



Neutral Citation Number: [2025] EWHC 2175 (Fam)

Case No: FD25P00286

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 26 June 2025

Before :

Mr Geoffrey Kingscote KC
(sitting as a Deputy High Court Judge)

J

Applicant

- and -

K

Respondent

Kate Makepeace Grieve instructed by JMW Solicitors, solicitors for the **Applicant (father)**
Charlotte Baker instructed by Hunters Law, solicitors for the **Respondent (mother)**

Hearing dates: 24 and 25 June 2025

Judgment

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MR GEOFFREY KINGSCOTE KC
SITTING AS A DEPUTY JUDGE OF THE HIGH COURT

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 members of their

family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

A Introduction

1. The application before the court dated 22 May 2025 is for the summary return of a child, Q, now aged 15 months, to Portugal pursuant to the Child Abduction and Custody Act 1985 (incorporating by Schedule 1, the 1980 Hague Convention on the Civil Aspects of International Child Abduction on the Civil Aspects of International Child Abduction (“the 1980 Hague Convention”). The applicant is the child’s father. The respondent is the child’s mother, who opposes the application.
2. I have been provided with a bundle and two helpful skeleton arguments. Both parties attended in person. Protective measures were put in place with a screen separating the parties. There was no oral evidence.
3. The applicant is represented by Ms Grieve. The respondent is represented by Ms Baker. I am grateful to both.
4. Directions hearings were heard by Peel J and Nicholas Allen KC sitting as a Deputy High Court Judge. DHCJ Allen’s order provided that the mother produce a statement, but did not oblige the father to respond in written form to the mother’s statement. The parties were to set out the protective measures they offered, or sought, in the event of a return.
5. The mother’s defence to the application is Art 13 (b) of the 1980 Hague Convention. She argues that a return order would expose Q to a grave risk of physical or psychological harm or otherwise place her in an intolerable situation. On that issue I have been asked to consider a range of possible protective measures.

B Background

6. The father is in his late-40s and British. He is a businessman. He owns two properties in Portugal in a town, X. The mother is in her early-40s. She does not work currently, though she is a qualified beautician, and is a Brazilian/Italian national. She says she cannot work in Portugal without requalification.
7. The parties are not married.
8. The father has the equivalent of parental responsibility in Portugal as he was named on the birth certificate. It is common ground that he has the requisite rights of custody required for the 1980 Hague Convention.
9. The parties met in London in February 2020 and started dating. They met a few times before the Covid pandemic struck. The mother moved to Brazil in July 2020, before returning to London. The father moved to Portugal in 2022. The parties continued to have an on-off relationship with the father visiting the mother in London. It was on one of those visits, in September 2023, that the mother fell pregnant.
10. The mother says that the father's response to the news of the pregnancy was very hostile. The father sent an angry and emotional text message to the mother in August 2023 suggesting that she take an abortion pill. His text message included the following phrases
 - a. "I do not want you in my life"
 - b. "You have plenty of time to take the tablet. That is your responsibility!"
 - c. "Do you really want a shit life as that is what will happen"
11. These would have been extremely upsetting text messages to receive.
12. The mother kept the baby. The father's approach changed. In October 2023, he turned up at the mother's home in London and proposed that the mother come to live with him in Portugal to see if they could make their relationship work. He demanded a paternity test, which the mother undertook demonstrating that he was the father. The mother moved to Portugal and moved into his flat. She did not follow the father's suggestion of giving up her rented flat and, instead, has sub-let it.

