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Judgment: approved by the Court for handing down | *Delivered:* **17/06/2013**
*(subject to editorial corrections)**

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

FAMILY DIVISION

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OFFICE OF CARE AND PROTECTION

IN THE MATTER OF THE CHILDREN (NORTHERN IRELAND) ORDER 1995

BETWEEN:

NORTHERN HEALTH AND SOCIAL CARE TRUST

Applicant;

and

C. N.

Respondent.

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GILLEN J

Application

[1] The matter for the court to determine is an application by the Northern Health and Social Care Trust ("the Trust") requesting the court to exercise its discretion under Article 15 of the Brussels II Regulation Council (EC) No: 2201/2003 (hereinafter referred to as "Brussels II R")(hereinafter referred to as "Article 15").

[2] Article 15 permits by way of exception a transfer of a case in whole or in part from the court having jurisdiction, either upon request by a party or on the court's own motion, to a court of another Member State with which the child has a particular connection and which would be better placed to hear the case or specified part thereof and that it is in the best interests of the child.

[3] The criteria for transfer are set out in Article 15(3) namely that the Member State to which a transfer might be made:

(a) has become the habitual residence of the child after the court referred to in paragraph 1 was seised (*This court became seised of the matter pursuant to an application*

by the Trust for a care order pursuant to the terms of article 50 of the Children (Northern Ireland) Order 1995 filed on 27 April 2012).

or

(b) is the former habitual residence of the child; or

(c) is the place of the child's nationality; or

(d) is the habitual residence of a holder of parental responsibility …

Background

[4] The child who is the subject of this application was born in Northern Ireland on 5 February 2012 and has remained here ever since. His mother, the respondent CN , is a Romanian national who came to Northern Ireland, either as alleged by her when pregnant on 20 December 2011, or, as alleged by the Trust and the guardian *ad litem*, on 4 February 2012. The father of the child appears to be a Portuguese national who was living in Romania at the time of conception. There is a lack of clarity as to his present whereabouts but it seems clear that their relationship is now over and there is no contact between them.

[5] After the birth of the male child, he and his mother were discharged to the home of the respondent's sister in Belfast on 6 February 2012. The child's birth was registered in Northern Ireland. On 22 March 2012 the guardian *ad litem* reported:

- that the respondent attended at Antrim Area Hospital for a six week post natal review
- she presented as very depressed but was assessed as being fit for discharge
- the child's maternal aunt contacted the hospital that same evening and reported to staff her concerns of the mother's emotional state and care of the child
- on 23 March 2012 the respondent called emergency services. As a result of her presentation at the hospital, which allegedly indicated psychotic symptoms, she was detained in hospital under the provisions of the Mental Health (Northern Ireland) Order 1986 for the purpose of assessment
- apparently she had had a previous admission to hospital in Bucharest in 2010 following a breakdown of her mental health

[6] The child was also admitted to Antrim Area Hospital on 24 March 2012. His maternal aunt had expressed concerns regarding the respondent's care of the child. Following medical investigations the child was discharged from hospital on 29 March 2012 into foster care where he remains to this date. The maternal aunt has since moved to England and the child now has no known relatives in Northern Ireland.

[7] The respondent remained in hospital until 26 April 2012 when she discharged herself. On 8 May 2012 the Trust learned that the respondent and her mother had both left Northern Ireland on 7 May 2012 via Dublin and returned to Romania.

[8] The respondent returned in September 2012 for a short time but has not been in Northern Ireland since (save for brief periods in February and March 2013 and, of course, for this hearing) and now resides again in Romania.

[9] On 27 April 2012 the Trust made an application for a care order in relation to the child with a care plan of permanence via adoption or kinship placement. These proceedings are pending before the court.

[10] The Romanian Authorities, namely the General Department for the Protection of Children's Rights within the Romanian Ministry of Labour, have made a request for the repatriation of the child to Romania in writing initially by letter sent in January 2013. The Department of Health, Social Services and Public Safety (DHSSPS) in Northern Ireland, who are represented by Ms McBride QC and Ms Maguire, have throughout this matter helpfully and skilfully presented the views of the Romanian Authorities in a purely neutral manner without agreeing or disagreeing with the opinions expressed by those Romanian Authorities.

