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IN THE FAMILY COURT
(Sitting at East London)

No. FD22P00191 /
ZE22P01707

NCN: [2023] EWFC 124

East London Family Court
6th and 7th Floor
11 Westferry Circus
London
E14 4HD

Wednesday, 10 May 2023

**IN THE MATTER OF THE CHILDREN ACT 1989 (FOLLOWING REQUEST PURSUANT
TO ARTICLE 21 OF THE HAGUE CONVENTION 1980)
AND IN THE MATTER OF THE CHILDREN:
A-M (DATE OF BIRTH redacted)
T (DATE OF BIRTH redacted)**

Before:

HER HONOUR JUDGE SUH

(In Private)

B E T W E E N :

The Father

Applicant

- and -

The Mother

Respondent

ANONYMISATION APPLIES

MR A ASPINWALL-LIVESEY (instructed by Birmingham Legal Limited Solicitors) appeared on behalf of the Applicant Father.

MR R POWELL (instructed by Lillywhite & Williams Solicitors) appeared on behalf of the Respondent Mother.

J U D G M E N T

JUDGE SUH:

1 This is judgment in FD22P00191 and ZE22P01707. These proceedings concern A-M, born on [redacted], who is now three, and the father has parental responsibility for him. T was born in 2020. He is now two and I think the father does not, at present, have parental responsibility for him. These proceedings were brought under Art.21 of the Hague Convention by the children's father and this is the judgment in a fact-finding hearing. I record that the parties have been represented throughout, the mother by Mr Powell and the father by Mr Aspinwall, and I want to thank both counsel for their very calm, clear and courteous conduct of the case and both parents should know that they have had excellent representation. I want to thank our interpreter and her colleagues, without whom we could not have conducted this hearing.

The issue in this case

2 The issue in this case is the nature of the parents' relationship. The mother alleges this was an abusive relationship and if the court looks at the big picture, she says there are patterns of coercive control. The father characterises himself as a victim of the mother's behaviour and says that her taking the children from Norway to the UK was all part of a pre-prepared plan to remove him from their lives. Trying to understand the nature and nuances of somebody else's relationship is a very complex thing and here I have fragments of videos, texts and memory, and I have to analyse thoroughly and look at what the whole picture suggests to the court.

Background

3 By way of chronology, the parties met in the UK in 2013 and had an Islamic wedding ceremony in 2017. Thereafter the father lived in Norway and the mother in the UK, until the mother moved to Norway when she was pregnant with A-M in February 2019. The mother left Norway with A-M and her older child, Z, when she was pregnant with T and returned to England on 25 July 2020. On 27 July she emailed the Norwegian Embassy. The father made an application to the Norwegian courts and obtained sole parental responsibility for A-M on 11 August 2020 and an order that A-M should live with him. He sought summary return of A-M under the Hague Convention on 16 September 2020. There was a hearing without notice to the mother on 17 September 2020 and orders were made to locate her.

4 The mother made an application for a Non-Molestation Order on 28 September 2020. Her application does not mention the father's Hague proceedings and the evidence in the bundle does not suggest that she was aware of his application when she applied for the Non-Molestation Order. The father asserts on p.183 of the bundle that the mother realised he had started Hague Convention proceedings because he spoke to her sister in Morocco. I do not have a statement from the sister. I do not know exactly what the mother's sister knew, and when, and what she told the mother, but what appears on the written evidence in support of the Non-Molestation Order, and appears to have been the trigger for the application, was that the father returned to the UK on or around 18 September 2020 and went to the place where The mother used to live and was speaking to her neighbours.

5 It is not in dispute a Non-Molestation Order was granted without notice on 28 September 2020 on paper. The father was served with this on 30 September 2020 by email. The father's Hague Convention application was dismissed at a final hearing in December 2021. Roberts J's judgment is found in the bundle and her order makes it clear that no facts were found.

- 6 Following the dismissal of the father's application for summary return, he made his Form C100 application for time with A-M. This application was issued on 11 March 2022 and the application was accompanied by a Form C1A in which the box for "emotional abuse" was ticked by the father, it being alleged that the child was suffering emotional abuse as not having proper quality time with his father. No other form of abuse is mentioned.
- 7 The father's application came before Moor J on 30 March 2022. He made an interim Lives With Order in favour of the mother and specifically that this was without prejudice to the father's application. The matter was transferred here, to East London, and allocated to a circuit judge. The father has been seeing A-M in weekly video calls. He provided statements in May 2022 and January 2023 responding to the mother's case. He issued a C100 for T on 5 December 2022 - the copy in the bundle is dated July 2022 - and sought an order spending time with T and an order for parental responsibility.
- 8 I first heard this matter on 22 February 2023 when directions were made for the filing of further evidence, and I heard the matter again on 8 March 2023 when I directed a fact-finding hearing should take place. The father's application for direct contact at that stage was dismissed and the mother was directed to provide a schedule of allegations for the father to respond. The father was given permission to file his own schedule of allegations, limited to the evidence contained in his pre-existing statements.
- 9 The matter came before me for a pre-trial review on 21 April 2023. The father's schedule of allegations was ruled inadmissible and taken out of the bundle. I ruled that a medical letter from a health visitor in Norway was admissible and I looked at the mother's schedule and determined that I would consider Allegations 2, 3, 9, 12, 13, 15, 16, 17, 18, 31, 36, 37, 38 and 39.

Evidence

- 10 I have read and re-read the evidence a bundle. I have taken a note of the oral evidence that I have referred to in my preparation of judgment. I have watched two videos, seen three colour photos and a variety of black and white photos in the bundle. I may not mention every piece of evidence in what is already an overlong judgment but I bear it all well in mind.

Law

- 11 I remind myself now of the law. The burden of proof is on the person who alleges something happened; the standard of proof, the balance of probabilities. I remind myself in accordance with the case of *Re T [2004] 2 FLR 838* that I need to consider all the evidence in this case. Evidence cannot be evaluated, assessed in separate compartments. A judge in these difficult cases must have regard to the relevance of each piece of evidence to the other and exercise an overview of the totality of the evidence to come to a conclusion. Findings of fact must be based on evidence, including inferences that may be drawn, and not suspicion or speculation.
- 12 I have a number of statements in the bundle which are hearsay; that means that they have not been tested in cross-examination. I remind myself of the limitations of that type of evidence, and the weight to be given to this hearsay evidence is a matter for me to decide. Dr D's report, the health visitor's report, the social work documents from Norway, all fall within this category.

13 I remind myself of s.3 of the Domestic Abuse Act 2021. I remind myself of Practice Direction 12J and in particular the definitions in that Practice Direction of coercive behaviour and of controlling behaviour:

“‘Coercive behaviour’ means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim”;

And:

“‘Controlling behaviour’ means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.”

14 I have been taken by counsel to the case of *Re H-N & Ors* [2021] EWCA Civ. 448. I have reminded myself of the totality of the *dicta* in that case, but particularly highlight for my own guidance para.32, which reminds me that not all directive, assertive, stubborn or selfish behaviour is abuse. I remind myself of paras.51 and 56 and the importance of judges looking at the overall picture to see if there is a pattern that emerges from the evidence.

15 I asked counsel for submissions on the approach that I should take in the light of *Re H-N* and Mr Aspinwall said it was important to look at three serious allegations of abuse separately and give a judgment on those. Mr Powell pointed out that granular findings may be helpful for a future expert report. I propose to structure this judgment by reference to the evidence relating to each individual allegation, and then look at the whole picture, and then state any findings that I make when I have looked at each piece of evidence in relation to each other.

16 I remind myself of the case of *R v Lucas* [1981] QB 720; that just because somebody lies about one thing does not mean that they have lied about everything, and that people have different reasons for lying, for example to bolster a just cause, out of shame or a wish to conceal disgraceful behaviour from their family. I remind myself of paras.57 and 58 of the case of *A, B and C* [2021] EWCA Civ. 451, and I asked counsel to, in their closing submissions, take me through the stages of para.58.

17 Mr Aspinwall did not seek a specific finding that the mother had lied, and viewed it as unhelpful to characterise this case in black and white binary terms. He said this case was full of shades of grey and the court’s job was to determine the veracity and credibility of the witnesses. He said that the mother’s case was fabricated and embellished but did not seek a finding she had lied on any given point. Mr Powell said that the father had lied by saying that the mother had inflicted bruises on herself, and lied about the extent to which he controlled her social media and phone.

Analysis of evidence

18 When I look at the evidence in this case, the two parents have a radically different view of why their relationship ended and what it was like. Both parties have prepared voluminous statements for the Non-Molestation Order and Hague Convention proceedings, and annexed numerous videos, photos and screen shots. In case managing, I decided there was already sufficient evidence before the court in the existing statements and that no further witness statements are necessary.

