

IN THE FAMILY COURT

(Sitting at West London)

4 Dukes Green Avenue
Feltham, TW14 0LR

Thursday, 20th April 2017

Before:

HER HONOUR JUDGE CORBETT

(In Private)

B E T W E E N :

THE LONDON BOROUGH OF MERTON

Applicant

- and -

SB
AR
S

Respondents

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MS. J. CONNELL appeared on behalf of the Applicant.

MR. M. TWOMEY QC and MS. A. DIXON (instructed by Amphlett Lissimore Solicitors)
appeared on behalf of the First Respondent.

MS. H. GOMERSALL (instructed by Atkins Hope Solicitors) appeared on behalf of the Second
Respondent.

MR. J. HAYES Solicitor, appeared on behalf of the Guardian.

JUDGMENT

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

JUDGE CORBETT:

- 1 The child with whom I am concerned is S. S was born on 24th August 2015. The parties to these care proceedings are: the London Borough of Merton, represented by their counsel, Ms. Connell; S's mother, SB represented by her counsel, Mr. Twomey, Queen's Counsel, and Ms. Dixon; S's stepfather is AR, represented by his counsel, Ms. Gomersall; and S herself is represented by her guardian, Mr. Witchlow, and her solicitor, Mr. Hayes. The proceedings have been allocated to me throughout their 23 weeks since issue.
- 2 The judgment which I am about to give relates to an application within these care proceedings made by S's mother, supported by her stepfather, opposed by the local authority and guardian. The application made by Mr. Twomey on behalf of the mother invites me to make a request of the court in Slovakia to assume jurisdiction for these proceedings pursuant to Article 15 of Council Regulation No. 2201/2003, known as Brussels IIR.
- 3 I heard submissions yesterday afternoon on the first day of the final hearing, and considered my decision overnight. I will proceed to give my detailed reasons; my decision is that I will request the Slovakian court assume jurisdiction for S's case. In other words, I grant the mother's application.
- 4 I am grateful to the parties for their written and oral submissions, in particular, those presented by Ms. Connell on behalf of the local authority, which were adopted, to a large extent, by the guardian's solicitor; and by Mr. Twomey on behalf of the mother, which were adopted, to a large extent, by the stepfather. I will refer to S's mother as "the mother" throughout these proceedings.
- 5 The mother was born on 17th February 1994. She is a Slovakian national. She is currently pregnant by the second respondent, AR. She has two children who live in Slovakia with her own mother. The mother's first language is Romani, but she can understand and speak basic Slovak. She requires an interpreter for these court proceedings.
- 6 When the proceedings began, it had been thought that AR was S's father, but DNA testing established that he was not and is not her biological father. He remained party to these proceedings, although his solicitors had to re-apply for public funding; he has had public funding now for a number of weeks. AR, was born in Pakistan. He speaks English. His first language is Pashto. Interpreters have been provided for AR within these proceedings. AR has no

leave to remain in this country having overstayed his visa, and his immigration appeal is to be heard later next month.

- 7 The local authority's case at the commencement of the final hearing yesterday was that this court should approve a care plan for adoption. The local authority has issued an application for a care order, although not yet any application for a placement order. The local authority had said that it planned to but has not yet done so; I have proceeded on the basis that their care plan is adoption.
- 8 The Slovakian Central Authority applied on 9th March for this court to transfer the proceedings to Slovakia of the court's own motion. The stepfather applied on 23rd March for an independent social worker parenting assessment of himself and the mother, asserting that the parenting assessment that was being carried out by St. Michael's Fellowship was, inadequate. That application was not dealt with fully and completely by Her Honour Judge Rowe QC, but was adjourned, to be heard within this final hearing.
- 9 Importantly, for the purpose of this judgment, the mother has issued an application only last week on 12th April, pursuant to Article 15 of Brussels IIa to request that Slovakia accept jurisdiction for this case, it being the mother's argument that Slovakia is best placed to hear matters relating to S, and it being in S's best interests to transfer the case.
- 10 I will set out briefly the hearings that have taken place. On 4th November 2016, an interim care order was made and S was placed at St. Michael's Fellowship with her mother and stepfather. The court directed a cognitive and litigation capacity assessment of the mother and DNA testing of AR. On 1st December 2016, it having been confirmed that he was not S's biological father, directions were made, amongst other things, for an EX660 immigration request in relation to the step father; Communicourt assessment of the mother and an assessment of the grandmother in Slovakia as an alternative carer. On 13th December 2016 at a case management hearing, the mother identified the maternal aunt in Slovakia as a further alternative carer. AR was directed to remain a party and I made further case management directions in relation to liaison with the Slovakian authorities.
- 11 On 3rd January 2017 directions were made for the filing by AR of a response relating to the question of paternity following the final report of St. Michael's Fellowship. On 24th January 2017 the assessments of the maternal relatives, which, it was known by then were being conducted by the Slovakian authorities, were directed to be filed. Following a negative conclusion to the assessment at St. Michael's Fellowship, I conducted a contested interim care hearing on 8th February 2017, the local authority seeking an interim care order with a revised plan of removal into foster care. S was placed in foster care with contact three times a week for three hours with the mother and her

husband jointly. I mention briefly that the local authority sought and I granted DNA maternity testing in relation to the mother due to concerns that they had arising out of police disclosure that the mother may not in fact be S's mother. That is no longer an issue, a report having been filed confirming that she is.

- 12 The matter came before Recorder Bugg on 14th March 2017 when he considered the application on paper by the Slovakian Central Authority that this court transfer the proceedings of its own motion. Various other case management directions were made, which I need not go into at this point, apart from the fact that the assessment of the mother by an intermediary was directed as a matter of urgency.
- 13 The matter was listed for a hearing on 23rd March 2017 to consider whether the proceedings should be transferred to Slovakia, and Recorder Bugg directed that the parties, through their solicitors, were to confirm whether or not they consented to the transfer and file position statements, or skeleton arguments, regarding that.
- 14 On 23rd March 2017, no party attending and no party seeking a transfer pursuant to Article 15, I considered the papers before me and made an order, which appears in the bundle at B137. The relevant parts of my ruling are this:
 - “5. No party to the proceedings seeks a transfer under Article 15.
 6. No party to the proceedings consents to a transfer of the court's own motion.
 7. In any event, this court is better placed to hear S's case. S's case has been before this court for a number of months. The assessment of the mother has taken place in the UK. S has a social worker and guardian in this country representing her interests. S's mother and stepfather are resident in the UK. Any transfer would delay decision making for S.
 8. A transfer to Slovakia would not be in S's best interest. She would be removed from contact with her mother and stepfather. The mother has no plans to return there. S would be removed from her foster family in the UK into another foster family in Slovakia until the age of 6, and then into a residential unit. Slovakia is largely unfamiliar to S. One option open to this court is of adoption into a permanent alternative family. This would not be available to S as an option if the matter was transferred to Slovakia.
 9. This court will retain jurisdiction.”

