

IMPORTANT NOTICE

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Neutral Citation Number: [2024] EWHC 968 (Fam)

Case No: FD23P00134

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

-

The Royal Courts of Justice
Strand
London
WC2A 2LL

Date: 17 April 2024

Before :

Mr Justice Moor

Between :

ES

Applicant

-and-

DC

Respondent

Mr Tadhg Barwell O'Connor (instructed by International Family Law Group) for the
Applicant

Mr Errol Reid (instructed by Sam Solicitors) for the **Respondent**

Hearing dates: 15th to 17th April 2024

JUDGMENT

MR JUSTICE MOOR:-

1. I have been conducting a fact finding hearing in relation to cross-allegations of domestic abuse made by the parents of two children. The hearing took place in the context of an application pursuant to Article 21 of the Hague Convention 1980 made by ES (hereafter “the Father”) for contact to the two children. The Respondent is DC (hereafter “the Mother”).
2. The elder child is Y, a boy, aged 9. The younger child is M, a girl, aged 5.
3. I previously heard the Father’s application for the summary return of both children to Turkey pursuant to the Hague Convention. I delivered judgment on 20 December 2022. I found that the children had been wrongfully retained in this jurisdiction by the Mother, but that she had established two defences, namely settlement and intolerability. I rejected a third defence based on child’s objections. I refused to exercise my discretion to return the children to Turkey notwithstanding my having found two defences made out. It therefore followed that the children remained in this jurisdiction. I refer to my judgment that is reported as ES v DS [2022] EWHC 3397 (Fam). As that earlier judgment sets out much of the relevant history, I do not intend to repeat it all again.
4. I did not hear oral evidence on the last occasion. I was therefore unable to make findings of fact in relation to the many contested allegations of domestic abuse that were raised during that litigation. It is to be noted, however, that the allegations were, essentially, the same then as they are now. There are, however, two aspects of that judgment which I do need to refer to now.
5. The first is to be found in Paragraph [45], where I made some observations about the Father’s demeanour during the Hague hearing. I will, in due course, have to give myself some directions about the weight that can be attached to demeanour when considering fact finding. At this stage, I confine myself to the facts of what occurred. I remind myself that the hearing in December 2022 was conducted entirely by MS Teams but I had a very good view throughout of the Father and I am sure that the observations I made were entirely accurate. I said:-

“I now turn to the position of the Father during Ms Demery’s evidence. He was undoubtedly incredibly distressed. It is common for litigants to be distressed, particularly if they have not had a relationship with their children for four years. Initially, I was of the view that the distress was understandable, if a bit extreme. As the morning went on, however, it began to take on an altogether different character. Indeed, I am of the view that it became quite sinister. By the end, the Father was clearly unable to control his emotions. I saw, at various moments, gestures, threats, sarcastic clapping and pure anger. I find he was emotionally dysregulated. It was very concerning. If he behaves in this way during a court hearing, I have

grave reservations as to how he would behave with the Mother if she was to return to Turkey. Ms Papazian understandably complained about his behaviour at the end of Ms Demery's evidence. Ms Baker spoke to the Father over lunch and obtained an apology from him but he did not attend the hearing in the afternoon at any point. I do not speculate as to why that was".

6. The second point relates to the psychological report of Dr Eldad Farhy, a consultant counselling and psychotherapeutic psychologist, prepared for the Hague hearing. It is dated 28 November 2022. It says that the Mother is above the 99.9th percentile for "*self-deceptive enhancement*". In this context, this means that she has a tendency to modify her responses so as to give those she believes would best serve her purposes. In the judgment, I did later say that this might be an indication that I should be very cautious before accepting the Mother's evidence in general. Her image management score was in the 95th percentile. The doctor confirmed that the Mother was taking medication for depression and anxiety. She had significant emotional distress and a long history of recurrent depressive episodes overlapping with EUPD traits (Emotionally Unstable Personality Disorder). These did not stop her functioning most of the time but emotional control issues seemed a recurrent difficulty. It would be a more significant problem when major life stressors occur. He then made some observations as to what would happen if she had to return to Turkey that are not relevant to the exercise I have been conducting.

The position since December 2022

7. The Father's application pursuant to Article 21 for contact to the children was dated 24 February 2023. He seeks contact in both England and Turkey, as well as interim contact. In the application, he says that he appreciates that contact is likely to be supported in the first instance. In the interim, he says he is keen to restore telephone or video contact as a matter of urgency.
8. The case came before me for directions on 5 April 2023. I directed Cafcass safeguarding checks to include enhanced police checks. I also asked Ms Demery, the Cafcass Officer in the Hague Convention proceedings if she could give her observations as to whether I should appoint a Rule 16.4 Guardian for the children. I ordered that there be indirect contact by the Father sending the children letters, cards, gifts and/or photographs, as well as pre-recorded audio or video messages. I also ordered the Mother to provide the Father, on a monthly basis, with an update on the children, to include copies of their school reports, photographs and medical information. The Mother has complied with this order in full. The Father has largely failed to do so. I made directions for a fact finding hearing.
9. On 15 June 2023, Ms Demery said that, in her view, there was no need for a Rule 16.4 Guardian to be appointed. She considered that the court should decide whether it was necessary to conduct a fact finding hearing. If it was necessary, a section 7 report should await the judgment following the fact finding hearing. The first Cafcass safeguarding letter was dated 19 June 2023. Neither parent is known to the Police in this jurisdiction. There was reference

to issues with a former partner of the Mother in this jurisdiction, including physical chastisement of the children, but he is now deceased. The letter does say that there were no allegations in relation to the Mother's parenting, adding that she is a doting mother. Nothing had been received from the Father to pass onto the children and Ms Demery could not contact him.

