



Neutral Citation Number: [2022] EWHC 1428 (Fam)

Case No: FD20P00779

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/05/2022

Before:

MRS JUSTICE THEIS

Between:

R
- and -
G

Applicant

Respondent

Mr Venables (instructed by **Duncan Lewis**) for the **Applicant**
Mr Bennett (instructed by **Charles Strachan**) for the **Respondent**

Hearing date: 18th May 2022

Judgment: 19th May 2022

Approved Judgment

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MRS JUSTICE THEIS

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published. The anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

Mrs Justice Theis DBE:

Introduction

1. This matter concerns proceedings issued under the inherent jurisdiction by the father on 9 June 2021 relating to Y, age 8, and H, age 4, seeking an order for the children's summary return to this jurisdiction from Jordan. The mother took the children to Jordan on 22 May 2022, where they remain.
2. The mother opposes the father's application on the grounds (i) that the children were habitually resident in Jordan at the date when the father issued the application on 9 June 2021, and (ii) if their habitual residence was here there should be a stay on these proceedings on the grounds that Jordan is a more convenient forum for the determination of welfare matters relating to the children.
3. As well as considering the bundle and the written submissions on behalf of each parent the court heard oral submissions from Mr Bennett on behalf of the mother and Mr Venables on behalf of the father. The court is very grateful to both of them for their focussed, detailed and helpful submissions.

Relevant background

4. Both parents were born in Iraq. They married on 30 March 2010 in Jordan. Y was born in Jordan on 2013. Y lived with the parents in Dubai until 2015, when the mother moved to Jordan. The father moved to England on 2 August 2015, the mother followed in mid-June 2016 and in 2017 H was born here.
5. Both parents have EU settled status. Mr Bennett informed the court at this hearing that the mother's position in Jordan is she has applied for residency there and her current status allows her to apply for renewable 3 month visas.
6. The mother has produced a document which is said to be a Jordanian court order dated 1 February 2016 which grants custody of Y to the mother. The document records the mother is "*the only legally eligible after God Almighty to take charge for my son [Y]...and he lives with me in the same place and I take care of him and manage all his affairs*".
7. Upon arrival to the UK, the family lived together as a family in Surrey. Y started attending C school in September 2020.
8. On 16 May 2021, following a disagreement between the parents, the mother left the family home with the children. She left with her brother and accepts she took her and the children's passports, stating it was her usual practice to take those passports everywhere. The mother says she and the children stayed in a hotel between 16 – 20 May 2021.
9. After their departure, the father attempted to contact the mother and her family, but was subsequently told to stop calling otherwise he might never see his children again. The mother denies this; she says she is the victim of domestic abuse, which is disputed by the father.

10. The mother's account in her statements, although not entirely clear, is that the father consented to her taking the children to Jordan in conversations with the maternal grandfather (who lives in Jordan). She also suggests that the father intended also to travel to Jordan to discuss the problem in their marriage with the maternal grandfather. The father denies consenting to the children being taken out of the country, or agreeing to travel to Jordan, as described by the mother.
11. On 21 May 2021, the mother contacted Y's school to say she and the children were self-isolating due to exposure to Covid. The following day, 22 May 2021, the mother and children flew to Amman. The mother had purchased return tickets, they were booked to return on 2 September 2021.
12. On 27 May 2021, the father reported the children missing to the police. The police spoke to the mother's brother, who told them that the mother had taken the children to Jordan on Saturday 22 or Monday 24 May, suggesting the father had consented.
13. On 29 May 2021, the mother telephoned Y's school. An email from the school set out that the mother had told the school she had to take Y abroad to begin legal proceedings and obtain a divorce, stating she was flying to Jordan on 30 May and she hoped to return in two weeks. In fact, it is now known the mother had left a week earlier and the return tickets booked the return on 2 September. She emailed the school on the same day, saying *"I want to keep in touch with you during my staying in Jordan to give you an update about Y's return"*.
14. School restarted after half term on Tuesday 8 June. Y did not attend, but joined the remote learning live call at 9am.
15. The mother commenced divorce proceedings in Jordan. She suggests the father had some communication with her Jordanian lawyer on 25 May 2021 and instructed his own lawyer in Jordan on 4 June 2021. The mother produced a document dated 6 June 2021 indicating there was a hearing in the divorce proceedings on 7 July 2021. There is a further document dated 8 August 2021 relating to a hearing on 3 October 2021 about spousal maintenance and child maintenance, and another relating to education expenses taking place on 15 August 2021. A document was produced during this hearing, which the father suggests is notice by the mother's Jordanian solicitors dated 13 December 2021, where the mother sought to put questions of custody before the Jordanian court. A further letter from the mother's Jordanian lawyers dated 19 May 2022, after the hearing concluded, states *'the case [the mother] raised in the Jordanian court against [the father] is not about Custody, but whether he opposes the mother having all the responsibility of the children. About not-opposing the custody which means the mother is the only one who take care and have all the responsibilities towards her children without the father's opposing her'*.
16. The father issued these proceedings on 9 June 2021. On 10 June 2021 on a without notice basis, Hayden J confirmed the wardship initiated by the issue of the C66 form, made various other directions and disclosure orders, and made provisional declarations that the children were habitually resident in England on 16 May 2021 and 10 June 2021, and that the English courts had primary jurisdiction in welfare matters concerning them. These provisional declarations were repeated in full in order made by Roberts J on 17 June 2021 and Francis J on 20 July 2021. They do not appear in subsequent orders.