I directed that the CIPC were not joined as interveners or parties, but they were welcome to attend this final hearing and that the local authority should bring that order to bear attention.

- 15 The mother and stepfather have filed their final evidence recently; the mother on 18th April; the stepfather on 30th April. The guardian's analysis was filed on Tuesday of this week, and the final threshold document has been filed by the local authority.
- 16 What I have had to consider is: firstly, what ground rules applied to adapt these proceedings to meet the mother's learning disability. The report of Ms. Lewis, the intermediary, is detailed and of great assistance, and she sets out in that report the recommendations that she makes as to how the proceedings can be adapted so that the mother can fully engage in them. Because it was clear that I had to consider at an early stage at this final hearing the application which has been so lately made by the mother, I indicated that I would consider the question of ground rules in relation to the submissions on the Article 15 point initially and, depending on my decision relating to the mother's application pursuant to Article 15, I would then move on to consider the larger question of ground rules in relation to evidence. I agreed that we adapt this part of the hearing, so that once the submissions were made and at any appropriate point in submissions yesterday afternoon when they were being made, that I would rise in order that the mother could have matters explained to her in a way which best met her need; that was carried out yesterday.
- 17 The key issue at this point, I note, is whether the mother should be permitted to apply for the transfer of proceedings under Article 15, or whether this matter has already been the subject of the decision of this court and, if so permitted, whether this court should decide to transfer the proceedings to Slovakia. There are other issues in the case at large: the question of threshold is hotly and fervently opposed by the mother and stepfather, and the local authority's plan for adoption, what is sometimes referred to as "stranger adoption" in this country, is opposed by the mother and stepfather. It is supported by S's guardian.
- 18 Ms. Connell, on behalf of the local authority, has produced a detailed and composite final threshold document. I do not propose at this stage to read all 14 paragraphs in detail, but to summarise the assertions that the local authority make.

"At the relevant date, on 16th October last year, when S was placed in police protection, she was suffering, or likely to suffer, significant harm, and that the harm or risk is attributable to the care being given, or likely to be given if an order is not made, that care not being what it would be reasonable to expect a parent to give."

Under the first heading of “Neglect - malnutrition”, the local authority assert that S has suffered neglect in the form of severe malnutrition. She was admitted to St. George’s Hospital on 14th October 2016 where her weight was recorded as being below the 0.4th centile down from the 75th centile in January 2016. I note the mother accepts that S had lost significant weight. She does not accept that she neglected S. The step father highlights that S was developing normally prior to her visit to Slovakia, which was, in fact, from April 2016, and it was upon her return that she appeared poorly.

- 19 The local authority continue under the heading, “Neglect and health needs” to describe that on admission to hospital S had a number of health problems and indicators of neglect, including unwashed skin; muscular wasting; folic and zinc deficiency; she appeared unkempt and dehydrated; head lice and alopecia and a parasitic infection. The mother accepts that S had cradle cap and nappy rash, but she says she was trying to treat those conditions. She also accepts that S had head lice. She does not accept, or comment on, other medical conditions. The local authority also assert that the mother and stepfather failed to ensure that S received immunisations when they were due. The mother accepts there was a delay in S receiving her immunisations.
- 20 In relation to the residential assessment, the local authority seek a finding that the mother struggled to know what appropriate actions to take in a medical emergency and struggled to adapt to giving S new medication. This is not accepted. The local authority assert that the mother and her husband do not accept that S was as ill as professionals suggest. The mother does accept that S’s weight loss held serious health implications to S.
- 21 Under a heading, “The mother’s difficulties”, the local authority seek findings in relation to the psychologist, Dr. Walker’s assessment of the mother of her extremely low range of cognitive abilities, which is set out in Dr. Walker’s report. The local authority say this limits her ability to parent S safely. The mother says that she is still able to parent S safely. The local authority say under this heading that:

“The mother struggles to contain her own emotions and has become hostile and angry when stressed, including verbally and racially abusive towards others in the presence of S.”

The mother accepts that sometimes she becomes stressed and upset, but does not accept verbal or racial abuse.

- 22 Under the heading, “Basic care”, there is criticism by the local authority based on the assessment from St. Michael’s Fellowship that the mother and AR did not have an appropriate daily routine; did not appear to learn from mistakes

when not providing her with age appropriate or balanced meals; and lacked understanding of her development, to a large part are contested by the mother and stepfather. They also contest the assertion that the mother was observed handling S roughly whilst in hospital.

- 23 The local authority also assert under the heading, “Domestic conflict”, that hospital staff observed the father use force to move the mother by grabbing her head and verbal arguments were also overheard. The mother accepts occasional exchanges of views between her and the stepfather, but denies any allegation of domestic abuse.
- 24 That is an outline in summary only of the threshold upon which the local authority rely.
- 25 Turning to the precipitating events for these proceedings. It is the local authority’s case that S developed well from her birth in August of 2015 until January of 2016 and no concerns were reported by the health visitor and hospital. The mother and S travelled to Slovakia in April of 2016, the mother’s husband remaining in London. The mother says that S became unwell in Slovakia, which she thought was because S was teething, her gums were infected and that she had a cough. In an early statement to these proceedings on 19th December of last year, before the mother had the benefit of an intermediary, she says this at para.13:

“S was teething and seemed to be in extreme pain. I recall she was having difficulty opening her mouth and struggling to eat. In addition, she had a cough. I was worried for S and so whilst in Trebišov, Slovakia, I went to see a paediatrician. The paediatrician was someone known to my mother, which is the reason why she was willing to see S. However, the paediatrician was not able to carry out a full medical assessment because S did not have a European Health Insurance Card and this meant that I could not take her to the hospital to get medical treatment. I realised that S was losing weight whilst in Slovakia. The doctor suggested there might be a deficiency in S’s blood. The doctor prescribed me some drops for her cough but nothing else. She continued not to eat well while we were in Slovakia, even though I continued to provide her with regular meals. I did my best to encourage her to eat. When I returned to the UK, myself and AR monitored her condition for the first couple of days, but then when her condition did not improve, we decided to take her for medical treatment.”

