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Neutral Citation Number: [2020] EWHC 834 (Fam)

No: FD20P00140

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 31 March 2020

IN THE MATTER OF THE CHILD ABDUCTION AND CUSTODY ACT 1985
AND IN THE MATTER OF THE INHERENT JURISDICTION
AND IN THE MATTER OF COUNCIL REGULATION (EC) No. 2201/2003
IN THE MATTER OF PT (A CHILD)

Before:

MR DAVID REES QC
(Sitting as a Deputy Judge of the High Court)

(In Private)

B E T W E E N :

KR

Applicant

and

HH

Respondent

Mr Edward Bennett (instructed by **Dawson Cornwell**) for the **Applicant**
The **Respondent** appeared in person

Hearing date 27 March 2020

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

This judgment was delivered in private. The Judge has given permission for this anonymised version of the judgment (and any of the facts and matters contained in it) to be published on condition always that the names and the addresses of the parties and the children must not be published. For the avoidance of doubt, the strict prohibition on publishing the names and addresses of the parties and the children will continue to apply where that information has been obtained by using the contents of this judgment to discover information already in the public domain. All persons, including representatives of the media, must ensure that these conditions are strictly complied with. Failure to do so will be a contempt of court.

Mr David Rees QC :

Introduction

1. This application concerns a child, PT, who is approaching her twelfth birthday. The application, which is dated 10 March 2020, has been brought by the father, KR, under the Child Abduction and Custody Act 1985 incorporating the Convention on the Civil Aspects of International Child Abduction 1980 ("the Convention"), and under Article 11 of Council Regulation EC 2201/2003 ("Brussels IIa"). By the application, the father seeks the summary return of PT to Spain.
2. The final hearing in this matter took place before me via a remote hearing using the Microsoft Teams platform on Friday 27 March 2020. At the end of the hearing I announced my decision that the child should return to Spain forthwith and made orders to put that decision into effect. I indicated that I would provide a written judgment setting out the reasons for my decision as swiftly as possible. This is that judgment.

Background

3. PT and both of her parents are all Spanish nationals. PT was born in 2008 and had lived all of her life in Spain until she was brought to England by her mother, HH, in February 2020. She is the only child of the parents' relationship. They separated in 2009.

4. The mother has since had another daughter, S, (aged 7) by a different partner. She is expecting a further child by her current partner next month (her due date is 14 April 2020). The father has a baby daughter by his present partner.
5. Following the parents' separation, legal proceedings were brought in Spain by the mother concerning PT's welfare. A judgment was issued in these proceedings by the Spanish Courts on 25 May 2012. This provided for the mother to have custody and for parental responsibility for the child to be shared by both parties. The order provided for the father to have contact with PT on alternate weekends from after school on Friday until Sunday evening. In addition, she was to spend half of each school holiday with each parent. Orders were also made for the father to provide maintenance for the child. I note that the order also required that the parents should inform each other of any change in address thirty days in advance.
6. On or about 13 February 2020, the mother travelled to England with PT and S. The mother's partner (by whom she is expecting a child next month) lives in the South East of England and they have moved in with him. The evidence on behalf of the father is that the child was removed from Spain by the mother without his knowledge or consent.
7. The father asked the mother to return PT to Spain, but she refused to do so. The father travelled to the UK and met with the mother, PT and S at a shopping centre. However, the mother again refused to permit the child to return to Spain. She did however permit PT (and S) to spend a night with the father at his hotel in England.
8. On 10th March 2020 the father issued this application.
9. The case first came before Lieven J on 10 March 2020 on a "without notice" basis. A location order was made and the matter adjourned to a "with notice" hearing on 13 March 2020. At that hearing the mother attended in person. She brought with her a letter from Duncan Lewis Solicitors which I understand asked the Court for an adjournment for her legal aid options to be explored and indicated that she would be seeking to defend the application on the basis of (1) the father's consent and / or acquiescence and (2) Art. 13(b) of the Convention that is to say the existence of a grave risk that a return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.
10. On that occasion PT was, as directed by Lieven J, present in the court vicinity to be interviewed by Ms Roddy the CAF/CASS Officer. She told Ms Roddy that she had not wanted to come to England, and that she wanted to be with her father, although she did not want to be separated from her mother either. PT's clear wish, as expressed to Ms Roddy, was that she wanted to return to Spain with her father rather than stay in England.

