made by applicant in the appeal application, applicant is requesting that the appealed judgment be revoked and that an order be issued ordering the return of the two minor children to Belgium; court expenses relating to both proceedings are to be borne by respondent.

12. On her part respondent, for the reasons detailed in her reply, is requesting this Court to reject applicant's appeal and that all costs be borne by applicant.

The First Grievance

13. This is based on applicant's allegation that the wrongful retention commenced some time during the Father's first visit in July/August 2014 when the Mother made it clear that she would not be returning with the children to Belgium. In view of this, applicant claims that evidence of the facts relating to the time prior to the Father's visit is irrelevant in the determination of the issue of acquiescence on the part of the Father.

14. The relevant part of applicant's original application presented on the 5th March 2015 reads as follows:

> "Illi l-minuri gew ritenuti mill-intimata illecitament ….. meta ghalkemm giet Malta bil-minuri bi ftehim mal-missier li tirritorna lura l-Belgju flimkien mal-minuri wara l-elezzjoni tal-Parlament Ewropew (u dan bejn id-19 u l-25 ta' Mejju 2014), <u>hekk kif skada dan il-perijodu hija ddecidiet unilateralment</u> li ma tirritornax bil-minuri u tibqa' Malta."[1]

15. This contrasts with what the Father stated in his application of the 10th February 2014 to the Belgian Central Authority. The relevant part reads as follows:

[1] Underlining by this Court

> "Following marital problems, it was agreed that as Elaine needed to return to Malta to vote in the European Parliament elections during the week of 19 – 25 May 2014, she would bring the children and take some time to reflect on our situation. It was agreed that she would return to Brussels after 1 – 2 months. However she did not. She was also scheduled to start working after parental leave at end of August 2014. She did not return to work."[2]

16. Applicant explains that this inconsistency in the return date agreed to by the parties was due to a mistake on the part of applicant who presented the original application without having had the opportunity at that stage to speak to the Father who at that time was still abroad.

17. Also, applicant claims that when this was brought to the attention of the First Court during the court sitting of the 10th June 2015, the sitting judge "shrugged the matter off treating such mistake as of little importance to the proceedings only to then raise it twice in its judgment."

18. Accordingly during these appeal proceedings applicant filed an application on the 3rd August 2015 requesting this Court to effect a correction to the original application.

[2] Underlining by this Court – Fol.9

19. In this respect, this Court observes that from the records of the proceedings it results that at no stage was a formal request made to the First Court for a correction to the original application in terms of article 175 of the Code of Organisation and Civil Procedure, not even during the sitting held on the 10th June 2015. Moreover it results that the matter was raised by the Mother during the oral submissions made by her legal counsel, and it was at that stage that counsel representing applicant gave her explanation to the Court for this inconsistency. However, even at that stage no formal request for correction was made prior to the judgment.

20. Applicant's request made before this Court for a correction in the original application is legally unsustainable in terms of subsection 2 of article 175 of the aforementioned Code, which reads as follows:

> "(2) Any court of appellate jurisdiction may also order or permit, at any time until judgment is delivered, the correction of any mistake in the application by which the appeal is entered or in the answer, including any mistake in the indication of the court which delivered the decision appealed from, in the name or character of the parties, or in the date of the judgment appealed from."

21. From the above provision of law it is manifest that applicant's request made in his application of the 3rd August falls outside the parameters of this provision.

22. For the above reasons applicant's said request is being rejected.

23. Regarding applicant's grievance that the First Court had mentioned this inconsistency twice in its judgment, this Court observes that, apart from the fact that this inconsistency was raised by the First Court once in its considerations, the First Court, after having heard all the evidence *viva voce*, was legally entitled to come to its conclusion on the matter.

24. In fact, from a careful reading of the appealed judgment, it transpires that the First Court did not accept applicant's version as stated in the original application. This is evidenced by the conclusion reached by the First Court in the appealed judgment regarding the agreed return-date of the Mother where it is stated that the Court had *"established that the father was justified in expecting the mother to return to Belgium together with the children within a reasonable time of a couple of weeks.."*[3] Therefore it results manifestly clear that the above mentioned inconsistency was not prejudicial to the Father's case.