13. The baby was born in Portugal and lived in town X until May throughout the first 12 months of her life.
14. It appears that the father's behaviour was positive whilst she was pregnant. In her letter to the domestic violence unit in town X dated 17 May 2025, she said that before the birth he was "attentive and treated me well, which made me believe that we would build a family life".
15. The mother says that his attitude changed after her birth. She says that the father was verbally abusive and would call her a prostitute and a whore. She says he devoted large amounts of time to playing padel (paddle tennis) leaving her with the baby.
16. The mother wanted a different type of life, but she says he would respond negatively to anything that she said. She says he would belittle her and call her "whore", "dumb", "loser" and "stupid". She says she has suffered psychological damage.
17. She gave the following examples of the psychological abuse she says she suffered:
 - a. During an argument on 19 November 2024 the father called her a piece of shit and that the mother was "corrupting" the family home. The mother said he would undermine her "frequently" by undermining her knowledge of English.
 - b. On 31 December 2024 the mother travelled to Brazil with Q to see her family. She rang to wish him a Happy New Year and asked him to turn on a light on the video call as it was dark. He verbally abused her and accused her of being suspicious and shouted at her. The following day he texted her and called her a "crazy woman"; told her to "fuck off to being a brass (prostitute)" and that she had trust issues because her life had "been a lie being a prostitute". The mother says she felt shattered by the comments. He threatened to kick her out of their home and demanded her address so that he could send her belongings. He told the mother that Q would grow up in a "shit world".
 - c. The mother says that during this period he moved between asking her to leave the country with Q and abusing the mother verbally.

- d. The mother asked the father to provide written consent to her departure and said that seeking the father's consent to removal to England became another way to exert control over her.
 - e. On 24 February 2025 the father agreed to provide written consent to the mother leaving and he said "the quicker the exit the better". But he did not give that approval. It is right to say that the mother said in a message to him that leaving wasn't what she wanted, but she saw no other way out and "you are leaving us more and more": she clearly wanted to make the relationship work.
 - f. On 27 February 2025 that father sent a message to say that he had consulted lawyers; that it was "fucking ridiculous" to suggest he would do something sneaky and that he wanted a "clean out" of the relationship. He said, "if it means missing my daughter everyday then I will make that sacrifice". Q was just four months old.
 - g. In March 2025 he called the mother a "psychotic woman", who he was "in prison" with, and a "borderline narcissist" who was trying to "ruin his day".
 - h. The mother says that she was subject to the whims of the father's daily mood
 - i. The mother complains that the father offered her money to leave Q and return to London alone.
18. On 29 March 2025 there was an incident that resulted in bruising. The mother had gone out with friends and on returning the father was angry. They had an argument when she suggested they relax and have a beer or go to a party. He shouted at her aggressively and pushed her, so that she hit her arm, and developed a bruise. He apologised the following day. The mother was upset and told the father's stepmother about the problems.
19. On 19 April 2025 there was a further incident. The mother's car tyre was flat after a night out. The father said, when called, there was no spare, and called her "an idiot" and stupid. The mother got a lift home from a friend, rather than the Uber the father suggested. The father then demanded to see her phone and an argument ensued in which he threw water on the mother, and she threw it back. He locked her in the bedroom. The mother says the photos of the car tyre suggested they were slashed.

20. The mother says that the father detained her in their home on 21 April 2025. He locked her in the house and took the key meaning she and Q could not leave. His explanation was that he detained her because that she had been drink driving although his text to her said “there are plenty of exits”. From that night the mother says he prevented the mother from sleeping in the same room as Q for 20 nights.
21. On 12 May 2025 the father said he would provide the requisite consent but recanted the following day.
22. On 14 May 2025 the mother contacted the Victim Support Centre in town X. She says she was too afraid to make a complaint when living in the father’s property.
23. The mother says she was completely reliant upon the father and felt isolated.
24. She registered her departure with the Victim Support Centre and left the country on 16 May 2025, flying to England. She did not have the father’s permission to do so. The mother texted the father to say that she had left. His response was angry. It is perhaps not surprising given that he said that the mother had kidnapped their children.
25. The mother appears to have been living in Air BnB accommodation as her flat is sublet.
26. The father has had some video contact. There has been no direct contact. In submissions her counsel said that it was not safe for the father to have direct contact. The father would like to have contact as soon as possible.
27. Both parties have made cross applications for a child arrangements order in Portugal. I am told that a parents’ conference, akin to a mediation session, is scheduled for 3 July 2025, that the mother should attend. The mother’s Portuguese lawyers have estimated that these proceedings will last no more than a year.
28. The mother has produced a psychological report based on four online sessions in May and June 2025. It specifically stated that “it is not a formal psychological assessment” and “that is not sufficient to reach diagnostical conclusions”. “Subjective signs of

anxiety were observed” and the mother states that she feels there will be negative impacts on her emotional health if she moves. There is no evidence from any medical practitioners in Portugal.