- 26 Further, in her later statement, at C86 of the bundle, the statement signed on 18th April, earlier this week, the mother says this at para.7:

“When S was in Slovakia she was taken for medical treatment three times. I took S twice and my mother took her once during the time that I had returned to the UK for a few days in order to finalise S’s travel documents. I do not have the details of the exact dates that S was seen by the doctor on the first two occasions. I am, however, able to provide confirmation of the date of the third visit, which is on 2nd October 2016.”

The mother then exhibits a medical report dated 2nd October which has been translated and says this: “The child has a temperature up to 40°C with mucus and was given Nurofen”, which appears to be what we would call in his country the “presenting complaint”. Next to the word, “objectively”, which I understand to be the doctor’s objective analysis of the child, it says this:

“She has a fever; body temperature 38.2°C with mucus hydrated, dyspnoea with formation from the upper respiratory tract; exhales heavily; left atrial is normal; pulse 128 per minute; soft stomach; respiratory mucosa is wet; the nasopharynx with mucus; stuffy nose; no meningeal signs. Diagnosis: upper respiratory tract infection from bronchitis obtur. Was given Dexamed 0.4ml intramuscularly; Fenticil 8 drops orally. Morning ambulatory check-up at the general practitioner’s office.”

That is a medical report, and it says, “Medical Report - Diagnosis 2nd October at 9.31pm”.

- 27 As I have said, the mother says that she was unable to return to this country, that she did not have a passport for S and her travel document had expired, so she came back to the UK alone to obtain S’s birth certificate and marriage certificate so that the Slovakian authorities could issue S a passport.
- 28 S returned to the UK with her mother on 12th October 2016. Three days later she was taken to the GP by her mother and stepfather. The GP advised the parents to take her immediately to St. George’s Hospital and S was made subject to police protection on 16th October. The local authority’s case is that the medical professionals at that stage, when she was 14-months’ old, assessed her to have the weight of a 6-month-old baby and that she was suffering from chronic malnutrition, including muscular wastage.
- 29 As Ms. Connell sets out in her detailed case summary, the medical information at that stage was that S’s weight had decreased from the 75th centile in January to 0.4 centile in October 2016; that she struggled to keep herself seated without support; had difficulty using her facial muscles; appeared withdrawn; her limbs were unable to bear her weight; she came into hospital dirty with unwashed skin, cradle cap and severe nappy rash.

30 The local authority were absolutely right to bring these proceedings, let there be no doubt about that. The information that they were being given by the hospital means that they were right to consider that they should intervene and begin care proceedings. I accepted that this court had jurisdiction upon commencement of the proceeding. The question now is which court, this court or the Slovakian court, is best placed and where this child's best interests demand that her case is heard? It is the local authority's case that when in hospital S gained weight and she appeared to be thriving.

31 Shortly after the proceedings commenced, information came to the local authority from the mother that she had been involved in a serious car accident in 2008, resulting in a head injury and post traumatic stress disorder. She had reported being trafficked to the UK to be sold as a sex worker. The police investigated this. They could find no evidence to corroborate her account. The mother, prior to these proceedings being issued, was not known to the adult disability team. Indeed, her family were not known to the local authority.

32 I have already referred to the fact that Dr. Walker has provided a cognitive assessment of the mother. Her report is dated 27th November 2016. She concludes that the mother has capacity to litigate, but her cognitive functioning is extremely low. She says in summary that:

“The mother would need the assistance of an interpreter through the proceedings and should have a litigation friend to facilitate her understanding. By her own account and from background information, the mother experiences difficulties with long term memory, dates, facts and figures.”

33 Some months later and, I confess, I am not entirely sure why it took so long, the report of Ms. Nicola Lewis was made available. Ms. Lewis is a registered intermediary. Her report is comprehensive and detailed. A summary of her findings is that:

“The mother has marked deficits in terms of her communication, particularly in relation to her understanding of the language and working memory, which affects her ability to retain information.”

Ms. Lewis makes a number of suggestions in her appendix about special measures which are to be considered at a ground rules hearing.

34 The parents commenced a residential assessment at St. Michael's Fellowship with S on 10th November 2016, arranged by and funded by this local authority. The bundle includes summaries and reports emanating from St. Michael's Fellowship. The conclusions of the reports and their recommendations and the way that the assessment was conducted, are contested by the mother and AR,

who required three, at least, witnesses from St. Michael's Fellowship in order to challenge their evidence. The conclusion of the St. Michael's assessment in their detailed report is (I have not heard evidence from St. Michael's, nor from the mother or stepfather about this) –

35 “Neither the mother nor her husband, separately or together, are able to meet S's needs without a significant amount of support and intervention which would not be able to be replicated realistically in the community.”

“AR cannot compensate for the mother's deficits and that they are unable to parent together.”

36 The court bundle contains evidence from Dr. Mundy, who was S's treating paediatrician at the Evelina Hospital, and also from Dr. Dewlett, a consultant paediatrician. Dr. Dewlett noted that S had been treated for giardia intestinalis, which is an intestinal parasite, with antibiotics, but Dr. Dewlett noted that S's weight improved prior to treatment, indicating, as the local authority say, that the dramatic weight loss is due to neglect.

37 Dr. Mundy has reported that further investigations are being carried out in relation to the cause of this little girl's weight loss, or her inability at times to gain weight, but she says a diagnosis may not be reached for a further six months, or possibly not at all. In her letter that she provided for the local authority dated 12th December 2016, she emphasises that:

“It is important to bear in mind that [they] the Evelina had only seen S on two occasions for day case admissions, and not looked after her there over any time period, or supervised her feeding.”