- 19 Of course I remind myself that statements prepared for other proceedings were prepared for a specific purpose, and to an extent it is inevitable that these previous statements provide a partial picture. For example, the Hague application was an urgent application for the return of the children and the father does not mention, as he does in later statements, that he told the mother to leave or allege that her departure was part of a plan, which he now says is the case.
- 20 Similarly, a Non-Molestation Order is an urgent order and the statement prepared by the mother says expressly that it is being prepared at short notice so emergency orders can be obtained, and it may not contain all the incidents that occurred. That is a formulaic form of words included in many Non-Molestation Order statements that I have read.
- 21 However, unlike other Non-Molestation Order statements, the rest of her statement is not formulaic in other respects and does not contain any other formulaic usage of words. It is a vivid and detailed account. But, inevitably, in this case both parties mention details in the witness box that have not featured in previous statements, and of course parties cannot realistically cover the minutiae of a long and complicated relationship in statements in its entirety. It is a question for the court as to the extent to which the new details that came out in the witness box impact the parties' credibility or are indicative of fabrication or embellishment.
- 22 Since the parties have submitted a number of texts and videos, I remind myself that not all of life is lived online or through a lens or a phone. Such evidence can only ever give a partial picture. I remind myself when somebody chooses to record, they choose what they are recording and for how long. The parents speak together in a mixture of Arabic, Kurdish and English, and the grammar of the transcripts I have is idiosyncratic. It does not help to make the meaning clear and what the parties mean by what they say at times is far from obvious. I have not had an interpreter who transcribed these exchanges in court to help me understand the choice of words, the nuance and the context, and trying to translate a concept from one language to another is not always a precise task. For example, the word "*mehweb*" is an example of this, as are the swear words noted. Without an expert in the language, I do not have the force or full meaning of those words.
- 23 These recordings and transcripts need to be read carefully in the context of a case as a whole and it would be unwise, in my view, to scrutinise them with forensic glare in isolation. They are colloquial and conversational exchanges in which neither party is particularly precise or clear. I do not have the context for all the recordings, what happened before or after. Texts too are a snapshot. I caution myself about the limitations of this type of evidence and the risks inherent in it, but I weigh it as part of the whole.
- 24 The mother's journal could be a contemporaneous running log of what happened to her, or it could be that she was planning a campaign against the father. This journal was started in March 2020 and the mother would have had a degree of advanced planning and sophistication if she kept this for the purpose of future litigation. Again, I caution myself as to the limitations inherent in this type of self-curated evidence.

Parents' evidence

- 25 Having looked at the limitations of some of the written evidence, I am going to give an overview of the parents' evidence, and both parents became emotional at times in the witness box. So I remind myself of what Macur LJ said in the case of *Re M (Children)* [2013] EWCA Civ. 1147:

“... any judge appraising witnesses in the emotionally charged atmosphere of a contested family dispute should warn themselves to guard against an assessment solely by virtue of their behaviour in the witness box and to expressly indicate that they have done so.”

I make it clear I have done so.

- 26 Each party alleges a traumatic experience at the hands of the other, and of course if someone has been through a traumatic experience their memory can be affected in different ways. Some people may go over and over an event afterwards in their mind many times and their memory may become clearer or develop over time. Other people may avoid thinking about an event at all and may have difficulty then in recalling the event accurately. I must form a view on the basis of all the evidence I have heard and read.
- 27 I will summarise the impression each of the parents made on me. The mother’s evidence was detailed. It was spontaneous and fluent. There are different levels of detail in her statements but the statements she makes are not inconsistent with each other. She explained she was guided by her solicitor as to the level of detail she provided, and I did not get the impression she was making excuses or being evasive in saying this. There is some force in her observation that it cannot all be included in statements. There are some matters that appear in her journal, like the father talking about buying a gun or threatening to push her from the window, which do not appear elsewhere and it was put to her that she was making this up and embellishing, but she was adamant that she had nothing to gain from doing so.
- 28 The reason why her statements do not contain all the detail in the journal, for example, could be that she is making things up; or it could be that in a relationship with numerous acts of concern it is hard to capture in the artificial structure of court proceedings, which involve trying to itemise in detail the aspects of a dynamic relationship. I am mindful that the mother is fluent in English but it is not her first language, and the use of her language at times can be dramatic in her statements compared to when she was asked to explain things in the witness box.
- 29 For example, the word “strangled” is often used to suggest the compression of the windpipe with both hands to the point of asphyxiation. In fact when I asked the mother to demonstrate this she put one hand on her neck under her chin and one over her mouth. Similarly, “head butted” was a word she used. It transpired the father had not levered his whole body weight when standing against her head, as one might see on TV dramas, to cause a bleeding nose. Instead she said the father had been on the bed and moved his forehead towards the bridge of her nose in an aggressive fashion. When asked to clarify she said:

“He holds me and then moves his body towards me.”

The mother’s overall account does include dramatic language, but this could be due to embellishment, or she could be describing a fast-moving, stressful experience. There are various explanations for a lack of precision.

- 30 She spoke of her experiences with an emotional intensity and she was very clear in the witness box when things were put to her which she did not think were correct. She appeared a focussed and composed witness until the end of her evidence, when she became distressed. She regarded her experiences as traumatic and relayed that even listening to the recordings and reading the evidence caused her distress, and she appeared distressed when asked questions about the father’s connections and came across as scared. She described at several

points in her evidence leaving messages for her family, or writing in her journal in case anything happened to her.

- 31 The videos she provided were not made available until she applied for a psychologist in January 2021. She explained that she had sent these videos to her mother when she took them and asked her mother to send them back to her because the father had retained her phone before she left Norway. This sending of evidence to third parties could be a form of protection for the mother or could be building a case against the father. She expressed the belief repeatedly that the father would kill her or the children one day. She is highly sensitised to the father. She maintained her position in cross-examination and was clear and direct in her responses to questions.
- 32 She stated that Z wanted a father and deserved a father, but that not every father deserved a child. She was pressed on this in cross-examination. When asked, “This father does not deserve a child?”, “That is correct,” she said; “For the bad things he has done to us, no.” It was a candid and frank statement. She has, however, in her application for a psychological assessment of the father and a hair strand test, not ruled out a role for him in the children’s lives. She referred repeatedly to protective measures that she thought should be taken to make sure that the children saw their father in a safe way.
- 33 The thrust of the father’s case is the mother has made up or elaborated her allegations to freeze him out of the children’s lives. He asserts she has inflicted visible bruises in the photos she has taken. He described her as betraying him and the children, and alleged that she had a plan to deprive him of the children. The father gave evidence with the help of an interpreter and when evidence is being translated there are times when clarification is needed or the meaning of words in translation needs further elucidation. No parent should be placed at a disadvantage due to the use of interpreters, so I make full allowance for the fact that the father gave evidence with the use of an interpreter.
- 34 However, even making full allowance for the use of interpreters, his evidence came across as evasive at times. He often failed to answer questions directly or deflected his answers to a different topic. When it was pointed out to him that his written evidence differed from what he said in the witness box, he said he would explain that he did not mention it before because the mother was the mother of his children and so he defended her. I am afraid this was an unconvincing response because his statements have been highly critical of the mother throughout his written case and he uses very critical language to describe her. For example, at F90 to the Norwegian Authorities:

“Z told him she is not doing well. She has been threatened and beaten by her mother on several occasions.”

At p.180 in his statement in relation to the knife incident:

“I even called my brother to let him know he was right. The mother would make my life hell and abuse me.”

At 181 of his statements:

“The mother would threaten to kick Z out of the family home ...”

and he uses the terms “kidnap” and “abducted”. He tells the Children Welfare Services that the mother is mentally unstable at p.376. It is therefore unconvincing that he has held back from criticising the mother up until now.

- 35 The father's evidence was that he was the victim in this situation, and he accused the mother of taking his freedom and provoking him. He attributed his drinking to the mother humiliating him, and his statement explained that the mother was shouting at him on p.181 and he shouted back at her to leave. His evidence in the witness box was unclear about exactly what happened that triggered the mother's departure. He wavered between suggesting he had not asked her to leave but merely wanted her to have a break, and accepting that he had said something along the lines of asking her to leave.
- 36 He described himself as "mentally exhausted and collapsed," and that he had had enough by 24 July 2020 and it was all too much for him to handle. He stressed how his health and the operations he had had meant that he was the one who needed help on 24 July 2020; "I was ill and looking after the child," he said. He was emotionally overwhelmed at times and often drew the focus of his answers back to the fact that he had not seen his children for years, and of course this is understandable and he very much wants to see them. However, it meant that he did not always answer the questions directly and focussed primarily on being the wronged party.
- 37 Both parents seemed to accept the relationship was strained and that there were disagreements, but each characterises the other as being responsible for this. They refer to speaking to family and friends but the people they mention are mainly overseas and I did not get the impression they had local friends or family to support them. On one analysis, there is a power imbalance in this relationship. The father was working, had lived in Norway for longer, spoke the language; and the mother moved from the UK without friends or family around her, was pregnant twice within the time they lived in Norway, did not speak Norwegian with any great fluency and was caring for Z, who had moved country and school and was learning Norwegian. The father characterises the power imbalance as the mother having the ability to remove the children from him.