25. On the strength of the above this grievance is considered to be unjustified.

The Second Grievance

[3] Pg 18 of the Judgment. Underlining by this Court

26. Applicant argues that the exposition of the legal principles involved made by the First Court in the appealed judgment is insufficient in that that Court failed to mention legal principles referred to in other judicial pronouncements. Applicant makes reference to the following pronouncements: "Judges should be slow to infer an intention to acquiesce from attempts made by the wronged parent to effect reconciliation or agree a voluntary return of the abducted child"[4]; that "the Convention makes clear, these four exceptions [mentioned in article 13] are meant to be narrow[ly construed]….They do not authorize a court to exceed its Hague Convention function by making determinations, such as who is the better parent, that remains within the purview of the court with plenary jurisdiction over the custody question …. noting that [the] court deciding a Hague Convention petition 'has the authority to determine the merits of the abduction claim and not the merits of the underlying custody claim,'"[5]

27. In this regard this Court observes firstly, that the fact that the First Court in the appealed judgment did not mention certain judicial pronouncements indicating relevant legal principles does not necessarily lead to the conclusion that the First Court had ignored or overlooked these principles nor does it lead to the conclusion that the

[4] Re H [Abduction: Acquiescence] [1997] 1 FLR 872
[5] *Blondin v Dubois* 189 F. 3rd 240

judgment is substantially flawed. This Court observes that in its judgment a court is bound to state its decision and to mention those points of fact and of law which, given the facts of the case, it considers suitable to mention. Secondly, in the present case the First Court made extensive reference to foreign judicial pronouncements which have been adopted by local case law relating to the issue of acquiescence. In essence, the determination of whether the wronged parent had acquiesced to the wrongful retention is a question of fact regarding his actual state of mind at a certain moment in time, the burden of proof lying on the abducting parent. Thirdly, in the appealed judgment the First Court gave a correct exposition of the relevant legal principles and a detailed exposition of the circumstances of fact leading to its decision.

28. Moreover, from the appealed judgment it is manifest that at no stage did the First Court consider the custody issue. Its considerations as contained in the judgment clearly show that that Court dealt exclusively with the evidence relating to the merits of the abduction. Finally, it is pertinent to note that mention in the appealed judgment of the Father's infidelity alleged by the Mother was made not as an element of proof relevant to the merits of the abduction but as the explanation given by the Mother for her decision in filing the separation proceedings in December 2014.

The Third Grievance

29. This concerns the appreciation of facts made by the First Court. Applicant claims that the First Court:

> "… omitted certain evidence altogether …. recounted facts which do not exist and/or are not correct …. contradicts itself in its considerations …. never stopped remarking on the unfaithful conduct of the father …. disregarded completely and without giving any reason why all the evidence, arguments and case law the applicant has so painstakingly outlined and detailed in its note of submissions…"

30. Applicant complains that the First Court "has for some reason left out in its considerations" the fact that the Father was jobless from the 1st January 2015 and that the Mother was on parental leave allowance. As a result of this the parties were in a precarious financial situation which led them to decide to sell the family car, to sublet the studio flat and to list the matrimonial house for rental. In fact the car was sold on the 3rd February 2015[6] that is seven days prior to the filing of his application with the Belgian Central Authority. Moreover, the studio flat was sublet for the rest of the expiration of the lease in June 2015. In March the Mother asked the Father to show to a prospective tenant the matrimonial home which was listed for rental by the Mother, that is a month after the Father had submitted the said application. Applicant argues that both the above transactions as well as the sharing of his CV's in Malta do not necessarily lead to the conclusion that these were

[6] Fol.23

done by the Father with a view to relocating to Malta and that he had acquiesced in the Mother's retention of the children in Malta. This is borne out by the fact that the first transaction was carried out immediately prior to the filing of his application, and the other two transactions were carried out after. Applicant points out that it is "totally absurd" to conclude that these transactions can be interpreted as acquiescence when at the same time he was insisting with respondent for her return with the children to Belgium to settle the custody issue there. Applicant further explains that the reason behind the parents' efforts to cut down on expenses by selling the car and renting the studio flat was to avoid the risk of the Father falling bankrupt "since Swedish lawyers are by law prohibited from exercising their profession if put in personal bankruptcy."