She describes the investigations that were being carried out at that time, investigating other causes for dysfunction of the carboxylase enzymes leading to what was an organic acid result. She sets out that that requires direct analysis of the enzymes on cultured cells. She says:

“We may not reach a diagnosis for another six months” [she said in December]. It is also possible we will fail to come to a diagnosis as not all biochemical enzyme steps are well understood. The carboxylase enzymes require a vitamin called Biotin to help the enzymes work more efficiently. We treat a child who may be affected with one of these conditions with Biotin. After S was discharged on the first occasion, we commenced Biotin medicine. Growth faltering and weight loss can be associated with a number of these conditions. However, it is extremely important to remember that S began to gain weight at the local hospital well before we commenced treatment with Biotin, and the information that has been provided to us is that there has not been any extraordinarily

high need for calories. Therefore, as weight gain occurred before treatment of her metabolic condition, I do not think it is reasonable to subscribe weight loss to the underlying condition. It is not really possible to give an honest opinion on whether delay in obtaining treatment for this condition will impact until we are more sure of the exact underlying cause.”

38 Then, further, in answer to questions raised of her, she said:

“I am unable to judge whether Biotin treatment of the possible underlying metabolic disorder has contributed to weight gain. Weight gain was demonstrated prior to introduction of Biotin and as multiple factors changed at the same time (ie. hospital admissions, supervision of parental care, vitamin therapy and Biotin treatment), I cannot say with surety what contribution the Biotin treatment will have had had, if any.”

Although Dr. Mundy, I see, is trying her best to answer the questions, there are still a number of questions which remain.

39 Turning away from the medical matters, the Slovakian authorities have carried out assessments of the maternal grandmother and maternal aunt, they preferring to carry out those assessments themselves rather than the London Borough of Merton carrying them out. The aunt and grandmother live together. The Centre for International Legal Protection of Children and Youth (CIPC), provided what they called a written statement dated 21st February 2017, and it is the bundle at E235. They refer to a document, the translation of which I now have, dated 7th February 2017 from the Centre for Labour, Social Affairs and Family, which is certainly in a shortened version than we often see in this country but, nonetheless, appears to be an assessment of the grandmother’s wish to look after S. They refer in this 7th February letter as follows:

“Grandma is capable and glad personally care for minor S, but by reason of inappropriate housing and social conditions and large amount of people living at household, we incline to the opinion that ability to provide care for minor S is at the present side for grandma vastly limited. On the basis of executed inquiry, it is possible to state that on the territory of Slovak Republic a present grandparent from mum’s side who are willing to provide personal care for minor child, but housing and social conditions from the point of view are unfit to ensure due and proper care for another minor child. In the event that current, especially housing situation in regards of number of peoples living in household, it will be possible to contemplate again about possibility give minor into custody of grandparents. At the present, in view of actual situation, as an alternative possibility, caring for minor child from the side of Slovakian authority,

we can voice readiness to safeguard protection of rights and by law protected interest of minor child in some of institutions for administration of court decision on the Slovak Republic territory if it will be in the best interests of the small child.” [sic]

- 40 In the statement which is dated 21st February, it is said in support of their application that the matter be transferred to Slovakia. They say this at the top of the third page:

“At present there are no relatives in the territory of the Slovak Republic who will be capable of taking proper care of the minor. Although her grandmother is willing to take care of the minor, competent office stated that at this time she has no suitable conditions to provide proper care. Nevertheless, if situation of maternal grandmother would change and her household and social situation had improved, it would be able to consider placing S to her care. The Centre strongly believe it would be in the best interests of the minor child if she returns to Slovakia and develop the family ties with family relatives.” [sic]

- 41 The local authority convened a telephone conference with the Slovakian authorities, which took place on 8th March 2017. The guardian was also in attendance. The minutes begin at F13 of the bundle.

“The Slovakian authorities confirmed that they would wish to intervene in these proceedings and seek the transfer of the proceedings to Slovakia and were of the view that S should be placed in Slovakia.”

They confirm in the minutes that:

“Once jurisdiction was transferred, they would want the child to be in the care of her relatives, but that conditions of relatives are not very good in this case. If the child cannot be with family, the other option is for a children’s home. S would be with a professional parent in their own house. S could not be placed with relatives until it was assessed that conditions are good enough.”

They confirmed that four children would be the maximum in one carer’s home. They also confirmed that social services is similar to the UK in many ways.

“Social services are in contact all the time checking with the child, seeing whether the needs of the child are met and if they are happy and satisfied where they are living.”

They confirmed in answer to the guardian’s question that:

“They have review meetings once a month with the allocated social worker and other members from the department and will discuss all details. They are also contacting schools, doctors and all professionals involved with the child.”

- 42 Finally, in relation to the background, the local authority agency decision maker, took a decision on 8th March that a care plan for adoption was approved subject to confirmation of maternity, which it now is. As I have said already, the local authority’s proposal is that S is to be placed for adoption.
- 43 I have had to ask myself can I, or should I, hear, entertain this application under Article 15 made by the mother? Rightly, Ms. Connell, on behalf of the local authority, does not argue that any sort of *res judicata*, or issue estoppel would arise in this case. The local authority’s submission is that the decision which I made on 23rd March on the papers is the correct decision and that this court should retain jurisdiction.
- 44 I am satisfied that the situation is different from that which there was before me on 23rd March, and that it is right that I did entertain this application by hearing submissions yesterday. I accept that the involvement of an intermediary over the last two or three weeks has been a significant development, bearing in mind that this mother’s cognitive abilities are, unarguably, extremely low and the psychologist who assessed her considered that she should have the assistance of a litigation friend to facilitate her ongoing understanding during these proceedings.
- 45 I accept from those who represent the mother that the relevance of the introduction and involvement of the intermediary, is that only now, with the benefit of an intermediary to assist the mother to engage within these proceedings, only now has the mother been properly able to understand, within her own limitations, the options open to her as a party within these proceedings, and to give instructions, as she now has done, to her solicitors to issue an application that the proceedings should be transferred to Slovakia.
- 46 The law involved with Article 15 of Brussels IIa, is complicated and the issues are complex to those who are English speaking, let alone for those who have the additional complications of language and a cognitive difficulty. So, I am satisfied that I can and should entertain this application by the mother. I am satisfied that I am not bound by the ruling I made on 23rd March. Although the mother had legal representation at that point, she did not have the benefit of an intermediary. I have to ensure, as best I can, that the parties have an Article 6 compliant fair trial. She now has the ability to give instructions with the assistance of an intermediary and so I can consider the arguments afresh.

47 When I came to my decision on 23rd March, I had not heard oral submissions, no party having requested that I do. I have now had the benefit of hearing in detail from the advocates in front of me and I consider that I am entitled to reconsider my decision.

