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 children and 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.

Neutral Citation Number: [2021] EWHC 955 (Fam)

Case No: FD19P00283

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/03/2021

Before :

MR JUSTICE PEEL

- -

Between :

CD	**Applicant**
- and -	
EF	**Respondent**

- -
- -

Graham Crosthwaite for the **Applicant**
Janet Bazley QC (on 26 March 2021 only) and Louise Verroken-Jones for the **Respondent**

Hearing dates: 25-26 March 2021

- -

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

....

Mr Justice Peel:

Introduction

1. On 3 June 2019, F applied for a contact order in respect of Z, born 15/11/09 and now 11 years and 4 months old. The application is brought under Article 21 of the 1980 Hague Convention which reads:

   "An application to make arrangements for organising or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.
   The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.
   The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organising or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject."

2. The duties imposed on central authorities by Article 21 are of a facilitative rather than judicial nature. Thus, the application is dealt with in exactly the same way as if it had been an application made under s8 of the Children Act 1989: **Re G [1993] 1 FLR 669**. Indeed, the application itself is framed in Form C100 seeking a Child Arrangements Order.

3. There is no dispute that Z should have direct contact with F. But whereas F proposes that contact should take place immediately in Japan, M's position is that it should take place initially in England before it can, in time and subject to Z's wishes, progress to Japan. A third option, contact in France, was raised by the Family Court Adviser.

4. A complicating factor is that F is in substantial arrears of a maintenance pending suit order dated 2 May 2018. Thus, if F returns to England, he may be faced with enforcement proceedings, including a judgment summons.

Representation

5. I am very grateful to counsel who conducted this case with commendable clarity and focus. In particular they concentrated less on historic matters of only passing relevance, and more on the current situation and proposals. I am particularly grateful to M's legal team who have appeared on her behalf pro bono. As the heading to this judgment records, leading counsel for M was brought in by junior counsel to make submissions on the second day of the hearing.

Oral evidence

6. I heard from the Family Court Adviser who was clear, sensitive, and balanced in her approach.

7. Both parties gave oral evidence. F was rather calmer, and M a little more emotional. That was more a reflection of their personalities than the nature or quality of their

evidence. What shone through was their mutual antipathy and lack of trust. Each displayed suspicions of the other's motives. While I am quite sure that they each want the very best for their son, they have different views as to how that should be achieved, and whether the other is truly child focused.

Background

8. F is 67 years old; he is Japanese. M is 45; she is Polish Canadian, having emigrated from Poland to Canada in about 1981. F was previously married and has an adult daughter by that marriage. They met in 1998 in Japan and married there on 25 May 2001. In 2004 they moved to Thailand where F was posted by his employers.

9. On 15 November 2009 Z was born in Thailand.

10. In April 2014 the family moved to London, again pursuant to F's employment. Z attended a Japanese school, funded by F's employers. On 22 March 2018, the parties separated when M and Z left the matrimonial home in London. On the same day M's solicitors sent F a letter that she had filed for divorce on 2 March 2018. M and Z now live in Cornwall.

11. In April 2018 F saw Z twice, once being overnight weekend contact.

12. At the end of April 2018, F returned to Japan. M says that this was a response to her leaving, and that he effectively severed all ties, including terminating the tenancy on their home. F disputes her account, but it seems to me that M's presentation is likely to be accurate, not least because the order of 2 May 2018 records at Recital 3: "AND UPON the respondent husband having notified the applicant wife through solicitors on 27 April 2018 that he had left the jurisdiction of England and Wales in favour of Japan, and further that he had (i) severed the tenancy on the family home on 1 April 2018, (ii) terminated his employment at Mitsubishi and (iii) as a consequence of the termination of employment had lost his UK immigration status and the agreement of his employers to pay school fees for Z". I see no reason to depart from what F's own solicitors said at the time.

13. Since the April 2018 contact, F has not seen Z directly. He has, however, had telephone contact approximately once per week. It seems that video contact has been tried but has not been wholly successful.

14. On 2 May 2018 DJ Jenkins at the Central Family Court made three orders against F within financial remedy proceedings:

    i) A without notice s37 order freezing the contents of a numbered HSBC bank account and a numbered NatWest account;
    ii) A without notice third party disclosure order against the banks to produce 12 months of bank statements;
    iii) An on-notice maintenance pending suit order requiring F to pay (a) £4,000pm, (b) Z's school fees, (c) £60,000 on account of prospective legal costs and (d) £20,115 in respect of already incurred, and outstanding, legal costs.