11. Lieven J listed a final hearing for Friday 27 March 2020. She directed that Ms Roddy put her notes from her meetings with PT into the form of a witness statement, but given the time constraints, indicated that no formal report was required. Lieven J directed both parties and Ms Roddy to attend the final hearing. She also directed the mother to file an answer indicating the Convention grounds upon which a return was being opposed and a witness statement in support by 23 March. The father was given the opportunity to file a witness statement in response by 25 March. The order also provided for weekly overnight contact between the father and child (as the father is staying in the UK pending the determination of the application), for the mother to return the child's mobile phone to her and for her to have unrestricted telephone contact with the father.
12. Notwithstanding the order of 13 March:
 - (1) The mother did not file a witness statement or set out the Convention grounds upon which the application is opposed;
 - (2) She refused to permit the father to have direct contact with PT over the weekend of 20-22 March;
 - (3) She has refused allow PT to use her own telephone to contact her father;
 - (4) Attempts by the father's solicitors to communicate with her via whatsapp have been met with a restatement of the mother's opposition to the application, and she asked them to stop communicating with her.I understand that the mother has failed engage with safeguarding checks.

The Final Hearing

13. Although the final hearing listed for 27 March 2020 was originally intended to be an attended hearing at the Royal Courts of Justice, as the current Covid-19 pandemic became increasingly serious and the courts transitioned to remote hearings, a further order was made by Judd J on 23 March 2020 providing for the final hearing to take place by way of a remote hearing.
14. The final hearing was therefore conducted via the Microsoft Teams platform, initiated by the Applicant's counsel, Mr Edward Bennett. The hearing was recorded. Mr Bennett and I attended via video throughout the hearing. The respondent mother attended by telephone for the morning session and by video in the afternoon. The remaining participants, the father, a Spanish translator, and two solicitors from Dawson Cornwell attended by telephone. I made an order at the outset of the hearing requiring the Applicant's legal representatives to maintain safe custody of the recording and preventing it from being accessed, copied, altered, disseminated or deleted without further order of the court.
15. Shortly before the final hearing began, I received a copy of a three page handwritten document prepared by the mother in which she asked the court for an adjournment. She made this application at the outset of the hearing. The grounds upon which the adjournment was sought were:

- (1) She is 8 months pregnant and she is required to stay at home.
 - (2) She has been unable to obtain information from Spain which is needed for her to progress an application for legal aid.
 - (3) She is unable to represent herself as she is dyslexic and needs assistance to understand matters,
 - (4) She claimed to have a recording of video evidence of a threat by the father to kill her and other text messages which she says are important evidence. She stated that she is unable to share them via mobile phone and could not access a computer due to the current coronavirus (Covid-19) restrictions on movement.
 - (5) She considered that the Court needed to hear evidence as to S's position before it could make a decision on whether to order PT's return.
16. The adjournment was opposed by Mr Bennett. He noted that the mother had been in court when Lieven J had made her order on 13 March and had been aware of the directions that had been made and what was required of her. He pointed to her failure to comply with the Court's directions (including in relation to contact) and the mother's refusal to engage with the Applicant's solicitors. He also pointed to PTA's need for the application to be promptly determined, highlighting concerns that had been raised regarding the mother's present partner and the risk that further restrictions on travel from the UK to Spain could be implemented in the coming days.
17. I refused the application for an adjournment and the hearing proceeded.
18. The mother chose to conduct the hearing in English and save, for the taking of the affirmation, did not communicate in Spanish. However, the father does not speak English, and this meant that the hearing had to be translated into Spanish for his benefit. This meant that all participants needed to frequently pause to enable what had just been said to be translated. Whilst this unavoidably made it more difficult for all concerned to make submissions or give evidence, I am fully satisfied that the hearing was a fair one for all parties. Another practical difficulty that was encountered related to the administration of oaths to participants at various locations without immediate access to their relevant holy book. I therefore required the translator, Ms Roddy (who gave oral evidence) and the mother (whose submissions inevitably contained factual matters) to affirm in the prescribed manner.

Legal Background

19. I turn to briefly set out the legal background.
20. The application falls to be determined by reference to the provisions of the Hague Convention. As Article 1 makes clear, one of the objects of the Convention is:

"to secure the prompt return of children wrongfully removed to or retained in any Contracting State."