10. On 21 July 2023, Cobb J ordered a further directions hearing before me in the Autumn of 2023 and a three day final hearing to commence on 20 November 2023. Interim contact was to continue as before. Scott Schedules of the main allegations were directed. There was an order for the Mother to file copies of her British and Turkish medical records together with a letter from her GP as to mental health issues. There was also an order for Local Authority disclosure in both this jurisdiction and Turkey, along with a direction to ICACU for production of court orders and Police disclosure from Turkey.
11. Ms Demery provided a further update on 2 October 2023. She had spoken to the Father on 11 September 2023. He told her that he would travel to the UK for supervised contact, although I do wonder whether there will be visa issues, particularly as he was refused a visa when the Mother came here in December 2018. Ms Demery says that the Mother reported the Father's abuse when she returned to this country.
12. I heard the case again on 27 October 2023. I was asked by both parties to vacate the fact finding hearing on the basis that virtually no information had been forthcoming from Turkey. I agreed to do so, although I did have reservations as to whether it would be possible to obtain significant information from Turkey. Regrettably, my reservations have proved to be correct. I relisted the fact finding hearing for 15 April 2024, with a three day time estimate. There was to be a Pre-Trial Review on 15 February 2024. The fact finding hearing was to be a hybrid hearing, with the Father giving his evidence by CVP link from Turkey, with the assistance of a Turkish interpreter. I repeated the earlier order for indirect contact both ways. The Mother was to file her medical records by 10 February 2024 and I made further directions for the production of Turkish medical records and the records of Turkish Children's Services. The response, dated 31 January 2024, from the Directorate of European Union Foreign Affairs in Turkey, was that no records had been found by Children's Services in the relevant Local Authority in Turkey.
13. When I heard the Pre-Trial Review on 15 February 2024, I was quite clear that the case had to proceed even though there had been no significant information received from Turkey. Fortunately, both parties agreed. I made various further directions, including that some disclosure in this jurisdiction from a Local Authority Children's Services should be provided without redaction. The Local Authority complied with my order, and I was clear on the first day of this trial that the parties should be able to utilise the unredacted material to ensure an Article 6 compliant fair trial.

The written evidence

14. Both parties have filed schedules of allegations. The Father's contains five allegations, all of which are of violence against him by the Mother. He asserts that, in around 2012, there was a violent altercation, in which she brandished a knife and stabbed him in the calf, resulting in a scar 2-3 cm long. In July 2016, he says she was so overcome with jealousy, when seeing the Father speaking to other women, that she punched him in the face, whilst the family were at a park. The third allegation is that, shortly after the marriage, she kicked him in the leg, causing a bruise. The fourth allegation features in both schedules. The Father alleges that, in the midst of an argument, the Mother picked up the Father's large hunting knife and told him she was going to hurt herself. She was holding Y at the time. She raised the knife above her head and accidentally hurt herself in the process, cutting the top of her head. The fifth allegation is that, in 2011, the Mother saw the Father talking to an unknown woman by a videochat. She pulled the Father's hair and forced his face into the computer, leaving a cut on his eyebrow which later developed into a large lump. The Mother strenuously denies all these allegations.
15. The Mother's amended schedule of allegations raises eight incidents, although the Father contends that two of the allegations relate to the same incident. The first is that the Father walked up to the Mother and slapped her for walking away from him. The second is that, approximately three months after the marriage, the Father punched the Mother in the nose because she pulled away from him. Allegation (3) is that, on many occasions, the Father would assault the Mother whilst she was speaking with her older children from a previous relationship over FaceTime. Allegation (4) is that the Father entered the room and started punching the Mother repeatedly in the face, whilst C, her older son from a previous relationship, was seated next to her. Y was on her lap whilst she breast fed him. The allegation numbered (5) does, indeed, appear to follow on from allegation (4). The Mother asserts that there was an incident when the Father pulled out a knife and hit it over the Mother's head. She looked down to see Y, whom she still had on her lap, covered in blood. She screamed in panic. Y later told the Mother that the Father locked him in the boot of his car. Y was terrified and refused to go out with his Father following this incident. The sixth allegation is that the Father repeatedly kicked the Mother in the stomach when she was seven months pregnant with M. Allegation (7) is that the Father would beat up the Mother's two older children from a previous relationship, C and T and would often lock them in cupboards. C remembers having his nose broken and his mouth and toes busted by the Father. Finally, allegation (8) is that the Father locked C in the car whilst he went to see another woman. When the Father discovered that C had escaped from the car, he beat him up. The Father denies these allegations just as strenuously as the Mother denies his allegations. In relation to allegation (2) that asserts he punched her in the nose, he says that he approached her from behind to give her an affectionate hug and she leant back and knocked his nose with the back of her head, causing his nose to bleed. He says that he could not have assaulted the Mother whilst she was on FaceTime with the two older boys as they were never together in the UK during the marriage. This, however, cannot be correct as C remained in the UK after the Mother returned to Turkey in July 2016.