29. There is no evidence of any abusive behaviour directed towards Q herself. But the mother says that she has been exposed to harm through her parents’ relationship. She says that Q has been exposed to domestic abuse and a high conflict environment and carries the signs of tension, often shouting or screaming.
30. The father made a police report in Portugal. That report dated 16 May 2025 said that he “feared for his daughter’s well-being and safety because his partner is not psychologically well and is an emotionally unstable person”. He applied for residence.
31. The mother expressed anxiety that the father was seeking a sole residence order, but he assured the court, through counsel, that he was seeking a shared residence order and did not want to remove Q from her mother.
32. The mother has obtained some assistance from lawyers in Lisbon as to the enforceability of protective measures. I discuss these below.

C The parties’ positions

The mother’s position

33. The mother’s case on Art 13 (b) is founded on four strands:
 - a. The exposure of Q to domestic abuse in the form of the father’s ongoing coercive and controlling behaviour.
 - b. The risk of separation related both to the father’s application to the Portuguese court for residence, and the criminal complaint.
 - c. The invidious situation the mother would be placed in being completely financially dependent on the father, the confidence the court can have in his compliance with requirements and the psychological impact on the mother

- d. The risks to the mother's mental health as a consequence of the father's behaviour and her feeling that she is not protected by the Portuguese system because she is not Portuguese.
34. The mother is clear that the Art 13 (b) threshold is crossed. Her primary position is that protective measures are unable to ameliorate the risks such that Q would not be exposed to a grave risk within the scope of Art 13(b).
35. Her very much secondary position is that, if a return were ordered, the following protective measures would be required:
- a. EUR 3,000 pcm paid directly to her on 1st each month for a 2-bedroom property. She produced particulars of flats in a different town, some four hours from town X.
 - b. EUR 2,700 pcm by way of maintenance to include €1,000 towards nursery, which, all agreed, Q does not currently attend. So that left €1,750 plus rent.
 - c. EUR 2,000 pcm by way of a "fighting fund" towards legal fees in Portugal, based on an estimation that the relocation proceedings will cost around EUR 25,000.
 - d. The use of a car together with all associated costs being met.
 - e. Private health care insurance for both the mother and Q.
 - f. A mobile phone contract.
 - g. A standard non-prosecution undertaking and evidence that all criminal complaints have been withdrawn prior to any return.
 - h. Not to attend the mother's airport or her address.
 - i. A standard non-molestation undertaking (per her counsel's note).
 - j. A standard non-separation undertaking not to remove Q from her care save for agreed or court ordered contact.
36. The mother seeks that these protective measures last until the determination of the cross applications or for 12 months a period of time that would allow the mother to "get back on her feet".

The father's position

37. The father seeks an immediate return of Q to Portugal. He disputes that there is a grave risk that Q's return would expose her to physical or psychological harm or otherwise place her in an intolerable situation. He accepts that the parties had a number of arguments. He would like Q to be returned to town X: he owns two properties there and has quite a large number of English relatives there.
38. As the proceedings have progressed he has proposed an increasing range of protective measures. At court these were finalised. He offered the following
- a. To make funds available for alternative accommodation of €1,500 a month. His preference would be for the mother to live in the family home and for him to vacate or alternatively for the mother to live in rented accommodation in X until the current tenants of his rented property vacate, or as a final option, that he rent a property for her. He asserts that the location the mother has selected would impede his contact with Q.
 - b. Maintenance at €1,000 a month. He increased that in the hearing to €1,500 a month. He will stop paying €500 a month towards the mother's other child in Brazil
 - i. The father offered to pay 2 months of rent and maintenance up front.
 - ii. The father said that he could not afford the sums that the mother was seeking.
 - c. He did not offer to pay anything towards a fighting fund and, it appears, that public funding may be available to the mother.

He agreed to the protective measure that the mother sought in relation to:

- d. Use of a car with all costs covered.
- e. Provide medical insurance for Q and the mother.
- f. Pay for the mother's mobile.
- g. Not to initiate or pursue criminal proceedings and produce evidence that a complaint has been withdrawn prior to return.

- h. Not to attend at the airport nor the mother's address nor to contact the mother save in respect of contact arrangements or issues regarding Q's welfare via the parenting app.
 - i. An undertaking not to intimidate, use or threaten violence against the mother.
 - j. Not to remove Q from the mother's care save for agreed or court ordered contact.
39. He proposes that these protective measures will last until the Portuguese court is seized of the matter. The withdrawal of criminal proceedings and the promise not to take any further criminal proceedings will be indefinite.

