

ENGLAND AND WALES / JUDGMENT

TK v SD

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Approved Judgment TK v SD Neutral Citation Number: [2026] EWHC 2220 (Fam) IN THE HIGH COURT OF JUSTICE FAMILY DIVISION Case No: FD26P00044 Royal Courts of Justice Strand, London, WC2A 2LL Date: 28 th August 2026 Before : SIMON COLTON KC SITTING AS A DEPUTY HIGH COURT JUDGE

- ----- Between : TK
- and - SD Applicant Respondent
- ----- Anita Guha KC and Elle Tait (instructed by Wilson Solicitors LLP) for the Applicant Michael Gration KC and Mavis Amonoo-Acquah (instructed by Bindmans LLP) for the Respondent Hearing dates: 17-19 August 2026 Judgment circulated in draft: 24 August 2026
- ----- Approved Judgment
- ----- This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court. Page 1 Approved Judgment TK v SD Mr Simon Colton KC:

Introduction

1. 2. 3. 4. This is the application of the applicant mother ('Mother'), made on 20 January 2026, seeking an order that her five sons be returned from Kenya to live with her in England. The respondent is the boys' father ('Father'). The boys (whom I shall call simply 'A', 'B', 'C', 'D', and 'E') have been in Kenya for over a year, since mid- July 2025. Mother says the family went to Kenya for a holiday, and that Father has wrongfully retained the boys in Kenya since late August 2025, as part of a pattern of coercive and controlling behaviour she has endured. Father denies this, saying that the trip was a permanent relocation, which had been discussed, agreed and planned by the family. Father contends that the court has no jurisdiction to order the children's return. The boys are now aged 15, 14, 11, 9 and 4. It is agreed that the children are all UK citizens, and the expert evidence I have received is that they all acquired Kenyan citizenship through descent. Until July 2025, at least, they were

habitually resident in England. It is in dispute whether they remain habitually resident in England, or whether their habitual residence shifted to Kenya and, if so, when and in what circumstances that occurred. It is common ground that, wherever it may be, all the children have at all times had the same habitual residence as each other. It is not contended by Mother that I can or should exercise the *parens patriae* jurisdiction which, where circumstances are sufficiently compelling, can be used to order the summary return of British nationals to the jurisdiction. Accordingly, I am not asked to grant Mother's application under the inherent jurisdiction. Rather, I am asked only to exercise a statutory jurisdiction. By section 1(1)(a) and section 2(1) of the Family Law Act 1986 (the '1986 Act'), a court in England and Wales shall not make a child arrangements order, a prohibited steps order or a specific issue order under the Children Act 1989 unless the court either has jurisdiction under the 1996 Hague Convention, or the 1996 Hague Convention does not apply, but the condition in section 3 of the 1986 Act applies. The condition in section 3, so far as material, requires that on the relevant date (being the date of making the application: see section 7) the children concerned were habitually resident in England and Wales. 5. Accordingly, the issues for me to determine include:

- (1) Do I have jurisdiction to make an order under the Hague Convention? (2) If not, do I otherwise have jurisdiction to make an order under the 1986 Act? (3) If I do have jurisdiction, should I stay the proceedings on the basis that it is more appropriate for these matters to be determined in proceedings in Kenya (as provided for by section 5 of the 1986 Act)? (4) If I do exercise any jurisdiction the court has, is it in the children's best interests to make the orders that Mother seeks? Page 2 Approved Judgment TK v SD 6. In order to decide these issues over the course of a three-day hearing, I was presented with a 1,015-page bundle, containing six witness statements from Father and five witness statements of Mother, attaching copious exhibits. I also received a 14-page expert report focused on Kenyan law and the extent to which the Kenyan courts and legal system could be relied upon to protect the welfare of the children. In the course of closing argument, I was provided with a 55-page 'Country Policy and Information Note' on Kenya, to which no substantive reference was made. I heard oral evidence from Mother, Father, a family court advisor, and a Kenyan law expert. In the course of their written submissions (totalling 54 pages) and oral submissions, the parties' counsel cited 21 authorities for my consideration. Inevitably, in this judgment which I am circulating (subject to editorial corrections) on the third working day after the end of the hearing, I have not expressly engaged with every piece of evidence nor every submission. However, I have considered carefully all that I have read and heard. Jurisdiction under the Hague Convention The law
7. Mother's case is that the court has primary welfare jurisdiction pursuant to Article 5 and/or Article 7 of the 1996 Hague Convention. 8. Article 5 provides: "(1) The judicial or administrative authorities of the Contracting State of the habitual residence of the child have jurisdiction to take measures directed to the protection of the child's person or property.