16. The Mother's first statement is dated 4 May 2023. She says that the Father's abusive character has caused psychological harm to herself and Y. The slap in her first allegation was caused by her not wishing to visit her mother-in-law. The allegation about the Father punching her in the nose, three months after the marriage, was on the evening of a dinner party. He did come up behind her for a cuddle. She pulled away as she was cooking. He was angry, considering this showed disrespect, so he punched her in the nose. He was taken to court in Turkey three times for assaults on her. He did physically chastise T and was physically abusive to C, including slapping C in the face with a book. He would smack the older boys when they were naughty. She was assaulted during FaceTime with her older boys. She was punched whilst breast feeding Y with C next to her. The Father pulled the knife and hit her over the head with it. Her lap was covered in blood. She passed out. He took her into the bathroom and cut her hair off and put a bandage on her head, but refused to take her to hospital. Y said he had been locked in the boot of a car. He was terrified and had a handprint across his face. She was kicked in the stomach when 7 months pregnant with M
17. The older son, C, now aged 17, filed a statement dated 4 May 2023. He says that he was subject to ongoing abuse from the Father, who would beat him and his older brother T up and lock them in cupboards. C says his nose was broken and his mouth and toes busted. He had a black eye. The Father then beat up the Mother. The Father slapped C multiple times when he made mistakes in his home work. The Father had a bar with which he hit C's legs and arms. The Father locked C in the car but C managed to escape through an open window. The Father then punished C by beating him up. He corroborates the Mother's account of the knife incident, saying it happened when the Mother had locked the Father out of the property and packed up all his belongings. The Mother lost some hair and the Father then cut the rest off. The Father would sometimes slap the Mother whilst the older boys were on FaceTime with her. C says he has suffered PTSD, such that he even attempted a ligature with his jumper at school. He has had intrusive thoughts, depression and anger.
18. The Father's statement is dated 4 July 2023. He says that he strongly opposes the allegation that he ever assaulted or was emotionally abusive to the Mother or the children. The Mother would often become jealous and accuse him of speaking with other women. She kicked his leg and stormed off. On another occasion, he was speaking to a cousin. The Mother pulled his hair by his then ponytail and smashed his head into the computer screen. On the evening of the dinner party, she knocked his nose with the back of her head and his nose bled. She has an explosive temper. He did not make formal complaints. He went to court twice. On 4 May 2015, after separating C from fighting another child, he was fined 3000 Turkish lira. On 27 October 2016, the Mother attacked him and threw plates/broke glasses. He paid a fine of 2240 Turkish lira. He does not explain why he was fined on these two occasions if he was not to blame. Turning to the knife incident, the Mother packed his belongings in a suitcase and locked him out of the flat. He entered via the balcony. The Mother was hiding in the bedroom. She used a cloth to pick up his huntsman's knife. She raised the knife around her head and, as she did so, she

accidentally harmed herself. There was blood on Y as she was holding him. The Mother fainted. He did not cut her hair. He washed her head and put a bandage on the small cut. The Mother refused to go to hospital. T suffered from anxiety due to the Mother's erratic behaviour. He would, very occasionally, smack C on the bottom. The Mother beat C up during a picnic. The Father did not lock Y in the boot of a car. He then says he could travel to England for contact once per month.

19. There are a number of exhibits to his statement. The first is from the a Turkish Hospital. The translation says it was dated 19 November 2023 but, given that it is exhibited to a statement dated 4 July 2023, the date is clearly translated incorrectly. It says that the father was examined. He claimed to have been assaulted by his spouse. Although the translation is slightly equivocal, I am prepared to accept that it shows that he had 3 abrasions on the upper right lip lateral and lateral corner of the lip, as well as a hyperaemic abrasion on the left shoulder. The second document is the first two pages of a decision of a Turkish Court dated 11 May 2017. The charge was that both parties were guilty of actual bodily harm to the other, following an argument on 27 October 2016. The document says that they mutually assaulted each other. The Mother said that she had been diagnosed with manic depression; had a nervous breakdown; and hit the Father. She broke furniture. Neighbours came to the house and said they tried to hold her back but they couldn't. The Father said it was caused by him having other relationships whilst the Mother was in England. He says she struck him and admits there was a scuffle between them. The finding was that they hit each other. The injuries could be treated with basic medical intervention. The court found it impossible to determine who started the argument. It adds that there is an existing decision in relation to the Father that had not been determined and refers to his propensity to commit offences, meaning that there was not a positive opinion that he would not reoffend. The Mother was fined but the absence of the last two pages means that the sentence on the Father is not available, although he says he was also fined. The next document is a diagnosis from a hospital that the Mother has bi-polar disorder and was hypomanic in April 2017. The document after that relates to an incident in 2018 when Y was injured on a slide, but it is clear that it was just an accident, with no '*conscious negligence*' on the part of the Mother. The final document is pretty inconsequential but it is a note from "Private XYZ Hospital", indicating that the Father accompanied the Mother to the hospital on 8 February 2012 in relation to a gynaecological appointment.

20. The Mother's statement in response is dated 11 August 2023. She says that the Father is wholly in denial. She denies knocking his nose with the back of her head. I had understood that this statement included a partial admission as to her pulling his hair and smashing his face into a computer screen but she denied this strenuously in her oral evidence. She says that her bi-polar disorder was when abuse from the Father was so bad that she was at breaking point. She accepts that the Father was close to Y when they were in Turkey. Her medical records show some evidence of psychosis and that she will lash out as a result. She has issues with her memory.

