



Neutral Citation Number: [2021] EWFC 49

Case No: ZC20P00831

IN THE FAMILY COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 11/06/2021

Before :

THE HONOURABLE MRS JUSTICE JUDD DBE

Between :

SB

Applicant

- and -

M

Respondent

Re: N

Charlie Peat (instructed by **The Family Law Practice**) for the **Applicant**
Jacqueline Renton (instructed by **Keystone Law**) for the **Respondent**

Hearing dates: 10th – 12th May 2021

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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.

.....
THE HONOURABLE MRS JUSTICE JUDD DBE

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

Covid-19 Protocol: This judgment will be handed down by the judge remotely by circulation to the parties' representatives and any litigants in person by email. The date and time for hand-down will be deemed to be 14:00 am on 14 June 2021. A copy of the judgment in final form as handed down will be automatically sent to the advocates and any litigants in person shortly afterwards.

The Hon Mrs Justice Judd DBE :

1. This is an application by a mother for permission to relocate to Country A, which is in Africa, with the parties' son, N, aged 12. The father opposes the application and, in the event that permission is not granted, applies for a shared care arrangement in this country.
2. The parents are both citizens of Country A by birth although neither of them has lived there since their respective childhoods. The father moved to Country B when he was about 11, and the mother when she was 2. They are both citizens of Country B as well. The parents came to live in this country in 2006. N was born in Country B, and he too has citizenship there. Shortly after he was born the parents separated, and after a period of time in Country B, the mother moved back to the UK, followed shortly thereafter by the father. There was a short reconciliation in 2012, but aside from this the parents have lived separately for almost all of N's life.
3. The parents are both from professional families. The mother has had a successful career in business. For some time she has had a deep interest in African development and has had an interest in taking up a post somewhere on that continent, an interest she has communicated to the father. In 2010 the maternal grandparents relocated to Country A and the mother and N visited them in 2016 and 2019. In 2018 the mother studied for a Masters in African Development. In 2020 the paternal grandfather died.
4. Over the past two years or so the mother has applied for a number of jobs in the knowledge of redundancy plans (as indeed it did). She applied unsuccessfully for a number of jobs in London. She was offered a different job for the same employer but refused as the job necessitated her spending 50% of her working life travelling. She also applied for a job in another part of Africa in June 2020.
5. In July 2020 the mother was offered a job with a multi national company which was in the process of opening new headquarters in Country A. Following this the mother told the father that she intended to relocate to Country A with N. The father applied for a without notice prohibited steps order, and the mother made this application.

Litigation history

6. N has always lived with his mother as his primary carer. There have been a number of applications to the court concerning his care. In 2009 the mother applied to take N to Country B. The father made an application to the court in Country B in 2011, but the court ruled that N was now habitually resident here, having been brought over with the father's permission. In 2014 there were further proceedings for child arrangements which culminated in an order made by consent. In 2016 the father brought further proceedings for an extension of his time with N; this too was disposed of by consent (albeit I see from the order that there was a dispute about which church N was to go to when with the father which was resolved in favour of the father). At this hearing the mother applied for an order preventing the father from making further applications for a period of three years. This was resolved by both parties agreeing to be bound by an order prohibiting the making of any further applications for two years.