- (2) Subject to Article 7, in case of a change of the child's habitual residence to another Contracting State, the authorities of the State of the new habitual residence have jurisdiction.” 9. Article 7 provides: “(1) In case of wrongful removal or retention of the child, the authorities of the Contracting State in which the child was habitually resident immediately before the removal or retention keep their jurisdiction until the child has acquired a habitual residence in another State, and
- a) each person, institution or other body having rights of custody has acquiesced in the removal or retention; or
 - b) the child has resided in that other State for a period of at least one year after the person, institution or other body having rights of custody has or should have had knowledge of the whereabouts of the child, no request for return lodged within that period is still pending, and the child is settled in his or her new environment.
- (2) The removal or the retention of a child is to be considered wrongful where - Page 3
Approved Judgment TK v SD
- a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and
 - b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention. The rights of custody mentioned in sub-paragraph a above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.”
10. Mother contends that the children remain habitually resident in England, and accordingly the court has jurisdiction under Article 5(1). In the alternative, she argues that if the children are no longer habitually resident in England, it is only because they were wrongfully retained in Kenya by Father, and so, by virtue of Article 7, the English court has kept its jurisdiction in respect of the children.
11. This submission raises a preliminary question of law with which I must deal: is Article 7 applicable when the state in which children are said to have been wrongfully retained is, like Kenya, not a ‘Contracting State’ under the 1996 Hague Convention?
12. The parties pointed me to conflicting decisions on this point. (1) In *SS v MCP* (No.2) [2021] EWHC 2898 (Fam), [2021] 4 WLR 140, Mostyn J held at [9] that Article 7 does not apply where wrongful removal is to a non- Contracting State. In *MZ v RZ* [2021] EWHC 2490 (Fam) at [19] and again in *H v R* and the Embassy of the State of Libya [2022] EWHC 1073 (Fam), [2022] 2 FLR 1301 at [51]-[57], Peel J also held that Article 7 applies only in respect of Contracting States.

- (2) By contrast, Williams J in *FA v MA* [2021] EWHC 3024 (Fam), [2022] 2 FLR 371 at [28] took the view that Article 7 applies in respect of all States, albeit he said that on the facts he had found “my conclusions on this are not central to the outcome of this decision”. In *Re J & H* [2024] EWHC 1395 (Fam), at [22]-[23], Williams J again identified the issue, but he had not heard detailed submissions and did not seek to decide the question. By contrast, David Lock KC (sitting as a Deputy High Court Judge) in *SA v AA* [2023] EWHC 2016 (Fam) at [57]-[83], considered the issue at length, and decided that Article 7 does apply equally in respect of non-Contracting States, finding as a result (at [85(d)]) that the effect of Article 7 was that the court had jurisdiction to order the children in that case to be returned to the UK. David Rees KC (sitting as a Deputy High Court Judge) in *Re HF, KF and LF (Habitual Residence)* [2025] EWHC 3306 (Fam) at [36]-[37] came to the same conclusion on the issue, on the basis that the reasoning in *SA v AA* appeared compelling, albeit there had been no argument to the contrary.
13. While the parties (re-)argued the underlying issue before me, it seems to me that I need not consider the merits of this argument in any detail. Rather, I should treat Page 4 Approved Judgment *TK v SD* myself as bound by the decision in *SA v AA*. I remind myself of the decision of Nourse J in *Colchester Estates (Cardiff) v Carlton Industries plc* [1986] Ch 80, 85 where, having cited an earlier decision of Denning J in *Minister of Pensions v Higham* [1948] 2 KB 153, he held: “It is that it is desirable that the law, at whatever level it is declared, should generally be certain. If a decision of this court, reached after full consideration of an earlier one which went the other way, is normally to be open to review on a third occasion when the same point arises for decision at the same level, there will be no end of it. Why not in a fourth, fifth or sixth case as well? Mr. Barnes had to face that prospect with equanimity or, perhaps to be fairer to him, with resignation. I decline to join him, especially in times when the cost of litigation and the pressure of work on the courts are so great. There must come a time when a point is normally to be treated as having been settled at first instance. I think that that should be when the earlier decision has been fully considered, but not followed, in a later one. Consistently with the modern approach of the judges of this court to an earlier decision of one of their number (see, e.g., *Police Authority for Huddersfield v. Watson* [1947] K. B. 842 , 848, per Lord Goddard C. J.), I would make an exception only in the case, which must be rare, where the third judge is convinced that the second was wrong in not following the first. An obvious example is where some binding or persuasive authority has not been cited in either of the first two cases. If that is the rule then, unless the party interested seriously intends to submit that it falls within the exception, the hearing at first instance in the third case will, so far as the point in question is concerned, be a formality, with any argument upon it reserved to the Court of Appeal.”
14. This dictum was approved in *In re Lune Metal Products Ltd (in administration)* [2006] EWCA Civ 1720 at [9], in the judgment of Neuberger LJ: “Whether or not the decision is ultimately upheld in this court, I consider that Judge Hodge was entirely right to follow the decision of Rimer J. Where a first instance judge is faced with a point on which there