48 Turning to Article 15 of Brussels IIa. It provides that:

- “1. By way of exception, the courts of a Member State having jurisdiction as to the substance of the matter may, if they consider that a court of another Member State, with which the child has a particular connection, would be better placed to hear the case, or a specific part thereof, and where this is in the best interests of the child:
 - (a) stay the case or the part thereof and invite the parties to introduce a request before the court of that other Member State in accordance with para.4; or
 - (b) request a court of another Member State to assume jurisdiction in accordance with para.5.”
2. Paragraph 1 shall apply: (a) upon application from a party; or (b) of the court’s own motion.

The relevance here is that there is application from a party and so I need go no further.

49 Subparagraph 3 of Article 15 says that “the child shall be considered to have a particular connection to a Member State” in one of five ways. There is no issue here that this child, being a Slovakian national, has a connection with Slovakia, and I go no further in relation to that element of Article 15.

50 S’s welfare is extremely significant when considering the question before me. She has a mother who, at present, lives in this country and who, until quite recently, said that she was going to remain in the UK, but who, by way of a signed but undated statement provided to the court yesterday, says this:

“If this court decides to transfer these proceedings to Slovakia, I will travel to Slovakia. To begin, I would assist the court in Slovakia to decide where it would be best for S to live and with whom. At this stage, I think I will ask the court in Slovakia to allow my child to live with my mother, or to assess my other relatives to see if S can be cared for within my extended family. I would continue to visit AR in London, but I would return regularly to see my two boys and S until the situation of AR’s immigration status is settled. If AR obtains permission, he would come to

live with me in Slovakia. I intend to give birth to my fourth child in Slovakia. AR is the father of my unborn child. If S is placed in foster care in Slovakia, I would wish to have regular and plenty of contact with her. I would also wish to make sure that S's brothers and my new baby would build a strong relationship with each other wherever S is living."

S's half siblings do live in Slovakia. It is anticipated by the mother that she will give birth to the baby she is currently carrying in Slovakia.

51 A number of legal matters have been taken into in addition to Article 15 itself. I have also re-read the Supreme Court's decision in the case of *Re N (Children)* [2016] UKSC 15; the 27th October 2016 decision of the CJEU, case C-428/15; the decision of Mrs. Justice Pauffley in *Re J (A Child: Brussels II Revised: Article 15 - Practice and Procedure)* [2014] EWFC 41; *ZH (Tanzania) v The Secretary of State for the Home Department* [2011] UKSC 4; *AB v JLB (Brussels II Revised: Article 15)* [2009] 1 FLR 517.

52 Article 3.1 of the United Nations' Convention on the Rights of the Child provides that:

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

53 The Supreme Court in the case of *ZH (Tanzania) v The Secretary of State for the Home Department*, confirmed that Article 3.1 is a binding obligation and that a child's best interests shall be paramount when decisions directly affecting that child's upbringing and the primary consideration when decisions indirectly affecting a child. As I have already said, there is no argument that this child has a particular connection with Slovakia, being a Slovakian national.

54 The President of the Family Division, Lord Justice Munby confirmed in the case of *AB v JLB* that there are three questions to be considered.

"(i) Firstly, it must determine whether the child has, within the meaning of Article 15(3), 'a particular connection' with the relevant other member State [as S does].

(ii) Secondly, it must determine whether the court of that other Member State [ie. Slovakia] 'would be better placed to hear the case, or a specific part thereof'. This involves an exercise in evaluation, to be undertaken in the light of all the circumstances of the particular case.

(iii) Thirdly, it must determine if a transfer to the other court [ie. the Slovakian court] ‘is in the best interests of the child’. This again involves an evaluation undertaken in the light of all the circumstances of the particular child.”

55 Article 15 applies to public law proceedings such as these care proceedings. That is beyond argument now as a result of the CJEU case last October. Mr. Twomey has provided in his skeleton argument useful extracts from that particular case to which I will now turn at para.57:

“... the court having jurisdiction [that is, my court] must determine whether the transfer of the case to that other court is such as to provide genuine and specific added value with respect to the decision to be taken in relation to the child, as compared with the possibility of the case remaining before that court. In that context, the court having jurisdiction may take into account, among other factors, the rules of procedure in the other Member State, such as those applicable to the taking of evidence required for dealing with the case. However, the court having jurisdiction should not take into consideration within such an assessment the substantive law of that other Member State which might be applicable by the court of that other Member State if the case were transferred to it. If the court were to take that into consideration, doing so would be in breach of the principles of mutual trust between Member States.”

At para.61, the court said this:

“In order to determine that a court of another Member State with which the child has a particular connection is better placed, the court having jurisdiction in a Member State must be satisfied that the transfer of the case to that other court is such as to provide genuine and specific added value to the examination of that case, taking into account, *inter alia*, the rules of procedure applicable in that other Member State.”

Then, by way of cross-check:

“In order to determine that such a transfer is in the best interests of the child, the court having jurisdiction in a Member State must be satisfied, in particular, that that transfer is not liable to be detrimental to the situation of the child.”

56 Turning to the question of whether the Slovakian court is better placed to hear this case, I am satisfied that it is for a number of reasons. The threshold criteria findings sought and S’s welfare are both in issue in this case, and I have to consider whether the other court is best placed in relation to both elements. The events which triggered these proceedings I have referred to

already when I outlined the threshold criteria findings sought by the local authority, and they relate to the alleged neglect of S. From April to 12th October 2016, S was in Slovakia. She was not in this country. If she was suffering neglect at the time she went to the GP on 15th October, then it is more than arguable that she suffered that neglect in Slovakia during the several months that she spent there. It is the mother's case, and I do not believe that this is contested, that she spent a number of months in Slovakia but had to leave her daughter in the care of the grandmother in order to come back to the UK to obtain a full passport for S, and so for a great deal of the time that S was in Slovakia, her maternal grandmother was looking after her. At the times that she had been within this jurisdiction, her mother had had the actual care of her for the previous few days.