7. The 2016 order provided for the father to have contact with N on alternate weekends during the school holidays (Friday 5.30pm until Sunday 6pm), for one week during the Christmas holidays (with alternating Christmas and New Year every year), one week at Easter (Easter Day alternating), and three weeks in the summer, two weeks together and a further separate week. The father was given permission to take N on holiday to a Hague Convention country; as long as he provided the mother with details of the arrangements. The mother was also required to give the father notice of any plans she had to travel with N 14 days before any proposed trip. There was no like restriction that it should be to a Hague Convention country. The parties agreed not to apply to vary this for two years.
8. Despite the situation so far as applications to court were concerned, it is clear from some of the emails I have been provided with that there continued to be tensions between the parties. The mother complained to the father that he was not permitting her to speak to N when he was with him. In September 2016 she objected when the father tried to make arrangements for N to be picked up from school on the Friday of his weekend, by N's previous nanny. In the mother's email dated 22nd September 2016 she complains she has received a solicitor's letter which contained 'accusations and threats'. I have not seen a copy of that letter. In any event the mother particularly objected to the fact that the father was seeking the assistance of the nanny when he had agreed at court that he would collect N himself. The email contains a number of complaints about the father not abiding by the terms of the order.
9. There was also disagreement as to half terms. The father asked for contact when his term time weekend would usually fall – either at the beginning or the end of half term. The mother refused. In respect of the half term over Whitsun in 2018 she said (by looking at the school academic calendar) "I have decided to give you the benefit of the doubt as I can understand why it may not be so straightforward in this particular instance". In February 2021 the father asked for a contact weekend at the start of half term, noting that the mother was unlikely to have any travel plans because of Covid (the Sunday was also the father's birthday). The mother responded that she had plans with N for the Saturday, but that the father could have him from Saturday 6pm to Sunday 6pm.
10. In August 2018 the father complained to the mother that she was unilaterally reducing his time with N. The mother's response was to tell him the dates had been agreed, and to ask him what he was complaining about this time. She accused him of being deceitful. In September the mother emailed the father expressing concern he was not ensuring that N did his homework. The father complained that N was too young to travel to and from school on his own. There were emails passing to and fro about travel arrangements. I note the mother informed the father that N had a graduation ceremony from primary school in June 2019. This is something he attended, although he does not appear to have attended any parent teacher meetings or had any personal dealings with the school.

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11. On 15th July 2020 the mother emailed the father in these terms; “About two years ago I shared with you my plans to relocate to Africa. I can now confirm that I will be relocating with N to Country A at the end of August, ahead of the start of the academic year on September 1., for professional and personal reasons...I have discussed relocation plans with N in the past and told him that I would provide further details when ready. He has no particular concerns about our move to Country A as he has been there before. I am sure you are aware that N does not want to be put in a position where he would be forced to make a decision as for him it would mean choosing between his parents. He has asked that you and I find an arrangement to make this work’.
12. The email continued with the mother giving the father details of her proposals, including schooling and living arrangements. She offered to discuss the proposals and suggested having a third party to facilitate the discussion.
13. The father replied with a short email the following day, saying that he could not agree to the proposal as he did not think it was in N’s best interests. The mother sent another email on 18th July. Meanwhile on 17th July the father applied for a without notice order prohibiting the mother from removing N from the jurisdiction and requiring the mother to hand over his passport which was granted by Recorder Kushner on 21st July. The order provided that the mother should hand over N’s passport to the father before resuming care of him after a period of contact.
14. There was a hearing on notice on 28th July where the mother made her application for leave to remove, and directions were accordingly given. The prohibited steps order was continued, and the mother gave undertakings as to the passport. The parties agreed that the mother could take N to Country B in August.

The evidence

15. I have read all the evidence in the court bundle which includes three statements from the father and two from the mother, together with a number of attachments, two Cafcass reports (the one prepared for this application and a report from 2014), and expert reports from Dr. S and Dr M. I also heard oral evidence from the Cafcass Officer, and each of the parents.

The mother’s case

16. The mother was born in Country A , but moved with her family to live in Country B when she was under the age of five. She was given (as she describes) a Western upbringing, and was bilingual. She has been very successful in her career, and between 2010 and 2020 was in a senior position in London.
17. The mother has always had an interest in African development, studying for a Masters which she obtained in 2018. Over the years, she told the father that she was hoping to relocate with N to either Country A or elsewhere in Africa, something he made clear he was not happy about.