D The law

40. The underlying purpose of the 1980 Hague Convention is to enable the "prompt return of children wrongfully removed to or retained in a Contracting State".

Art 13 (b)

41. The Supreme Court examined and clarified the law in respect of the defence of harm or intolerability in *Re E (Children) (Abduction: Custody Appeal)* [2011] UKSC 27.
42. In *E v D (Return Order)* [2022] EWHC 1216 (Fam) MacDonald J summarised the relevant principles at paragraphs 29 and 30:

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

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

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

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

v) Art 13(b) looks to the future: the situation as it would be if the child were returned forthwith to his or her home country. The situation which the child will face on return depends crucially on the protective measures which can be put in place to ensure that the child will not be called upon to face an intolerable situation when he or she gets home. Where the risk is serious enough the court will be concerned not only with the child's immediate future because the need for protection may persist.

In *Re E*, the Supreme Court made clear that in examining whether the exception in Art 13(b) has been made out, the court is required to evaluate the evidence against the civil standard of proof, namely the ordinary balance of probabilities whilst being mindful of the limitations involved in the summary nature of the Convention process. Within the context of this tension between the need to evaluate the evidence against the civil standard of proof and the summary nature of the proceedings, the Supreme Court further made clear that the approach to be adopted in respect of the harm defence is not one that demands the court engage in a fact-finding exercise to determine the veracity of the matters alleged as grounding the defence under Art 13(b). Rather, the court should assume the risk of harm at its highest and then, if that risk meets the test in Art 13(b), go on to consider whether protective measures sufficient to mitigate harm can be identified."

43. It is preferable for the judge to adopt this two-stage process under Article 13(b).

44. The first stage is to evaluate the nature and the severity of the potential risk which it is said will arise if the child is returned to the requesting State, on the assumption that the allegations made by the removing parent of the left behind parent are true. If there are a number of different allegations the court should consider them cumulatively, as a whole. If the court considers that the threshold has been passed it moves on to the second stage.
45. The second stage is for the court to evaluate the sufficiency and efficacy of the protective measures to determine whether the extent of those measures addresses or sufficiently ameliorates the risk to a level below the threshold of “grave risk” provided for by Art 13 (b)
46. The exercise requires consideration of the anticipated risk to the child on return. The court must “examine in concrete terms the situation that would actually face” Q on her return to Portugal. See *Re IG (A Child) (Child Abduction: habitual residence: Article 13 (b))*.
47. It is clear that a child may suffer harm for the purposes of Art 13 (b) if they witness domestic abuse to a parent or caregiver. Domestic abuse can clearly occur when a person is subject to a pattern or coercive or controlling behaviour. In *A-M (A Child: the 1980 Hague Convention)* [2021] EWCA Civ 998 the Court of Appeal noted that “the court must be astute to recognise conduct” that forms part of a pattern of “controlling or coercive” behaviour.
48. In *E v F*, to which I was specifically referred, Paul Bowen, sitting as a Deputy High Court Judge, noted the increased recognition of coercive and controlling behaviour through the development of domestic case law, particularly *F v M* [2021] EWFC 4 and *Re H-N (Allegations of domestic abuse)* [2022] 1 WLR 2681. *Re H-N* endorsed the definition of controlling or coercive behaviour in Practice Direction 12 J, which derives from the statutory guidance published by the Home Office pursuant to Section 77 (1) of the Serious Crime Act 2015. That guidance identified paradigm behaviours of controlling and coercive behaviour, and is, per *Re H-N*, relevant to the evaluation

of evidence in the Family Court. PD12J defines coercive and controlling behaviour as follows

‘Coercive behaviour’ means an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim;

‘Controlling behaviour’ means an act or pattern of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