21. On 23 February 2024, the UK Local Authority provided unredacted disclosure. Y is referred to as J – a different first name and using the mother’s surname. The disclosure says that he shook when he heard a loud noise. He said he had been smacked by his Father on the hand. The Father had shouted a lot and he had witnessed violence. It details some bad behaviour of T at school and says that T said he had been slapped in the face by the Father causing a cut to his upper lip. He also said he had been physically abused and emotionally abused by his Mother in Turkey and kept in a cupboard by her. This is, of course, all hearsay. I have not heard from T. He was only in Turkey for a few weeks and left around the time of his fourth birthday. Turning to C, the disclosure says that he has been depressed, has had suicidal thoughts and made one attempt to strangle himself. It adds that he had been worrying about his Mother.

The law I must apply

22. The burden of proof in relation to any matter that is in dispute is on he or she that seeks to establish it [see Re Y (No 3) [2016] EWHC 503 (Fam)].
23. The standard of proof is the civil standard, namely the balance of probabilities. The seriousness of an allegation makes no difference to the standard of proof to be applied in determining the truth of the allegation. The inherent probabilities are simply something to be taken into account, where relevant, in deciding where the truth lies (Re B (Children)(FC) [2008] UKHL 35; [2008] 2 FLR 141)
24. If the evidence in respect of a particular finding sought by a party is equivocal then the court cannot make a finding on the balance of probabilities as the party seeking the finding has not discharged either the burden or standard of proof (Re B (Threshold Criteria: Fabricated Illness) [2002] EWHC 20; [2004] 2 FLR 200). There is no room for a finding that it might have happened (Re B (children) [2008] UKHL 35).
25. My task, therefore, is:-
- a. To apply the civil standard of proof on the balance of probabilities;
 - b. In so doing, to have regard to the seriousness of the allegations and the strength and quality of the evidence;
 - c. To give the evidence “critical and anxious” examination; and
 - d. At all times, to apply “good sense and appropriately careful consideration to the evidence”.
26. Findings of fact must be based on evidence. The court must be careful to avoid suspicion or speculation, particularly in situations where there is a gap in the evidence. As Munby LJ observed in Re A (Fact-finding Hearing: Speculation) [2011] EWCA Civ 12:-

“It is an elementary proposition that findings of fact must be based on evidence, including inferences that can properly be drawn from the evidence and not on suspicion or speculation”.

27. The court must have regard to the relevance of each piece of evidence to the other evidence and have an overview of the totality of the evidence. Evidence cannot be evaluated and assessed in separate compartments (Dame Elizabeth Butler-Sloss P in Re T [2004] EWVA Civ 558).
28. I must take great care when faced with hearsay evidence. In R v B County Council ex parte P [1991] 2 All ER 65 at 72J, Butler-Sloss LJ observed that *“a court presented with hearsay evidence has to look at it anxiously and consider carefully the extent to which it can properly be relied on”*.
29. The evidence of the parents is of the utmost importance. It is essential that the court forms a clear assessment of their credibility and reliability (Re Y (No 3) [2016] EWHC 503 (Fam). As Ryder LJ said in Re M (Children) [2013] EWCA Civ 388:-

“When any fact-finding court is faced with the evidence of the parties and little or no corroborating material, it is required to make a decision based on its assessment of whose evidence it is going to place greater weight upon. The evidence either will or will not be sufficient to prove the facts in issue to the appropriate standard. As has been said many times in one form or another, the judge is uniquely placed to assess credibility, demeanour, themes in evidence, perceived cultural imperatives, family interactions and relationships”.

30. Mr Barwell O’Connor, on behalf of the Father, rightly reminds me of the dangers of relying on the demeanour of witnesses in reaching conclusions on the veracity of their evidence. In assessing and weighing the impression which the court forms of the parents, the court must keep in mind the observations of Macur LJ in Re M (Children) [2013] EWCA Civ 1147 at [12] that:-

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

31. I entirely accept that it is extremely dangerous for a judge to take into account matters such as a witness refusing to look at the questioner or the judge; repeatedly shuffling around or touching a part of his or her body; or any of the other myriad of manifestations of nervousness so often seen in these courts. In the same way, I accept that the Family Court process can be very distressing when vital issues in relation to children are being determined. I do, however, take the view that it is different if a litigant loses his or her temper in court, particularly when not even being cross-examined, and displays what I described in my previous judgment as “pure anger”. This was a complete loss of control that I found disturbing and relevant on that occasion. I will have to assess whether it is relevant to the findings of fact I have to make now.

32. I am reminded of the words of Munby LJ in Re A (No 2) [2011] EWCA Civ 12 at [104]:-

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

33. There are issues in the case as to the extent to which the parents have lied to this court and/or to professionals involved in the case. First, I must decide the extent of any lies in this case. If I find that there have been lies, I have to ask myself why the person concerned lied. The mere fact that a witness tells a lie is not in itself evidence that allegations made against that person are true. A witness may lie for many reasons. They may possibly be “*innocent*” ones. For example, they may be lies to bolster a true case; or to protect someone else; or to conceal some other disreputable conduct; or out of panic, distress or confusion. It follows that, if I find that a witness has lied, I must assess whether there is an “*innocent*” explanation for those lies. However, if I am satisfied that there is no such explanation, I can take the lies into account in my overall assessment of the facts of the case and the truth of the various allegations made against each parent.
34. I have to remember the potential language barrier in this case. The first language of the Father is Turkish. He gave his evidence via a CVP link with the assistance of an interpreter who was present in court. I accept that I must take great care in assessing such evidence, given that processing information provided in a foreign language may put the participant at a disadvantage. I must guard against the very real possibility that questions or answers or both are misunderstood or, at the least, nuances and shades of different meaning are lost in the process. I have taken all this into account in assessing the evidence in this case.
35. I have paid close attention to the provisions of PD12J of the FPR 2010 as well as the guidance given by the Court of Appeal in Re H-N [2021] EWCA 448 (Civ) and, in particular, at [25]:-

“...there are many cases in which the allegations are not of violence, but of a pattern of behaviour which it is now understood is abusive. This has led to an increasing recognition of the need in many cases for the court to focus on a pattern of behaviour and this is reflected by (PD12J).”