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18. The mother knew for some time that changes at the company would ultimately lead to the loss of her role, and she has therefore been making enquiries and applications for jobs for some time. She made some applications for roles in London (none of which were successful) between March 2019 and May 2020. She was offered one job by her last employer, but this would have required her to spend some 50% of her time travelling which she turned down because it did not fit with her commitments to N. She has also been offered positions in other African countries which she did not accept because of the lack of family support there..
19. In July 2020 she was offered a job in Country A. She views this as a significant career opportunity for her, combining the skills she has with her ambition of working in Country A where her mother and other family are living. She would not only have family support, but she could assist with the family business there as well.
20. The mother has also formed a relationship with a man who is living in Country A. She and he have only met once in person, but they have spent a great deal of virtual time together and the mother hopes that they might marry at some point in the future.
21. The mother's proposals for a relocation to Country A are careful and detailed. There is no doubt that she would be able to find a reasonable home for herself and N in one of the safer areas. There is an international school there which N would attend. Many expatriate and diplomatic children attend and the curriculum is the same as his current school in London. The school has excellent facilities including a gym, swimming pool and library, and access to many more. She says that there are a number of private hospitals and clinics which provide health services which meet international standards.
22. The mother acknowledges the father's long expressed concern about safety and security in Country A but she points out that it is a very large country indeed. There are some parts of the capital city which one would not walk around, but that is not very different from London. In the capital she says that things have improved in the last few years and her family live a peaceful and secure existence.
23. The mother and N visited Country A for a holiday in 2016 and then in 2019.
24. So far as contact is concerned, the mother proposed that N has one week at Christmas with the father (alternating Christmas and New Year every year), one week during the February half term, two weeks at Easter, four weeks in the summer, and a week in October. She also states that the father can have contact over and above that if he is prepared to visit them in Country A. There can be frequent telephone and video contact. She points out that the time being offered is identical to the time that he spends with his father now, albeit organised differently.

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25. The mother states that if N is not permitted to relocate, it will be the equivalent of a slow and painful death sentence for her. She will be forced to stay in London, one of the most expensive cities in the world, with no job and little chance of finding a suitable one in the midst of an unprecedented economic crisis, and debts. This would contrast with a high quality lifestyle full of possibility and opportunity in a culture to which N already attaches and is proud of.

The father's case

26. The father has a number of objections to the proposed move to Country A. Foremost amongst them is the effect that he says it will have upon his relationship with N. His current contact, set in 2016 is for every other weekend during term time from Friday 5.30pm until Sunday at 6pm, for one week at Christmas, one week at Easter, one week in July and two weeks in August. He argues that he only achieved this level of contact after several sets of court proceedings, and that the mother has been restrictive about the way in which she treats the relationship he has with his son. Although she has obeyed the letter of the court order, if she is permitted to relocate to Country A where it will be difficult to enforce, then she may either not obey it or fail to be supportive of it so that the relationship will suffer. In support of his case he cites the previous litigation and several instances of inflexibility on the mother's part.
27. The father is also very concerned about the situation in Country A. He says that it is a violent and dangerous place, and what is more, a 'failed state'. In his evidence before me he vividly described what he meant by that 'if something goes wrong for you, there is nobody to help you'. By that I believe he meant that the organs of the state are not able or willing to provide protection for the individual or property. He said that if N went to live there, he would worry about him all the time.
28. The father takes issue with what the mother says about N's connection with Country A. He has been brought up in Europe – so indeed has the mother. Apart from the maternal grandmother, most of N's close relatives are in Europe. The mother does have aunts, uncles and cousins in Country A, but her own siblings have not settled there.
29. The father also argues that the company which has offered the mother her job is not doing well in the Country A, and that it has had financial difficulties. Contrary to what the mother states, he says that there is every opportunity for her to further her career in London, one of the biggest financial centres in the world, in a business that is involved in African development and advancement.

The Cafcass Officer

30. Ms Callaghan prepared a report dated 9th November 2020. She interviewed N and the mother in person (on the same day but separately at the Cafcass office), and the father by video. She spoke to N's teacher at school. Her recommendation was that permission to relocate should be refused because of the effect upon the relationship that N has with his father. She further recommended an extension of the time N spends with his father if the mother's application is refused, suggesting that he spends from Thursday to Tuesday every other week with him in term time and that the holidays be divided equally.