Allegations

- 38 I will analyse the evidence under each of the headings of the allegations and then begin at the end to draw it all together to look at the whole picture.

The father demanded the mother to wear a headscarf and remove herself from social media, stay at home and not have friends.

- 39 The force of the mother's evidence was that before they married, between 2013 and 2017, the relationship was on and off. She was clear that physical violence did not start until she moved to Norway. She had a daughter from a previous marriage and was looking for somebody who would want to raise Z with her and start a family of their own. She described how the headscarf was one of the problems in their relationship. This is first mentioned in her Non-Molestation Order application (" I did notice some controlling behaviours from the Respondent including demands that I wear a headscarf") and then mentioned in her statement for the Hague proceedings.
- 40 The mother's oral evidence was, when in the UK the father wished her to wear a headscarf and said that if she wanted to be his wife she would have to wear one. She said wearing a headscarf was indicative of being a married woman. From that I understand it is a visible sign that a woman is committed to a man. She accepted she did not wear the headscarf for the wedding or when they moved to Norway. She described putting it on to keep the peace and compromised, and denied, in cross-examination, she wore it to make a good impression on the father's family.

41 The father's statement at p.303 states that the mother wore a headscarf from 12 years of age in Morocco, but she was westernised when he met her and he shows numerous photos of her in Norway with her head uncovered. The father's oral evidence was that the mother did wear a headscarf for a while when they met but he denied he had asked her to wear it. The fact that the mother wore a headscarf in the UK when the father was in Norway could be a feature of a controlling dynamic that suggests he sought to regulate her behaviour when she was out of his sphere of influence. It could be seen as sending a visible message that she is not single to anyone who meets her whilst the parties lived apart. There is also evidence that the mother is more religiously observant than the father and that too could be an aspect of headscarf-wearing. I am mindful I do not have an expert in the Quran to help me with the religious significance of headscarf-wearing, and this piece of evidence is best considered in the context as the whole and I will return to it.

42 The mother described deleting her social media accounts when the father came home from sea. He worked month on, month off on the oil rigs out at sea. She said:

“When he comes home from work he will take my phone, go through my phone and once he has done it he will give it back to me. I delete the apps so he does not find Facebook or Instagram when he goes through them.”

The father's evidence was that he had limited access to tech whilst he was on the boat and that the signal was intermittent, which adds some credence to the mother's version of events. He denies that he has ever restricted the mother accessing social media in his written case and explained that the screen shots at pp.252 and 253 were obtained from the mother's phone after she had left Norway. He said she did not have a password on the phone, which chimes with the mother's evidence too. This suggests that he was able to access the mother's phone should he have wanted to and go through it. When the mother contacted the Norwegian Embassy she reported that her phone was still logged on and that the father had it with all her contacts.

43 The father's case developed in the witness box when he told the court he asked for the mother's phone to be returned to him because she was not looking after the children properly and spending too much time online in relation to a July 2020 incident. However, it is noteworthy that the mother's journal refers in March 2020 to him taking her phone away because he stated that she got distracted and he said she should no longer contact her family or friends. Her evidence suggests that the father would buy her a phone and then expect to have it in his possession at times and have access to it. Her correspondence with her sister is in a Moroccan dialect in the text that the father did not understand, as he said in the witness box, which might explain why she shared details or criticisms of the father with her sister, when even on her own evidence that he would go through her phone. The phone is a feature of other allegations and I will again return to it as part of looking at the whole picture.

44 The mother described giving up her job as a PA on the basis that the father would pay her what she earned. The father's version of events is that the mother was not happy at work and wanted to leave. He did not answer the question directly as to whether he told her to stay at home and that he would pay her wages.

45 The mother raised the example of a friend who was staying overnight whilst she was in the UK. When asked about this she was able to give details of where the friend lived, what happened and the friend's name. The father's objection to her having friends over is covered on p.206 of the mother's witness statement. Albeit not in so much detail as came out in the witness box, it certainly was not raised in the witness box for the first time. It is

submitted by Mr Aspinwall that this is evidence of the mother developing her accounts. However, my view is that this type of granular detail would not necessarily be included in a Non-Molestation Order application and is indicative of the mother being able to add appropriate detail when asked specifically. The father in the witness box recognised the name of the friend but denied that he had called and asked that friend to leave or alerted the mother's family to the fact that the mother was spending time with a single mother.

- 46 The matters which are the subject of this allegation are the type of behaviour which, when described in isolation, may seem petty or insignificant so I will return to the matters in this allegation when I look at the picture as a whole.

The father began to drink heavily and prevented social engagement by not allowing the mother have contact with his foster parents

- 47 The mother mentions the father not wanting to accept an invitation from his foster parents because he did not want them to know he was looking after Z, someone else's child. She gave consistent oral evidence on this point. The father does not deal with this allegation in his statements.

- 48 In relation to drinking, the father says he does drink alcohol but is not alcohol dependent. There is Video 2, which I have watched, that clearly shows the father under the influence of alcohol, slurring his speech, and I will talk about this in more detail later. It seems to me that the mother's dislike of the father's drinking is one of the reasons for the tension in this video. Of course it is contrary to Muslim practice and the father in one of his statements at p.303 says that the mother complained he was not religious enough and made him fast.

- 49 The father's first statement states that he is willing to do drug and alcohol testing. In his latest statement at p.187 he says,

"I do not have a drug or alcohol problem. I have cleared this up with letters from my employers."

He told me through counsel on 22 February 2023 he undergoes drug and alcohol testing with his employers and I asked for any results to be produced by 22 March 2023. It transpires that the results produced are back in 2020 and I reminded parties that I did not have a Part 25 application when I saw them on 8 March 2023 for toxicology testing. Of course the father could have provided voluntary testing should he have wished to do so.

- 50 The father's statement of the 18 November 2020 has a letter from his employer stating that as of 13 October 2020 he had not tested positive for drugs or alcohol when subjected to random drug and alcohol testing on board ship. The PEth test of 16 October 2020 shows little or no alcohol consumed in the two to four weeks beforehand. These test results are of course after the events in question but they might suggest that the father is not alcohol-dependent because it is clear that he can stop or moderate his alcohol use from these results. In evidence, he explained to me there is a urine test carried out before he could get on board his work ship, and I can take judicial notice that a urine test covers a relatively short period of time when a substance might be in the body and that PEth can go back a number of weeks but not months.

- 51 The mother's statement described the father drinking heavily, especially vodka, and she says that he would collapse in a drunken stupor. The father's written statement at p186 says he does not drink to excess but he saw it as the only way out of the abuse and to escape from the mother for a few hours. Similarly, in oral evidence he said that his drinking was because

the mother was taking his freedom and provoking him, and he said that he had been dizzy after surgery and that explained any description of a collapse in the bathroom.

- 52 The mother's oral evidence was that the father has a collection of alcohol. She was clear and specific about this:

“There is a bottle with a Mexican hat, a white bottle, tequila, a Jack Daniels and beer. He starts at 7 or 8.00 p.m. He drinks six beers and then he moves on to JD and Coke with ice. That continues all night.”

She described that he would start drinking in the evening and continue to the early hours of the morning. She was adamant that she was telling the court what she had seen and that the father would not remember incidents because he was affected by alcohol. She said he would promise to stop drinking but did not go to a therapy appointment that she references in her journal. Her evidence was that he drank to the point when he could not remember what happened the next morning.

- 53 Mr Aspinwall challenged the mother that she was exaggerating when she said the father drank a full bottle of vodka every night and she said, as she did on many occasions, that she had nothing to gain from exaggerating. The father's oral evidence was that he had a glass or two.

- 54 Alcohol is a feature of many of the allegations and the mother's evidence charts a clear connection between alcohol use and the father's aggression. The father's case is he is trying to relax by drinking and actually the mother is winding him up. It seems to me that on either case there is a pattern of the father drinking with a degree of regularity when he comes home on shore leave. Without testing evidence it is hard for me to calibrate whether there is any level of dependence or liver damage from the drinking, but the evidence as a whole suggests a degree of habit and the mother's evidence suggests an impact on the father's behaviour. Of course I can take judicial notice of the fact that alcohol tends to have the effect of making people less inhibited and I will return to this when I look at the big picture.