49. The authorities have emphasised the importance of focussing on a pattern of behaviour rather than focussing too heavily on individual incidents. Moreover, a pattern of abusive behaviour is as relevant to the child as to the adult victim. The Domestic Abuse Act 2021 provides that a child who “sees or hears, or experiences the effects of” of such abuse by or towards a person to whom they are related is considered to be a victim of ‘domestic abuse’ (s 3).
50. As *E v F* and *A-M* makes clear, this developing understanding of controlling and coercive behaviour as a matter of domestic law should inform the approach of the Courts when determining the Article 13(b) defence.
51. In relation to protective measures it was emphasised by Cobb J in [Re T \(Abduction: Protective Measures: Agreement to Return\) \[2023\] EWCA Civ 1415](#): “*Protective Measures need to be what they say they are protective. To be protective, they need to be effective*”. [§50]. He summarised the matter:

“Five short points about ‘protective measures’ merit some consideration within this judgment arising from the appeal:

i) The requirement for the parties to address protective measures early in the process;

ii) The importance of the court identifying early in the proceedings what case management directions need to be made, so that at the final hearing the court has

the information necessary to make an informed assessment of the efficacy of protective measures;

iii) The need for the court to be satisfied, when necessary for the purposes of determining whether to make a summary return order, that the proposed protective measures are going to be sufficiently effective in the requesting state to address the article 13(b) risks;

iv) The status of undertakings containing protective measures, and their recognition in foreign states;

v) The distinction between 'protective measures' and 'soft landing' or 'safe harbour' provisions.

52. The father has sought a return of Q to the town X pursuant to Art 11 of the 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children 1996 (“the 1996 Hague Convention²”). I discuss that point below.

E Discussion and analysis

Art 13 (b)

53. The mother relies on four strands. I consider the cumulative effect of the allegations. I have to consider whether, taking those allegations at their highest, Q would be at grave risk of being exposed to physical or psychological harm or otherwise placed in an intolerable situation. I have to consider in concrete terms the situation that Q would face on return.
54. The four strands are as follows
- a. The exposure of Q to domestic abuse in the form of the father’s ongoing coercive and controlling behaviour.
 - b. The risk of separation related both to the father’s application to the Portuguese court for residence, and the criminal complaint.

- c. The invidious situation the mother would be placed in being completely financially dependent on the father, the confidence the court can have in his compliance with requirements and the psychological impact on the mother
- d. The risks to the mother's mental health as a consequence of the father's behaviour and her feeling that she is not protected by the Portuguese system because she is not Portuguese.

Domestic abuse

- 55. The parties had a difficult relationship. But the evidence before me appears to demonstrate a clear pattern of abusive and insulting behaviour on the part of the father. This appears to have continued throughout their relationship, save for a period of harmony before Q was born. The first angry text messages were sent by the father on being told of the pregnancy. Further insulting messages were sent in December 2024, February 2025 and March 2025. The father has accepted that he has sent messages and that they had arguments but says through counsel that this was simply part of a turbulent relationship.
- 56. The mother has pointed to repeated and frequent attempts to belittle and demean her. She says the father would frequently call her a "whore" or "stupid" or a prostitute and took advantage of her limited English. There was an argument in which she sustained bruising.
- 57. Of particular note is that fact that she says he locked her, and Q, in the property on one occasion so she could not leave. And, she says, she prevented him from sleeping in the same room as their baby for 20 nights. He also, she says, gave her insufficient funds.
- 58. I cannot confidently discount these allegations. I must take the allegations at their highest. The test is high: the risk must grave. But there is evidence here of a pattern of coercive and controlling behaviour meted out to the mother to which Q would, if this were correct, be exposed. As is clear from the authorities, that pattern of behaviour: routinely humiliating and belittling the mother; preventing her from spending time

with her daughter; locking her in a home and deciding who she can spend time with, pushing the mother so that she sustains bruising, falls within the definition of domestic abuse. O, if exposed to that pattern of behaviour, in my view, would be at grave risk of psychological harm.

59. I therefore have to consider protective measures. I deal with those below but address the other three strands of the mother's arguments. I do that briefly, having determined that the Art 13 (b) threshold is met.

Risk of separation relating to the father's applications to the Portuguese court and the criminal complaint

60. These risks have now dissipated. The father will give an undertaking to withdraw the criminal proceedings and not institute any proceedings. He has also confirmed that he is not seeking to remove Q from her mother's care. He seeks a shared care, rather than sole residence order. In those circumstances I can confidently discount these risks.

