

THE HIGH COURT  
FAMILY LAW

Record No: 2019/32 HLC

IN THE MATTER OF THE CHILD ABDUCTION AND ENFORCEMENT OF CUSTODY ORDERS  
ACT 1991  
AND IN THE MATTER OF THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF  
INTERNATIONAL CHILD ABDUCTION  
AND IN THE MATTER OF COUNCIL REGULATION 2201/2003/EC  
AND IN THE MATTER OF THE INHERENT JURISDICTION OF THE COURT  
AND IN THE MATTER OF [G.R.], (A MINOR)

BETWEEN

R.R.

APPLICANT

AND

S.R.

RESPONDENT

**JUDGMENT of Mr. Justice MacGrath delivered on the 18th day of December, 2019.**

1. The applicant is the father of G.R. (*“the child”*), who was born on [REDACTED]. He is a Maltese citizen. The respondent is the child’s mother. She is an Irish citizen. They had been in a relationship since 2008 when both were working and residing in the Isle of Man. The child was born in the Isle of Man and is therefore a British citizen. The respondent has another child, a son born on [REDACTED]. It was explained to the court during the course of submissions that the applicant does not have rights of custody to the boy.
2. In January, 2013 the parties moved from the Isle of Man to Malta and had planned to marry in September, 2014. Unfortunately, unhappy differences arose between them since approximately December, 2013. Different accounts of what occurred, and which are said to give rise to these differences, are addressed in the affidavits sworn in these proceedings. I do not believe it is necessary for the court to enter into any prolonged or detailed discussion, save to note that they have not lived as a couple since 2013. The respondent maintains that it was never her intention to move to Malta permanently. She became unhappy there and wished to move home to Cork but in recent times has expressed a desire to relocate to the Isle of Man. The applicant and the respondent have nevertheless enjoyed the joint care and custody of the child. The applicant maintains that prior to August 2019, he exercised rights of access to the child, generally on a Tuesday and every alternate weekend, unless otherwise agreed and that he has made maintenance payments in respect of the child.
3. Since January, 2015, with the exception of the year 2016, the parties have been engaged in litigation before the Maltese courts. Proceedings were instituted by the applicant in Malta in January, 2015 to obtain an order to prevent the respondent from moving the child from that jurisdiction. The order was made and remained in place for one year. On 15th December, 2016, the applicant filed for a further warrant of impediment of departure in the Maltese Family Court, restricting the respondent from leaving Malta with the child. The warrant was granted on 11th January, 2017 and was renewed subsequently. It is renewable on an annual basis and currently remains in force until 11th January, 2020. The respondent made an application to have this warrant

revoked and this was rejected by the Maltese court. The parties enter into mediation to attempt to reach agreement in relation to matters concerning the child. On 16th March, 2018, the respondent instituted proceedings in the Family Court in Malta which included a request by the respondent for permission to relocate the child. These court proceedings are extant. It is perhaps of some note that within those proceedings, the respondent initially outlined a desire to relocate to Ireland but now expresses a wish to relocate to the Isle of Man. She is in a relationship with a gentleman who has opportunities for further work in the Isle of Man. The court has been referred to a statement of the evidence which he gave to the court in Malta on 5th June, 2019 in which it is recorded that the head office of the company for which he worked is located in the Isle of Man. If he was to be transferred there he would be able to hold a more senior position at an improved salary. The tax rate would be lower and he stated that the respondent would have employment opportunities. He also confirmed that a position had been offered to her. It was planned to transfer to the Isle of Man and take up his current or a more senior position. The geographic area where they propose to live is described as a good catchment area for the children, at both primary and secondary school level. He is originally from that area and he outlined the opportunities for extra circular activities. He believed that the primary reason that the boy was not settled in Malta was because *"we are not settled here either"* and that he wished to move back to the Isle of Man. The respondent's mother was fully committed to moving to the Isle of Man if they move there.