In 2019 the father was insulting and belittling to the mother, he said to the mother that she is a bad mother, she does not look after her children, she does not work or provide anything, she and her daughter eat like Africans, he called her a stupid Moroccan, that she is used to making babies with different men and she likes to be single.

- 55 The mother's Non-Molestation application (p 461) makes reference to this and she speaks in general terms of the father belittling her and speaking down to her. In the witness box she gave more evidence of the incident in 2019 when the father said that she and Z “eat like Africans.” She was unsure of the date but settled on February 2019. Her diary of March 2020 gives a note of this incident and she records that she is writing down in her journal “all the hurtful words I was called in this relationship”. I again approach this journal with caution. It was written when, by any analysis, the relationship was under strain and could well be described as self-serving. On the other hand, it was written before the mother left and date- stamped contemporaneously, March 2020.

- 56 The diary is a stream of consciousness-type record without dates and without punctuation, which could be consistent with somebody trying to record what has been going on and not to forget it or could be somebody writing in a hurry to build a case. Mr Aspinwall pressed the mother that it was simply not plausible that she was afraid of the father when she kept a journal on her phone. She gave evidence that the journal was password-protected.

- 57 The father's evidence about how he spoke to the mother was that this was all part of a plan the mother had and was all made up. When asked about Z going to her room when told that she ate "like an African", he characterised this as the mother trying to involve Z in the case. It seems to me more likely than not that the stage of the relationship at which the journal was written, things were getting increasingly tense. The absence of abusive words in the texts and the recordings is something that the father points to, to undermine the mother's allegation of verbal abuse. It seems that the pattern of how the parents communicate with each other is either face-to-face when the father is on home leave, or by phone when he is on the boat. This is not a case with voluminous WhatsApp or texts between the parties.
- 58 Looking again at the journal which records verbal abuse, there are points in this journal which are not developed elsewhere in evidence, as I have already referred to, and there are things in this journal that chime with what the father said. For example, the mother said he demanded that she stopped watching YouTube because they are teaching her to be "a bad wife" in the journal. The father's evidence is that he asked her for her phone to be given to him because:
- "I realised that the phone stopped her looking after the kids and doing her job and I thought it would be better this way. When I am away it is her duty to look after them."
- "How does the phone stop her looking after the children?", he was asked. "Well, she is watching clips and following bloggers." So that exchange about the phone gives some credence to the mother's assertion that the father told her that she was a bad mother.
- 59 The recordings corroborate the mother's assertion that the father was verbally abusive to a limited extent. In Video 2 he asks her if she is "*Da'sh (ISIS)*" which is unlikely to be a compliment of the mother's practice of Islam.
- 60 In Video 6 I have the use of "*Maghrib*," which is said to be a derogatory term, but the tenor of the conversation more broadly is about money, working and asking the mother why she does not call the police. It is a very strained conversation to say the very least. The father calls the mother a liar in this conversation and says, "You use it against Z's dad." That, on the mother's account – her relationship with Z's dad – was a domestically abusive relationship. At one point the father seems to be telling A-M that he is in a bad family and in a bad relationship. The overall tenor of Video 6, or the transcription of it, is a conversation that is not a very supportive or respectful one.

Video 4 records the father saying,

"You are beautiful. You are nice. You are lying. You want money."

Again I remind myself that despite the father saying in the witness box, and in some of his written statements, that he does not want to speak badly of the mother because she is the mother of his children, that is exactly what he does do even in his formal evidence at times, as I have already noted.

21.7.2019: The father initiated an argument after heavy drinking. He was verbally abusive and grabbed the mother's hand, he slapped her face with force and grabbed her neck, he pushed her into her room and demanded she get out of his sight. The mother slept in Z's room.

22.7.2019: The father slapped the mother on her ear with great force causing her pain and loss of hearing. The Mother called the Police who arranged medical examination.

61 These are allegations 12 and 13. The mother's accounts are at pp. 171 and 206 of the bundle in her statements, and in her oral evidence she explained that Incident 12 took place at midnight on 20 July going into the 21 July, and that the next day, the 21 July, she called the Domestic Abuse Helpline. The police arrived and the father was taken to the local police station. She went to the local GP who examined her. The GP's report is dated the 21 July. The mother's evidence was this was a Sunday, which the calendar confirms. The dates on the allegations as pleaded should read 20 and 21 July 2019.

62 She spoke spontaneously in the witness box of the father having a hand around her neck when speaking of this event on the 20 July. Later, when I asked her what she meant by the term "strangle," she showed a similar motion of a hand around her neck and the other hand over her mouth, although the demonstration did not specifically relate to this occasion. She gave evidence that, "This is how he approaches me, by grabbing my arms," suggesting that this was a habitual form of assault, and she gave evidence that she stayed in hospital for three nights and was discharged after A-M was born.

63 Her witness statement refers to pictures being taken by the police. I do not have any pictures that were taken by the police and the police disclosure does not seem to be complete. There are no pictures, no record of the conversation they had with the mother, and no custody record for the father. The mother refers in her statements to the assault on Sunday 21 July, causing her a loss of hearing for "some time". This is an imprecise phrase that could mean anything from a matter of hours to days. It became clear in questioning she meant a matter of hours. It is noteworthy that the mother reports this incident to Dr D, at 408 of the bundle, when she meets him.

64 The father's response to this allegation in his statement of 17 January 2023 is that he had an operation on 12 July, was not in the best of health and had no energy to fight or argue. He said:

"The bruise she is referring to is self-inflicted. She started verbal arguments between us as I could not have sexual intercourse. She would say, 'Life without arguments is boring.'"

The father accepted in the witness box there was an argument. He explained that he had been drinking but the mother attacked him.

"She sat on the sofa. I wanted to tell her about my health. I wanted to explain because of my illness I cannot sleep with her. She wanted to go to the room. She sat beside me on the sofa. She tried to leave and not listen to me. If she had stayed and listened to me we would not be here now."

He showed in the witness box how he held her hands by the fingers and she was exaggerating when she said that her hand hit her stomach when he released it. He denied grabbing her neck or pushing her into her room.

65 On the 21 July he said he was speaking to a friend, on the phone and her brother had just died - a detail that I cannot find anywhere in the written case - and that the mother started screaming at him to give her the phone. When he did not give the phone, he said she called the police and that was all part of the mother's plan. He said that the injuries were all self-inflicted because the mother did not get what she wanted. He was unable to tell the court when these injuries were inflicted at first and his evidence later changed to suggest that she did this the night before. He said he did not see her injure herself on this occasion but he had on other times. He said, in the witness box for the first time, the mother would threaten him – "I will injure myself and call the police" – and that she usually threatened him like that.

66 I see the contemporaneous medical assessor's record at p.374:

"She tells me she has been strangled, grabbed by the arm tightly and beaten on her face several times."

The assessor notes bruising on the arm and elbow and concludes, "I cannot find any external damages on the patient", which seems contradictory and I do not know if that is a matter of translation. The mother's oral evidence was that she told the medical examiner exactly what she told the court and that her hearing had resolved by the time she saw the medic, two or three hours later after the assault, and that the medic did look at her ear.

67 Mr Aspinwall says it is remarkable that the GP did not mention that her bump had been hit. The mother explained that they had advised her to go to the hospital to check for the baby's movement, and that may be the Assault Centre which the GP notes the patient was referred to at the end of the letter.

68 The difficulty of course for the court is this medical assessor has not been called to give evidence and I do not have an understanding of what role this medical exam plays in the Norwegian system and the type of information usually recorded. However, it is a contemporaneous report from a medical perspective of those injuries which left a visible trace and are objectively verifiable.

69 When I look at the other allegations which have not on the mother's case left a mark, I recall her demonstration of the holding of her neck by one hand; whether that left a mark of course will be dependent on the force used. The same is true of a slap. The force used and the length of time between a slap and the examination would be relevant to whether a mark is seen. A slap on the ear, an area which is covered by some head hair, raises similar points. So the absence of marks from what the mother calls "strangling" and the slapping may be due to fabrication or exaggeration; or it could be due to the time between assault and examination, and the force used.

70 Mr Aspinwall suggests that the mother has elaborated her evidence about the father's arrest. The father suggests he went downstairs to wait for the police and the mother suggests they came in the flat. This is, on any analysis, a point of detail which either party may have misremembered, and without the full disclosure from the police it is hard to tell who is more likely to be right on this. I do not think it is a central point on either party's case or one of significance.