17. On 14 June 2021, the father executed a Jordanian power of attorney authorising a Mr. Nibal Yahya Hassan Abu Dallo to act on his behalf in the Jordanian litigation.
18. In August 2021, the tenancy on the former matrimonial home expired. The father accepts that, but for a few of the children's toys, he sold some of the family possessions.
19. At 17:51hrs on 1 September 2021, the mother emailed Y's school to say she had tried to get her return flight but had lost her biometric residence permit (BRP). She made an application to UK Visas & Immigration at around the same time, seeking a replacement travel permit.
20. Around 4 September 2021, the mother took out a six month tenancy of a property near London, confirming the mother's intention to return with the children once she had obtained a replacement biometric residence permit. On 10 October 2021, the Tipstaff attempted to execute the location order at an address which the mother was believed to be renting. Officers attended on the Tipstaff's behalf, and although there was no answer reported seeing post addressed to the mother. The landlord informed officers that the mother was travelling to the UK and was due to move into the property that week.
21. At a further hearing before Holman J on 26 November 2021 an order was made for the mother's brother to attend court to give evidence about the mother's whereabouts.
22. On 3 December 2021, the brother produced a witness statement where he repeats the loss of the mother's biometric residence permit. In that statement he sets out that the mother at paragraph 5 '*has every intention of returning to the UK and has recently signed a tenancy agreement*'. He said the mother '*awaits her BRP*' and that she is '*actively seeking a way to return to the UK*' at paragraph 23.
23. On 7 December 2021 the brother attended court before HHJ Hess. He gave evidence which included contact details for the mother. The mother was served on 17 January 2022.
24. On 13 December 2021 the mother's solicitors sought a hearing in the Jordanian proceedings relating to custody of the children.
25. The first on-notice hearing took place on 15 February 2022 which the mother attended remotely from Jordan. At that hearing the court gave directions designed to help resolve the mother's apparent inability to return to the UK, including communication with the Home Office. The government legal department's ('GLD') allocated lawyer later wrote to the father's solicitors and the court on 16 March 2022 to say:
 - i) The mother's original application under the EUSS Travel Permit had been granted on 10 March 2022, and the local visa application centre had been notified. They would contact the mother once her passport was ready to collect (when the vignette had been put in her passport)
 - ii) The children are both nationals of the Netherlands, and as such do not need a visa or EUSS to travel to the UK.
26. The GLD wrote again on 17 March 2022 to confirm that the visa vignette had been printed, and 'an email has been sent to [the mother] to attend the [visa application