36. I entirely understand the harm that can be caused to children by coercive and controlling behaviour but also by parental argument and loss of temper in the presence of a child, or in the same household as a child even if the child is not directly present. Moreover, I accept that an intention to cause harm does not need to be proved to make a finding of abuse. I am also clear as to the need

for great care in considering the effect on victims of domestic abuse. I remind myself of the judgment in Re M (A Child) [2021] EWHC 3225 at [82]:-

“The reason it was so important for the judge to give careful consideration to the question of vulnerability in this case is because a vulnerable person may not act in the same way as someone more independent or confident if they are exploited or abused in a relationship. Such an individual may be so anxious for the relationship to succeed that they accept treatment that others would not. They may be easy to exploit. They may not even realise what is happening to them, and will cling to the dream of happy family and relationship.

[83]...Further, it seems to me that the judge’s disbelief that the mother would have remained in an abusive relationship led her to conclude that the mother was lying about it. This tainted the whole of her evidence and was a thread which ran throughout the case.”

37. In A & Anor v B & Ors [2022] EWHC 3089 (Fam), Knowles J highlighted the importance of a family judge guarding against applying myths and stereotypes about how a ‘genuine’ victim would behave in a domestic abusive relationship saying at [126]:-

“...The intelligence or otherwise of a victim of sexual assault or of any assault in the context of an intimate relationship is nearly always irrelevant to the reporting of an assault to the authorities. Victims of whatever age, race, sexuality, appearance, intelligence, and background often have the greatest difficulty in reporting when an assault has occurred because of shame, fear of being disbelieved or fear that the process of reporting an assault with itself be traumatic.”

38. Finally, Mr Reid, who appears on behalf of the Mother, reminded me of the words of Peter Jackson LJ in Re A (Finding of Facts) [2022] EWCA Civ 1652 at [42] where he said that:-

“Perpetration of domestic abuse is an expression of an aspect of a person’s character within a relationship and the fact that a person is capable of being seriously abusive in one way inevitably increases the likelihood of them having been abusive in other ways.”

The oral evidence I heard

39. I heard oral evidence from the Father, the Mother and C. The Father went first. I was able to assess his evidence entirely fairly notwithstanding that it was given over the CVP link from Turkey and via an interpreter. I make it clear that he was entirely regulated during his evidence. He gave his answers respectfully and entirely appropriately. Having said that, I did not believe him when he told me that he had never assaulted the Mother. I will deal first with the knife incident. He accepted that he was locked out of the property and his possessions packed up in a suitcase. I find that this would have made him

very angry. He didn't negotiate his entry to the property. He got in via a neighbour's balcony. He accepts that the Mother and children were hiding in the bedroom. I find that they were hiding there for good reason. The Father then says that the Mother then threatened him and attacked him. I find this very hard to believe. He told me that "*she did it to herself. She held the knife and hit herself. She said she would cut herself and report me to the Police*". It can undoubtedly be said that this contradicts his written evidence that she hurt herself accidentally but I consider it would be wrong to take this statement too literally given the possibility of misunderstanding via the translation. It is, however, almost impossible to believe that the Mother, whilst feeding Y, would somehow get hold of his knife and hold it above her head. He was also asked why he said that the Mother refused to go to hospital as "*she did not want to get me into trouble*". It is difficult to see why he would get into trouble if his account is accurate. He told me that it was not a big incident but I cannot accept that as his baby son ended up covered in blood. He said that the Mother had taken the knife from his locked cupboard. I do not see how she could have done this if she was breastfeeding Y. It is clear to me that he brought the knife into the room, and it was on his person. He denied wanting to be in control but I find that he did want to control her. He denied being violent to her but I find that he has twice been convicted of violence against her in Turkey, although he only admits to one such occasion. He denied all the specific incidents in the Mother's schedule. There is no need to repeat these in this judgment as he made no concessions and did not alter his position in any way.

40. Turning to C, he said he did not treat C very badly. He did not punish him. The Mother did so. He denied slapping C across the face if he made mistakes with his homework. He added that C was not frightened of him and would not wet himself when he saw the Father. He said it was vice-versa, namely that C wet himself when he saw his Mother. I simply cannot accept that evidence. He then said that it was the Mother who locked C in the cupboard, whereas, if C was naughty or not doing his homework, he would punish him by not letting him watch a cartoon, by taking a toy away, or sending him to bed early. He did not break C's nose. The Mother broke his nose and pressured C to give false evidence. The Father added that he never hurt C's mouth. It was put to him that he had locked C in a car, after C saw him kissing another woman. He said it did not happen. He denied beating C up when C climbed out of the car. He said it was an absolute lie and the Mother was "dreaming". The only problem with that explanation is that it is C that makes this allegation, not the Mother. All in all, I was not satisfied as to much of the evidence given to me by the Father. I simply do not believe him on many of the major issues.