21. The wrongfulness of a removal or retention is governed by Article 3, which provides that:
"The removal or the retention of a child is to be considered wrongful where –
(a) *it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, or under the law of the State in which the child was habitually resident immediately before the removal or retention; and*
(b) *at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.*
"The rights of custody mentioned in subparagraph (a) above, may arise in particular by operation of law or by reason of judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State."
22. The substantive obligation to return is provided for by Article 12 of the Convention. This provides that:
"Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith."
23. There are limited exceptions to the obligation to return. These are set out at Article 13, which provides that:
"Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that –
(a) *the person institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or*
(b) *there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation."*
24. There is a further discretionary ground which permits a refusal of a return in certain circumstances where the child objects. This is not relevant to in this case. PT clearly wishes to return to Spain.
25. Because this is a case to which Brussels IIa also applies, the Article 13(b) defence is qualified by Article 11(4) of Brussels IIa, which provides:

"A court cannot refuse to return a child on the basis of Article 13(b) of the 1980 Hague Convention if it is established that adequate arrangements have been made to secure the protection of the child after his or her return."

26. Mr Bennett, in the course of his submissions also referred me to the decision of MacDonald J in *BK v NK* [2016] EWHC 2496 (Fam) and his summary of the relevant authorities in relation to Art. 13(b) of the Convention at para [45] thereof:

"[45]. The law in respect of the defence of harm or intolerability under Art 13(b) was examined and clarified by the Supreme Court in Re E (Children)(Abduction: Custody Appeal) [2011] 2 FLR 758. The applicable principles may be summarised as follows:

i) There is no need for Art 13(b) to be narrowly construed. By its very terms it is of restricted application. The words of Art 13 are quite plain and need no further elaboration or gloss.

ii) The burden lies on the person (or institution or other body) opposing return. It is for them to produce evidence to substantiate one of the exceptions. The standard of proof is the ordinary balance of probabilities but in evaluating the evidence the court will be mindful of the limitations involved in the summary nature of the Convention process.

iii) The risk to the child must be 'grave'. It is not enough for the risk to be 'real'. It must have reached such a level of seriousness that it can be characterised as 'grave'. Although 'grave' characterises the risk rather than the harm, there is in ordinary language a link between the two.

iv) The words 'physical or psychological harm' are not qualified but do gain colour from the alternative 'or otherwise' placed 'in an intolerable situation'. 'Intolerable' is a strong word, but when applied to a child must mean 'a situation which this particular child in these particular circumstances should not be expected to tolerate'.

v) Art 13(b) looks to the future: the situation as it would be if the child were returned forthwith to his or her home country. The situation which the child will face on return depends crucially on the protective measures which can be put in place to ensure that the child will not be called upon to face an intolerable situation when he or she gets home (where, as in this case, Art 11(4) of BIIa applies, the court cannot refuse to return a child on the basis of Art 13(b) of the Convention if it is established that adequate arrangements have been made to secure the protection of the child after his or her return). Where the risk is serious enough the court will be concerned not only with the child's immediate future because the need for protection may persist.

..."

The Parties' Cases

27. The Applicant relied upon two witness statements, that of Carolina Marin Pedreno dated 9 March 2020 and that of the father dated 24 March 2020. Setting out his client's case, Mr Bennett argued that this was a "hot pursuit" case in which a summary order for a return should be made. His argument was that PT is habitually resident in Spain; her parents

share parental responsibility; she was brought to England without her father's knowledge or consent; and none of the grounds for refusing a return under Art. 13 of the Convention apply to this case.