[11] The current position of the respondent is that she wishes to be assessed in Northern Ireland with a view to having the child rehabilitated to her. She works as an accountant in Romania but would come to Northern Ireland for the period between 20 May 2013 and 20 July 2013 to be assessed. If the child was rehabilitated to her, she would like to return to Romania with him where she has a house, a job and extended family. If the child were not rehabilitated to her, she would like him to remain in Northern Ireland and eventually be adopted in this jurisdiction with direct and indirect contact being afforded to her.

The Respondent's case

[12] Ms Keegan QC who appeared on behalf of the respondent with Mr Magee, in the course of cogently presented written submissions and oral argument made the following points on behalf of the Trust.

[13] First, the respondent is a Romanian citizen living in Romania, and the Romanian Authorities/court are best placed to formulate a care plan for this child. The mother can be assessed in Romania and the Romanian Embassy has pledged that the child will be placed in a foster family whilst any assessments are on-going. The Romanian Embassy is actively seeking repatriation of the child. A number of queries were raised by the Guardian *Ad Litem* and CN concerning the manner in which the Romanian authorities would treat the child. The response from the Romania authorities indicates that there would be a transition of the child from foster care in Northern Ireland to foster care in Romania.

[14] The Trust voices concern about the position of the mother that she wishes to be assessed by Social Services in Northern Ireland. She has no support structure in Northern Ireland, whereas in Romania she has wide family connections, and does not intend to live here save that she would come to Northern Ireland for two months to be assessed. Her intention is to return to Romania. The Trust cannot support an assessment process of the mother in Northern Ireland since she is a Romanian citizen and the Trust asserts that the Romanian authorities are best placed to formulate a care plan for this child.

[15] In short the Trust invites the court to request that a court in Romania assumes jurisdiction in respect of this child. In the interim the proceedings in Northern Ireland should be stayed to allow for a transfer request to be made to the Romanian courts.

The case of the Romanian authorities

[16] It is the Romanian authorities' view that the requirements of Article 15 Brussels II R are satisfied and that the child has a particular connection with Romania. Thus it is submitted that the Romanian court is better placed to hear the proceedings and it is in the best interests of the child for the case to be listed before a Romanian court. In particular it is submitted:

- The child's real and substantial connection is with Romania.

- The child has no real links with Northern Ireland.

- Court proceedings in Romania would be in the mother's natural language and in a setting with which she is more familiar. This also applies to the family members of the child.

- The Romanian court is better placed to consider future care planning including the availability and suitability of kinship care.

- The child's cultural links with Romania would be damaged if the child remains in Northern Ireland.

- The Ministry of Labour in Romania has made advanced plans for integration of the child in the event of his return. It will monitor the case after repatriation and the Romanian Embassy and Ministry of Justice will assist in arrangements for return.

- The child is clearly a Romanian national. Romania has claimed the child as a national (see e-mail of 18 October 2012 from the Romanian Consul) and there was recent correspondence dated 10 May 2013 from the Government of Romania, Ministry for Work, Family, Social Protection and Older Persons

indicating in terms that a passport for the child would be granted. At paragraph 6 of that correspondence it records:

> "In accordance with Art 5/para. 2C of the HG (*translator's note: Government Decision*) no: 1443/2004 regarding the procedure for the repatriation of unaccompanied Romanian children and connected protective measures … 'when the respective child has no passport or any other ID document the General Passport Directorate will establish the child's identification and will communicate to the Diplomatic Commission or Consulate, through the General Directorate for Consular Affairs, within three working days from receiving the request, the approval for the issue of travel documents in view of repatriation."

The mother's case

[17] Ms Walsh QC, who appeared on behalf of the respondent mother with Ms Ramsey, left no stone unturned in the course of detailed written and oral submissions. She made the following points on behalf of the mother.

- The child has been in care since 29 March 2012 with an interim care order on 27 April 2012. Since then he has been cared for with families in Northern Ireland. The courts have had the benefit of reports prepared here in Northern Ireland.

- The mother came to Northern Ireland on 20 December 2011 to make a new life for herself, to reside with her sister and share childcare responsibilities. She has a good command of the English language and job skills, being a qualified accountant. The information that the respondent arrived in Northern Ireland on 4 February 2012 allegedly came from the respondent's sister and is incorrect. In short the child has become integrated in a social and family environment in Northern Ireland and the mother wishes the child to be assessed here.

- When the court was first seised, the child and the mother were habitually resident in Northern Ireland. The fact that the respondent returned to Romania after proceedings were issued does not diminish what was their status at the time the court was seised.

- Even if at the time the court was seised the mother was not habitually resident in Northern Ireland, the child was habitually resident here because the child does not automatically take the habitual residence of his parents.