41. The Mother gave evidence next. She accepted that she has had severe depression and PTSD since returning home from Turkey. She also acknowledged that she had had episodes of psychosis and had been diagnosed with emotionally vulnerable personality disorder. She told me, very fairly, that when she was ill, she was not aware of how ill she had become. She was frightened and had not even realised it had happened. She would be concerned if it was to happen again. She did have a dissociative episode once in Turkey. This was her first psychotic episode. She then accepted that there were

periods when she had been unable to control her mood but she said she had never lashed out and had never hurt anybody. I regret to have to say that I cannot accept that last piece of evidence. She accepted that she could not remember returning to her parents from the property of her older children's father after she came back to this country from Turkey the first time. She disagreed completely when Mr Barwell O'Connor suggested to her that she was just telling a story. She accepted that the consultant psychologist, Dr Eldad Farhy had found, in the Hague proceedings, that she has a "*tendency to modify her responses to best serve her purposes*" but denied that this meant all her evidence before me was unreliable. In relation to that, I accept what she says. I will assess each particular piece of her evidence, whilst bearing in mind what Dr Farhy said. She then told Mr Barwell O'Connor that the abuse by the Father started just before they married but it was not so severe. He would apologise and blame the language barrier. Later, he would say that he had never been a father before, such that the Mother should have 'understanding', so she did. All this has the ring of truth and I accept it.

42. She then repeated that the Father punched her when she was cooking. She was a bit argumentative with Mr Barwell O'Connor at this point, but she was emphatic in her denials of having punched the Father in the face. She accepted that she lied to the Father when she came to this country, telling me that she had no intention of returning to Turkey, whilst telling him the opposite. She was therefore asked why she did return to Turkey in July 2016, notwithstanding the serious allegations she makes against him. I consider that this is not a valid point, in that it ignores the evidence about dependency in controlling relationships. She then said that she does not accept that the Father loves Y and M and that she believes he intended to harm them. I cannot accept this evidence. It does not do her credit, although it may be a consequence of the way in which she has been treated by the Father. Turning to the 2011 incident, she denied seeing the Father speaking to a cousin in the Netherlands on a video call. She said she knew all his family, including the ones from the Netherlands. She told me she did not pull his hair. She did not slam his face into the computer, causing his eyebrow to be cut. She said she did not take it out on him. I will have to assess this evidence in due course. She then denied stabbing him in the calf and causing a two to three inch scar in 2012. She said that she did not remember the incident in a park in 2016. The Father would speak to other women but she would just keep quiet as she did not want to cross him. She did not punch him in the face. There were not arguments all the time. She absolutely did not attack him.
43. In relation to the hunting knife incident, she denied picking up the knife. She said this was the knife he carries with him in the back of his jeans the whole time. It is tucked behind him in a leather cover. It is not left at home. It is sheathed to prevent him catching himself on it. She said that the Father entered the room and started punching her repeatedly. She was badly injured but she accepted there is no record of these injuries, saying he would not take her to hospital. She said "*you just suffer*". She denied threatening to harm herself and saying that she would then accuse him of doing it. She did not pick up the knife with a cloth. It was absolutely untrue. She was breast feeding Y on her left. She passed out. The Father dressed her wound after he

had cut her hair to assess the damage. The person present was his best friend. They all had dinner. He had invited a woman in to the flat. The Mother told me she was humiliated. The Father and the woman were drinking on the balcony. She had to serve them dinner. His friend had told him to take her to hospital but he refused.

44. In relation to the punch on the nose, she said that guests were coming round and she was cooking chicken, which was spitting in the fat. The Father approached her for a hug. She accepted this was done gently but, with the fat going everywhere, she had to concentrate on that and pushed him off. She did not hit her face into his nose. She told him this was not the right time for him to hug her. He did not like the fact that she had pushed him off, considering it an insult in front of his friends, so he punched her straight in the face. She was then asked about T, on his return to this country, saying that he was physically abused by his mother and kept in a cupboard. She responded that he may have felt it was to do with her as she did not help him. She said she had let him down. She was asked about the references in the criminal conviction report to her admitting she hit her husband and broke furniture and the neighbours trying to hold her back but being unable to do so. She seemed to accept that this must be correct, blaming this psychotic episode on years of abuse. She added that the Father had attacked her and she went for him for the first time ever. She had fought back. I will have to assess this evidence when I make my findings of fact.
45. The final witness was C. He is 17 years of age. He accepted that he has had problems with his mental health. He told me he has PTSD and he has had suicidal ideation in the past. He had been assessed for ADHD. He acknowledged that he can relive events again and again. He denied that the recollection would be different on every occasion, saying it was the same thing again and again. He was challenged as to why he said he used his jumper as a ligature when the documentation said it was his tie. He said the report that it was a tie was inaccurate. I do not know which is accurate but it does not matter. He then said that he does not believe his memory has changed what actually occurred to something different. He accepted that his Mother does have issues with her memory. He told me that she had been damaged. There was too much shouting in 2015 and she blacked out. They knew there was something wrong. He told me that his Mother had not laid a hand on him. If he was in trouble, she would take away his PS4 to stop him getting 'lippy' but she did not hit him. It was the Father that locked them in cupboards. He accepted that T was only there for a few weeks and he, C, was then aged two, but he said T was in the cupboard next to him. They both banged on the doors. His Mother did not lock him in. It was the Father.
46. Turning to the knife incident, he said that the Father kicked the door to the bedroom open. The Father slapped the Mother twice with a sadistic smile. He punched her. He took a step back, reached behind him and pulled out the knife with a jagged edge. There was blood everywhere. The Father pulled it out of the sheath. C accepted that this detail is not in his statement. The Father then took his Mother to the bathroom and put a bandage on her head. The Father laid her on the bed to recover. When pressed by Mr Barwell

O'Connor, he did remember the Father's friend, Eli, being present, but said he had only just done so when it was raised by counsel. C then repeated that the Father did hit him on the arms and legs with a metal bar. It was not done by his own father who had also hit him with a bamboo stick. He accepted that he does not have photos of the injuries. He did not have access to phones at that point, which is not surprising given his then age. C repeated that the Father did lock him in the car. The window was a bit open and he managed to wind it down and pull himself out. The Father did then beat him up and give him a black eye.