71 We then have the child welfare report at p.381 of the bundle, which gets Social Services involved on 29 August 2019 when they receive a report of abuse from the police. At p.378 of the bundle I have a Child Welfare Services Notice of decision, which appears to be the outcome of their investigation. It says:

“The mother confirms arguing and that the co-habitant was rough but does not describe it as violent. The co-habitant gives little information regarding the event. Information from the regular doctor shows clear signs of marks from rough treatment, as was the information the mother gave after the event. The mother states they have talked with each other and it is going much better now. She assures me that this is a one-off event and the co-habitant is not a violent man.”

Social Services say:

“Z is giving the impression that she did not realise much of what happened that day other than her mother shouted she was going to call the police.”

The impression the report writer forms is that the situation has cooled down but the mother and co-habitant are downplaying the event between themselves. The mother was given domestic abuse advice and it is recorded, “The mother ensures it is not happening and she would not have allowed it,” when they look at the effect of a child witnessing domestic abuse.

- 72 Again, this evidence of Social Services needs to be interpreted as part of the whole. It could be that the mother has fabricated the whole thing and is telling the truth to Social Services; or that the father has put pressure on her to retract her allegations. I note in passing the health visitor mentions the mother reported to her that she had been hit during pregnancy which would corroborate her accounts.

September 2019: The father told the mother if she reported his abuse the children would be removed from her care and no one would believe her

- 73 This is said to have happened after the assault in July 2019 and after the Social Services became involved in August 2019. It is set out for the first time in the mother’s Non-Molestation Order application at para.11. She gives other examples of when the father said such things to her, for example, when she left and went to the airport in January 2020 and she says in her journal, “He will continue to punish me for calling the police,” when she was nine months pregnant.
- 74 The mother’s evidence is that when she was in hospital having given birth to A-M, Z, who had spent some time alone at home with the father, said to her, “Is it true that I will not get to stay with A-M?” She did not know who else other than the father could have given Z this impression. She gave evidence that the father said things of this nature to her and Z, and she gave evidence that he had told her that now Social Services were involved, “They will not get out of our lives so you need to change what you say.” He said that Social Services would take the kids away. So her evidence was that she made her report less intense and lighter. She said:

“When I went home and Social Services were involved I wanted out of that situation. I did not know how to come out of it. I had no help. I did not know how Norway worked and I relied on those speaking English. I had no friends. I felt hopeless and alone and I just wanted my kids, and he tells me he knows people and is well connected. I did not know the law. He threatened me with it and it did come true because they granted him custody without hearing my side of the

story. I was put under so much pressure, Social Services asking me what I want to do. I was in survival mode.”

- 75 The father’s evidence is written in his statement at p.304 and he says that this allegation is not accepted. In his oral evidence he said, “This is not what happened”, but when I look back at my note he does not tell us exactly what did happen. The mother, of course, at this stage had given birth recently, lived in a country where she had no real support network, no independent income and did not speak the language. So by any analysis she was in a vulnerable and dependent position.
- 76 There does also seem to be a mismatch between the assault described by the mother to the GP on 21 July and her telling Social Services that the father was not violent. Social Services picked this up themselves and called it “downplaying.” So, again, this evidence is capable of a number of different interpretations. It could either be that the mother fabricated the initial report or that she was put under pressure to retract it.

January 2020: The father was naked in the bathroom and left the door open. The mother told him unacceptable and that Z could see him. The father slapped the mother across the face.

- 77 I look at the January 2020 incident, that is Allegation 17 on the schedule. This, again, is set out at the Non-Molestation Order statement at p.462 of the bundle. The mother in cross-examination gave further details that the father was sitting on the edge of the bed, putting on his boxer shorts. The bed was a high, king-sized bed, and she then described him calling her family and speaking badly of her. She alluded to her family telling her that he will change and trying to keep them together. I discern a degree of pressure in her family’s reaction from what she said.
- 78 This is a situation where the word “naked” - the allegation being that the father was naked in the bedroom - might have slightly different meanings in translation, so I exercise caution about this. But on any analysis the father was not fully clothed and the issue in this argument is whether that was appropriate given that Z was in the flat. The father’s evidence was that the mother raised this issue because she wanted to humiliate him in front of Z. He accepted he did call her family because she was disrespectful and attacked him. On his own evidence in the witness box he raised his hand up as if to cover the mother’s mouth and told her to “Shush.” The motion he showed in the witness box was consistent with the mother showing her mouth covered by his hand at times.
- 79 Audio 13 was recorded by the mother when the father returned to the boat and after this incident, and the parties may be discussing this incident on one interpretation of that transcript. I remind myself again that the mother knew that this was being recorded but the father did not, so I weigh this with caution. But there seems to be some common ground in this conversation that there was a disagreement about the father coming out of the shower. The father says, “I was wrong,” and the mother says, “You don’t think. You just react. You slapped.” But it is not clear from this interaction whether the father accepts that he slapped the mother and the audio then moves on to talk about another occasion.
- 80 At p.9 of the transcript, the supplemental bundle, I have the following interaction:

“THE FATHER: [name redacted] I slapped.’
THE MOTHER: You tried to. You tried to, you tried to, didn’t you?
THE FATHER: No, no, no.
THE MOTHER: You tried to.
THE FATHER: I say stop your mouth. I stopped your mouth.

THE MOTHER: You tried to.
THE FATHER: I hold your mouth.
THE MOTHER: You are lying. You hold my neck.
THE FATHER: I put next to your mouth as if to stop talk. No talk, no talk.”

Again, this is open to a number of different of interpretations and I have read the entirety of the transcript and bear it all in mind even though I have quoted only extracts. When the mother was cross-examined about this recording she said that the father normalised slapping. She said,

“It is a slap. It is any physical touch to my face. When somebody hits you for a woman, it hurts,”

and she demonstrated the movement of a palm towards the face.

28 January 2020: The father assaulted the mother with a knife and threatened to kill her. She left the family home and went to the airport with her children but there were no flights. The father promised to change his behaviour.

81 I will look at the next allegation, which is 28 January 2020, and that is Allegation 18 on the schedule. Again, this is set out in the mother’s witness statement at p.171, where she describes an assault and then leaving to go to the airport:

“He assaulted me with a knife and threatened to kill me. I managed to escape the family home and made my way to the airport with the children but when I arrived there were no flights available to the UK. The applicant during my journey was contacting me and promising that he would change. There were no flights and I was stranded and I had no choice but to return home and hope and pray the father would change his ways as promised.”

Her Non-Molestation Order places this statement in or around March 2020 but she corrects this in her Hague statement and places it in January 2020. She gives further details at p.207 of the bundle.

82 Her Non-Molestation Order statement suggested that the father head butted her nose three times but there is no visible injury to her nose on the photo that she provides that is date-stamped 13 February (the mother says this is February 2020 on p. 264). In oral evidence, she talks about this photo taken on 13 February. It shows the underside of her arm. She said:

“He turned the knife and was hitting me on the head with the blunt side. He was hitting me with his leg on my foot. I lifted my arm to protect my face. He would hit me with the blunt side, not the sharp side, of a chef’s knife.”

In her contemporaneous text to her sister she reports,

“He said, ‘Go on your own. I’m going to kill you.’”

83 In cross-examination she described the father drinking and coming back with anger. She said he locked the door between the main door and the living room and was shouting and screaming. She was asked about this in cross-examination and said this was what she was

referring to when being told that she could not leave “the spot” in her statement. She was clear she was holding A-M in her arms and added the detail in cross-examination that A-M was next to her on the bed, and that she had one arm on A-M and one trying to protect herself at the same time. Mr Aspinwall was right to point out that this detail was not mentioned in the Hague proceedings when it would have been relevant to the issues the court had to decide. However, it is clear that A-M, on any account the mother gives, was present.