31. Applicant also complains that the First Court omitted from its considerations mention of the fact that despite that several discussions took place between the couple as to the possibilities of alternate living arrangements even before 2014 no concrete conclusion was even reached. This is confirmed by the Mother in her evidence where she states that *"there had always been talk about possibly moving to Malta at some time … [but] it had never taken place at that point."*[7]

[7] Fol.156

32. Also, that the discussions between Andrew Zammit of CSB group, a company based in Malta, were misinterpreted by the First Court. In fact, it was Andrew Zammit who told him *"have no illusions I am not going to offer you a job here."*

33. Applicant states that the First Court recounted facts which do not exist and/or are not correct. He mentions the following facts: that it is "manifestly erroneous" to state that the Father had told her that if the flat were rented before the studio flat, he will come to Malta immediately; that it is "definitely incorrect" to conclude that, taking account of the testimony of both parents when the Mother came to Malta in May 2014 the parents were already seriously considering relocation to Malta; that, although the First Court stated that the Father was applying for long term jobs and not for summer jobs in Malta, the Father maintains that he "never formally applied for jobs in Malta."; that it is incorrect to state that the Father was not insisting that the children return to Brussels but that instead an agreement should be reached regarding his parental rights, whether they reside in Belgium or Malta.

34. Applicant states that the Father maintains that he always insisted that since the residency of the children is in Brussels the custody issue should be resolved there.

35. Regarding the forwarding of his CVs to Malta, the Father explains that at that time he was desperately seeking a job since his employment contract was about to be terminated and that is why he kept on forwarding his CVs not only in Malta but also in Brussels and in Sweden. However, he had never actually searched or applied for jobs in Malta, on the contrary he had applied for job vacancies in Brussels

36. Applicant considers incorrect the observation made by the First Court that in December 2014 when he came to Malta the Mother had discovered that in her absence the Father had continued with his promiscuous behavior and it was at that time that the Father acknowledged with the Mother that at that point there was no way that she would consider returning to Belgium.

37. That by showing the matrimonial home to a potential tenant, after he had initiated abduction proceedings, does not lead to the conclusion that the Father intended to move to Malta. The Father could just as well move anywhere else in a cheaper apartment in Belgium considering that the couple's cash flow was considerably limited. Moreover, he showed the matrimonial apartment only to one person as instructed by the Mother.

38. Applicant states that the affidavits cited in the appealed judgment of Victor Rizzo the Mothers' first cousin, Dr.Kristina Rapa Manche` and Dr.Juanita Brockdorff, are irrelevant to the point at issue since their testimony referred to the period before the abduction proceedings. Furthermore every one of them had referred to the Mother as the source of information regarding the couple's plan to return to Malta.

39. Applicant complains that whilst the First Court had accepted the Father's version that he was applying for jobs in Belgium and Sweden, the Court held that the *"preponderance of the evidence produced show that Mr.Mirtorp had acquiesced to the mother's decision to retain the two minor children in Malta. Actually his application for a job in Sweden shows that he was prepared to cut all connections with Belgium and relocate to Sweden in the event that he found a job there."*

40. Applicant emphasises that "Facts as uncontested show that the father insisted that custody is to be resolved in Belgium and when the mother so refused he informed her that he would invoke the Hague Convention and the Brussels II bis Regulation and so he did."

41. Applicant further complains that the First Court throughout the judgment never stopped remarking on the unfaithful conduct of the father when in fact this had nothing to do with the evidence required to

prove the acquiescence defense in terms of article 13[a]. In so doing the First Court treated the present proceedings as though they were separation proceedings and not abduction proceedings. The alleged infidelity of the husband has not been proved and this allegation was made by the Mother in these proceedings with a view to attracting the Court's sympathy by portraying herself as "the Maltese victim of a foreign sexually addicted husband".

42. At this stage in his application applicant listed in detail the evidence relevant to the defense of acquiescence to show that no evidence "equates to an act or statement with the requisite formality or a convincing written renunciation of rights or a consistent attitude of acquiescence over a significant period of time."

43. In this regard, the Father made the following factual observations in support of his version that he never acquiesced to the relocation of the children in Malta.

44. [1] The relevant period to be considered in this case is between August 2014 and the 10th of February 2015 when he had filed the application to the Belgian Central Authority for the return of the children.

45. [2] The Mother's failure to produce as evidence the emails exchanged between the parents on the matter of relocation.