The child has lived all his life here and it would be artificial to suggest his habitual residence is Romania.

- Despite the assertion of the Romanian Embassy that the child is a Romanian national, no proceedings have been issued in respect of him in Romania so no Romanian Court is seised.

- A significant number of witnesses (medical/social worker/Guardian *Ad Litem*) are based in Northern Ireland. Convenience, saving expense and availability of witnesses all point to this court being the more appropriate forum.

- The respondent mother wishes the child rehabilitated to her and to return to live in Romania with him. If he cannot be rehabilitated to her, she would like him to remain in the care of the applicant Trust in Northern Ireland and eventually be adopted here. It would be impossible for a Romanian Court to order that option and therefore the Romanian Court cannot be better placed to hear these issues.

- If the case is to be transferred to Romania, the child could not remain in Northern Ireland whilst the Romanian Court determines the matter. Removal to Romania would be disruptive unlike the situation if the case were to be determined in Northern Ireland.

- It is not in the best interests of the child that the case be transferred to the Romanian Court applying the same considerations.

- The removal under Article 15 is only in exceptional circumstances and no such exceptional circumstances apply in this instance.

- The proposals of the Romanian authorities for the child's care are sparse and contain insufficient information on the assessment processes in Romania, the care of the child after he becomes two years of age or the process of assessment. Moreover there is no indication of what specialist services might be provided for the child after the first six months.

The argument of the Guardian *Ad Litem*

[18] When the guardian *ad litem* initially proffered written submissions in relation to article 15 her view was that it was in the best interests of the child for the Care Order application to be determined in Northern Ireland given the fact that the proceedings were underway in this jurisdiction. At that time the guardian felt that the plans for the child if he was removed to Romania were unclear. It was submitted that there should be no transfer to any court in Romania unless those plans were completely clear and deemed to be in the child's best interests. However she went on to say:

> "It may be that in due course the court would be satisfied as to arrangements in Romania and allow the child to move by granting an article 50 care order and an order under article 33 of the Children (Northern Ireland) Order 1995 allowing him to be placed out of the jurisdiction."

[19] The guardian accepts that by virtue of articles 15(3)(c) and (3)(d) the child has a connection to Romania.

[20] At the hearing before me Ms McGrenara QC,who appeared on behalf of the guardian *ad litem* with Ms Gregan, indicated in a brief statement of her position that the current view of the guardian *ad litem* was that whist she accepted that there were strong legal arguments for the case being transferred to Romania, in light of the child having been cared for by foster carers in Northern Ireland since birth and thus Northern Ireland and the English language being all the child knows ,she would prefer this court dealt with the matter.

Conclusions

[21] Relying on the authority of M v M (Stay of Proceedings: Return of Children) [2006] 1 FLR 138 at (6), Re T (A Child: Article 15 of Brussels II Revised) [2013] EWHC 521 Fam and Belfast Health & Social Care Trust & JD and LR (Unreported MAG8871 15 March 2013), I have accepted the invitation by the Trust to apply the test set out in Article 15 bearing in mind:

(a) The burden is on the applicant Trust to establish that a stay or a request is appropriate;

(b) The Trust must show that not only is Northern Ireland not the natural or appropriate forum but that Romania is clearly the more appropriate forum;

(c) In assessing the appropriateness of each forum the court must discern the forum with which the case has the more real and substantial connection in terms of convenience, expense and availability of witnesses;

(d) If the court was to conclude that Romania was clearly more appropriate, it should grant a stay unless more potent factors were to drive the opposite conclusion; and

(e) In the exercise conducted at (d), the welfare of the child is an important but not a paramount consideration.

[22] It is common case that this court currently has jurisdiction and is properly seised of these proceedings. Leaving aside the complex and contentious issue of

habitual residence to which as I shall shortly return, I am satisfied that article 13(1) of Brussels IIR provides jurisdiction for this court by virtue of the child's physical presence. Article 13(1) provides:

> "Where a child's habitual residence cannot be established and jurisdiction cannot be determined on the basis of article 12, the courts of the Member State where the child is present shall have jurisdiction."

[23] I turn then to consider Article 15. I am satisfied that I should exercise my discretion in this case by way of exception on the factual basis which I have herein set out. The circumstances in which this Romanian mother has given birth to this child in Northern Ireland after a brief period here and initially at least, arguably abandoned him and returned to Romania, are exceptional.

[24] The Trust has applied to the court for an exercise of its discretion under Article 15(2)(a).