- 84 She accepted her face was not bruised even though she described head butting. She described being at the airport and the whole family calling her and telling her she needed to get back home, it was not safe and A-M was very small. She said the father came to the airport. He did not remember the assault and that if she stayed at the airport he told her they would “remove the kids.”
- 85 Video 2 is the video that the mother says was taken on 28 January 2020 in which the father was drinking and that the assault followed this. I have already said that this video appears to show the father under the influence of alcohol, slurring his words and not entirely coherent. It shows him pouring something into a glass with ice that he has fetched from the kitchen. He has got a bottle of Coke on the table, which is visible and in shot, and a bottle on the floor next to the table. It is interesting that the drinks are not in the kitchen, which might suggest they are left out for ease of access and refills, and the mother’s evidence that the bottle on the floor was Jack Daniels. If so, it was a generous measure that I see the father pour. He says, “Bruised? You do it by yourself to show you attacked” in this conversation.
- 86 We then look at Transcript 6. It is a video that follows the incident on 28 January 2020 and my understanding is that this was taken the morning after. The father talks about money, consistent with both parents’ evidence that the mother received a tax demand from the UK and they were discussing how it pay it. There is reference in this recording to the mother saying she had been abused, “emotionally, physically, everything.” The father says, “If your husband slapped you, why you call 111 93 now at 11.30?” Again I caution myself about the difficulty of interpreting this evidence, particularly in relation to this interaction. The meaning of what the parents say to each other is not clear and again open to interpretation.
- 87 I have then got the audio, which was taken on the ship, which the mother says is a discussion of the January events. As I have already noted, the father seems to accept at points he was wrong and says, “I know is mistake”, but it is far from clear what he is accepting responsibility for, if anything. The mother refers to the father “slapping”, “the knife stuff”, the father holding her neck, strangling her and hitting her tummy. Reading this exchange holistically, it seems to me that the parties are discussing an interaction, or interactions, that were physical in some way and the mother clearly found abusive.
- 88 The mother’s evidence of her text to her sister on 29 January is hard to understand and it is not entirely clear which texts are the mother’s and which are her sister’s. I am on p.269 of the bundle. These were screenshot by the mother’s sister in Morocco and sent back to her because the mother said the father had her phone. These texts and audio are sent in the early hours of the morning and are said to be contemporaneous. The mother says the following in her messages:

“I am scared..... I was going to die.... I swear he is drunk..... ‘Or I will kill you, take A-M with the condition you leave without the police.’..... He beat me with his fist on my head and arms..... The solution is we go straightaway to the airport.”

The father’s written case is at p.180. He says:

“I did not threaten anyone with a knife, and if she was genuinely in fear of her life, she could have stayed at the hotel at the airport.”

I note that this mention of a hotel chimes with the mother’s evidence to the extent that she said the father offered to pay for a hotel.

89 In the witness box the father denied this incident in its entirety. He denied he had said he would stab the mother 40 times before she could call the police. He denied he talked about a documentary of an Iranian male who stabbed his wife. He said that the mother went to the market and he picked her up from the market and not from the airport. He said the mother’s allegation she was hit with a knife is part of her plan and that any injuries photographed are self-inflicted.

90 The health visitor’s letter refers to the health visitor seeing the mother in April 2020, so some three months after this incident. They record:

“She has it very bad in the family with A-M’ father. He drinks a lot. He threatened to kill [redacted].”

The father was asked about the health visitor’s letter. He sees it as part of the mother’s plan and his response at p.185 is:

“She mentioned a lot of lies relating to me. She did this so to help with her premeditated abduction of my son, and she contacted the health visitor during this case to write this statement. The mother discussed it with her. All of this was planned.”

22 July 2020: The father assaulted the mother when she was talking on the phone, slapping her and snatching the phone from her, a dragged the mother by the arms causing bruising and threw her outside the home in her nightdress

91 The account is given by the mother at para.16 of her Non-Molestation Order proceedings. She refers also to a slap and her phone being taken away in the Hague Convention statement at p.261. She explains that this was the day before A-M’s birthday and the father took her phone. She makes two consistent written statements in the bundle. In her oral evidence she described speaking to a friend, who she used to go to college with in London, when the father took her phone and slapped her.

“He threw me out in my pyjamas and challenged me to call the police [she says]. He knew I had no choice because I had not pursued it in the first instance.”

92 Then we have the texts which are sent from Z’s phone, dated 22 July 2020, which say, among other things, “He beat me and took my mobile.” These are contemporaneous texts which support the mother’s version of events. It is right to point out she refers to “beating” rather than “slapping” in the texts and her oral evidence was that she was slapped. There are ten attempts by the mother to call her sister during the course of an hour and three minutes; that may be suggestive of a sense of urgency.

93 The bruises that were caused, the mother says, by this interaction are captured in the photos at pp.297 and 298, and she said these were taken after she left on 24 July 2020, at the airport. Her evidence is these bruises were caused by the father dragging her out of the house by her arms. The father’s evidence is she must have done these bruises herself.

94 The father said in evidence that she returned the phone to him via Z. That is also mentioned in his statement at p.305, but the context he gives in writing is something rather different. He said that the mother came home and would not talk to him and was in a bad mood. He went into the kitchen and Z returned the phone saying, “Mum does not want it.” I have already referred to the mother’s email to the Norwegian Embassy. A matter of days later she reports that the father:

“... took my phone by force, still has my phone with all my contacts and information logged on.”

95 Without technical evidence about the extent to which you can edit or access Instagram or social media, it is not clear to me whether the father logged into the mother’s accounts or was viewing them already open on her phone when he took screenshots. However, what is clear to me is that he had her phone; he was able to access it and able to access and see her social media profiles when she left on 24 July 2020. His own evidence shows some familiarity with her social media. He said:

“She has other Facebook accounts where her second name is different. She has a Facebook account not in her name,”

which might suggest a degree of vigilance on her online activity.

96 The photos that the mother took in February 2020, she says, were taken on a phone which she had hidden in a suitcase. That again chimes with her evidence that the father taking her phone was something that happened more than once.

24 July 2020: The mother was sleeping in Z’s room. She heard A-M crying and got up to see to him. The father was carrying A-M. The mother said she would calm A-M but the father shouted at the mother telling her it was her fault and that she must leave the home. The Father said that if she reported him to the Police he would take her child away from her.

97 The mother’s first mention of this is in her Non-Molestation Order statement at p.208. She also mentions it in her Hague Convention statement in Autumn 2020 and says that the father came to the bus station where she was waiting, that she told the father she would be going to the UK and he offered to buy her tickets, which she saw as a delaying tactic, and offered to buy Z ice cream. The mother’s oral evidence was broadly consistent with this. She described the father telling her to leave the house or someone “could be killed” that day.

98 The father’s evidence is at p.181. He describes A-M waking up and he was preparing his bottle. He says:

“The mother came from the bedroom and started screaming at me to put A-M down. She left me no option but to put him down as I am scared of the mother when she starts verbally abusing in case she attacks me, as she has done previously. I shouted back at her to leave as I could not bear her screaming any longer.”

He gives a narrative of going to two different bus stations, finding her at the second one and offering to buy Z ice cream.

99 The father’s Hague statement of 16 September 2020 records that,

“The respondent told me she was going to visit friends in Oslo.”

The letter from the Norwegian Directorate of Children again states that they were informed that the mother and the child were going to a social gathering in Oslo. Again, at p.306, the father says in his statement:

“She told me she was going to visit some friends in Oslo.”

This is a different narrative to the one that came out in the witness box. There was no mention of visiting friends in Oslo in either later statements or in oral evidence. In oral evidence there was some overlap between the father’s account and the mother’s. They both described the father holding A-M and Mr Tumble was on the television. The father described himself in oral evidence as the “wronged party” because the mother was shouting at him when he was ill and trying to look after A-M.

100 The following was discussed with the father in cross-examination:

“MR POWELL: She says you told her to go to the police for help for housing.

THE FATHER: We sat down and talked about. I wanted to know her point.

MR POWELL: You told her to go the police because the police and Social Services are adept at housing women fleeing from domestic abuse.

THE FATHER: I gave her good advice. If she is suffering she can go to them.”

So it seems on each party’s account, there was some kind of discussion about the mother leaving.

101 The father’s written statement in which he says he asks the mother to leave was put to him expressly in cross-examination. He did not answer the question about this directly when he was asked whether he asked her to leave but responded that he was mentally exhausted and collapsed and that he wanted the mother to have a break. He said the mother kicked him out but it was not clear what he meant by this. What is clear is that the mother did leave on this occasion and flew to the UK. There is no evidence to suggest that her tickets were pre-booked or that she had made arrangements for shipping her belongings. Her text to her sister on 22 July 2020 shows her discussing going to the airport but also taking Z to school, and it appears her sister replied,

“Look, make a deal with him. Be patient to the holidays.”

102 The mother left Norway when pregnant, with a child who had just turned one, and a school-age daughter. The evidence as a whole does not suggest a high level of planning or sophistication. Her evidence was, she stayed with a friend and in a hostel when she returned to the UK. She had no job or home waiting for her in London. The father’s evidence is that this was planned. The health visitor record records that in August she received a phone call from the mother, who was in the UK by that time, and the mother reported the father to be violent, that he had thrown her out of the house and threatened to kill her.