47. C is a vulnerable witness given his mental health difficulties and his age. Moreover, the events he described happened many years ago when he was young. After all, he returned from Turkey when he was aged only 8. It was unfortunate that he had to give evidence, but I do not criticise the Mother for calling him, given the point made on behalf of the Father that there was no corroboration for her allegations. I accept C wants to support his Mother and I will have to assess C's evidence overall, but there is no doubt in my mind that he was not deliberately lying to me. He has a vivid recollection of being the victim of domestic abuse in Turkey which he genuinely believes. I will have to decide if it is an accurate memory or not.

My findings on the Mother's allegations

48. I now turn to my findings. I will deal first with the Mother's Schedule of Allegations as I have found these considerably easier to resolve. Before doing so, I will make some findings about the Father. I accept that he is a man with an anger management problem. I further find that he is prone to violence when in temper. I accept that he needs to be in control and has exerted that control over the Mother. I have found the knife incident to be important. I disbelieve his account of that incident. I accept Mr Reid's submission to me, on behalf of the Mother, that this is relevant to my findings elsewhere.
49. In relation to the first allegation, I find that the Father did slap the Mother for walking away from him. He would have been angered by the Mother walking away from him. He would have considered this to be disrespectful. He lost his temper and slapped her. I find the second allegation proved as well. I accept that the Mother was cooking chicken. The Father approached her from behind to give her a hug. She pushed him away to enable her to concentrate on the chicken. Again, he considered this disrespectful and he hit her on the nose. On the balance of probabilities, I find that, in pushing him away, she did knock his nose. If so, it would have been accidental, but it will have increased his anger. The third allegation is that he would assault her whilst she was speaking to her children over FaceTime. The Father says this cannot have happened as he cannot recall T and C being in England together but this is clearly incorrect, following C's return to this country in December 2015. The Mother was back in Turkey from July 2016 to December 2018 whilst both the older boys were here. C provides corroboration for this allegation. I do not believe this was a regular occurrence as alleged, but I find it proved to the extent that there was at least one occasion when this happened. It would have been very disturbing to the children to witness such a loss of control.

50. The fourth and fifth allegations go together. I find them proved, subject to one correction. The Father was locked out of his property. His possessions had been placed outside in a suitcase. This was a complete loss of face for him, particularly as he was in the presence of his friend. He got into the property via the balcony. This must have been very frightening for those inside. They were, as he said, hiding in the bedroom. The Mother was breast feeding Y. The Father lost control. He broke into the room and he slapped the Mother in the face. I cannot find that he then inflicted a barrage of punches on her as he is clearly a strong man and she would not have withstood such a barrage. I remind myself, however, that she was breast feeding Y, the Father's son, so even the slap was appalling behaviour on the part of the Father. What happened next was even worse. I reject as fanciful that the Mother then got hold of the knife. I cannot see how she could have done so. It is absurd to suggest that, whilst breast feeding, she was waving this knife above her head and saying she was going to blame the Father for her injuries. He got the knife out and he banged her on the head with it. I find, on the balance of probabilities, that this was with the blunt end of the knife as the sharp end would have done immense damage. It did, however, cause a small cut, which bled profusely. The blood splattered over Y. The Mother fainted. The Father took her into the bathroom; cut her hair to see the damage; and then patched her up before putting her on the bed. He refused to take her to hospital. He then invited a lady friend into the property. Fortunately, the Mother was not seriously injured. He then made her serve supper. This whole event must have been devastating for her and deeply disturbing for C. Whilst Y will not have any recollection of this, there is no doubt that such domestic abuse is very damaging to any child, including a baby.
51. The next allegation is that Y was locked in the boot of the Father's car. On the balance of probabilities, I cannot find that this occurred. Y was very young when in Turkey. He returned to this country when he was aged four. The allegation is hearsay. I have rightly not heard from Y. The Father denies the allegation strenuously. This was his first born son. Y was undoubtedly deeply disturbed by the domestic abuse that he experienced in the first four years of his life but I do not find this allegation proved.
52. The sixth allegation is that the Father repeatedly kicked the Mother in the stomach when she was seven months pregnant with M. I find this allegation proved, save that I cannot find that the kicks were repeated. I found the Mother's account convincing. I did not find the Father's denials believable. I find he kicked her in the stomach at least once and she had to go to hospital for a scan to make sure that everything was ok. I accept the Father drove her there, but I do not find that this disproves what she says. He may well have felt some guilt for what he had done.
53. The seventh allegation is that the Father would beat up both C and T. I find this allegation not proved in relation to T. T was only in Turkey for a few weeks. I have not heard his evidence. He gave a very different account when he returned to this country. He was just four years old when he returned here. It would be to unsafe and wrong to make any findings in relation to him. C is

different. He was there for much longer and was aged 8 when he returned to this country. He has given evidence to me. I have found he has not deliberately lied to me, although I accept his recollection may be faulty. I find that he was very disturbed by what went on in Turkey and that the main cause of this was the domestic abuse perpetrated by the Father. The detail of what occurred is very difficult to reconstruct. If C's nose had been broken and his mouth and toes busted, I consider there would have been medical evidence. I cannot find those allegations proved to the requisite standard of proof, but I do find that there was unreasonable physical chastisement of C and he was exposed to the domestic abuse between the adults, which was very damaging to his mental health. Whilst I have suspicions that he was locked in a cupboard, I have insufficient evidence of this and cannot find it on the balance of probabilities. The allegation is therefore dismissed.