[25] There are three questions now to be determined. (See AB v JLB [2009] 1 FLR 517, Re T (A Child; Article 15 of Brussels II Revised) [2013] EWHC 521 Fam and Belfast Health & Social Care Trust v JD & LR (Unreported MAG8871 delivered 15 March 2013). In a process in which the onus is on the Trust to establish that a stay or a request is appropriate the three steps are as follows.

[26] First, I must determine whether the child has, within the meaning of Article 15(3), "a particular connection" with the relevant other Member State namely Romania. This is in essence a simple question of fact. I am satisfied that this hurdle is surmounted because Romanian is the child's nationality pursuant to article 15(3)(c). Not only is this child the son of a Romanian national mother who is currently residing in Romania, but it is crystal clear from the correspondence emanating from the Government of Romania that that State claims him as a national. The Department of Finance and Personnel in Northern Ireland wrote to the Vice Consul at the Embassy of Romania on 26 April 2013 specifically asking about the availability of a passport for the child. The Government of Romania Ministry for Works, Family, Social Protection and Older Persons replied on 10 May 2013 in the following terms:

> "In accordance with article 5/para 2C of the HG (Translator's Note: Government Decision) No: 1443/2004 regarding the procedure for the repatriation of unaccompanied Romanian children and connected protective measures".

[27] When the respective child has no passport or any other ID documentation, the General Passport Directorate will establish the child's identification and will

communicate to the diplomatic mission or consulate through the General Directorate for Consular Affairs within 3 working days from receiving the request, the approval of the issue of the travel documents in view of repatriation.

[28] This child is not a British citizen because at the time the child was born in the United Kingdom neither his mother nor father were British citizens nor were they in my view settled in the United Kingdom.

[29] The Guardian *Ad Litem*, the Trust and the Department of Finance and Personnel all recognise that this child is a Romanian national.

[30] Alternatively, whereas article 15(3)(a) deals with the situation where the child has acquired habitual residence in Romania after the court of origin was seised (the court in this instance having been seised with the care order application dated 27 April 2012,) article 15(3)(d) deals with the situation where the other Member State i.e. Romania *is* the habitual residence of the holder of parental responsibility namely the mother. I have no doubt that in this case the mother, who is a Romanian national, has now returned to Romania and has no intention of living in Northern Ireland, is currently habitually resident in Romania.

[31] I pause to observe that the vexed question of the child's habitual residence at the date of the application for a care order did trouble both counsel and the court in the quest for a determination of this issue. The leading authority in England and Wales is ZA & Anor v NA [2012] EWCA Civ 1396 which was handed down in October 2012 concerned, *inter alia*, a child who was born and lived in Pakistan but whose mother was habitually resident in the UK. Whilst this is not a judgment that strictly speaking binds a Northern Ireland court, it is of highly persuasive authority having emanated from the Court of Appeal in England and Wales. In a majority decision, from which Thorpe LJ dissented, Rimer LJ stated at paragraphs [38] and [39]:

> "As regards the youngest child, H, the position is different. He was born in Pakistan and has never set foot in England and Wales. In respectful disagreement with Thorpe LJ, I agree with Patten LJ, for the reasons he gives, that it follows that H cannot be said to have been habitually resident in England and Wales at the date of either order. The decisions of this court in Re M (Abduction: Habitual Residence) [1996] 1 FLR 887 and Al Habtoor v Fotheringham [2001] 1 FLR 951 (*establish)* that the question of whether a person is habitually resident in a particular country is one of fact. They further show that an essential ingredient in the factual mix justifying an affirmative answer is that the person was at some point resident in that country and that it is not possible to become so resident save by being physically present

there. If there has been no residence there, there can be no habitual residence there.

Habitual residence in a particular country is not, therefore, a status in the nature of a legal concept that can, in the case of a child who has never resided there, be attributed to him at birth merely by virtue of his association with a parent who is habitually resident there …."

[32] Patten LJ said at [61] and [62]:

"[61] One could construct a rule by which a newly born child was presumed to take on birth the habitual residence of its parents or custodial parent. But the rule would be a legal construct divorced from actual fact which is what the court in B v H said that it was anxious to avoid and which has been rejected in all the earlier decisions of the court. …. I cannot at the moment envisage any case involving a child who is born and remains abroad where a finding of habitual residence in this country could be factually justified.