28. Through Mr Bennett, the father offered a number of undertakings, effective until the matter could be brought before the Spanish Court, intended to support PT's return to Spain. They include:
- (1) Lodging the final order in Spain;
 - (2) Not pursuing any criminal charges against the mother for her wrongful removal of PT from Spain to England;
 - (3) Seeking to mediate with the mother on PT's return in relation to the mother's access;
 - (4) Agreeing to unrestricted indirect contact between PT and her maternal family (especially with the mother and S):
 - (5) Agreeing to direct contact for PT with her mother in Spain and England, to the extent that is possible or appropriate from a public health perspective given the current global pandemic;
 - (6) Meeting with the mother only at neutral and/or public places when picking or dropping PT off;
 - (7) To pay PT's maintenance and school fees pending any further determination about maintenance by the Spanish courts; and
 - (8) To pay all the travelling costs (flights) for PT of travelling to and from England for the purposes of contact with the mother.
29. The mother did not provide a witness statement. However, as I have mentioned she made an affirmation before the substantive hearing began and I have treated her submissions as forming her evidence (although with some caution as they were not subject to cross-examination). As a litigant in person she understandably did not put her arguments in legal terms or address the specifics of the Convention. However, with Mr Bennett's assistance, for which I am grateful, I have done my best to identify from her submissions the possible arguments that could be deployed against a summary return. These are:
- (1) That the father was aware that the mother intended to move to England with PT and S.
 - (2) That the Father's behaviour to PT (and S) is a cause for concern and a reason why PT should not be permitted to live with him.
 - (3) That a separation of PT from her mother and S would be harmful to her.
 - (4) That a return to Spain would be to different circumstances to those which existed before her removal.
 - (5) The health risks posed by the current coronavirus pandemic.
- I have treated the first of these points as amounting to an objection under Art.13(a) and the remaining points as being relevant to an objection under Art. 13(b).

Ms Roddy's Evidence

30. As I have already mentioned, Ms Roddy provided a witness statement dated 13 March 2020 setting out the details of the meeting that she had had with PT, although given the pressures of time she had not been required to provide a full analysis of the situation. Ms Roddy gave oral evidence before me, which gave her an opportunity to provide me with an abbreviated analysis of PT's situation. Both parties had an opportunity to cross-examine her. The mother did not have any questions for Ms Roddy, but to ensure that the issues had been properly covered, I sought to explore with Ms Roddy those matters which I understood to be relied upon by the mother as part of her case.
31. Ms Roddy gave a picture of PT as a polite, calm and confident girl. She was easily able to make herself understood to Ms Roddy and Ms Roddy assessed her as having a relative maturity and an appropriate understanding of the process. PT had described her life in Spain to Ms Roddy, living with her mother and sister S, but seeing her father every other weekend. She has a room at her father's house. She described having regular contact with her wider paternal family and told Ms Roddy of her regret that she had not seen new baby sister in Spain for some weeks. PT explained to Ms Roddy that her mother had told her that they were going to move to another town in Spain and had not told her that they were coming to England, and that after their arrival her mother had initially told her to lie to her father as to where they were living.
32. PT was very clear to Ms Roddy that she wanted to live with her father in Spain and did not want to stay in England. Asked by Ms Roddy about her relationship with her father she told her that "I get along really well. I like to be there. I don't want to live here." Nonetheless, she was also clear that she wanted to retain very close contact with her mother and with S. PT also expressed concerns about her mother's current partner. She described being a bit scared of him and told Ms Roddy, that he shouts at her and S.
33. In her oral evidence Ms Roddy (who is an extremely experienced CAFCASS Officer) told me that this was only the second time in her long experience that she had encountered a child expressing such strong views in favour of a return, despite remaining throughout in the care of their primary carer. She considered that PT's wishes and feelings should carry significant weight in any assessment of what should happen next.
34. Ms Roddy expressed the view that she felt that PT was under-estimating the challenges she would face from being separated from her mother and S and that she would find such a situation very challenging indeed. She also recognised that if PT returned to Spain she would (unless and until the Spanish Court decided otherwise) be living on a full time basis with her father, as opposed to just spending weekends and holidays with him. However, she also considered that PT was very angry with her mother for taking her to England against her wishes, and that her current predicament in which she has been removed with everything familiar to her was the source of what Ms Roddy termed "desperation". Ms

Roddy accepted that if PT was returned to Spain, the separation from her mother and S would undoubtedly result in an element of psychological harm. Nonetheless she explained to me that this needed to be balanced against the psychological harm that PT has suffered (and will continue to suffer) as a result of being brought to England against her wishes.