Financial dependency

61. The mother is completely financially dependent upon the father. She cites this as another example of his controlling behaviour. In one of her text messages she says that her allowance was "unsustainable". Financial control is recognised as a marker of controlling behaviour and in my view this matter of financial dependency needs to be considered in the context of coercive control, and in the context of protective measures.
62. The other two sub-strands are the confidence that the mother can have in the father complying with court orders and the psychological impact that may have on the mother. The mother points to a lack of transparency in the father's initial application as it failed to mention a number of emails. I note that the father has fully complied with this court's directions and has volunteered to be subject to undertakings in Portugal.

63. I address the mother's psychological health below.

Risks to the mother's health from the father's behaviour, her isolation and the fact that she does not feel supported by the Portuguese system because she is not Portuguese.

64. I have limited evidence of the impact of the father's behaviour on the mother's mental health as her report specifically states that it is not a formal psychological assessment.

65. The mother has said that she feels isolated and at a disadvantage. But she is Portuguese speaking and the father, too, is not Portuguese. He is English and she has a linguistic advantage over him.

66. I note that the mother has made her own application to the Portuguese court.

F Protective measures

67. The mother has sought a range of protective measures in the event that a return is ordered. The father's proposal is more limited.

68. The mother sought the following

- a. EUR 3,000 pcm paid directly to her on 1st each month for a 2-bedroom property. She produced particulars of flats in a different town, some four hours from town X.
- b. EUR 2,700 pcm by way of maintenance to include €1,000 towards nursery, which, all agreed, Q does not currently attend. So that left €1,750 plus rent.
- c. EUR 2,000 pcm by way of a "fighting fund" towards legal fees in Portugal, based on an estimation that the relocation proceedings will cost around EUR 25,000
- d. The use of a car together with all associated costs being met
- e. Private health care insurance for both the mother and Q
- f. A mobile phone contract

- g. The father not to initiate or pursue any criminal proceedings against the mother in Portugal and to provide evidence of the withdrawal of any criminal complaint prior to return
 - h. Not to attend at the airport when the mother returns, nor at her address nor contact the mother save in respect of arrangements relating to Q or welfare for Q and then through the parenting app.
 - i. A standard non-molestation undertaking (per her counsel's note)
 - j. A standard non-separation undertaking not to remove Q from her care save for agreed or court ordered contact
69. The father agrees to (d) to (j) with the primary difference here being his proposal that these protective measures last until the Portuguese court is seized of the matter. He proposes €1,500 a month for rent; €1,500 for maintenance and that the mother apply for public funding for litigation.
70. In his counsel's position statement, the father also agreed/undertook:
- a. Not to contact the mother nor seek to know where she and Q are living (non-molestation order with zonal element).
 - b. Not to remove Q from her mother's care and control until any decisions were made in the Portuguese proceedings.
 - c. To engage in mediation if the mother wished.
71. There is a hearing on 3 July 2025 but I was not informed of the remit of the hearing.
72. The mother's Portuguese lawyers have provided useful assistance. They state that:
- a. The father's proposed undertakings in his second statement (largely replicated above) would be enforceable in Portugal.
 - b. The recognition process would take 3 to 4 months but a mirror order, which offered similar protection to the mother, would take 1 to 2 months.
 - c. The courts are closed from 16 July 2025 to 1 September 2025 for judicial holidays. The Portuguese lawyers stated that said that the "*estimated time for resolution (of the enforcement process) is quite quick, as the court usually*

approves regimes requested by the parties in 1 or 2 months. However, considering that the courts in Portugal will be closed as from 16 July until 1 September for judicial holidays, one should consider request the approval of any provisional regime as briefly as possible”

- d. The father could give an undertaking to withdraw his criminal complaint.
- e. A victim of domestic violence is entitled to protection and there are a range of protective measures to do so.
- f. Victims are entitled to rental assistance and financial support from the state (not quantified and no time scale given).
- g. The mother could apply for child support and for monetary compensation as a result of the domestic violence she was subject to.
- h. There is limited ability to seek non-molestation injunctive relief through a civil mechanism: it appears to be effected through criminal proceedings.
- i. The mother should be able to obtain some public funding.