[62] The pressure to create such a rule is obvious. But, in my view, it should be resisted. Although there are obvious concerns about the wrongful retention of children in countries which are not parties to the Hague Convention and which may carry out a less rigorous assessment of habitual residence in such cases, the rules of jurisdiction are intended to operate and importantly can only operate if applied in a consistent and uniform manner regardless of the competing jurisdiction involved. To adopt a special rule for newly born children is likely in my view to create as many problems as it may solve by derogating from a purely factual analysis of where a child is resident."

[33] However, having determined that the child in the instant case has never been to Romania and thus is not habitually resident in Romania, it is a wholly separate question as to whether he has acquired habitual residence in Northern Ireland. Certainly at the time that the court was seised of this application by virtue of the application for a care order, I do not believe that it could have been said that he was habitually resident in Northern Ireland. I am not satisfied on the evidence before me that the mother was socially or otherwise integrated into Northern Ireland at that time and indeed the child has been residing in foster care since 29 March 2012 pending a decision by this court. In short, I consider that given the uncertainties

about this child, he has not acquired any habitual residence at any time relevant to these proceedings.

[34] Secondly, I must determine whether the court of the Member State i.e. Romania "would be better placed to hear the case, or a specific part thereof". It is clear that the Trust must show that not only is Northern Ireland not the natural or appropriate forum but that Romania is clearly the more appropriate forum. Having undertaken an evaluation in light of all the circumstances of this particular case I have come to the conclusion that Romania would be better placed to hear this case for the following reasons.

[35] Firstly, Romania is where the mother currently resides, where she has employment and where all the family of this child and his mother live. It is the mother's intention to reside in Romania save for the fact that she has agreed to travel to Northern Ireland for 2 months to be assessed. Any realistic assessment of the mother would require close investigation of the circumstances in which she is living in Romania and any assistance which the wider family could give together with an assessment of that assistance. Romanian authorities are in an infinitely preferable position to carry this out than their opposite numbers in Northern Ireland.

[36] Secondly, whilst there are some witnesses who would be relevant from Northern Ireland as argued by the mother, e.g. social workers/doctors involved with her mental health etc. the fact of the matter is that these reports would very often be provided in documentary format and could easily be made available to the Romanian authorities. Social workers in Romania can more conveniently and inexpensively investigate the wider family kinship issues. Moreover I consider that further consideration of the mother's current mental health will require a Romanian medical assessment which can be more easily carried out and monitored in Romania. That is where the essential evidence will lie. Whilst it may well be that the mother speaks English (albeit there was a requirement for an interpreter in court giving simultaneous translation) that is unlikely to be the case with many of the other witnesses.

[37] This child has cultural heritage attachments with Romania by virtue of his nationality, the nationality of his mother and all her wider family. Whilst of course Northern Ireland authorities could take steps to address this, the fact of the matter is that this child, if he remains in Northern Ireland, will have few if any opportunities to use the language of his nationality and to be in the company of other Romanians. Frankly he has no cultural connection with Northern Ireland save that he has been in foster care here as a result of his mother's decision to come to Northern Ireland and thereafter abandon him.

[38] In short in terms of convenience, expense, availability of witnesses and cultural advantages, Romania appears to be by far the more appropriate country in considering whether that Member State is better placed to hear this case. I find no potent factors driving the opposite conclusion.

[39] Thirdly, the court must determine if a transfer to the other court "is in the best interests of the child".

[40] In interpreting this test, I, like Maguire J in Belfast Health & Social Care Trust v JD & Anor, consider myself bound by the decision of the Supreme Court in Re I (A Child (Contact Application: Jurisdiction) [2010] 1 AC 319. In that case the court was interpreting the phrase "best interests of the child" in the context of article 12 of the Regulation dealing with prorogation of jurisdiction. I agree with Maguire J that the contexts are sufficiently close to make it highly likely that the approach to the meaning of the same words in both articles 12 and 15 will be the same. At [36] Baroness Hale said:

> "The question is quite different from the substantive question in the proceedings, which is 'what outcome to these proceedings will be in the best interests of the child?' It will not depend upon a profound investigation of the child's situation and upbringing but upon the sort of considerations which come into play when deciding upon the most appropriate forum."

[41] I am troubled both by any fetter placed upon the interpretation of the plain wording of the phrase "in the best interests of the child" and by determining a case involving a child where his welfare is not a paramount consideration. Nonetheless, in light of the ruling of the Supreme Court I will not engage in any sort of full blown inquiry into the child's circumstances and I will view the concept of the best interests of the child within the context of the consideration of forum. Accepting that approach, there are four reasons to conclude that the exercise of jurisdiction in Romania would be in the child's interests.