Looking at the broad canvas of evidence

103 The mother describes wanting a stable family life for Z and siblings for her with the father and she describes the father being very nice in the first year of the relationship. Then she describes low level of attempts to control her. She describes violence starting on her move to Norway and the picture of escalation of incidents until the point she left. She describes a

specific number of events over the course of years. When she looks at the allegations of physical assault they are on more than one date, over a period of over a year. Her descriptions describe a habitual element to this.

104 When asked about the injuries to her arms, as seen in the photos, she says,

“Yes, first he grabs me by the arms and tells me to leave, get out of his sight. He does the same holding.”

Later in the context of the incident of July 2019,

“This is how he approaches me, by grabbing my arms.”

She described on more than one occasion how she was held by the father by her arms. She referred to his drinking by saying, “This is how it starts,” suggesting a pattern of drink leading to abusive episodes. She describes a pattern of abuse and reconciliation:

“Every time he hits me he buys me flowers and the latest phone and begs for forgiveness.”

The father accepts at p.303 that he gave her flowers but he said he did this to show love.

105 The mother’s evidence as a whole could be seen as describing a cycle of abuse and reconciliation. She said in cross-examination,

“I wanted a family for my children. He promised me he would stop drinking and get therapy.”

She gave evidence that the father had normalised slapping.

“He makes amends, goes back into the abuse cycle and you get back into the same treatment.”

106 The father’s statements also suggest there may be a pattern of incidents happening, which occur when the mother does not listen to him, or he perceives that she is undermining him. In July 2019 he says,

“She tried to leave and not listen to me. If she had stayed and listened we would not be here now.”

The bathroom incident in January 2020,

“Straightaway she told me to humiliate me in front of Z. I was ill. She was meant to be taking care of me.”

On any analysis the overall picture, listening to both parents, was of a marriage under strain and falling apart, with the mother sleeping in Z’s room and the father on the sofa.

Did the mother inflict injuries on herself?

107 I now analyse specifically at the evidence that might suggest the mother hurt herself. It is really important to look at the chronology of this evidence and how it evolves in these proceedings. The mother, as I have already said, takes a recording which is said to have been taken on 28 January 2020 before she says she was assaulted. In it she says,

“You are abusive. You, hitting? Yes, I’m bruised. Right now I’m bruised.”

Of course on her case there was a previous assault in January 2020 before this. As I have already mentioned the father replies,

“Bruised? You do it by yourself to show you attacked.”

108 The mother’s photos of the bruises are date-stamped to 13 February 2020 and 24 July 2020. She exhibits the transcript of the recording in Video 2, that I have just quoted, in October 2020. Now, it seems odd that the mother would share a video or transcription of an interaction in which the father says she hurts herself, which would undermine her own case if indeed she had hurt herself; or she might have simply overlooked the fact that that was included in the transcript. The father, who would have received this transcript by this stage, makes a statement in November 2020 in the Hague Convention proceedings in which he responds to the mother’s October statement:

“I have never abused [redacted]. I have not inflicted injuries on [redacted]. I can give no explanation. I was not responsible.”

109 The mother then makes in fact another two statements in January 2021, and here she actually exhibits the video itself rather than just the transcript. The father responds on 25 January 2021 but does not specifically address the point he makes in the video about the mother hurting herself. The first time he mentions these bruises as being self-inflicted is in relation to the July incident at p.180 in his statement of January 2023. He says,

“The bruise she is referring to is self-inflicted and I will refer to the videos.”

However, both parties now seem to accept that the video in which this is mentioned relates to the 28 January 2020 incident and is timed around then. “Right, now I’m bruised,” says the mother in this video. So this bruise could not on any account have stemmed from July 2019.

110 On the face of my order of 8 March 2023, I recorded that the father asserted that the mother had inflicted injury on herself as part of a pattern of coercive control and he was permitted to send the court a schedule of allegations that he wanted the court to find made out. From memory, this allegation was not included in that schedule, which only sought to introduce new matters and which, in any event, I ruled inadmissible because it did not comply with my directions.

111 The first time the father suggests self-inflicted bruises were habitual for the mother was in chief. He describes a twisting, pinching motion and gave evidence that:

“Whatever I do to defend myself she would say, ‘Shall I do that to myself again?’”

When asked why the mother would harm herself he replied:

“It was her intention to take the children away from me. She did it many, many times.”

It is noteworthy that during July 2019, when the police and Social Services were involved, the father is not recorded telling the social workers that the mother self-harmed, which of

course would have been a defence for him and potentially relevant to her mental health and the children's wellbeing. When Social Services visited the house their note was:

"The co-habitant gives little information regarding the event."

112 Of course I have got no expert evidence as to a mechanism for the bruises I have seen in the pictures and I think it probably would be possible for somebody to pinch themselves on the underside of the arm to cause bruising. But there is no explanation given from the father as to how the red linear mark, which the mother says was the knife mark, was said to be caused. But of course here I remind myself expressly there is no burden of proof on the father to prove anything. The burden of proof is on the mother.

113 However, it does strike me as odd if the mother was to fabricate an allegation of being attacked by the knife that any self-inflicted mark was not made by a knife cut. Cutting is a common form of self-harm the court hears about and there is no evidence of this type of self-harm here. I think that if the father has lied about the mother hurting herself this is an untruth on a significant point and the only explanation would be to suggest that he did not do it himself.

Dr D's evidence

114 I look very carefully at what Dr D said, because he says that the mother describes traumatic intrusions in the form of a dream; "I am running away and in my mind that is from him," she says. He says she expressed these in an invocative and exaggerated manner that may suggest she was attempting to exaggerate her experience of fear'. Dr D was not called and cross-examined and, of course, judges find facts and experts express opinions. I remind myself that the case law says expert evidence as propensity, or psychiatric or psychological assessment of one of the parties is unlikely to assist the court in resolving a purely factual issue. The psychological report is in relation to the removal of A-M from his mother rather than a full psychological assessment of the mother in any event. Dr's comments about one aspect of the mother's presentation to him used a tentative form of wording, "may." It "may" suggest she was attempting to exaggerate her experience of fear.

The father's case of coercive control

115 When I look at the big picture I look at the father's case of coercive control, which comes mainly from his statement of 17 January 2023. He says the following points about his perception of the mother:

"She is using both of my sons as weapons against me. She does not want me involved in their lives. She did the same thing with Z's father."

That is at p.179.

"On holiday in Morocco in September 2019 she abused me in front of her family. I ended up in hospital in Morocco. This all affected me, my character, crushed my personality."

The word that was put to the mother as being used as the term of abuse on this occasion was the word "donkey," which she denied using. The father's account, for reference, is at p.180.

116 At 181 of his statement:

“I was doing and saying anything to keep her quiet. She would prevent me from seeing the kids on FaceTime or to speak to them on the phone when I was at work, so I was saying anything to keep her happy so I could have contact with my children.”

At p.182:

“She planned all of this before she left. She knew exactly what she was doing. She was in full control of every aspect of my life. She married me to use me for financial gain. She did not want to work.”

At p.183:

“She used to record every aspect of my life; my phone calls, my day to day life. She did this so she could use it in court.”

At p.186:

“She came to Norway with a plan to ruin my life by controlling me.”

- 117 The father gave emotional evidence that the mother had raised the fact he could not sleep with her as a result of him being unwell. There is a mention of this in some of the written evidence. I do note however that T was conceived during the time in Norway and the mother disputed this, saying, “he was not weak and I was heavily pregnant.” She denied that he had been abused by her in this way.
- 118 It was put to the mother in cross-examination that some of the allegations she makes are in response to the court proceedings in Norway but chronologically that does not appear to fit in. The mother’s allegations were made to the Norwegian Embassy on arrival and then in the Non-Molestation statement, which is detailed and appears to have been made before the mother was even aware of the Norway proceedings, as far as I can see.
- 119 The father makes no mention of the mother being controlling in his initial application under the Hague Convention and when he fills in the Form C1A for the Hague Convention proceedings, contained in a previous bundle, no mention of abuse is made against him. Similarly there is no mention in the C1A form relating to T. The father first tells CAFCASS in the safeguarding letter that the mother is controlling at p.199. There is a strong theme in the father’s oral evidence that the mother provoked him and that her behaviour was all in the context of a plan to separate him from his children.
- 120 What is striking about the father’s evidence of control is that it is provided chronologically in response to the mother’s evidence of being controlled and that it lacks detail. It is hard to follow the logic of the arguments that the mother’s actions were all part of a plan, given that the mother’s allegations begin before she moved to Norway and before A-M was born. If there was a long-term plan, as the father suggests, to deprive him of his children, it is hard to see why she would have moved to Norway at all, or stayed there during the police and Social Services investigation. The mother’s evidence of control is detailed and date specific, whereas the father’s is mainly generalised and vague.
- 121 So drawing it all together and looking at the big picture, the mother’s use of language at times is imprecise and quite dramatic. For example:

“From 1 a.m. to 4 a.m. I was being physically abused by the father who was slapping me, pulling me and countless hitting.”