15. F put no evidence before the court at that hearing. The court order records that he had solicitors on the record, but neither F nor his solicitors appeared. F says that he

instructed his solicitors to attend at the MPS hearing, but that they failed to do so; this struck me as surprising and not wholly plausible. In any event, given his non-engagement he cannot complain about the orders which were made, presumably on the basis of evidence put in by M.

16. Since then, F has not participated at all in the English proceedings. He has not complied with the maintenance pending suit order. He has not applied to discharge the order. He told me that he cannot afford to engage with the proceedings but (i) he had his Japanese lawyer in attendance at this hearing, which indicates some ability to pay for representation and (ii) he could attend in person. He asserts that at the time of the maintenance pending suit hearing he had retired, and his retirement income is now £18,000 pa. If that is correct, and unless he has significant liquid capital which can be accessed by him, he is in no position to meet the order. If what he says is right, his financial position is straightforward and the financial remedy proceedings should be capable of swift resolution. I do not consider he has any justification for his non-participation. Worse, the fact that the financial issues have not been finally and definitively resolved is a running sore between the parties, which in turn affects Z.

17. Curiously, the Central Family Court has been content to allow the financial remedy proceedings to come to a virtual halt, with no progress to final resolution. The FDR hearing date has been adjourned approximately every 6 months with no directions given. There has therefore been no substantive hearing of any sort since 2 May 2018. There has been no disclosure, negotiation, or participation. Nor has W progressed her divorce suit, such that an uncontested petition issued 3 years ago has not yet led to pronouncement of decree nisi; it appears that the cause is the lack of the Japanese "Certificate of Acceptance" in relation to the marriage. This is a wholly unsatisfactory state of affairs.

18. F issued his Article 21 application on 3 June 2019.

19. On 29 August 2019, and pursuant to an application to court made by M in Japan, the parties entered into a mediation agreement in Japan, subsequently incorporated into a Japanese court order, pursuant to which F was required to pay M (I express these figures in £ sterling although the denominated currency was Yen):

    i) £400 per month; and
    ii) A lump sum of £1,047.

20. F's annual income was recorded on the order as £18,000. Plainly, there is an enormous disparity between the provision ordered by DJ Jenkins and that agreed a little over a year later in Japan.

21. Importantly, in my view, during the mediation process, as F accepted in his evidence, he repeatedly sought "custody" of Z, apparently because he believed M had some links with organised crime. It is not clear whether he made a formal application to this effect but it undoubtedly featured in the Japanese proceedings. This was a suspicion formed on the basis of things told to him by Z which demonstrates all too clearly how a child can so easily be drawn into a parental dispute, inappropriately and contrary to his interests. To be fair to F, he told me that he has no such concerns now, but I am quite

sure that to have raised the question of custody in Japan will have shaken M's trust, increased her fear of Z being abducted and raised the parental temperature.

22. It is not necessary for me to chart the slow progress of the Article 21 application. The court directed provision of a Cafcass report. I have been greatly assisted by 3 reports (the latter 2 being in the form of updates) by Ms Stokes which of itself indicates how long it has taken to reach this stage. I will, however, mention the contents of 3 orders in particular;

    i) The order of MacDonald J dated 21 June 2019 which:

        a) Records M "agreeing that Z should continue to have weekly telephone contact with the father and that she has no objection in principle to there being direct contact in this jurisdiction";
        b) Records M "indicating that she objects to Z going to Japan to spend time with the father".

    ii) The order of Judd J dated 13 September 2019 which:

        a) Records "The Mother raises concerns that the father would not return the child to England and Wales following any period of contact in Japan".

    iii) The order of Mostyn J dated 20 January 2020 which:

        a) Records that "a separate fact-finding hearing is not necessary";
        b) Fixed the matter for final hearing. Quite why it has taken until March 2021 to reach final hearing is unclear.

Allegations of domestic abuse

23. M has raised numerous allegations against F and, pursuant to direction of the court, has filed a detailed Scott schedule dated 23 October 2019. They can be summarised as follows:

    i) F was emotionally and psychologically abusive;
    ii) He was physically violent to M, particularly after excessive drinking;
    iii) He was coercive, controlling, and abusive towards M in financial and other ways. She makes particular reference to him refusing to provide her with proper financial support during the marriage, and regular arguments about money.