31. She found N to be a very polite and articulate boy. He had obviously given the prospect of a move some thought, and gave a number of reasons why a move would be a good thing (although it was her overall view that he thought the prospect would be 'ok' rather than anything else). He told her he did not think that his relationship with his father would be affected. Ms Callaghan thought he appeared anxious when talking about it, and got the impression that he was uncomfortable to be the source of disagreement between his parents. In her oral evidence she said that he was a kind and caring young man, and was aware of the feelings of his parents.
32. Ms Callaghan took the view, on speaking to N that his relationship with his father was important to him. He described going for cycle rides with him, and walking. He said his father was very good at basketball and liked jogging. It was her judgment that the mother did not fully appreciate the impact on N if he was to lose the opportunity to spend regular time with his father. He is at an age where he is developing his identity and relationships with peers are likely to become important, and having to travel to another continent every holiday would be likely to affect the friendships he makes in Country A, which, in turn could affect the way he sees his relationship with the father. Maintaining contact by video and phone is helpful, but it is not a substitute for the activities they enjoy together now and she felt there was a risk of disconnection between them if those opportunities were not there. She also felt that there was limited evidence that the parents could co-parent without tension and acrimony.
33. It is right to say that Ms Callaghan confined herself to considering the effect of a move on the relationship between N and his father. She did not consider wider issues that relate to his welfare, such as the effect of a refusal on the mother, not only personally but in terms of the life she would be able to offer N here. Her recommendation is thus made on partial information only.
34. As well as pointing out the fact that Ms Callaghan's recommendation was made on a narrow analysis only, Ms Renton also argued that she made up her mind prematurely, before having the opportunity to speak properly to the mother. I do not accept that this was the case, for I am sure the mother would have recollected a conversation to that effect. Whether or not Ms Callaghan made a comment about judges being 'conservative' I do not know, but that is a different point.
35. I found what Ms Callaghan said about N himself, and the importance to him of his relationship with the father to be reliable and helpful (as can be seen from the body of this judgment) but make it clear I have to balance a wider range of factors in coming to my decision.

Expert reports

36. The court had the assistance of two expert reports, Dr. S is an academic who has conducted extensive research into Country A and the justice system there. She was asked to report as to the implementation of the rule of law in Country A and specifically the family justice system.

37. Dr. S stated that rudimentary implementation of the rule of law pervades the family justice system in Country A. In line with the justice system as a whole, corruption has become endemic and there is a lack of resources, training and independence. Women in particular face problems winning cases in some of the districts of the capital.
38. Dr. M is an expert in the law of Country A, having practiced family law since 1990. He advises that an order of the English court can be recognised and enforced by means of the exequatur procedure before the High Court there which he advised should be undertaken before the child moves. The process does not involve consideration of the merits of the application. The report is short and does not really delve into the process for enforcing the order if it was broken. What is clear from the addendum report is that cases such as this are unusual for families do not tend to bring these disputes to court. I do not have any real sense of how or if such cases would be resolved.

The law

39. In the case of Re F (A Child)(International Relocation Case) [2015] EWCA Civ 882 the Court of Appeal set out the approach that the court must take in determining such applications, namely:
- (a) The only authentic principle is the welfare of the child as set out in K v K [2011] EWCA Civ 793
 - (b) The implementation of s2A CA 1989 makes clear the heightened scrutiny required of proposals which interfere with the relationship between child and parent;
 - (c) The welfare checklist is relevant;
 - (d) The effect of previous guidance in such cases as Payne v Payne [2001] EWCA Civ 166 may be misleading unless viewed in its proper context which is that it may help the judge identify potentially relevant issues;
 - (e) A welfare analysis of each proposal will be necessary; the court must carry out a holistic and non-linear comparative evaluation of the plans proposed by each parent; in complex international cases this may need to be of some sophistication and complexity. As Ryder LJ stated at paragraph 30:

‘Where there is more than one proposal before the court, a welfare analysis of each proposal will be necessary. This is neither a new approach nor is it an option. A welfare analysis is a requirement in any decision about a child’s upbringing. The sophistication of that analysis will depend on the facts of the case. Each realistic option for the welfare of the child should be validly considered on its own internal merits (ie an analysis of the welfare factors relating to each option should be undertaken). That prevents one option (often in a relocation case the proposals from the absent or ‘left behind’ parent) from being side-lined in a linear analysis. Not only is it necessary to consider both

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parents' proposals on their own merits and by reference to what the child has to say but it is also necessary to consider the options side by side in a comparative evaluation. A proposal that may have some but no particular merit on its own may still be better than the only other alternative which is worse".