Decision

35. I turn then to weigh up my decision.
36. I am entirely satisfied on the evidence that PT is habitually resident in Spain. She had lived there all of her life until she was brought to the UK last month.
37. I have seen a certified translation of the order of the Spanish Court dated 22 May 2012 and am satisfied that parental responsibility for the child was shared jointly by the parents and that at the time of removal the father was exercising those rights. I have also seen the *pro forma* evidence of Spanish law exhibited to Ms Pedreno's statement in support of the application.
38. As to circumstances of PT's removal from Spain; although I understand that the letter from Duncan Lewis solicitors that was produced to Lieven J on 13 March 2020 indicated that the mother intended to assert that the father had acquiesced or consented to the removal, she did not file any formal evidence on this (or any other) point and her submissions to me did not come anywhere near establishing this exception. I explored this issue with her, and whilst she asserted that she had had discussions with the father about moving to England with PT and Maria, she told me that she was not able to say whether he had ever agreed to such a move or not. The burden of proof is on her, and I do not consider that she has come close to discharging it. PT herself told Ms Roddy that her mother told her to lie to her father about where she was. The father brought these proceedings very swiftly following PT's removal and I accept the sworn evidence filed on his behalf that the removal was effected by the mother without his knowledge or consent.
39. I therefore find that the removal of PT from Spain to England was wrongful within the meaning of Art. 3 of the Convention and that the father did not consent to this removal and has not acquiesced in it.
40. I therefore turn to Art. 13(b) and will address the points that I identified at paragraph 29 above as potentially supporting an argument that this defence might apply.

(1) The Father's Behaviour

41. Both in her written document seeking an adjournment, and in her oral submissions, the mother made a number of allegations about the father and his behaviour towards her and

PT. She indicated that she had a recording of the father threatening to kill her and had a number of other relevant text messages as well. However, she explained that the current coronavirus restrictions meant that she had been unable to access these. She described him as being “horrible” with PT and suggested that when PT had contact with her father she would in fact spend her time with her paternal grandmother. She also suggested PT had been told by her father what to say to Ms Roddy and that the Spanish address given by the father to this court was that of the paternal grandmother rather than the father.

42. I have to deal with this matter on a summary basis. It is clear that from the date of the Spanish Court welfare order in May 2012 until February 2020, PTA was having contact with her father on the regular basis therein set out, and there is no evidence that the mother objected to this or sought to raise any concerns about the father with the Spanish authorities. I note also that shortly after the present dispute began the mother was prepared to allow not only PT, but S as well, spend a night with the father at his hotel in England. This does not suggest that the mother harboured any genuine concerns about the father’s ability to care for PT. Furthermore, PT has spoken to Ms Roddy about her relationship with her father in very positive terms. The father has exhibited to his witness statement pictures of what clearly appeared to be a child’s bedroom, which I am told is PT’s room at his house, and has produced evidence that a school place will be available for her in Spain.
43. Taking all of these matters into account, I do not consider that that there is any substance in the mother’s assertions about the father’s behaviour or that a return to his custody would, of itself, present any risk of harm to PT (whether physical or psychological). Nor would it place her in an intolerable situation.

(2) Separation from the Mother and S

44. It is clear from Ms Roddy’s evidence, which I accept, that the separation of PT from her mother and S is likely to have a greater impact on her than she is currently expecting, and that there is a real risk that this separation will cause her psychological harm. Against this I must balance the alternative harm which Ms Roddy has identified that PT is currently suffering and the risks that are posed by continuing the existing situation; one that Ms Roddy described as having given rise to “desperation” on the part of PT. Having regard to the analysis of MacDonald J in *BK v NK* that I have set out above, I consider that although the separation from her mother and S clearly poses a real risk of some psychological harm to PT, it falls a long way short of being the “grave risk” required by Art. 13(b) of the Convention. Indeed in circumstances where some element of harm to PT appears inevitable whatever I decide, I am clear that a return to Spain would be significantly less harmful to her than continuing the present situation.

(3) A Return to New Circumstances

45. A further risk of possible harm arises from the fact that if she returns to Spain, PT will be returning to different circumstances from those which she has left. She will be living with her father full-time, rather than just on alternate weekends and holidays and I do not doubt that this will be a challenge for her. That said, I do not consider that this poses any real risk of psychological harm, let alone the grave risk required by Art. 13(b). Nor can the circumstances to which she will return be said to amount to an intolerable situation. She will be returning to a home which is familiar to her and in which she has her own bedroom, and will be able to build a relationship with her baby sister. Her wider maternal and paternal families are all in Spain and a return will enable her to maintain contact with them. Although she will attend a different school from the one she previously went to, she will be taught in Spanish, her primary language.