24. F largely disputes all the allegations; to the contrary, he alleges that M was abusive and violent towards him.

25. What is clear is that Z has been exposed to adult issues between his parents for a substantial period of time.

26. Having reminded myself of the contents of PD12J, I am firmly of the view that the decision taken by the court on 20 January 2020 to dispense with the need for a fact-finding hearing was entirely the right one. Both parents, and the Family Court Adviser, agree that there are no safeguarding issues as between F and Z. They agree that direct, face to face contact can and should take place on an unsupervised basis. Z's own wishes weigh heavily in the balance. The real issue is <u>where</u> contact should take place. That

issue can be resolved without a fact finding hearing which, in my judgment, would simply exacerbate tensions between the parents, and thereby have a negative impact on Z's welfare.

Proposals

27. M suggests that F comes to England 3 or 4 times per year, and stays at a local hotel or Air BNB. At some unspecified time, consideration can be given to contact in Japan.

28. F proposes that Z comes to Japan during each school holidays.

29. As a third option, Ms Stokes suggested contact in a third country such as France.

Family Court Adviser evidence

30. Ms Stokes' 3 reports and oral evidence can be summarised as follows:

    i) Z spoke at length about F's treatment of M, echoing the detail of the Scott schedule.
    ii) Z "absolutely" wants to see F, but not in Japan. His views are very clear. He believes he would not be returned from Japan by F.
    iii) His greatest fear is not being returned to his mother. He worries about being separated from her.
    iv) Z said that he loves F, and that F loves him.
    v) Z has clearly been exposed to parental issues; he would like his parents to resolve their differences.
    vi) It would be beneficial for him to spend time in Japan and reconnect with the paternal family and that part of his cultural heritage, but only if he is comfortable with it.
    vii) M should promote the culture of Japan to Z.
    viii) Z enjoys his indirect contact.
    ix) There are no safeguarding issues to prevent contact.
    x) His age, maturity and wishes are such that he should not be forced to travel to Japan against his will.
    xi) She concludes that direct contact should take place in England in the first instance. Z needs to rebuild his trust in F. It is better that he decides when he is ready to go to Japan, by which time he should be sufficiently trusting of F.
    xii) Contact by telephone or videocall would be beneficial, although Z expresses a preference for telephone contact.

31. Ms Stokes was unaware of the impasse created by the financial remedy proceedings, namely F's refusal to enter the country while there is any possibility of a judgment summons being pursued against him. She said in evidence that if contact cannot take place in England, then it could take place in a nearby third country such as France. She saw no difficulty with such a solution from Z's perspective.

Legal principles

32. The application with which I am dealing with must be governed from first to last by the paramountcy principle enshrined at s1(1) of the Children Act 1989, having regard in particular to the welfare checklist contained at s1(3).

33. Most of the cases on temporary removal concern non-Hague Convention countries for the obvious reason that the Hague Convention is regarded as a swift and efficient means of securing the return of a child wrongfully retained in the destination country at the end of the temporary stay. Nevertheless, it seems to me that the principles are of application in respect of Hague Convention countries as well, but necessarily adapted to reflect the fact that access to the Hague Convention is available.

34. In **Re R (A Child) [2013] EWCA Civ 1115**, Patten LJ said this (in connection with removal to a non-Hague Convention country):

"23. Where (as in most cases) there is some risk of abduction and an obvious detriment to the child if that risk were to materialise, the court has to be positively satisfied that the advantages to the child of her visiting that country outweigh the risks to her welfare which the visit will entail. This will therefore routinely involve the court in investigating what safeguards can be put in place to minimise the risk of retention and to secure the child's return if that transpires. Those safeguards should be capable of having a real and tangible effect in the jurisdiction in which they are to operate and be capable of being easily accessed by the UK-based parent. Although, in common with Black LJ in *Re M* we do not say that no application in this category can proceed in the absence of expert evidence, we consider that there is a need in most cases for the effectiveness of any suggested safeguard to be established by competent and complete expert evidence which deals specifically and in detail with that issue. If in doubt the Court should err on the side of caution and refuse to make the order. If the judge decides to proceed in the absence of expert evidence, then very clear reasons are required to justify such a course."