- (f) In addition to Article 8 rights one must factor in the rights of the child to maintain personal relations and direct contact with both parents on a regular basis (unless that is contrary to his interests);
- (g) Furthermore the court must also take into account the Article 8 rights of the parents; the child's Article 8 rights will take priority in the usual case but those of others should not be overlooked and need to be balanced;
- (h) The court must consider the proportionality of the interference with the Article 8 rights of the child and parents.

The situation for N if the application were to be granted

- 40. If the application for the mother and N to go and live in Country A was to be granted, I believe that in the short term this would advance the mother, not only in her happiness but her career progression. I accept her evidence that she would be able to obtain good accommodation for herself and N in an area of the capital which was relatively secure, and he would attend the international school. Any disruption to his education would be limited and no doubt he would be able to make friends both in and out of school. I think it is difficult to say whether the mother (and N) would be happy in Country A in the long term, for neither of them has experience of being there for more than a holiday, which is very different to living there. I note that the mother's siblings have not settled in Country A. The company for which the mother intends to work has had to carry out some restructuring although things seem to be on a reasonably even keel at the moment. If the mother was to lose this job I do not know how easy it would be to find something similar without moving again, but she would be able to do some work with the family business.
- 41. Looking at the security situation, I accept that the father's anxiety about it is entirely genuine, and that he would have difficulty visiting the country himself. I think the mother minimises some of the concerns about the capital, but I do not think she would take her son there if she thought it truly dangerous. Also many would not regard London as a particularly safe city.
- 42. Looking at the history of this case, I believe that the mother is likely to abide by a contact order made in this country, certainly in the short to medium term. She certainly is not one to disobey orders, and I very much doubt she would wish to 'burn her bridges' in terms of being able to come back to this country to visit and work again in the future. So that would mean for the time being that N would have holiday contact in Europe with his father in accordance with the order of this court.
- 43. What does concern me, however, is her ability to be flexible as N's needs change over the coming few years, and her overall attitude towards the father which may have an

effect on N's own outlook, especially if he goes for substantial periods of time without seeing him.

44. Looking at the evidence, I consider that the mother has been somewhat inflexible about contact over and above the terms of the 2016 order. One example is her attitude towards half terms. The consent order negotiated in 2016 did not make any provision for half terms, only recording the holiday contact the father should have in the main school holidays. The mother has interpreted this rigidly and has routinely refused to agree to any contact on either of the half term weekends, beginning or end. It is true to say that she has sometimes relented (for example in February 2021) but the sense in which she has been prepared to allow this has been from the perspective of it being in her gift. For almost every half term since 2016 this has meant N not having contact with his father for an extended period of three or four weeks.
45. There are other matters as well. At the hearing in 2016 it was agreed that N's contact to his father every other weekend should be extended so that it ran from Friday to Sunday evening. Apparently one of the issues of contention was whether the father would be able to leave work early enough to cross London to pick N up at 5.30pm. He agreed to do so. Some months later, he was clearly finding this difficult and approached N's old nanny to see if she could assist by picking N up. The nanny asked the mother, and when it was clear she objected, the nanny declined to assist. In her oral evidence the mother acknowledged that the reason for her objection was that the father had agreed to pick N up himself, and she did not think it was right for him not to do so. She was not really prepared to think of things for the convenience of the father, or to see that it would not do N any harm at all to be picked up by someone trustworthy who he knew. Although it is not a serious matter, taken together with other things it demonstrates to me a controlling aspect to the mother's behaviour.
46. The mother's emails to the father are often couched in terse language, which suggests a certain lack of respect for his abilities and position as a father. Despite the fact that she knew the father really did not want N to go and live in Country A, her email to him dated 16th July 2020 read as follows; 'About two years ago I shared with you my plans to relocate to Africa. I can now confirm that I will be relocating with N to [Country A] at the end of August... for professional and personal reasons'. To be fair to her, the email carries on to give him details of the proposals, including a statement that N had no concerns about the plan as he had been there before. She suggested having discussions through a third party.
47. There are other emails about homework where the mother repeatedly expresses her frustration at the father for not ensuring that it is properly done, and others where both of them respectively complain about not being able to speak to N when he is on holiday with the other parent. More recently in November 2020 when N was with his father the mother sent a message telling the father that N would be walking home by himself from the drop off point at the end of contact and that she would not be coming to get him. Her point was that N was old enough to do the journey by himself. When the father arrived at the drop off point he was anxious about N walking by himself