4. On the 12th July, 2019, the respondent made an application to the court in Malta for permission to travel to Ireland for a limited a period between 18th August, 2019 and 1st September, 2019. The stated reason for this permission was because the respondent's mother was unwell, and the respondent wished the child to see her grandmother who she had not seen for approximately two years. While certain issues were raised regarding the failure to disclose the impediment proceedings, ultimately the court authorised travel on specific dates only between 18th August, 2019 and 1st September, 2019. As part of this procedure, the respondent agreed to deliver possession of the child's passport to the Maltese court by 1st September, 2019. A further application was made on the 19th August, 2019 by the respondent, to seek clarity in respect of the order. Relevant amendments were made in respect of outward travel arrangements but without any variation to the previous restrictions on return. The applicant consented to the application. It is of relevance that the applicant then enjoyed rights of access including overnight access to the child and there is no evidence of complaint having been made about his conduct at that time, or that he should not be entitled to access because of any danger or risk which might have been posed to the child by such access. The respondent's mother's address was supplied to the Maltese court, but there is also some controversy as to whether this is a correct address.
5. When the child was interviewed by Ms. Ann O' Connell, consultant clinical psychologist, on 6th December, 2019 for the purpose of obtaining the views of the child, the child informed Ms. O'Connell that she was initially told that she would be coming to Ireland on holiday but at the airport, the respondent informed her that they were moving permanently. Ms. O'Connell reported that the child expressed happiness at this. No

attempt was made on behalf of the respondent to contradict this statement in Ms. O'Connell's report and on which counsel for the applicant placed considerable emphasis.

6. It seems to me that it is evident that while the stated position of the respondent to the Maltese court was that she wished to bring the child to Ireland for a limited purpose and for a limited time, that was not her true intention, which has been borne out by subsequent events. I am satisfied, therefore, that there is some evidence that the respondent misrepresented the true reason for coming to Ireland when seeking the permission of the court in Malta to bring the child on a temporary basis to Ireland.
7. In the events which transpired the child was not returned to Malta. On 3rd September, 2019, the applicant lodged an application for the return of the child which has given rise to the proceedings before this court. The proceedings in Malta have been adjourned.
8. Article 13 of the Convention provides as follows: -

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

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

*The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.*

*In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.”*

9. I am satisfied that the child has been wrongfully retained in Ireland since the 1st September, 2019 and while initially the respondent in her affidavit disputed that the child's habitual residence was in Malta, counsel for the respondent, Ms. Clancy B.L. quite properly did not seek to put this matter in issue.
10. No claim is made in these proceedings that the child's return would place her at grave risk, or that the applicant was not exercising rights of custody at the time of the unlawful retention. The sole issue before the court is whether the court should refuse to order the

return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of her views.

11. Instead, the respondent relies on Article 13 of the Hague Convention on the Civil Aspects of International Child Abduction (*"the Convention"*) and the provisions of Council Regulation (EC) No. 2201/2003 and requests the court to exercise its discretion to refuse to order the return of the child on the grounds of the child's objections. It is submitted that the child has attained an age and degree of maturity at which it is appropriate to take into account her views. In response to this, counsel for the applicant, Ms. Lee B.L. submits that the court's discretion does not arise, because the first step of the test which the court has to consider has not been fulfilled; that there is insufficient evidence that the child objects, in the legal sense of that term, to her return to Malta. In the alternative, it is submitted by the applicant that given the totality of the evidence and the principles enshrined in, and upon which the Convention is based, that the court ought to exercise its jurisdiction to deny the respondent's application to refuse to return the child to Malta.
12. It is also not in dispute that in September, 2018 the child commenced school in the private school, [REDACTED] in Malta, sourced by the respondent. The fees were jointly paid by the parties. The applicant has expressed his willingness to continue paying these fees and to pay fees that may be due in respect of the school term that the child did not attend there, should the child be returned to the jurisdiction of the Maltese courts. The statement given by [REDACTED], school headmistress, to the courts in Malta on the 5th June, 2019, confirms that the child was happy at school in Malta and progressing as they would like her to.
13. The principles to be applied in respect of an application such as this were outlined out in *M.S. v A. R.* [2019] IESC 10 by Finlay Geoghegan J. It seems to me that, in line with the Supreme Court's direction, the default position is that it is in the best interests of the child that custody disputes should be decided by the courts of the country of the child's habitual residence and that the abduction of children across borders is harmful to them and should be deterred. As the Supreme Court pointed out, the objects of the Convention to secure the swift return of the child wrongfully removed or retained from the place of its habitual residence are given effect to by the general rule pursuant to Article 12 of the Convention in respect of the mandatory return of a child wrongfully removed. There are a limited number of circumstances in which a requested court is permitted not to return a child wrongfully removed, including those outlined in Article 13 of the Convention. The relevant circumstance which the court has to consider is whether it *"finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its view."* Where, as here, the application for return is from a Member State of the EU, the Court is obliged, pursuant to Article 11 of the Regulation to give a child an opportunity to be heard during the proceedings, *"unless this appears inappropriate having regard to his or her age or decree of maturity."*
14. Given that the central consideration raised by the respondent relates to the wishes of the child, it is necessary to consider the report of Ms. O'Connell, who was appointed by order