46. [3] The purpose for the sale of the family vehicle, the renting of the studio flat and the listing of the matrimonial apartment for rent was to cut down on expenses, since the Father's job was about to terminate on the 31st December 2015 as per his contract of employment.

47. [4] That the Father had attended job interviews and exchanged his *curriculum vitae* both in Malta and in Brussels, as well as in Sweden.

48. [5] That prior to the children being removed from Belgium, Christopher was attending a nursery where he had been enrolled[8] and there was no reason why the Father should have objected to the enrolment of his children in a nursery and a playgroup in Malta until the abduction proceedings are concluded.

49. [6] That the parents held various discussions regarding alternate living arrangements but no concrete conclusion was ever reached.

50. [7] The Father had always insisted that the custody issue be resolved by the Belgian courts. Moreover, the fact that the Father had

[8] Vide invoice from the British Junior Academy of Brussels for scheel fees for the period between 2014 and 2015 – Fol.45

filed the abduction application in view of the separation proceedings issued by the Mother "does not at all affect in any way the outcome of these proceedings, but only serves to further strengthen the Father's position that he never acquiesced to the unlawful retention." When the Father became aware of these proceedings he realised that his attempts to meditate with the Mother both in returning to Belgium and in arriving to a custody resolution had failed. This left the father with no option but to file abduction proceedings.

The Courts' Considerations

51. Firstly, this Court considers relevant the following observations in view of some of the submissions made by the Father in his appeal application.

52. [a] The First Court had in fact considered in its judgment the reason given by the Father for (a) the sale of the car, (b) the sub-letting of the studio flat until the expiration of the lease, and (c) accepting the listing of the matrimonial apartment for rent made by the Mother, is the "drastic reduction in their income"[9] and not because of his intention to relocate to Malta. Also, in summarizing the evidence of the Father the First Court stated that the Father's *"employment contract with the*

[9] Pg.22 of the judgment

European Commission was due to come to an end in the beginning of this year 2015"[10]*.* This shows that the First Court was well aware of the fact that the Father was seeking jobs in Belgium, Sweden and in Malta because of the couple's financial situation.

53. [b] Also, contrary to what the Father stated in his application he showed the matrimonial home to a prospective tenant in January and not in March 2015.[11]

54. [c] The Mother had in fact stated in her evidence that the Father had told her that "if the [studio] flat is the one to go first, I will come to Malta immediately"[12].

55. [d] That from the evidence it results quite clearly that even though the Father did not "formally" apply for a job in Malta, the emails exhibited fully support the Mother's version that the Father was actively looking for a job in Malta. The contents of one particular email sent by the Father to Kevin Mizzi should leave not doubt as to the Father's intention of obtaining a job in Malta. The relevant part of the email reads as follows:

[10] Pg.3 of the judgment
[11] Foll.29 *et seq.*
[12] Fol.165

> "I am writing following Elaine telling me about a possible interview with RSM and whether I/we are still looking for a job in Malta. So, the answer is , we are indeed…."[13].

56. [e] Though in his application the Father states that the witnesses produced by the Mother had referred to the Mother for the information they testified on, the evidence shows otherwise.

57. Dr.Cristina Rapa Manche` in her evidence stated that on an occasion "way before May 2014" during a discussion at a family reunion, she was present when the Father had expressed an interest in moving to Malta[14]. Dr.Juanita Brockdorff in her evidence stated that on an occasion in August 2013 when the Father was at her home he had expressed his intention of moving to Malta saying also that Malta is a good place where to bring up the family. On that occasion they were discussing different countries including Belgium and Malta.[15]

58. Emanuela Cordina, the Mother's mother, said in her evidence that the Father had told her that "it would be a good idea if Elaine would find a job and he would find a job as well here, and anyway there was nothing to lose because his contract will soon expire and probably in

[13] Fol.72
[14] Fol.174
[15] Fol.176

Malta they will be better off financially than they were in Brussels – that is what he told me."[16]

59. Anthony Cordina, the Mother's father, whilst giving evidence on the period when the Father was staying in their house in July/August 2014, after stating that the parents Skype all the time, stated that "whilst in Malta Johan even said to me that he wanted to come and live and work in Malta."[17]

60. [f] That from a reading of the judgment it is manifest that the alleged infidelity of the Father was mentioned by the First Court not as a proven fact, but as an explanation given by the Mother for her decision to remain in Malta and specifically the reason why she filed judicial proceedings for personal separation. It is clear from the judgment that the First Court did not enter into the merits of the separation issue or the custody issue but dwelt solely on the merits of the abduction issue.