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because it was getting dark, and he has not been told where the mother is living. He asked the mother to come and pick him up. Rather than simply agreeing to do so, the mother instructed N to walk home alone and away from his father. This was a very unedifying state of affairs and poor N was placed in the middle of it. It was the mother who devised the change of plan without consultation, when the father did not even know how far N was going to have to walk and could not accompany him himself.

48. I acknowledge there are other emails where the mother's tone is more conciliatory, and that in the earlier days after the separation the mother alleged the father had been violent to her. There were no findings, but the father was advised to go on a DAPP and would not do so. Notwithstanding this the mother did agree to an increase in contact.
49. The mother believes that the father has taken her to court (or refused to agree to her applications) when this was not warranted. Nonetheless, the father has only used the time he has to forge a good relationship with his son, to spend time with him and to take him to see relatives. There is no sense at all in which he has abused his position or undermined that of the mother. He told me that he did his best to try and avoid getting into an argument with the mother because it was always unproductive and she would never see things his way. Although he would have liked some more contact, rather than go back to court he made the very best of what he had. He did not make any application to stop the mother taking N to Country A in 2016 and 2019 although he would have preferred her not to have done so.
50. I wish to make it plain, this is not a case where the mother has alienated N from his father, or broken court orders. She has offered extra contact on occasion and given the father information about school. The father should have done more to get involved with N's schooling, there are times when he has not taken up extra contact offered, and he has not always communicated as he might. Nonetheless, the Cafcass officer is right to say that the parents have not been able to co-parent without tension and acrimony. Ultimately, I think the mother tolerates the father's relationship with N because she realises she should, but she has a certain lack of respect for the role that he plays and is quite quick to become annoyed or angry when she perceives him as making demands she does not agree with.
51. A contact order made today may look very different when N is 14 or 15. The arrangements might need to be varied to provide for more or less time in Country A or Europe. N might want to go on a school trip or with friends. For the last several years these are just the sorts of things that the parties have not shown themselves able to negotiate and the mother has resented the father's recourse to the courts. Although Ms Renton submits that jurisdiction can remain here pursuant to Article 12 BIIR and the withdrawal agreement (this application having been made in the transition period in 2020), I think it would be difficult for this court to investigate the situation in Country A.

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52. It is not the difficulty of going back to court that concerns me the most however. It is more the mother's dismissive attitude to the father which has the potential to affect N's relationship with him and views about spending time with him as he grows older. He is more likely to become aware of his mother's views, and with long periods of time away from him the father may diminish in his eyes in a way that would be less likely if face to face contact was more frequent.

The position if N was to remain living here.

53. The mother has understandably said that if she is not permitted to take N with her to live in Country A she will not go either. Her decision so far as that is concerned is entirely child centred and a credit to her.

54. I accept that if she is not able to go, she is likely to be very disappointed in the short term at least. I entirely accept that she has worked hard in her career (and also by obtaining an MA, which as a single parent working full time cannot have been at all easy). Her career interest and aspirations are entirely genuine and admirable. What I do not accept is that a refusal now crushes her career opportunities and means that she cannot continue to progress. She is only in her mid forties, and has done extremely well. N is already 12 and within a very few years it should be possible for the mother to work in Country A (or elsewhere in Africa) without detriment to N. If the contact to the father expands and goes well, he could either act as a primary carer if the mother chooses (as N progresses through his teenage years his emotional needs will change), and in any event, he will likely go to university in about 6 years' time.

55. The mother is a thoughtful and intelligent person, and I think that she will come to realise quickly that her career plans will be held back rather than destroyed if her application is refused.