"25. As the quotation from Thorpe LJ's judgment in *Re K* (see paragraph 19 above) confirms, applications for temporary removal to a non-Convention country will inevitably involve consideration of three related elements:
a) the magnitude of the risk of breach of the order if permission is given;
b) the magnitude of the consequence of breach if it occurs; and
c) the level of security that may be achieved by building into the arrangements all of the available safeguards.

It is necessary for the judge considering such an application to ensure that all three elements are in focus at all times when making the ultimate welfare determination of whether or not to grant leave."

35. It seems to me that the same approach applies in connection with removal to a Hague Convention country save that each of the three identified related elements will ordinarily be substantially answered by the availability of the Hague Convention procedure. The magnitude of risk of breach of the order is reduced because of the availability of the Hague Convention procedure, which should ensure a swift return. The magnitude of the consequence of the breach will be reduced by the ability to apply for, and obtain, a prompt return. And available safeguards may be less necessary because of the applicability of the Convention.

36. Finally, I note that in **Re N (Leave to Remove) [2006] 2 FLR 1124**, Thorpe LJ said: "I would also observe that [the judge] looked at the balancing exercise very much through adult eyes. He has looked to the concerns of the father, the trustworthiness of

the mother; there does not seem to have been much regard to the outcome though the eyes of the child".

Hadkinson

37. Counsel for M sent to me on the morning of the second day the authority of **DS v HR (Hadkinson Order) [2019] EWHC 2425 (Fam**). Although counsel did not press this upon me strongly in oral submissions, I understood the point to be that F, through being in breach of court orders, should not be permitted to pursue his application for contact. I reject that submission for the following reasons:

    i) It was raised too late, after the oral evidence had been completed. It should have been raised at the start of the hearing.
    ii) It would not, in my judgment, ordinarily be appropriate to make a Hadkinson order in child arrangements proceedings as a result of a breach of financial remedy orders. The authority cited related to breach of a child maintenance order which in turn led to the court refusing the delinquent party the opportunity of pursuing an appeal against an order for costs made in a Family Law Act case; the facts seem to me to be far removed from this case. Before me, the welfare of the child is paramount, and I would not consider it appropriate to make a Hadkinson order which would have the effect of disentitling me from considering Z's welfare needs.

38. More persuasively, it is submitted, and I agree, that failure by F to comply with the financial remedy order, gives legitimate cause for concern as to whether F would comply with a child arrangements order, particularly, so it seemed to me, if contact takes place in Japan. It therefore has a direct bearing on the welfare outcome.

Analysis

39. F submits as follows:

    i) It is in Z's interests to see him. Z himself clearly wishes to do so and there are no safeguarding reasons to prevent contact. M was somewhat equivocal about the benefits of contact, relying on Z's own stated viewpoint, which I felt was insufficiently appreciative of the importance and value of Z developing a strong relationship with F.
    ii) Z is half Japanese. He has only visited Japan 3 times and it would be beneficial for him to experience that part of his heritage, see F in his home country and reconnect with the wider paternal family, including in particular his 97-year-old grandmother.
    iii) M appears to be influencing Z against him, and contact in Japan would act as a counterweight to the negative views which he is expressing. In my view there is some force in the suggestion that M negatively influences Z against his father, but I am also of the view that she is not aware of the extent of her views bearing upon Z. Further, I accept Ms Stokes' evidence that Z's outlook may in part be the product of his mother's views, but are also undoubtedly his own as well.
    iv) Japan is a signatory to the Hague Convention, and he has produced some evidence from his Japanese lawyer that a mirror order (known as a "conciliation decree") can be entered into so as to safeguard M's rights and ensure Z's return. Accordingly, says F, there are sufficient safeguards in place to ensure a return.

v) Should it be of assistance in terms of engendering trust, he suggests that M could travel with Z to Japan.