[42] Firstly, continuing contact between this child and the mother, whatever the outcome of the care order application, will best be assessed on a continuing basis with appropriate safeguards in the place where the mother resides, namely in Romania.

[43] Secondly, enforcement of any order relevant to the mother and the child will best be dealt with in Romania where the mother will be living and, if she is successful, where the child will be with her.

[44] Thirdly, I am satisfied that the most recent correspondence from the Embassy of Romania and the Government of Romania Ministry of Labour, Family, Social Protection and the Elderly Department of Child Protection does adequately address the issues that have concerned this court about the logistics of a transfer. In particular:

- On return to Romania, the child shall benefit from special protection measures. He shall be taken over by specialist personnel.
- He will be placed with a professional maternal care assistant who will be appointed by the local competent authority.
- His medical condition will be assessed by means of periodic medical check-ups.
- He will not be placed in residential institutions whilst under the age of 2.
- The Department of Social Welfare and Child Protection will monitor his developments during the period of his placement with foster carers. Every 3 months the Department will prepare reports on the physical, mental, emotional, moral and social development of the child and how he is being cared for.
- Contact with his parents and other relatives will be maintained.
- Adoption provisions will be invoked.
- Contacts have been nominated at the Ministry of Labour, Family, Social Protection and the Elderly Department of Child Protection through Mrs Monica Geala together with her telephone number whilst the person responsible for handling the case at the level of Director General for Social Welfare and Child Protection is Mrs Stefania Coraliuc whose telephone number is also provided.

[45] I am satisfied that this child is so young that he will quickly adjust to the Romanian culture. Whilst he has been surrounded by people speaking English whilst in Northern Ireland, he is of such tender years that he will quickly adjust to the Romanian language and by the time he is speaking he will in my view be speaking Romanian. I am satisfied that there will be no adverse reaction to his being transferred from foster carers in Northern Ireland to Romania.

[46] I make it clear therefore that I have confined my assessment of this aspect of the case to those areas relevant to forum and in doing so I have come to the conclusion that it is in the best interests of the child that the matter be transferred to Romania.

[47] I have determined that I should accede to the application of the Trust and stay this matter pending a request by the Trust to the appropriate court in Romania.

Disposal

[48] A court faced with a request for a transfer or which wants to transfer the case of its motion has two options:

(a) It may stay the case and invite the parties to introduce a request before the court of the other Member State; or

(b) It may directly request the court of the other Member State to take over the case.

[49] In the former case, the court of origin, namely Northern Ireland, shall set a time limit by which the parties shall seise the courts of the other Member State. If the parties do not seise such other court within the time limit, the case is not transferred and the court of origin shall continue to exercise its jurisdiction. I note that the Regulation does not prescribe a specific time limit, but it should be sufficiently short to ensure that the transfer does not result in unnecessary delays to the detriment of the child and the parties. I direct that the Trust must make such a request within 4 weeks from the date of this judgment (or such further time as this court considers appropriate). The court which has received the request for a transfer must decide, within 6 weeks of being seised, whether or not to accept the transfer. The central authorities can play an important role by providing information to the judges on the situation in the other Member State. The assessment should be based on the principle of mutual trust and on the assumption that the courts of all Member States are in principle competent to deal with such a case.

[50] If the Romanian court declines jurisdiction or, within 6 weeks of being seised, does not accept jurisdiction, the court of origin retains jurisdiction and must exercise it.

[51] Accordingly in this case, I intend to stay the case and invite the Trust to introduce a request before the relevant court in Romania.

[52] I note that article 15 states that the court shall co-operate, either directly or through the central authorities, for the purposes of the transfer. It may be useful for the judges concerned to communicate. If the two judges speak and/or understand a common language, they should not hesitate to contact each other directly by telephone or email. If there are language problems, the judges may rely on interpreters. The central authority should be able to assist the judges if necessary.

[53] In this instance, however, I consider that it is appropriate to invite the Trust to introduce a request before the court of Romania with the assistance of the Northern Ireland Department of Health, Social Services and Public Safety and the central authorities. I do not envisage it will be necessary for me to speak to the relevant judge in Romania in this case.I shall invite the parties to address me on the timetable that I have adumbrated at paragraphs [49] to [50] and thereafter make any necessary adjustments.

[54] Finally, until the Romanian court makes a decision in this matter, the child will remain in Northern Ireland under interim care orders.