56. Further, I do not accept that the mother's employment prospects here are anything like as bleak as she fears. There is no doubt that the pandemic has caused economic difficulties for a wide range of businesses, but this is not the case entirely across the board. The mother is very well qualified, and held a prestigious job with her previous firm. Before that she had no significant periods of unemployment. Her experience is of management, which has a broad application. I recognise she has not been working for a year and that she has made a number of applications for jobs for which she has not been successful, but her situation since the middle of last year has been very much affected by this application, her wish to live in Africa, and the offer of this job. She has therefore not made any job applications for the last few months. At her senior level it is probably necessary to make a significant number of applications before success is achieved. London remains a very major financial centre, and I find it difficult to accept the mother's career chances here are poor. If she puts her mind to it I believe that she will be able to obtain suitably well paid employment within a few weeks or months, which will enable her to maintain the lifestyle needed to pay her bills and her share of N's schooling. In any event, I consider the father should look at the contribution he makes to N, which has not increased for several years. It costs a considerable amount of money to clothe, feed and house N, and any change in the contact regime will not change that or the expenses the mother has.

57. The mother's disappointment will not be confined to her work, for I also accept that a refusal of her application will cause her disappointment in her private life, now that she has met a man who she hopes she might marry. Her happiness is important, given the difficult relationship she has had with the father, and it affects not only her but N as well. On the other side of the coin, I must bear in mind that the relationship is at an early stage and the mother and this man have only met in person once. Although it is not easy to manage long distance relationships, the regime of contact between N and his father here ought to allow the mother to visit Country A with some regularity, and also for this gentleman to visit this country. All this is of course subject to the pandemic. If the hope is there that the mother can move to Country A within a few years, I believe that if the relationship is as good as the mother hopes, then it should be able to withstand the next few years even if the mother remains living here.
58. I believe that the mother, as a thoughtful and intelligent individual, will be able to recover from her disappointment and plan for the next stages of her life. I also believe that she will be able to avoid N being affected, or feeling that he is to blame.
59. It follows that if the application is refused, I believe that N and the mother will be able to continue to live much as they have been for the last few years – having a comfortable life with good schooling for N. N will be able to continue to have contact with his father, and indeed the level of contact will be able to increase so that the father is able to play a bigger part in N's upbringing and cementing their bond. The level of parental mistrust and hostility is unlikely to disappear, but I do note that the parents have been able to pull back to avoid N becoming over-embroiled in their disputes (albeit the parental relationship has acted as a brake on the development of contact).
60. Hopefully the parents will not need to resort to court to deal with any disputes, but it will be there if really necessary. I would suggest that they both attend mediation, for as N gets older it would be much better if they could talk through decisions such as what freedoms to allow him, and how to manage teenage issues such as alcohol, screen time, relationships, and going out. Most importantly it would be much better if they could be flexible about N's time with them as he develops his own life. Such flexibility would also help the mother if she wishes to find a job which requires travel.

Discussion and conclusions

61. N has told the Cafcass Officer that he considers that going to Country A would be 'ok'. He has clearly thought about it and his mother has spoken to him about the arrangements and how he could see his father. It is clear from his discussions with the Cafcass Officer that he is prepared to go to Country A because it is his mother's wish, and he does not have any fear in doing so. Of course he is too young to appreciate what living there will be like, or the effect of the loss of frequent face to face contact will have on his relationship with the father.