of this court on 27th November, 2019 pursuant to Article 11 of the Regulations to interview the child for the purposes of ensuring that the child was given the opportunity to express her view and to be heard in the proceedings, and to report on the views of the child.

15. Ms. O'Connell reported that the child lived mainly with her mother, with alternate weekend spent with the father, his girlfriend and her two children. She reported that when there, she slept in her father's bed at times. She told Ms. O'Connell that he sometimes scared her by shouting at her, shaking her or pushing fingers into her face. She also informed Ms. O'Connell that the applicant's girlfriend shouted at her for no reason that she knew of. The child was too scared to ask him to stop as she was afraid he would then shout more. She told Ms. O'Connell that at such times she went into the front room of the house and cried. Further, she reported that the people of Malta were "*mean*", that she was bullied at school and that she did not like it there. She told Ms. O'Connell that she was "*unable to play outside the house as there were wild dogs which chase children and the streets were dirty.*"
16. With regard to the circumstances in which the child came to Ireland as stated above, the child informed Ms. O'Connell that she was told initially that she was coming to Ireland on holiday but that at the airport, her mother told her that they were moving permanently and that she was happy about this. She now lives with her mother near her grandmother. She likes living there and she also likes her school. She is in third class and has made friends. She explained how she goes horse riding twice a week and enjoys gymnastics. She described as awkward, the applicant's access visits in a coffee shop where she did not know what to say to him. Presumably this is in reference to the most recent access which occurred in the last number of weeks. She explained to Ms. O'Connell that she was very clear that she would like to remain with her mother and brother in Ireland. She was positive about her mother's partner and gets on well with him.
17. One of the questions which she was asked was whether, if her wishes did not include living in Malta, and if she had objection to returning, the reasons for such objection. In answer, she stated that she "*prefers*" the environment in Ireland to that of Malta, and reported being well settled since moving here. She expressed her fear of being separated from her mother. She explained that she wishes to remain living with her mother and is prepared to make occasional visits to her father. However, she was not positive about spending time with him and "*because [of] many episodes of feeling scared while in his company.*" Nevertheless, she was accepting of her father's rights of visitation and access but would prefer this to happen in Cork. She gets on well with her paternal grandparents and would like to see them if and when in Malta. Ms. O'Connell reported "*she stated clearly that it is she who wants to stay and that this is her own view.*" Counsel for the applicant places emphasis on this, suggesting that this really is not an expression a nine year old would use, and contends that she was probably coached by the respondent. Further, she expressed to Ms. O'Connell that she was worried that her mother might be jailed if she returned and that they might be split up if she, the child, had to go back to Malta and her mother remained in Ireland. She also reported overhearing a recent

exchange between her parents where her father is reported to have said that "*she [the child] does not get to decide where she lives.*"

18. Having assessed the child, Ms. O'Connell was of the view that although the child has dyslexia, and ADHD with an unspecified learning disability, she saw no evidence of significant learning or academic problems. Although her standard reading score was somewhat lower than her age, Ms. O'Connell was satisfied that she was well capable of recalling, evaluating and communicating about her family concerns and her wishes with regard to her living arrangements. She was capable of forming her own views, in terms of where she feels most happy and safe, and how she evaluates the actions of those around her. Counsel for the respondent places particular emphasis on Ms. O'Connell's reporting, without any caveat, that the child objects to be returned to Malta, that she reported crying on the night before the assessment when thinking that she might have to return. Counsel suggests that this answer must be read in tandem with the answer to the next query, which concerned the grounds of objection to return to Malta, and to which Ms. O'Connell reported that such objection "*is mainly related to desire to live with her mother in preference to her father, though it is also formed by her negative impressions of Malta, both as a country and in terms of her schooling.*" Ms. O'Connell expressed the opinion that this judgement had been independently formed by the child. She was unclear as to the origin of the child's belief that her mother might be jailed if she returned to Malta and felt that this could contribute to the child's worries. The report outlines her determination not to return as:-