40. On the other hand, in my judgment these points are clearly outweighed by strong factors pulling in the opposite direction:

i) First, and most importantly, Z does not want, at this stage, to have contact with F in Japan. He is an intelligent child who is getting on for 11 ½. His views are clear. They may have been in part influenced by his mother, but they are genuinely held. I would not consider it right to force him to go to Japan, against his will, if other options are available. In my view, to do so would turn him against F, and his Japanese heritage, and would be counterproductive.

ii) Second, M is deeply mistrustful of F. Whether or not she is right to be so, in my view some contact needs to be built up in this country (or somewhere outside Japan) to mitigate M's fears and increase the level of trust. If the issue is forced now, I consider that her antipathy to F will increase, and those feelings will undoubtedly be accentuated in Z's eyes. The impact on M would thereby be damaging for Z.

iii) Z needs to build up a secure relationship with F before embarking on a trip to Japan. It needs to be done within his own timescale and in my view, he needs, ideally, to take ownership of the decision. If so, it is far more likely to be successful for all concerned.

iv) Z has not seen his father for 3 years. It is simply too soon to embark on a step as major and far reaching as a visit to Japan to see his father with whom he has had no contact for such a long time. The consequences are uncertain, and in my view the relationship between father and son needs to be on a much more secure footing before it can be entertained.

v) Although Japan is a Hague Convention signatory, I have no evidence as to the efficiency with which Hague applications are processed, and the potential length of time before a return order is made and implemented. In this country, although 6 weeks is the mandated timescale for determination of a return order, in reality it can take months. Should that be the case in Japan, the consequences for Z of being separated from his primary carer for a substantial period would be highly damaging. I would need to be satisfied on the basis of evidence from a Single Joint Expert as to how this would work in practice but there is no such evidence before me.

vi) Similarly, I would need evidence as to the availability of mirror orders from a jointly appointed expert. I have no reason to doubt F's expert, but for a decision of this importance, and to ensure the trust and cooperation of both parties, independent input would be preferable. Further, the evidence from F's lawyer does not indicate how a mirror order would be implemented, the costs, timescales, sanctions for breach and likelihood of success.

vii) There is at least a question mark about F's bona fides given that he has not engaged with the financial remedy proceedings in England and is in breach of orders without having taken any steps to challenge them. I also bear in mind his stance in the Japanese proceedings where he raised a wish for Z to live with him. He might currently intend to return Z from Japan, but I cannot reject the possibility that he might change his mind once Z is there.

41. Accordingly, in my judgment it is premature to make an order for contact in Japan. I toyed with the idea of adjourning the application for a period of time to consider a progression to contact in Japan at a review date, but on reflection I have decided against that course. It is open to either party to apply in the future, at which time consideration will have to be given to Z's views and the need for expert evidence. Better by far would be the parties, in conjunction with Z, reaching an agreed way forward and for that additional reason it seems to me appropriate to put the onus on them to progress contact rather than bring the matter automatically back before a judge.

42. I reject M's submission that there should be no staying contact for 2 years. Ms Stokes saw no reason why staying contact could not start more or less straight away and I agree. Z's concern is not staying with F but being taken to, or retained in, Japan.

43. Ideally, contact should, in my judgment, take place in England. That would be more secure for Z and consistent with his needs. My preference is to order that contact shall take place as follows, starting in the summer holidays, which will allow time to make preparations and reassure Z appropriately:

i) In the summer school holidays 2021 and Christmas school holidays 2021, for 1 week in each holiday.
ii) For the first period of contact, it shall (a) take place in Cornwall and (b) the first 3 days shall be contact during the day and the last 4 days shall be continuous overnight staying contact.
iii) After the first period of contact, all contact may take place anywhere in England and Wales, and shall be continuous staying contact.
iv) In 2022 and for each year thereafter, the quantum of contact shall be 1 week in the Easter holidays, 2 weeks in the summer holidays and 1 week in the Christmas holidays. All such contact shall be in England and Wales, and shall be staying/holiday contact.
v) Whenever F is in this country for contact, he shall lodge his passport with an appropriate firm of solicitors, or other agreed person, before contact starts, to be recollected only at the end of contact.
vi) The parties shall agree the precise dates of each period of contact in writing in advance.
vii) There shall be such further or other contact as may be agreed between the parties. This shall include any contact which may be agreed to take place in Japan. For the avoidance of doubt, the parties may therefore by agreement vary the contact outlined above to allow for temporary trips to Japan.
viii) I shall make an order for Z to live with M.
ix) I shall make a Prohibited Steps Order preventing F (a) from removing Z from M's care (save for the purposes of contact) or (b) removing him from this jurisdiction without the written consent of M or (c) applying for a passport for Z.
x) F has offered an undertaking not to apply for a custody order in Japan.
xi) F has offered an undertaking to apply for a mirror order in Japan.