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62. N's physical and educational needs can be met equally whether he lives in Country A or in London. Although there are security issues in Country A, I do not give them weight in my decision. The mother would not put N at risk, and there are dangers in London too. N's emotional needs, however, are to have a good and strong relationship with each of his parents if at all possible. The relationship with his father is bound to be affected if he moves to live in Country A, even if the amount of contact does not change. The day to day aspect of going to his father's house during term time is very important for N because it will mean his father is involved in his life more generally. FaceTime does not really make up for that, especially if the father/son bond is one which has developed through shared activities such as cycling and walking.
63. N's emotional needs will also be met by having a settled and happy mother; who has always been his primary carer. For reasons I have set out above, I think she will be able to overcome her disappointment so that he remains mostly unaffected.
64. The proposed change in circumstances for N if he goes to live in Country A will be quite substantial, for he has been brought up in Europe which is very different. Having said that, apart from the effect on his relationship with the father, he would probably adapt with the help of his mother and other wider family. The education will be very much the same, and N is used to mixing with people from all over the world. If he stays here, I am confident he will continue to do well, and enjoy his life with mother and father.
65. N is at an important age, where he is just about to enter adolescence. I think that the presence of both parents in his life is very important, to help him navigate the various challenges ahead for him, and to work out his own character, wishes and identity. His cultural heritage is a rich one, and I would expect him to be interested in exploring it, with the help of his mother, father and the maternal and paternal families. I note that the paternal family and some of the maternal family too live in country B although the maternal grandmother lives in Country A along with some of the mother's aunts, uncles and cousins.
66. N is a thoughtful and intelligent boy, and a tribute to his parents. Although I have made criticisms of her attitude towards the father, I wish to make it clear that the mother impressed me as having done an excellent job in being his primary carer, and the father too has forged a loving relationship with his son. I think a diminution of the relationship with his father would affect his emotional development (and therefore his attainment). I also think that he will be affected if the parents are not able to work together better over the next few years. I think it would be very worthwhile for them to consider attending mediation if there are any further disputes between them (even minor ones for if they can be resolved, then major ones may be resolved too).
67. I agree with the Cafcass Officer that both the parents are capable of caring for N, and indeed have done so in an excellent fashion. The father has not played as big a role as

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he might; this may be a combination of a more relaxed approach to schooling than the mother and a wish to avoid confrontation if not necessary, but it does not detract overall from what he has to offer his son.

68. The decision as to whether or not to allow a child to be taken abroad is a somewhat binary one, but I do bear in mind that the court can make orders for contact in either scenario, and that it could be possible for this court to retain jurisdiction pursuant to Article 12 to make further contact orders.
69. Comparing the two options for N, and taking his welfare as my paramount consideration I have come to the conclusion that the mother's application should be refused. I think that the better option for N is to remain here, having his main home with the mother but with regular, frequent term time and holiday time with the father. I think that the mother will be able to work, and to come to terms with the decision, not least because it does not stop her putting into effect her wishes within a few years when she is still young and able to command good employment (and further her private life too). I think staying here will be much better for N's relationship with his father than it would if there is a relocation to Country A and that this is important for him, and that a balance of all the other factors leads to the same conclusion. The decision is an interference with the mother's Article 8 rights to live and work in a place of her choosing, and also to engage in a relationship, but I consider that it is necessary and proportionate to do so to respect N's welfare needs.

Child Arrangements

70. In the event that the mother's application is refused, the father asks for an extension to the time he spends with N, suggesting that he spend alternate weeks with each parent. The father says that he will move closer to N's school and is already looking at rental properties. The mother suggests that the arrangements remain as they are as they are working well, although she does agree that the contact could be extended to Monday morning.
71. The Cafcass Officer recommends that the father's contact increases so that it takes place every other week from Thursday until Tuesday in term time and for half of all the holidays.
72. I accept the mother's point that a change from two nights a fortnight to five nights a fortnight is a substantial one for N at the moment, and I propose that his time with his father increases so that it takes place from Thursday after school until Monday morning return to school. This will give him the benefit of a whole weekend with the father including every other Sunday night, and also allow him to travel to and from school from his father's home a little more. The new regime should come into place once the father has moved to be close to the school for otherwise there will be too much travel involved for N. I also consider that the holiday time for the father should increase so that he is able to spend more time with N during half terms. I suggest that these are divided equally – perhaps with the parents alternating half terms (I am conscious that they each like to travel during half term). The fact that the father will have N on Thursday night will mean N will not go for such long periods of time

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without seeing his father than he has to date. I will leave the parties to agree the precise terms of holiday and half term contact, but will of course rule on any outstanding issues if necessary.

Postscript

73. Determining an application such as this is always hard because the outcome involves causing great disappointment to one or other of the parties. Here I do sympathise with the mother who has indeed worked hard and is doing her best to provide a good life and role model for herself and N. For all they have struggled with their own relationship, these parents are both to be commended for their commitment to their son. He is a credit to them both.