61. Having clarified the above, the Court will now proceed to examine further this grievance with a view to establishing whether it is justified in the light of the evidence produced and the considerations and the conclusion made and reached by the First Court.

[16] Fol.186/187
[17] Fol.223

62. Firstly, the Court observes that it is established local case law that this Court as a court of revision does not disturb the appreciation of the facts made and the conclusion reached by the First Court unless it appears manifest that a gross error or errors have been made which if not duly rectified would lead to either of the parties suffering an injustice. This principle is based on the consideration that, as in the present case, the First Court, having heard the witnesses give evidence *viva voce* and having had the opportunity to observe their demeanor on the witness stand, is in a much better position to make a correct appraisal of the evidence produced before it.

63. In the present case, the First Court was faced with two opposing versions: that of the Father claiming that he had never acquiesced to the fact that the children remain in Malta permanently and that he had always made it clear to the Mother that the care and custody issue, if not amicably agreed upon, is to be decided by the Belgian courts as their place of habitual residence; and that of the Mother claiming that they had agreed to take up residence in Malta.

64. This Court observes that, apart from the fact that the First Court had heard the evidence *viva voce*, the documentary evidence, specifically the emails presented, leave no doubt as to the Father's intention to obtain a job in Malta and as the First Court noted there is a

preponderance of evidence supporting this conclusion. This contrasts sharply with the lack of corroboration of the Father's evidence. In fact the latter relied on testimony, and on an invoice showing that the elder son was attending a nursery school in Brussels. The Mother on the other hand brought tangible evidence and witnesses to prove that the Father had the intention of relocating to Malta once that he found a job here.

65. Also, although in his evidence and even during the oral submissions before this Court he stated that he had applied for numerous jobs in Belgium and in Sweden the documentary evidence in this regard is conspicuously lacking.

66. The Father's observation that the Mother had not presented all the emails exchanged between them regarding the matrimonial situation does not favor the Father's position in any way, since a court of law is bound to abide solely by the evidence produced before it according to the Latin maxim *'quod non est in actos non est in mundo'*. It was up to the Father to present evidence in support of his version, whilst on the other hand the Mother presented satisfactory evidence of his intention to relocate to Malta.

67. It must be observed that though the evidence of Dr.Cristina Rapa Manche` and part of the evidence of Dr.Juanita Brockdorff refer to the period prior to the 19th May 2014 this evidence cannot be outrightly discarded as having no probative value, as, though on its own it does not suffice to establish acquiescence, yet it is indicative of the Father's favorable disposition since August 2013 to relocate to Malta with his family and as such adds weight to the Mother's version that the Father had subsequently acquiesced to the children remaining in Malta.

68. It is this Court's view that the First Court had made a correct appreciation of the evidence produced before it. Prior to the Father's application of the 10th February 2015 for abduction proceedings to be initiated, the Father had already acquiesced to the children remaining permanantly in Malta as evidenced by the agreement for the sale of the family car, the subletting of the studio flat for the remaining period of the lease, and the listing for rent of the matrimonial house which in January 2015 he showed to a prospective tenant and his active search for a job in Malta. The First Court was entitled to give credibility to the Mother's version which is also supported by the testimony of her parents.

69. Finally, in the light of all the circumstances abovementioned, the fact that the Father had accepted that his children be registered in a nursery and a playgroup in Malta, even after July/August when during

his stay in Malta the Mother had informed him that she would not be returning back to Belgium, contrasts sharply with his claim against acquiescence, as it should result amply clear that a wronged parent who is actively seeking the return of his children to their place of habitual residence would object to any move made by the other parent aimed at integrating the children in any way in another country pending abduction proceedings under the Hague Convention the purpose of which is chiefly that of ensuring the prompt return of abducted or wrongfully retained children in another country.

70. For the above reasons this Court considers this grievance to be unjustified.

Decide

For the above reasons this Court rejects applicant's appeal and confirms the judgment given by the First Court. The cost of both proceedings are to be borne by applicant.

Silvio Camilleri Chief Justice	Giannino Caruana Demajo Justice	Noel Cuschieri Justice

Deputy Registrar
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