- centre] with her passport. They wrote again on 22 March 2022 to reiterate that the mother needed only her passport, and that the visa application centre had been in touch with her.
27. The hearing on 10 March 2022 was adjourned at the mother's request as she was unwell, she attended hearings on 21 and 29 March 2022 when steps were taken to assist her secure legal representation. The mother attended with counsel at the hearings on 12 and 29 April 2022.
 28. Through an email from the mother's solicitor, Ms Sanghera, to the father's solicitors it was said on the mother's behalf that she had not received any communications from the Home Office (or visa application centre) about collecting the visa, and her attempts to collect it without an appointment were refused.
 29. At the hearing on 29 March 2022, the mother repeated her claim that the visa application centre had not contacted her. On 31 March 2022, the GLD confirmed that the visa application centre in Amman had contacted the mother on 14 March, 17 March and 27 March. The text of those emails was set out. The email address being used is the same one that the mother was served at and is the one she has used to correspond with others (e.g. Y's school).
 30. The instructions from the visa application centre to the mother are there is no requirement for the mother to make an appointment to drop off her passport, it appears that she can simply attend with her passport.
 31. The mother filed an updated statement on 11 April 2022. In it, she repeats her claim that the visa application centre in Amman have not contacted her, and cannot offer any explanation as to why she would not have received the emails asking her to attend with her passport. In that updated statement she stated at paragraph 2 "*I maintain my position that I have always intended to return with the children to the UK. Our trip to Jordan was a return trip as a holiday*" and at paragraph 17 "*I appreciate the interest of the children's welfare will be considered in full when the children return to the UK*".
 32. On 12 April 2022 the mother attended through counsel, Ms Miller. The order records the mother conceded that '*the courts of England and Wales have jurisdiction relating to decisions about the children's welfare but it not being agreed by the mother that the courts of England and Wales's jurisdiction is exclusive*'. The mother was directed to attend the visa application centre in Amman to with her passport to collect the vignette by 14 April 2022, and provide information about this by 4pm on 19 April 2022.
 33. On 19 April 2022 the mother informed the court that she had attended (but does not say when), was '*permitted to talk to reception only as she attended without a pre-arranged appointment*', the centre '*updated their system with her email and contact number*' and was told she would be sent an email with a link for an appointment early next week but upon receipt it '*did not include a link but requested she resubmit her passport*'. Finally, it is said the mother '*contracted Covid19 on 17 April and shall arrange to attend the centre as soon as she completes a negative test.*'
 34. On 26 April 2022, the GLD confirmed:
 - i) A further written reminder had been sent on 13 April 2022,

- ii) Two attempts were made to contact the mother by telephone. Neither call was answered and the visa application centre was unable to leave a voicemail.
35. The mother filed a statement at 10am on Wednesday 27 April 2022. That statement did not address what arrangements she has, or will put in place, for returning the children to England and Wales, or her proposals for interim contact, as directed in the order dated 12 April 2022.
36. The order dated 29 April 2022 made directions leading to this hearing, including setting out the issues to be determined.
37. Subsequent emails from the mother's solicitor confirm the mother did not attend the visa centre on 9 May 2022 as the mother had forgotten about a hearing in the Jordanian court which the mother says took place on 9 and 10 May and the mother will *'attend the visa centre without an appointment on 12 May and provide a further update thereafter'*, continuing that the mother *'has not received any further emails from the visa centre with the invitation link however she continues to check her emails'*. On 12 May a further email from her solicitor states *'My client does not accept that an appointment is not required to attend the visa centre as she has previously been informed a specified time is provided in order to drop off a passport or to collect a passport. She was unable to attend the centre today and I am obtaining instructions as to the reasons behind this'*.
38. In a further letter from the GLD on 12 May 2022 they confirm the mother has not attended the visa centre and does not need an appointment to submit her passport.
39. In her fifth statement dated 16 May 2022 the mother states she attended the visa centre on 16 May 2022, she showed them the letter from the Home Office which she says they did not accept and told her she needed to attend by appointment. They provided her with a phone number to arrange the appointment or to request an email link for the appointment she continues *'I maintain I have not received an email from the visa centre offering me an appointment and I cannot accept that no appointment is required as I am being told different'*.
40. The father has not seen or had any contact with the children since the end of May 2021. There is a dispute between the parties as to why that has happened.

Expert evidence – Mr Edge

41. Mr Ian Edge has prepared a report on the joint instruction of the parties regarding the legal position in Jordan. His report is helpfully summarised by Mr Bennett in similar terms as Mr Venables. Mr Bennett's helpful summary is as follows:
- a. *Child custody issues would be considered as part of the mother's divorce application issued in June 2021, para 4 (xii);*
 - b. *The Jordanian courts were likely to apply either Jordanian law to the children or Dutch law, albeit subject to conformity with Shari'a, para 10;*
 - c. *Jordan ratified the UN Convention on the Rights of the Child in 1991, the treaty being placed in the official gazette in 2006. The 'best interests' principle has not been made*

the sole or dominant consideration for the courts to apply in children matters although the principle has been added to some of the articles in the relevant statute, the Jordanian Personal Status Law 2010, para 11;