- 57 It has been necessary to consider the position, therefore, of the maternal grandmother. On the one hand, it may well be that she is the cause of some, or all, of the harm that might have been suffered by S. No-one suggests that the maternal grandmother plays a part within these proceedings in this country. It is not sought that she is a witness by any party. The mother's position is that she is unable to call the grandmother as a witness because there is a potential conflict as to how S was cared for during the weeks leading up to the middle of October 2016.
- 58 The grandmother, as I have already said, lives in Slovakia. If the proceedings were transferred to Slovakia, it may well be that the Slovakian authorities would seek her assistance within those proceedings and seek evidence from her. She is not an English speaker, as I understand it, and so there would be a benefit to the court in that the person who had been caring for S in the weeks prior to her admission to the English hospital was actually able to give evidence and give evidence in her own language.
- 59 I have already referred to the mother's evidence at C29 and C86 when she sets out the visits that she, or her mother, made to medical professionals whilst in Slovakia, and that the mother has produced evidence of one visit on 2nd October. It is likely, therefore, that there are in Slovakia some medical records which are not before me. I accept the submission put forward by Mr. Twomey that the examination of S at a time when it is alleged by the local authority that she was receiving neglectful treatment, is at the very heart of the issues on threshold; and the circumstances in which the mother and/or grandmother sought medical assistance and, according to the mother, medical assistance was denied largely as she did not have an entitlement to medical care, are, Mr. Twomey says, and I accept, at the heart of the threshold issues.
- 60 It seems likely, on a balance of probabilities, that there will be some medical records relating to this young baby when she was in Slovakia, relating to

illnesses that she might have been suffering and the efforts that were being made, or not made, by her family to provide her with appropriate care, and that is information which I do not have. I have no information other than the 2nd October note from the doctor in Slovakia which is just before the relevant threshold date of 16th October. What I do know is that she was taken to a doctor two weeks before the relevant threshold date. The doctor made a diagnosis that I have read out, and gave a prescription, but there may be far more that that doctor was able to say about that particular appointment and how this little girl was taken for the appointment and all the surrounding circumstances that one would hope to have in order to consider the serious allegation that this little girl was being neglected and her medical needs were not being met, or there was no attempt to meet her needs.

- 61 Dr. Mundy and Dr. Dewlett have provided letters, reports and replies to questions, and without any criticism of them, they do not provide a clear paediatric picture which I had hoped. There is no independent paediatric assessment, or overview in relation to this little girl's weight loss or failure to have weight gain or neglect. It had been hoped that the better evidence would come from those who treat and have treated S here in the UK, but the state of the medical evidence is complex, to say the least.
- 62 The local authority submit that I must take into account that there is a large bundle of the medical records from the English hospital, largely from 15th October, including the fact that there is evidence of later immunisations being arranged for S. The latter is accepted by the mother. The local authority accept that there is no conclusive medical diagnosis for S's loss of weight, or low weight and poor weight gain, but it is the local authority's submission that the threshold will be met, or a finding should be made that the fact that S gained significant weight without medical intervention once S came to the attention of the English authorities, is relevant.
- 63 The local authority, of course, always bears the burden of proving a fact to the court and evidence has to be clear and the best possible evidence available in order for a court to make a finding on the balance of probabilities. So far I have read the medical evidence. I have not heard from either of the doctors. As a matter of interest, no-one requires either of the doctors to come to court were this case to proceed, but the medical evidence before me is obviously not complete. I do not have any medical evidence as to who S saw during the several months she was in Slovakia, apart from the one note of 2nd October. I do not have any medical evidence from the other two attendances which the mother herself says were made and, of course, S was in Slovakia for approximately six months before the proceedings were issued. So, the medical evidence that currently stands before me, from what I have read, and I have not heard any detailed submissions on it, is not complete.

- 64 In my judgment, also, the court in Slovakia is better placed than I am to consider what Mr. Twomey describes as “cultural issues” relating to the threshold, such as the impact of poverty, the acceptable provision of diet for children in Slovakia, the accessibility of medical and other healthcare there, and better placed to examine any care giver’s culpability in the light of those cultural issues, and to assess which of those matters arise from poverty and which arise from the neglect of a care giver.
- 65 If I were to refuse the application that is made by the mother, the plan of the local authority is that if threshold is met, that I dispense with the consent of the mother and make a care order and a placement order. The question of placement within S’s large extended family is not open to me. The assessment of the extended family has been carried out by the Slovakian authorities and, thus far, has been a negative assessment of the grandmother and the aunt. If I were to accede to the application, the Slovakian court has the benefit over me in that it could investigate how S might be able to retain a lifelong relationship with her birth family, including the half siblings who live with her grandmother and those are, I consider, relative welfare matters when I am considering which court is best placed to hear this matter.
- 66 Mrs. Justice Pauffley in the case of *Re J*, considered a similar, although not identical, situation. Mrs. Justice Pauffley was dealing with a case where the application was made in relation to Hungary, and she says this at para.55:

“If, by contrast, the English court were to retain jurisdiction and accede to the local authority’s application to place J with adopters, the strong likelihood is that J would be denied, for all time, the prospect of any relationship with her siblings [and that is exactly the same position as in S’s case]. During the course of argument, I speculated as to the probable impact upon J of such an outcome and how she might view such a decision in the years to come.

The importance for J of sibling relationships cannot be overstated. This court would be impotent in securing their establishment and continuation. The Hungarian court would have no such problem. On its own, this factor tips the balance, decisively so, in favour of a transfer request.”

The case before me is very similar to that which Mrs. Justice Pauffley was dealing with, and I regard her judgment as one which I need to take account of very carefully.

- 67 I have already referred to the fact that the Slovakian authorities have carried out an assessment of the maternal grandmother and maternal aunt, and they permitted only their own assessment of the Slovakian relatives and not the

London Borough of Merton to carry it out. That is no reflection on the London Borough of Merton. It is a position the Slovak Republic takes generally.