(4) Coronavirus (Covid-19)

46. A final argument relates to the risk of physical harm that is presented by the current coronavirus pandemic. This risk presents itself in two ways:
- (1) The pandemic is more advanced in Spain than in the UK. As at the date of the preparation of this judgment (29 March) the official death toll stood at 1,228 in the UK and 6,528 in Spain. It could therefore be argued that PT would be at greater risk of contracting the virus in Spain than in the UK.
 - (2) The increased risk of infection that is posed by international travel at this time.
47. This is not a matter on which I heard any evidence, and indeed the national and international situation is developing at such speed that any evidence that could be gathered would be likely to be immediately out of date. Taking judicial notice of the existing advice from the UK Government, I have drawn the following conclusions:
- (1) From the advice provided by the UK Government, it appears that those who are considered most at risk of serious complications from coronavirus are the elderly and those with underlying health conditions. Neither PT, nor her parents, fall within this category.
 - (2) PT's mother, because of her pregnancy is, however, in a group that has been advised to socially isolate themselves.
 - (3) Although the course of the pandemic is clearly more advanced in Spain than in the UK, I do not have any evidence from which I can draw a conclusion that either country is any more or less safe than the other. It is clear that the pandemic is a serious public health emergency in both nations and that the number of cases in the UK is expected to continue to rise in the coming weeks. Both countries have imposed significant restrictions on their citizens in an effort to contain the pandemic. I am simply not in a possession to make any findings as to the relative likelihood of contracting the virus in each country. On the material before me, all that I can

conclude is that there is a genuine risk that PT could contract the virus whether she remains in England or returns to Spain.

- (4) I accept that international travel at this time potentially carries with it a higher prospect of infection than remaining in self-isolation. However, I understand that limited international flights between the UK and Spain continue to be permitted by those governments for essential travel. From that I infer that the risk of infection posed by air travel, whilst no doubt significantly greater than normal, is not so high that either government has felt necessary to end flights altogether.

Taking all of these matters into account, whilst I accept that the travel associated with a return is likely to increase the risk that PT could contract coronavirus, I do not consider that such a risk, when considered in the context of the likely harm that would be suffered by PT should she contract the virus, is sufficient to amount to the “grave risk” of physical harm required by Art. 13(b).

48. Taking the points that I have identified above, both individually and together, I am satisfied that the Art 13(b) defence has not been made out in this case.

Conclusion

49. Accordingly, for the reasons set out above, I find that PT has been wrongfully removed from Spain within the terms of Art. 3 of the Convention and that none of the Art. 13 defences have been made out. I will therefore make an order for the summary return of PT to Spain.

Order

50. Having announced my decision at the conclusion of the final hearing I then heard argument on the terms of my order. I was satisfied that there was a need for particular urgency in this matter. The restrictions on movement that are posed by the coronavirus pandemic means that there is no guarantee that such flights as are currently operating between the UK and Spain will continue to do so for much longer. To delay ordering a return could mean that it would become practically impossible for a return to be implemented for some considerable period of time.
51. In reaching my conclusion I also took into account the mother’s pregnancy and the fact that an immediate return would prevent PT from having an opportunity to meet her new sibling. However having regard to the matters set out below I concluded that PT’s return to Spain should not be delayed to await the birth of her new sibling.
- (1) The mother is not due to give birth until approximately three weeks after the final hearing (and there is inherent uncertainty in such matters in any event). Thus any delay to the implementation of my order to give PT an opportunity to meet her new sibling may well last three weeks or even longer.

- (2) The rapidly changing international situation and the very real risk that further restrictions on freedom of movement could be implemented during this period means that a delay, even if only intended to be for three weeks or so, could in practical terms last for a much longer period;
- (3) Having regard to Ms Roddy's evidence, there is a clear need to restore some stability in PT's life and to remove her from the situation in which she currently finds herself, to which she plainly objects; and
- (4) The undertakings as to direct and indirect contact which the father has provided;

52. From a practical point of view, it was also clear that any return would need to be implemented by the father. I accordingly ordered that the mother should surrender PT into the father's care at 1pm on Sunday 29th March 2020 and (taking into account the uncertainty concerning the continued availability of flights) directed that he should implement her return to Spain as soon as reasonably practicable given the global public health pandemic. This order is subject to the undertakings given by the father that I have outlined above, which I accept amount to adequate arrangements to secure PT's protection. I also made ancillary orders intended to assist with the return. I have reserved to myself, in the first instance, any applications arising in relation to the implementation of my order.