- d. *Under Shari'a law as applied in Jordan:*
- i. *a Muslim father was the natural guardian of his children;*
 - ii. *Mothers are first to be considered as custodians but custody can be lost, para 18;*
 - iii. *A Muslim father as guardian was under an obligation to provide maintenance for the children and was entitled to have contact with and to visit the children. A judge will set the time and place for visitation on the basis of the child's best interests where parents cannot agree, para 19;*
- e. *As the children were now present and resident in Jordan, the Jordanian courts would consider they had sole jurisdiction in relation to them. Any English welfare orders would not be enforced in Jordan, para 20;*
- f. *There was no ability to obtain a 'mirror order' in Jordan. However, it was possible for the parties to submit an agreement to a local Jordanian court for confirmation or registration as a local court judgment which would then be enforceable locally. The success of any such agreement lay in the integrity of the parents and the parent's families and the English court's willingness to accept that all the relevant persons will comply, para 26;*
- g. *The Jordanian court would almost certainly decide that the father was the children's guardian but that the children were under the temporary custody of the mother until such time as the court makes more permanent arrangements, para 20;*
- h. *Where faced with the father's desire as guardian for the children to live in the UK and mother almost certainly being granted custody over the children, the Jordanian court was likely to use a limited best interests test to reach a final outcome. It would consider factors such as the nationality of the parties and the children, the connections to Jordan and England, and the preference as to which system to bring up properly two Muslim children. An English court order may be considered, but only as a supplementary source of support if a return to England was ordered, para 31.*

Legal framework

42. There is no significant issue between the parties as to the applicable legal framework. It is agreed the relevant date for the court to consider the children's habitual residence is 9 June 2021. It is conceded the children's habitual residence was here prior to 22 May 2021, the issue is whether that changed in the period from 22 May 2021 to 9 June 2021.
43. The relevant legal principles are well established, most conveniently set out by Hayden J in *Re B (A Child) (Custody Rights:Habitual Residence)* [2016] 4 WLR 156 at paragraph 17. This analysis was approved (with one qualification) by the Court of Appeal in *Re M (Children) (Habitual Residence:1980 Hague Child Abduction Convention)* [2020] 4 WLR 137. It is a question of fact bearing in mind the matters listed in *Re B* including such matters as the degree of integration by the child in the

social and family environment, that the factual inquiry should be centred on the factual circumstances of the child's life, the parent's intention and the stability of the child's residence.

44. Mr Bennett places particular emphasis on the status of the primary carer, how that affects a young child's habitual residence and the relevance of stability.
45. Turning to the issue of forum, both counsel agree the summary of the applicable principles regarding any application for a stay under s5 Family Law Act 1986 are helpfully set out by Williams J in *Re K (A Child: Stranding: Forum Conveniens: Anti-Suit Injunction)* [2019] EWHC 466 at paragraphs 30 – 35. In para 35 Williams J states as follows

'Drawing those threads together the approach that the court needs to take in a forum conveniens situation is it seems to me as follows;

i) the burden is upon the applicant to establish that a stay of the English proceedings is appropriate;

ii) the applicant must show not only that England is not the natural or appropriate forum but also that the other country is clearly the more appropriate forum;

iii) in assessing the appropriateness of each forum, the court must discern the forum with which the case has the more real and substantial connection in terms of convenience, expense and availability of witnesses. In evaluating this limb the following will be relevant;

a) the desirability of deciding questions as to a child's future upbringing in the state of his habitual residence and the child's and parties' connections with the competing forums in particular the jurisdictional foundation;

b) the relative ability of each forum to determine the issues including the availability of investigating and reporting systems. In practice judges will be reluctant to assume that facilities for a fair trial are not available in the court of another jurisdiction but this may have to give way to the evidence in any particular case;

c) the availability of witnesses and the convenience and expense to the parties of attending and participating in the hearing;

d) the availability of legal representation;

e) any earlier agreement as to where disputes should be litigated;

f) the stage any proceedings have reached in either jurisdiction and the likely date of the substantive hearing;

g) principles of international comity, insofar as they are relevant to the particular situation in the case in question. However public interest or public policy considerations not related to the private interests of the parties and the ends of justice in the particular case have no bearing on the decision which the court has to make;

h) it has also been held that it is relevant to consider the prospects of success of the applications.

iv) If the court were to conclude that the other forum was clearly more appropriate, it should grant a stay unless other more potent factors were to drive the opposite result; and

v) In the exercise to be conducted above the welfare of the child is an important (possibly primary), but not a paramount, consideration.