- 68 If I were to ask the Slovakian State to accept jurisdiction in this case, they would be in a much better position than I to consider what state support might be available to members of S's family to enable her to stay and remain living within her family and/or to have contact with her family. If I were to proceed with this case, I would not have the ability to do that.
- 69 It goes without saying that placement of a child for adoption extinguishing familial ties with a birth family, is a breach of Article 8 of the European Convention on Human Rights. This court has the ability to make placement orders and adoption orders, of course, but only where it is necessary and proportionate to do so. I am not satisfied that if I retain jurisdiction, I would be in a position to fully explore what options are open to this little girl before considering whether or not it would be necessary or proportionate to make a care order with a care plan of adoption. Not only is this child from Slovakia, she is from a Roma background, which is, I accept, likely to be lost if she were placed for adoption in this country.
- 70 Another factor that I have considered, but it is not a primary factor, is that were these proceedings to continue in this country, the mother requires the assistance of an interpreter to give her evidence. Parents have interpreters in a large number of cases within this court and within courts up and down the land. This is a lady who has not only a need for an interpreter, but has severe cognitive deficits, meaning that she needs an intermediary. It is submitted on behalf of the mother that I should take into account the intermediary's warning at the start of Ms. Lewis's report, that the quality of the assistance the intermediary can give will rely on the ability of the interpreter to follow the brief to say what they are asked to say and tell the intermediary what the mother's reply is. With her level of disability, her participation relies on the simplification of language and the process being slowed down to the extent that she can follow it. If the person who bridges the language divide cannot follow the language adaptations made by the intermediary and reflect that with the answers the mother gives, we may struggle. So, it is submitted on behalf of the mother that the very need for a bridge by way of interpretation raises practical problems which might go to the very heart of the mother's ability to participate fully within these proceedings and for the court to take account of the need to ensure that she has a fair trial. The hearing in Slovakia would not require the bridge of interpretation and the process taking place in her own language would better allow for her full participation in the process and the court's better assessment of her as a witness. That is how Mr. Twomey and Ms. Dixon put that argument.

- 71 Of course, I do not know what service might be available to the mother were proceedings in Slovakia; what service by way of intermediary as we have in this country. It is a fact that the mother has cognitive deficits. Her understanding is extremely low and an intermediary is required. Whilst I accept that that is a factor, in my judgment it is not an overwhelming factor, and I consider, for the reasons I have given thus far under the heading “better placed”, that there are a number of other reasons why this court finds that the Slovakian court is better placed to accept jurisdiction to hear this case.
- 72 Turning to the best interests of the child, I am satisfied that it is in S’s best interests for a Slovakian court to hear this case. There is clearly an overlap between (ii) and (iii) in the considerations of “best placed” and “best interests”. When considering the best interests, Baroness Hale in the *ZH (Tanzania) v The Secretary of State for the Home Department* case, has emphasised the importance of “identity, nationality and citizenship”, which need to be taken into account within this best interest balance.
- 73 In the case of *Re HJ (A Child) (Transfer of proceedings)* [2014] 1FLR, Mr. Justice Birmingham, in the Irish High Court, asserted that:

“The first answer has to be that it is in a child’s best interest that his or her welfare should be considered by the court best positioned to do so.”

I have already considered that the Slovakian court is best placed to hear S’s case and I accept that I would need some significant counter argument to conclude that that is the case, but it would not also be in the child’s best interest. These are, however, separate questions and I have considered them separately.

- 74 Baroness Hale said, sitting in the Supreme Court in the case of *Re N (Children)* at para.44:

“The question remains, what is encompassed in the ‘best interests’ requirement? The distinction drawn in *In re I* remains valid. The court is deciding whether to request a transfer of the case. The question is whether the transfer [I underline] is in the child’s best interests. This is a different question from what eventual outcome to the case will be in the child’s best interests. The focus of the inquiry is different, but it is wrong to call it ‘attenuated’. The factors relevant to deciding the question will vary according to the circumstances. It is impossible to be definitive. But there is no reason at all to exclude the impact upon the child’s welfare, in the short or the longer term, of the transfer itself. What will be its immediate consequences? What impact will it have on the choices available to the court deciding upon the eventual outcome? This is not the same as deciding what outcome will be in the child’s best interests. It is

deciding whether it is in the child's best interests for the court currently seised of the case to retain it, or whether it is in the child's best interests for the case to be transferred to the requested court.”

- 75 So, is it absolutely right that I do not have, and should not have, regard to the range of final outcomes in the Slovakian court, but have regard to the impact on S's welfare of the actual transfer of jurisdiction. I have to take into account the impact on S's welfare of transferring the case and clearly the question of delay is a very important matter for me to consider. It is the inevitable negative result if I grant the mother's request that there will be delay in finding the right permanent placement for S. The Slovakian authorities, however, are well aware of S's existence and case. They have cooperated with the London Borough of Merton. The two authorities have cooperated with each other. The Slovakian authorities have made their own Article 15 application. There is no reason for me to think, sitting here today, that the Slovakian authorities will not act promptly and cooperatively if and when I make a ruling inviting them to accept jurisdiction.
- 76 S has been in foster care since around 8th February when I made an interim care order approving the local authority's care plan. Before then she had been in the care of her birth family. If the mother's application is granted, clearly, as I took into account on 23rd March, the contact with the mother would be curtailed. She would not be having contact as frequently as she is now if S is in a different country to her, but she confirmed yesterday her plans to return to Slovakia to see S. Her husband intends to stay in the UK pending his immigration appeal, and he then will consider moving to Slovakia. Clearly there is potential delay in determining where S is to live, there is likely to be a reduction, at least initially, in the contact that she will have with her mother, but there is, in my judgment, the massive welfare benefit that she has the potential to develop relationships with her birth family in Slovakia. If I refuse the application, the impact on her welfare is that there is before me no possibility of placement with her family in Slovakia. She has a large extended family, her grandmother and aunt have been assessed, other relatives live with them but I know very little about them and what they might be able to offer. The care plan which the local authority puts forward is adoption in this country and no direct contact at all. If I refuse the application that is now before me, it has lifelong consequences for S, a little girl who is not yet 20-months' old. S has connections in Slovakia. The Slovakian State want to be able to determine the right outcome for her and have jurisdiction for her welfare. Her mother wants the Slovakian authorities to deal with S's case. In my judgment, the country of Slovakia is best placed to do so and it is in S's best interest that the courts in Slovakia hear this case.
- 77 The local authority and her guardian are right to be concerned about the question of delay. They are right to remind me that the mother made this

application very close to the beginning of the first day of the final hearing, and we had to take up the first day of the final hearing considering the submissions from each of the parties. However I cannot forget that I am not just looking at the short or medium term impact. I am looking at the effect on S's welfare throughout her life and I am entirely satisfied that the decision that I have made is the right one i.e. to invite Slovakia to assume jurisdiction in this case. I will invite the parties to consider what orders I should make consequent upon that ruling.

78 For the avoidance of any doubt, the interim care order will continue.

POSTSCRIPT

Although the judgment set out above was handed down on 20th April 2017 it was not until 2nd October 2017 that I was in a position to make a consent order as set out (in part) below. This delay occurred despite the excellent co-operation between the parties and between the LA and the Slovak authorities. S remained in foster care in this country during this period.