*"... she fears a separation from her mother. She also describes her father's current approaches to her ("I miss you", etc) as an act to seem nice so that she will return, but she stated that she is "not falling for this" and could recall no positive memories of their time together."*

19. It will be recalled that in M.S. v. A.R. Finlay Geoghegan J observed:-

*"Where evidence is put before a trial court that the child objects to return, then the judge should immediately consider whether that evidence is sufficient to enable the court to determine the issue of the child's objections. If not, it should take appropriate steps to enable appropriate evidence be obtained and given to enable the court decide all relevant issues. Such proceedings are not purely inter partes adversary proceedings between the parents. The court owes a duty to the children who are the object of the application to hear the children and potentially to take into account their views subject to age and maturity."*

20. In response to an inquiry by the court as to whether, in accordance with *dicta* of Finlay Geoghegan J. in counsel's respective views, there is sufficient evidence before the court on which it might act in order to assess the views of the child, both accept that there is. Having considered the evidence, including the contents of Ms. O'Connell's report, I am satisfied that there is sufficient evidence upon which the court might assess the views of the child. It is evident from the report of Ms. O'Connell, that although only just over nine years of age, the child has expressed clear views and that she has the capacity to express

those views. That is not to say that the court automatically accepts that a child of nine years might not be impressionable or subject to the unwitting influence of a parent with whom she has resided for a number of months, and in which time has had little or no access to the other parent. Further, it is also to be recalled that while very important, the views of the child are not determinative.

21. The first matter which has to be addressed is whether the child objects to the return. If this is not established on the evidence, then the discretion of the court does not arise. Allied to this is whether the child is of sufficient age and maturity to express those views. The approach ought to be in accordance with the three-step approach identified by Potter P. in the English Court of Appeal in *Re M. (Abduction: Child's Objections)* [2007] 2 F.L.R. 72 and adopted by Finlay Geoghegan J.:-

*"The first question, as to whether or not objections to return are made out, is a question of fact to be determined by a trial judge on all the evidence adduced. The objection to return must, in general, be to the State of habitual residence and not to living with a particular parent. However, in a limited number of factual situations the two questions may be so inexorably linked as to be incapable of separation."*

22. The respondent submits, in the instant case the child has indicated an objection to a return to Malta and that the court should not specifically rely on particular wording which may have been employed between "preference" or "objection" but should bear in mind *dicta* of Ní Raifeartaigh J. in *Z.R. v D. H.* [2019] IEHC 775 that:-

*"The difference between a preference and an objection is not so much about the type of words the child uses to the assessor but rather about the strength of the child's views. At the one end of the spectrum, a child might have a fairly mild view that he or she does not wish to return, which would amount only to a preference, while at the other end of the spectrum, the child might have a very strong view that he or she does not wish to return which could properly be described as an objection. The Court's focus should be on ascertaining the true will and desire of the child (and the strength of firmness of that desire) and should not become unduly fixated on the actual words used because this could become an exercise in semantics which might focus too much on the words the child used."*

23. The second question, as to whether the age and maturity of the child are such that it is appropriate for a court to take account of his views, is also a question of fact to be determined by the trial judge. The trial judge should make clear findings of fact in relation to the first two questions and, where feasible, also make findings as to the reasons for and bases for the child's objections. It is clear from the decision in *U.A. v. U.T.N.* [2011] IESC 39, that in deciding whether the child objects to its return, the court should have regard to the totality of the evidence; and that:-

*"taking account does not mean that these views are always determinative or even presumptively so. Once the discretion comes into play, the Court may have to consider the nature and strength of the child's objections, the extent to which they*

*are "authentically their own" or the product of the influence of the abducting parent, the extent to which they coincide or at odds with other considerations which are relevant to her welfare as well as the general Convention considerations referred to earlier..."*

Denham C.J. stated that courts should not lightly exercise a discretion to refuse to return a child as that would risk undermining the effectiveness of the Convention. The fundamental policy objectives of the Hague Convention had to be considered. Further, in exercising a discretion under Article 13 to determine whether or not to make an order for return may take into account the interests of the child. It is not intended that the court ought to engage in the type of wider welfare inquiry in relation to the future needs of the child which it would do if the application were a dispute in relation to custody or residence between parents.