Submissions

46. In relation to habitual residence, Mr Venables submits the position is clear. The children had lived here since 2016, H was born here, Y attended school here and their family home was based here. The father did not consent to the children's temporary or permanent removal from this jurisdiction. Return tickets were purchased and the mother has repeated her intention to return here to Y's school, in her statements, in the statement submitted by her brother, and in her visa application. Y continued to attend school remotely here and the mother has pressed for his place to remain open. Even on the mother's case, Y did not start attending school in Jordan until very recently, although there is no corroborative evidence that Y attends any school there. Mr Venables submits there is limited or no evidence to support the children, in the circumstances of this case, having the required degree of integration in the short period after they arrived in Jordan for their habitual residence to change.
47. Mr Bennett, in his realistic and focussed submissions, relies in particular on the mother's intention as the primary carer and the children's stability in circumstances where they had to leave the family home and could not return. He submits the mother has always regarded Jordan as home, the children are familiar with it having visited regularly, H only speak Arabic. She relies on the father not seeking the children's return within the Jordanian proceedings. Their link to this jurisdiction was severed when they were unable to return to the family home as the mother says the father changed the locks.
48. Turning to the question of forum, if the court concludes that the children are habitually resident in this jurisdiction. It is accepted the burden is on the mother. Mr Bennett summarised the factors the mother relies upon as follows:
 - (i) The parents and children's close connection to Jordan through meeting and marrying there and regular visits.
 - (ii) The Jordanian court was first seised. Reliance is placed on what Mr Edge stated as 'The Jordanian court as part of the divorce proceedings would consider issues of maintenance and custody and guardianship of the Children'. In addition there is the further information in the letters from the mother's Jordanian lawyer.
 - (iii) The father has engaged in the Jordanian proceedings, has instructed lawyers there, has not challenged that court's jurisdiction and has not sought an order in those proceedings for the children to return to this jurisdiction. There are no difficulties in the father being able to participate in those proceedings.
 - (iv) The Jordanian court is expected to reach a final determination on 23 May 2022, or soon thereafter.
 - (v) Whilst it is acknowledged there is a different legal framework within the Jordanian proceedings based on different value systems. If the father had sought for the children's return here in those proceedings a best interests test

would be applied, although it is recognised it is not the same best interests tests as applied here.

- (vi) The relevant best interest factors support a stay being granted, such as the length of time the children have now been in Jordan, they attend school/nursery, they have no home to return to here, uncertainty about schooling and limited and unstable financial support.

49. On behalf of the father, Mr Venables makes the following points:

(i) It is far from clear whether the mother was first in time in issuing the proceedings in Jordan on 6 June 2021. Reliance by the mother on the part of Mr Edges report that states ‘The Jordanian Court as part of the divorce proceedings would consider issues of maintenance and custody and guardianship of the Children’ does not address the question. He relies on a document produced by the father during the hearing appears to be a summons dated 13 December 2021 on an application made by the mother for custody stating in the application that the father ‘opposes her custody of the children and attempts to unfairly take the children’. The document asks for the father’s attorney to be notified and summoned to court and the mother seeks an order upholding her custodial rights. Mr Venables notes this application was made days after the mother’s brother had been served with a summons to attend court and had filed a statement in these proceedings. Prior to this there are similar documents in the bundle in August relating to alimony, child support and education expenses. He submits the later document dated 13 December 2021 is the first time matters relating to custody are raised, some months after the father’s C66 application in these proceedings.

(ii) Once given notice the mother has wholeheartedly engaged in these proceedings, attending five hearing and filing five statements. Mr Venables submits in these circumstances at its highest the mother’s reliance about the father participating in the Jordanian proceedings is neutral. Both parents have participated in the other proceedings. In the circumstances set out in Mr Edges report and the basis of jurisdiction in Jordan the father would be unable to object to jurisdiction.

(iii) In the light of Mr Edge’s report one of the applications the father makes (that the children live with him) is not capable of being determined in his favour in Jordan other than possibly on a limited welfare analysis.

(iv) The mother had conceded through counsel at the hearing on 12 April 2022 that this court had jurisdiction and the only issue was timing.

(v) There is an advantage in the proceedings continuing in this jurisdiction due to the availability of witnesses and third-party evidence, such as police disclosure.