Recitals

1. The Local Authority's case as set out in the Composite Threshold document dated 14 April 2017 and their contention that the parents are not able to care for S in the long term has not been the subject of any determination by this court. The parents' case is that they are able to care for S in the long term and they dispute the factual allegations contained in the Composite Threshold and the assessment of them by St Michael's Fellowship.
2. The court decided on 4 November 2016 that the interim threshold criteria in section 38 of the Children Act 1989 were met, namely that there are reasonable grounds for believing that the child is suffering, or is likely to suffer, significant harm; and that the harm, or likelihood of harm, is attributable to –(i) the care given to the child, or likely to be given to him if the order were not made, not being what it would be reasonable to expect a parent to give to her.
3. The court having determined on 4 November 2016 that it has jurisdiction over the child pursuant to Article 8 BIIa it having determined that the child was habitually resident in England and Wales at the time these proceedings were commenced on 1 November 2016 and that no other Member State had jurisdiction pursuant to Article 10 or 12 of BIIa.
4. The court having been requested by way of a letter dated 9 March 2017 to consider transferring jurisdiction for this case to the Slovak Republic of its own motion under Article 15 BIIa and/or for the Slovakian authorities to be joined to these proceedings by way of intervenor status; and no party to these proceedings having at that time supported such a transfer of jurisdiction; this court handed down a ruling on 22 March 2017 that a transfer to Slovakia would not be in S's best interests and that this court should retain jurisdiction. The Slovakian Authorities were not joined as intervenors to the proceedings but were invited to attend the final hearing should they so wish.

5. And upon the Mother since the ruling on 22 March 2017 having the benefit of an Intermediary to assist her understanding of the proceedings and giving of instructions to her legal team and the Mother having changed her position so as to issue an application for transfer of jurisdiction under Article 15 BIIa on 12 April 2017. And the Mother filing a statement on 19 April 2017 stating that she intends to travel to Slovakia, to ask the court in Slovakia to assess her relatives to care for S, to return to Slovakia regularly to see her and, if AR obtains permission to live in Slovakia, to live with him in Slovakia.
6. The court on 20 April 2017 determined that the provisions of Article 15 of BIIa are now met in this case, in that:
 - a. The child has a particular connection with Slovakia in that it is the place of her nationality; and
 - b. The courts of Slovakia are best placed to hear the remaining part of these proceedings; and
 - c. It is in best interests of the child for these proceedings to be transferred to Slovakia;

and that accordingly this court should request the courts of Slovakia to accept a transfer of this court's jurisdiction pursuant to Article 15(1)(b) BIIa.

7. The Court has been informed in a letter dated 9 March 2017 to this court from The Centre for the International Protection of Children and Youth (CIPC) that that organisation being the competent authority for the purposes of Article 56 BIIa, consents to the child being placed in their care, either in an institution or with a named foster carer.
8. And upon this court having been served with a translation of an order made by Judge Eliska Čonková of the District Court of Trebišov, Slovakia on 15 May 2017 accepting jurisdiction over the proceedings relating to S pursuant to Article 15 BIIa.
9. And upon this court having been served with a translation of an order made by Judge Eliska Čonková of the District Court of Trebišov, Slovakia on 15 August 2017 placing S in the care of the Slovenké Nové Mesto children's home.
10. This court accepts the judgment of the District Court of Trebišov by virtue of Article 21 BIIa.
11. And upon this court having been informed that the Applicant, London Borough of Merton has made arrangements with the Centre for the International Protection of Children and Youth (CIPC) for S to travel to Slovenké Nové Mesto children's home, Trebišov with her English social worker, English foster carer and an English/Slovak interpreter on 16 October 2017 and that her English social worker and foster carer will stay until 19 October 2017 to help S settle.
12. And upon reading the statements of Ana Dias social worker, dated 31 May 2017 and 28 September 2017 and the court being satisfied that suitable arrangements have been made with the Slovakian authorities for S's reception and welfare in Slovakia.
13. And upon the court being satisfied that it is in S's best interests to live in Slovakia.
14. And upon the Applicant local authority, 1st Respondent Mother and 2nd Respondent AR consenting to S moving to permanently reside in Slovakia.
15. And upon the court being satisfied that the child does not have sufficient understanding to give or withhold her consent to permanently leave the jurisdiction and the court giving its approval to such permanent removal.

16. And upon S being left in the care of the Office of Labour Social Affairs and Family in Trebisov on 19 October 2017, she will be under the jurisdiction and authority of the Slovakian authorities and the District Court of Trebišov.
17. And upon the Children's Guardian informing the court that he will by 16 October 2017 send the closing letter, which has been seen and approved by this court, to the CIPC and/or the Office of Labour Social Affairs and Family in Trebisove setting out his view of the issues to be considered in Slovakia to ensure that S's needs are met in the future; such letter to be translated into Slovakian at the expense of Cafcass and this Court encouraging the Slovakian authorities to take into consideration the advice contained in that letter.

IT IS ORDERED THAT:

18. This court declines jurisdiction and the proceedings are transferred to the District Court of Trebišov, Slovakia who have accepted jurisdiction over this matter in accordance with Article 15(5) BIIa.
19. Permission is granted to the applicant London Borough of Merton to remove the child permanently from the jurisdiction of England and Wales to be placed in an institution or foster care in Slovakia.
20. The interim care order made on 4 November 2016 placing S in the care of the London Borough of Merton shall be discharged at midnight on 19 October 2017.
21. The Applicant shall serve this order translated into Slovakian on the District Court of Trebišov by 4.00pm on 17 October 2017. Permission is granted to the parties to disclose the court papers and the judgments to any lawyer they instruct in Slovakia in relation to the proceedings concerning the child and the Slovakian Central Authority and the CIPC.
22. The costs of translating into Slovakian the judgment handed down by this court on 20 April 2017, Request for Co-operation Form, Local Authority Case Summary dated 14.04.17, composite threshold document dated 14.04.17, Agreed Background Information document dated 21.04.17, case management order [No:8] dated 21.04.17, Article 15 BIIa Order dated 21.04.17 and this court order shall be shared in four equal parts by the parties; the costs being deemed to be a necessary expenditure on the certificates of the public funded parties to enable the Slovak court to understand the background to the proceedings to be transferred under Article 15 BIIa.