24. Considerable emphasis was placed by counsel for the applicant on *B.B. v Z.S.* [2018] IEHC 15, the views of a 9 year old child were that he did not wish to return and the court stated that: -

*"In considering the assessor's report, the court is very cognisant of the background history in this case in circumstances where the applicant has at all times been the child's primary carer and has borne the financial responsibility of providing for her needs, with some limited financial assistance from the respondent. It is further clear that the applicant has at all times facilitated and indeed encouraged access with the respondent, both before and after his move to Ireland.*

*...In respect of her objections to returning to Hungary, she [the child] stated she was unhappy with her living conditions there and had 'nothing positive' to say about the applicant [mother] or the applicant's partner. The assessor noted that whilst the child was suffering from 'psychological upset and emotional conflict within herself', she was nonetheless able 'to express her feelings and needs to others'. The assessor concluded that the child appeared to 'be settled in her new environment' and has 'clearly expressed the wish to remain living in Ireland with her father'.*

23. *Further, the child indicated she has no wish to see her mother; nor does she wish her to come to Ireland for access purposes.*
24. *The assessor concluded that returning to live in Hungary would not be in the child's best interest.*
25. *The court has very considerable concerns about the assessor's findings, particularly in the absence of any objective evidence of any difficulty in the relationship between the applicant and the child prior to her visit to Ireland in July 2017. There is simply no plausible explanation for the fact that the child, who appears to have been previously content with her life in Hungary with the applicant and where there were no welfare issues in relation to her care, now finds herself in a situation*

*whereby she no longer wishes to have any contact whatsoever with the applicant. Nor is there any mention of the child being effectively isolated in a country where she does not speak the language and where she has been cut off from all her extended family and friends in Hungary. Indeed there appears to have been very little probing during the course of the assessment to establish how it is that the child has come to the position whereby she now has 'nothing positive' to say about the applicant. The evidence simply does not stack up. Whilst it is clear that the child is of an age and degree of maturity that the court must take account of her views, the court has very considerable concerns about whether these views are authentically the child's own.*

26. *In addition, the respondent appears to be supportive of a position whereby the child is effectively alienated from the applicant, in stark contrast to the attitude displayed by the applicant in ensuring that the child had regular contact and access with the respondent, prior to the child's visit to Ireland. Again this is a matter of grave concern to the court where it is clearly in the child's best interests that she enjoys a good relationship with her mother and father.*
  27. *The retention of the child in this jurisdiction has now resulted in considerable parental alienation for the applicant, a position which simply cannot be endorsed by this Court and indeed flies in the face of the overall policy objectives of the Convention as a whole.*
  28. *Clearly it is not the function of this Court to determine custody and access issues in the long term but merely to determine whether the child should be returned within the parameters as set out by the Convention.*
25. The respondent submits that the assessor is of the view that “[the child] presented as an articulate, bright child with good eye contact and full co-operation in terms of responding to questions. She has fluent English.” Whilst noting that the child’s standard reading score is slightly below her chronological age, the assessor was of the view that she “is well capable of recalling, evaluating and communicating about her family concerns and her wishes in regard to living arrangements”. It is submitted that the child is of an age where her views should be given a good deal of weight.
  26. It seems to me that in the light of the very negative sentiments expressed by the child towards her father, it is appropriate to assess such sentiments against any objective evidence which might be said to corroborate those views, particularly any objective evidence which emerges concerning their relationship prior to the unlawful retention and effective enforced separation of the child from her father.
  27. In this regard, I accept counsel for the applicant’s submissions that, if anything, the objective evidence is the other way. Thus, the applicant enjoyed rights of access, including overnight access in Malta, without any seeming complaint. The first occasion on which negative thoughts and expressions are recorded, albeit they relate to earlier events, is after the child had been apart from her father for in excess of two months.

Further, there is nothing to suggest that the child was anything but happy and doing well in school in Malta, and this is borne out by the evidence of the school head mistress given to the court in Malta on 5th June, 2019 which were exhibited and/or displayed in the context of the proceedings in Malta. Therefore, it appears to me that great care ought to be exercised by the court in this assessment of the strength of the views of the child. In addition, the word "*preference*" has been used, in relation to such matters as the environment in Ireland, or that she would like to remain with her mother.