The impasse between the parents

44. However, an impasse between the parents may make this order impossible to put into effect.

45. F is concerned about entering this country and being made the subject of enforcement applications within the financial remedy proceedings. I was informed that for so long as there is a possibility of him being the subject of a judgment summons, he will not enter this country.

46. So, says F, if he will not come to England because of fear of imprisonment, that is in itself a reason for contact taking place in Japan. But the plain fact is that he cannot have it both ways. He cannot refuse to engage, and breach court orders, and in the same breath use that as justification for contact to take place only in Japan. In my judgment, he should apply to discharge the MPS order and engage in the financial proceedings. In any event, it may be that enforcement proceedings would be nugatory if he can establish that his income is £18,000pa and that the agreement in Japan supersedes the order here. All of that must be a matter for him to address. I do not think it fair for him to ignore English orders and at the same time pray them in aid of his contact application.

47. That said, my concern is to find a way to ensure that contact takes place, because that is where Z's best interests lie. I therefore invited M at the conclusion of the first day of this hearing to consider agreeing not to take judgment summons steps while F is in this country for the purposes of contact. I was told by counsel the next morning that she would give no such assurance.

48. Thus, an impasse was reached between the parties. M will not remove from F the threat of a judgment summons if he enters this country. F, as a result, will not enter this country. Contact between Z and F, which is clearly in Z's interests, will therefore not be able to take place here. This is a disappointing state of affairs.

49. The order at paragraph 43 above is, or would be, conditional upon M not pursuing a judgment summons (or any other step leading to imprisonment of F arising out of breach of the financial remedy order). If M changes her mind and is willing to give that assurance, then the order can now be made in those terms. If, however, she does not change her mind, then the order will not be made in those terms.

50. Fortunately, there is another option, namely contact to take place in a third country such as France. Ms Stokes saw no particular difficulty with this, and I agree. Although contact in England would be preferable, contact in France should be pleasurable and successful for Z. It is appropriate for F to meet the travel and accommodation costs of both Z and M (but not M's daily living costs). That will enable M to travel to France with Z, and stay there for the duration of contact if she so chooses, which should be added reassurance for him. It will need to be explained carefully to him. M in her evidence seemed receptive to the idea, although final submissions on her behalf were steadfastly against the idea on the grounds of risk of abduction (but not against it on any other welfare grounds). I regard the risk of abduction from France as considerably less than the risk of wrongful retention by F in Japan. Further, in my judgment, having considered all the evidence and submissions carefully, the risk of abduction can be mitigated by the conditions at paragraph 43 above, which shall be adapted to reflect the geographical location for contact as being in France. France is a signatory to the Hague Convention and, as BIIR applies because the application was issued before 11pm on 31 December 2020, an Article 39 certificate can be lodged in the French courts and/or such other step as enables registration of the order in France.

51. The quantum and duration of contact, and conditions, shall therefore be in the terms as set out at 43 (i)-(xi) above, adapted to reflect that the place of contact shall be France, and F shall be responsible for the travel and accommodation costs of Z and M.

52. Indirect contact shall take place once per week. In my view, video contact is the preferred medium, not least because it will enable Z to see members of the paternal family. The order shall therefore provide for contact by video, but subject to the views of Z who may prefer telephone contact. The order shall record by recital that M is not to be present in the room when video contact takes place.

53. I note and agree with Ms Stokes' suggestion that Z should take Japanese lessons. M agrees to arrange this, and F agrees to pay for it. This shall be included in the order.

54. The order shall require F to provide a notarised translated copy of the Certificate of Acceptance to M.

55. The order shall contain the usual Liberty to Apply clause.

56. It follows that the order to be lodged by counsel shall be in respect of contact in France, unless an alternative agreement between the parties is reached before lodging. As noted above, the order shall enable the parties to agree further or alternative contact which is sufficiently flexible to enable contact to take place in another jurisdiction if agreed.

57. Finally, I am very troubled by the lack of progress in the suit and financial remedy proceedings. I require the court order to record:

    i) The court expects W to progress her divorce suit forthwith;
    ii) The court invites the Central Family Court to list, and conduct, the FDR and, if settlement is not reached, thereafter the final hearing. It is not appropriate for the financial remedy proceedings to be endlessly adjourned.