- 73. The mother's position is that the father's time limited proposals, and his suggestion that she live either at the family home, or his rental property, would be a further instance of his coercive control. She expressed great anxiety at the prospect of returning to the family home or a property controlled by the father. She is concerned by the prospect of the father making an application to vary financial proposals that would leave her dependent upon the state as she would be unable to find employment or afford a property herself.
- 74. I consider the protective measures and whether or not they meet the cumulative risks.
- 75. With alternative accommodation, the mother will be able to live separately from the father. The father will not attend at her address. That will mean that his opportunities to exert controlling and coercive behaviour towards the mother, and O's exposure to such behaviour, will end. Q will be protected.
- 76. The mother has sought €2,700 a month for rental properties. Her particulars are not of properties in X; two have 3 bedrooms and one is in what appears to be a rather grand

building. The father has said that €1,500 is sufficient. I consider that €2,000 should be made available.

77. The father has offered €1,500 by way of maintenance with the mother seeking €1,750. The sum of €1,500 should be paid.
78. I decline to order that the mother return to X pursuant to Art 11 of the 1996 Hague Convention. The father argues that the mother's refusal at present to allow direct contact means that "irreparable harm" would be caused if Q does not return to X. Contact does not need to take place in X. Ultimately, the Portuguese court would determine the time that Q spent with her father.
79. Ms Baker was unable to provide an authority to support her proposal that the mother receive financial assistance for legal proceedings. She has secured legal advice already. She can obtain, it seems, some form of public funding. Portugal is a signatory to Brussels IIA and the 1996 Convention and will be able to provide access to justice for the mother.
80. The father has proposed other financial measures: private health care; provision of a car; mobile phone contract.
81. The mother will not be subject to financial control with these measures in place subject to the point I make about duration below.
82. The father has also agreed to give undertakings not to:
 - a. Pursue a criminal prosecution and provide evidence of its withdrawal.
 - b. Not to contact the mother nor seek to know where she is living and not to attend at her address.
 - c. Not to remove Q from her mother prior to any decisions being made in the Portuguese proceedings.
83. The primary difference between the parties' positions concerns the duration of the protective measures.

84. The father suggests that the protective measures endure until the Portuguese court is seized of the matter. I understand that there is a parents' conference on 3 July and that both parents have made cross applications. But I do not know when and how issues regarding financial provision would be determined by the court in Portugal. It appears that the mother might be able to claim some child support and may receive some rental assistance. But I know very little about that and, should the father cease payment, the mother would be left reliant on the state.
85. The Good Practice Guide states that protective measures are "not to be imposed as a matter of course and should be of a time-limited nature that ends when the State of habitual residence of the child is able to determine what, if any, protective measures are appropriate for the child".
86. But each case is fact specific. Protective measures that are imposed must provide protection according to the facts of this particular case. I consider that the mother needs certainty in relation to these protective measures to provide sufficient protection against coercive financial control. I conclude that the orders should last for sufficient time, without the risk of variation, to allow the mother to re-establish herself in Portugal and make whatever applications are appropriate. I do not accede to the suggestion that they endure for 12 months. I consider that the duration of the protective measures should be for 6 months.
87. Ms Baker advances the argument that a mirror order should be in place in advance of return. Ms Grieve impresses on me that the father has not seen his daughter in person since May. She asserts that registration in the Portuguese court can take 1 to 2 months, and the court is closed from mid-July so the parties would need to proceed promptly.
88. These are summary proceedings. But, given my findings I consider that it is vital to ensure that protective measures are enforceable, and thus effective, in advance of return. A mirror order should be put in place in advance of return.

89. The protective measures, therefore, will be as sought by the mother at (a) to (j) with the following amendments
- a. The provision for rent will be €2,000 pcm
 - b. The provision for maintenance will be €1,500 pcm
 - c. There will be no provision for legal fees
 - d. The financial measures, (a), (b), (d), (e) and (f) will endure for 6 months
 - e. The protective measures at (h) to (j) will last for 6 months.
90. I am satisfied that, that with these protective measures in place, the risk on return can be sufficiently ameliorated so that Q not be will not be exposed to a grave risk within the scope of Art 13 (b).

Conclusion

91. I make an order that Q be returned to Portugal with these protective measures in place forthwith on registration of the order in Portugal. Both parties will need to give undertakings to do all they can to expedite that process.
92. I would ask that counsel draft an order and revert to me with any issues.
93. That is my judgment.