28. On one view, Ms. O'Connell's report discloses what might be considered a greater fear in the child of not being with her mother, than returning to Malta. Nevertheless, she expressed negative feelings about returning to Malta. Although I have some reservations, particularly that this view is more reflective of her concern about living with her mother, I am willing to proceed on the basis that the child objects, from a legal perspective, to being returned to Malta. I am satisfied that the child is of sufficient age and maturity to express those views. Nevertheless, the age of the child and the potential influence exerted by the respondent cannot be overlooked in the determination of the weight which should be attached to the child's objection.
29. In the circumstances, I am satisfied that I must consider whether, in the exercise of the court's discretion, it ought to direct the return of the child to Malta. In doing so, I must consider matters such as those which were referred to in *B v. B* [1998] 1 I.R. 299 concerning the habitual residence of the child at the time of removal, the law relevant to custody and access, the social background of the child and litigation in other jurisdictions. It is evident from the authorities, including *B v. C* [2015] IEHC 548 that the best interest of the child underpins the provisions of the Convention. The court must take into account the best interest of the child from the perspective of his or her personal development. As McDermott J. observed in *B v. C*, this will depend on a variety of individual circumstances including the age and level or maturity of the child, his/her environment and experiences. Further in considering the best interest of the child, which I am required to consider, I must also take into account the right to family life.
30. It is also clear on the authorities that any such discretion must be exercised with due regard for the general policies which favour the prompt return of the child to the courts of the child's habitual residence. I must also bear in mind that the court is not mandated, in considering how to exercise its discretion, to carry out a full welfare assessment. The court is not permitted to conduct such an assessment in deciding whether an order should be made for the return of the child or whether an order should be made to refuse return if it is in the best interests of the child. As Finlay Geoghegan J. noted the court is involved in a limited appraisal of the actual circumstances of the child at the date the court had been asked to exercise its discretion, based on the totality of the evidence.
31. Of importance is the general policy of the Convention which favours the return, and as described by Finlay Geoghegan J at para. 65 of *M.S. v A.R.*:-

*"Overall, a court, in exercising its discretion where a child's objections are made out under Article 13 of the Convention, must be careful to weigh in the balance the*

*general policy considerations of the Convention which favour return and the individual circumstances of the child who objects to return, in order to determine what is, in the limited sense used, in the best interests of that child at the moment. The weight to be given to the general policies of the Convention which favour return and the objections to return which were made and to other relevant circumstances of the child may vary with time. As has been said, the further one is from a prompt return, the less weighty the general Convention policies will be. In exercising its discretion, a court must take care that it has regard to the fact that the jurisdiction to refuse return is an exception to the general policy and provisions of the Convention. The discretion must be exercised with care and in the best interests of the child, but not so as to undermine the general policy objections of the Convention, including deterrence of abduction."*

32. The court should also consider in its assessment of what may be in the best interests of the child to have regard to any relationship which the child may have with other members of her family, her extended family including her stepbrother. In this regard, the court also takes into account what was stated by the respondent's partner to the court in Malta concerning the boy and his wishes.
33. The application by the applicant was made promptly. The respondent, on the face of it, may be in breach of an order of the Maltese court. There is some evidence of lack of candour on the part of the respondent as to the true reason as to why she wanted to come to Ireland and bring the child with her. There is also a lack of clarity as to where she ultimately wishes to reside, bearing in mind what she deposed to in May, 2018, and also the evidence of her partner to the Maltese court, not only in relation to opportunities that may be available in Malta but in respect of the other child. Such evidence suggests that the parties may have harboured intentions to return to the Isle of Man, rather than Ireland. The applicant resides in Malta. The child lived in Malta between 2013 and 2019. She went to school there and was reported to have been doing well in school (although I do acknowledge that reporting from school in Ireland is also positive).
34. I have considered and balanced all of the above factors with the principles underpinning the Convention and I am satisfied that taking into account the child's age, level of maturity, the environment in which she was in up to the time of her removal, and the length of time for which she resided there, and all of the other matters to which I have referred above, that it is appropriate that the child be returned to the courts in Malta where further issues concerning access, custody and relocation can be addressed.
35. I must therefore grant the relief sought.