(vi) The reliance on the hearing on 23 May 2022 as being the final hearing lacks any detail as to what issues are being determined then, other than what is set out in the letter from the mother’s Jordanian lawyer attached to her most recent statement and the letter dated 19 May 2022. This needs to be considered in the context of none or very limited welfare analysis.

(vii) Finally, he submits the father has limited ongoing connection with Jordan.

50. Mr Venables submits the mother falls at the first stage, as described in *Lubbe v Cape plc* [2000] 1 WLR 1545. If it does go onto the second stage he submits the court needs to look at the availability of justice for the father when one of the remedies he seeks is functionally unavailable. Both procedurally and substantially any welfare considerations that exist in the Jordanian courts are curtailed, when compared to here.

Discussion and decision

51. The position in relation to habitual residence can be set out quite succinctly. The mother rightly accepts the children's habitual residence was here prior to their removal to Jordan on 22 May 2021. They were clearly well integrated here, had lived here for a number of years, Y attended school, H was born here and the family lived together as one family unit until just before the mother left with the children.
52. It is clear on the evidence that the children's habitual residence did not change in the relatively short period between 22 May and 9 June 2022 when the father's application was made. Apart from some generalised evidence about staying with the maternal family, there is limited evidence about any particular integration in the social and family environment. Reliance by the mother on the lack of stability of her position and her intention lack any weight when looked at in the context of other evidence. There is no evidence the father agreed to this move. There is evidence the mother intended to return through, for example, the purchase of return tickets, Y attending school remotely, her reported conversation with the school that she was going to return in two weeks. That is supported by subsequent events, such as the six month rental of accommodation for her and the children to return to and what her brother reports is her position in his later statement.
53. Therefore, I am satisfied the children remained habitually resident here by the time the father issued proceedings here on 9 June 2021.
54. Turning to the issue of a stay. There remains some uncertainty as to whether the divorce proceedings issued by the mother on 6 June 2021 included a claim for custody as Mr Edge alludes to in his report and the mother's Jordanian solicitor states was the position in his letter attached to the mother's fifth statement and his more recent letter. The only information the court has about it being raised as a live issue is the document dated 13 December 2021. Having regard to the timing, it is likely that was prompted by the order made in these proceedings for the mother's brother to attend court here. This factor is only one of the considerations the court needs to take account of.
55. Reliance by the mother on the fact that the father did not challenge the jurisdiction of the Jordanian court has to be looked at in the context that, according to the report from Mr Edge, the court would have retained jurisdiction having regard to the basis upon which they exercise jurisdiction.
56. It is relevant that one of the orders sought by the father, for the children to live with him, is likely to be functionally unavailable or far less available to him under the legal framework set out in Mr Edges report. At its highest, in reaching a decision on such an application there would be a curtailed welfare analysis, limited to the factors as described by Mr Edge.

57. Apart from being a jurisdiction where he met his wife, where they married and he has a sister who lives in Jordan, there is no other connection for the father with Jordan. There is no evidence he has continued to visit there in the same way as the mother. For a number of years prior to May 2021, this family's family life was based in this jurisdiction.
58. Whilst I recognise both parties have access to legal representation in Jordan, they also have that here. The proximity of a hearing is but one factor, it needs to be considered with the other factors outlined above. Bearing in mind the evidence that has been filed to date in this case there would not be a significant delay in welfare issues being determined here.
59. It is of note the welfare considerations relied upon by the mother do not feature the children's ongoing relationship with their father, or the consequences for them of the gap in that relationship since May.
60. Having considered the submissions of the parties and the evidence the court has, I have reached the conclusion the application for a stay should be refused. In my judgment Jordan is not the more appropriate forum for the welfare issues relating to these children to be determined. The majority of their life has been spent in this jurisdiction. Until recently, it was the jurisdiction where their family life was anchored. Both parents will have access to legal advice and any relevant evidence is more likely to be readily available here. There is unlikely to be any significant delay in the welfare issues being determined here. The application and orders sought by the father are more likely to be available here under the umbrella of a much wider welfare analysis than that which would exist in Jordan. Whilst I recognise the children have now been in Jordan for a number of months, there are other factors that need to be considered, in particular for issues regarding their ongoing relationship with their father and what role he may have in their future upbringing. Also, the circumstances in which the children were removed without his apparent consent or knowledge should be factored in.
61. The father has set out a number of undertaking he is prepared to give in the order dated 21 March 2022.
62. I will hear further submissions on the orders that follow this judgment.