In her Hague statement,

“On numerous occasions he threatened to kill me with a knife and tried on a number of occasions to actually do so.”

She referred to being used as a “punch bag”, and “life threatening abuse”.

122 But the father’s language can also be dramatic. He uses the words, “kidnap”, “abduction”. He referred to the mother betraying him and attacking him in the witness box. He said:

“She told me we were cursed so you have to do something to remove that. Black magic.”

I remind myself that neither party has English as their first language although the mother is more fluent than the father.

123 However, looking at the evidence as a whole, the mother’s characterisation of the relationship seems to me more likely than not to be true. As Munby LJ said in *Re A (A Child) No. 2* [2011] EWCA Civ. 12 at para.104:

“Any judge who has had to conduct a fact-finding hearing such as this is likely to have had experience of a witness ... whose evidence, although shot through with unreliability as to details, with gross exaggeration and even with lies, is nonetheless compelling and convincing as to the central core.”

The central core of the mother’s case is convincing. Her reports have been broadly consistent over a number of statements from her first to her most recent. The type of detail she has added in the witness box are ones which reasonably one might expect to come up in oral evidence, and the overall picture that she paints and the patterns that emerge when you survey the whole canvas are more consistent with her evidence. There is a pattern to the father’s behaviour which in my view can only be discerned when you take a step back and look at the whole picture.

124 Against this backdrop and having looked at the allegations both individually and collectively, I make the following findings:

- a) I am satisfied that the father monitored the mother’s phone and social media usage. He took her phone from her at times.
- b) Before she went to Norway, in subtle ways, he sought to influence her behaviour through her choice of friends, her job and the wearing of a headscarf.
- c) From the evidence before me I am satisfied that the father did drink when not on the ship to the extent he became disinhibited and that incidents of violence took place after drinking.
- d) From the evidence before me there is a pattern of the father not speaking with respect to the mother and saying things that undermined or criticised her.
- e) I am satisfied the mother did not injure herself.

- f) I am satisfied when heavily pregnant with A-M, on the night between 20 and 21 July 2019, the father had been drinking. He grabbed the mother's hand and, when she pulled it away, hit her stomach. He slapped her, grabbed her around the neck with one hand, and gripped her arms to the extent it left bruises which were visible the next day to the medical examiner. On 21 July 2019 the father would not allow the mother to speak to her friend on the phone and slapped her. The mother called the Domestic Abuse Helpline, the police arrived and the father was taken to the police station and interviewed. It seems to me more likely than not that the mother was discouraged by the father from openly speaking to Social Services. He told her no one would believe her and her children would be taken away. She was in a highly vulnerable state after giving birth and in an unfamiliar country.
- g) It seems more likely that not there was an argument in January 2020 when the mother spoke to the father about not being fully clothed when Z was in the flat. On the father's own case he tried to cover the mother's mouth and told her to "Shush." It seems more likely than not he found it hard to take criticism and perceived this as an attempt to undermine him. It seems to me that the father's hand made contact with the mother's face as he tried to silence her. I am unable to make a finding as to the force used or how this is best characterised, but I find that the father called the mother's family after this incident and was critical of her.
- h) In general I find that both parents called family outside Norway. It seems to me from hearing all the evidence there was some cultural and family pressure on the mother not to leave.
- i) The incident of 28 January 2020 is an example of the mother's language being imprecise. The use of "head butted" suggests a degree of force that appears lacking to me on the evidence and the mother accepts she suffered no injuries to the bridge of her nose as a result. She uses the word "strangled" in her written description and when I asked her what she meant by this she referred to the father placing one hand on her neck and the other over her mouth. This is consistent with Audio 13 in which she talks about being held by the neck and the father talks about holding her mouth. There is a degree of imprecision and dramatic use of language by the mother in this respect. However, both parties accept that A-M was present on 28 January 2020 and there was a disagreement about money. I find the father was under the influence of alcohol. I find that he held the mother with one hand on the neck, under the chin, and the other over her mouth. I am satisfied he had a chef's knife and used the blunt side to hit the mother's head, causing her arm to be raised to shield her face. I am satisfied that the marks seen in the photo on p.300 were caused by this incident, and I am satisfied that the father threatened to kill the mother. I am satisfied she was afraid of the father, left, went to the airport and that the father followed her and she returned following pressure from the family and the father.
- j) I find that on 22 July 2020 the father became cross when the mother was speaking to her friend on the phone. He took her phone and slapped her. I am satisfied that the bruises to the mother's arms captured in the photos were caused by the father holding her and removing her from the home. On 24 July 2020 there was an argument in the morning. I find the father did tell the mother to leave. I find he did tell her to go and ask for housing but did not tell her to report the abuse. I find he tried to persuade her to return home when he saw her at the bus stop. I find that the mother left Norway not as part of an elaborate plan to take the children, but as a result of the father's behaviour. She was afraid of him. I am satisfied there was a pattern of controlling and coercive behaviour.

Impact on the children

- 125 I am going to look at the impact on the children, and now before I come to those findings look at the video of A-M and the father shouting at A-M, while sitting closely in front of him, and saying, "I will kill you." This video shows A-M sitting on a rug with his father's knee visible, suggesting that he is sitting opposite A-M. The mother is filming this on both party's accounts. A-M starts by looking in the direction of the camera but his father says, "No, move. Watch me in the eye properly," in English. So A-M looks at his father, suggesting he may have understood to a certain extent. The father speaks loudly and abruptly to A-M. His tone could be characterised as aggressive. He speaks in a mixture of English and Kurdish. The words, "I will kill you" have been translated from Kurdish. A-M appears watchful. When his concentration drifts he breaks eye contact with his father, his father twice shouts and regains his attention. A-M blinks and flinches when the father raises his voice.
- 126 The father's interaction could be characterised as unpredictable. He seems at times to be making baby-type noises and then speaking to A-M as if he is much older than he is. He makes a loud clapping noise at one point. It is impossible for me to know exactly how much A-M understood of either the English or the Kurdish words. He is less than a year old and developmentally able to sit and, the mother says, just beginning to crawl.
- 127 The mother mentions in her statement at p.171 that the father had been drinking before saying to A-M, "I will kill you." Her statement introducing the video at p. 357 highlights a mark on A-M's wrist, which she says was caused by the father gripping A-M by his wrists and pulling him to his feet. The father's version is that A-M has hearing problems - this is p.181 - and that he sat on the floor and made different noises and sounds to see his reaction. The father's oral evidence is that the phrase, "Sit down or I will kill you," is a way of telling a child to behave in Kurdish and that the mother learnt this from a Kurdish woman at the hostel. He says she set him up by telling him to say this to A-M before she started filming.
- 128 Mr Aspinwall reminds me to be careful because the father's case is that speaking to a child in this way is different in Kurdish culture, and the phrase, "I will kill you," has been translated from Kurdish. He reminds me of the case of *Re A (A child: Wardship: Fact Finding: Domestic Violence)* [2015] EWHC 1598, and that case reminds me that proper allowance must be made for different cultural contexts. That case of course was about physical chastisement. Here, in this case, I do not have the assistance of an expert in Kurdish culture to help me with the phrase, "I will kill you."
- 129 What does this video show me evidentially? There is a mark on A-M's wrists. It could be eczematous or it could have some other cause. I simply cannot speculate. There is no evidence in this video of the father touching A-M. What I do see and hear is the father raising his voice to A-M in a manner that suggests the child is being told off. The father behaves unpredictably. There is a pause and a loud remark that makes A-M react, twice, and a loud clap, and the tone is aggressive. I do not know how much A-M understood and the mother did not intervene.
- 130 I find that the way the father spoke to A-M in this video was not child-focussed, was loud and unpredictable. The mother, who was filming, did not intervene or ask the father to stop and this interaction was not conducive to A-M's welfare.
- 131 More generally, when I look at the impact of the parents' relationship and behaviours of the parents, I find that Z and A-M were in the flat when the incidents that I have found the facts about happened; that A-M was present and being held by his mother at the time of the assault on 28 January 2020; present for the shouting on 24 July 2020; and I find it more

likely than not that the children are characterised as victims of domestic abuse within the meaning of s.3 of the Domestic Abuse Act.

- 132 The mother's move to the UK was done in response to the father's behaviour and with the child's welfare in mind. I think she was genuinely scared and the fall-out of the parents' relationship has had an impact on the children, who have moved countries and experienced the housing instability that has ensued.
- 133 That is my judgment.
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