54. The final allegation is that the Father locked C in the car whilst he went to see a lady friend. This allegation has the ring of truth. C has confirmed it to me and he gave me a clear account of escaping through a window. I accept he was locked in and that he escaped in this way. I further accept that he was then assaulted by the Father as punishment for escaping.

My findings on the Father's allegations

55. I have found it far more difficult to come to conclusions on the Father's allegations. In general, I find him to be the aggressor. He has a bad temper. He would lose it and assault the Mother and C. The Mother, however, has suffered from bad mental health problems. I am clear that these problems have, at least in significant part, been caused by the behaviour of her male partners towards her. There is, however, no doubt that, during these mental health episodes, she has lost control of her actions and done things she would not normally do. She is, of course, not remotely as strong as the Father. He could do her severe damage. Unless she had an implement, I am clear she would not have done him serious injury. Moreover, I do not believe he would have accepted serious injury inflicted on him by her. I do, however, find that she has assaulted him, particularly when mentally ill. I accept the hospital report that he had abrasions to his face. The odd thing is that, other than the hunting knife allegation, there is only one allegation made by the Father from the latter period of the marriage. In particular, the incident involving the neighbours is not part of the allegations and there is no reference in the schedule to the Mother having a psychotic episode and a mental breakdown, despite the evidence from the court.
56. The first allegation is that there was a violent altercation in the car when the Mother brandished a knife, stabbed the Father in the calf and left a 2-3 cm scar. I cannot conceive how the Mother would have had a knife in the car. If it was the Father's knife, he does not say so or say how she got hold of it. He has not produced any medical evidence. He has not produced a photograph of the scar and, even if he did, there would be nothing now to link it to 2012. On the balance of probabilities, I find this allegation not proved. It is therefore dismissed.

57. The second allegation is that, in July 2016, the Mother was so overcome with jealousy, when seeing the Father speaking to other women, that she punched him in the face at a park. This allegation has the ring of truth. The Father does not seem to acknowledge that it was inappropriate for him to cause the Mother this level of distress by his interactions with other women, but I accept that any such behaviour from him would not justify the Mother assaulting him. I find the allegation proved, although it was more likely a slap than a fully thrown punch.
58. The third allegation is that, shortly after the marriage, the Mother kicked the Father in the leg, causing a bruise. I have rejected the Mothers' denials of ever being violent to the Father. I find that she does have a temper as well. I find this allegation proved on the balance of probabilities.
59. The fourth allegation relates to the hunting knife. Although I have found that the Mother exaggerated the intensity of the assault, I have already preferred her overall account and found her allegations proved. I reject the Father's allegation, which is dismissed.
60. The fifth allegation is that the Mother pulled the Father's hair and forced his face into the computer in 2011 when she saw him talking to an unknown woman by videochat. Whilst I find this allegation largely proved, I do not find that she deliberately forced his face into the computer. Contact with the computer would have been accidental as a result of her pulling his hair back and forth but it would have caused a cut on his eyebrow and a large lump later. The allegation is proved in part.

My overall conclusions

61. Overall, however, I do not find the Mother to have been the aggressor in this relationship, other than when she was in the middle of the psychotic episode. Even then, she would not have done much damage to the Father. Abrasions to his face would have been about the worst consequence he would have faced. I also make it quite clear that the Mother's mental health difficulties have not affected her care of the children. The reports from this country are entirely positive as to her love for the children and her care of them.
62. It was the Father who was the main instigator of what I find was coercive and controlling behaviour. He was convicted in Turkey of violence to her at least twice. He was not suffering from mental health issues. He assaulted her in anger on many occasions. He did so regardless of the effect on the Mother. On occasions, this was in the presence of the children. Even if they were not directly present, they would have been in the same household and could well have heard. This would all have been immensely damaging to them, as shown by C's own mental health issues. Moreover, I have found that the Father assaulted C.
63. I do not know what effect these findings will have on contact going forward. I reject the Mother's contention that the Father does not love his children. He

does. I accept that he has had difficulty in engaging in these proceedings and in the indirect contact. He has not regularly sent cards, presents and photos to the children. I do accept that the language difficulty has not helped, in that his English is limited and the children's Turkish is virtually non-existent, but children need consistency and commitment. There may also be issues in relation to his coming to this jurisdiction, given that he was refused a visa in 2018. The suggestion in his statement that he could come monthly is highly unlikely to be practical, if only for financial reasons.

64. It is clear that there must now be a section 7 report from Cafcass. Given my imminent retirement, the case will have to be reallocated to a different High Court Judge for the welfare stage, but this should not cause any significant issues given my clear findings of fact.
65. I want to pay tribute to the very great help given to me by both advocates in this case. Nothing more could have been said or done on behalf of either of their clients.

Mr Justice Moor
17 April 2024