are two previous inconsistent decisions from judges of co-ordinate jurisdiction, then the second of those decisions should be followed in the absence of cogent reasons to the contrary: see *Colchester Estates (Cardiff) v- Carlton Industries Plc* [1986] Ch 80 at 84E–85H per Nourse J.”

15. Mr Gration KC, leading Ms Amonoo-Acquah on behalf of Father, sought to persuade me that I should not follow *SA v AA* on the basis both that David Lock KC in that case appears to have misunderstood the decision of Peel J in *MZ v RZ*, and because David Lock KC’s overall decision in *SA v AA* did not depend upon his conclusion on Article 7. I do not accept this. Even if criticisms could be made of the reasoning in *SA v AA* (and I make no such criticism) that would not be the same as being convinced that the decision was wrong. Mr Gration KC did not suggest that David Lock KC misunderstood the question he was answering or did not have the benefit of citation Page 5 Approved Judgment *TK v SD* of all relevant authority. And, although David Lock KC decided at [87] that “there is sufficient ambiguity about the application of article 7 that I should go on to consider the alternative case”, and concluded at [95] that even if Article 7 did not apply, the court would have jurisdiction, that does not, in my judgment, remove the binding effect of his primary determination. While, for pragmatic reasons, David Lock KC considered the alternative case, his primary decision, on which he reached his conclusion at [85(d)], was that Article 7 did apply to non-Contracting States. 16. For these reasons, I consider that the question I am asked to decide must be treated as being settled at High Court level. I conclude, therefore, that Article 7 can be applied (should the facts permit it) in this case, even though Kenya is not a Contracting State. 17. In order to decide whether the court has jurisdiction under the Hague Convention, I must therefore determine, as a matter of fact:
 - (1) Were the boys still habitually resident in England in late August 2025, the date at which Mother says they were wrongfully retained in Kenya? (2) If so, were the boys wrongfully retained in Kenya in late August 2025? 18. If the answer to both these questions is ‘yes’, then, unless Father can show that Mother subsequently acquiesced in the retention, in light of my decision concerning the scope of Article 7, the English court will have kept primary welfare jurisdiction in respect of these children. The facts Overview
19. The determination of habitual residence “is not a formulaic exercise because it requires a broad consideration of the child’s and the family’s circumstances and because different factors will be present in different cases with the same factors being more significant in one case than another”, as Moylan LJ held in *In re F (A Child)* [2025] EWCA Civ 911, [2025] 4 WLR 94 at [58], where he set out a non- exhaustive list of elements which may be relevant. Mr Gration KC drew particular attention to the decision of the Supreme Court in *Re LC* [2014] UKSC 1, [2014] AC 1038 to the effect that where a child has the maturity of an adolescent, the court should consider evidence of the child’s own state of mind during the period of residence. Mr Gration KC also showed me a different list of ‘principles’ set out by Williams J in *Re J & H* [2024] EWHC 1395 (Fam) at [28], and three ‘expectations’ set out by Lord Wilson in *In re B* [2016] UKSC 4, [2016] AC 606 at [46]: “(a) the deeper the child’s integration in the

old state, probably the less fast his achievement of the requisite degree of integration in the new state; (b) the greater the amount of adult pre-planning of the move, including pre-arrangements for the child's day-to-day life in the new state, probably the faster his achievement of that requisite degree; and (c) were all the central members of the child's life in the old state to have moved with him, probably the faster his achievement of it and, conversely, were any of them to have remained behind and Page 6 Approved Judgment TK v SD thus to represent for him a continuing link with the old state, probably the less fast his achievement of it." 20. 21. In making my findings, I remind myself that the burden is on the person making a factual allegation to establish that fact on the balance of probabilities. I should have regard to the inherent probabilities, but also to each piece of evidence, set in the context of all the other evidence. I bear in mind that people lie for many reasons, and that evidence that a person has lied in one context is not of itself proof that they are lying about something else. I also note that in the context of a disintegrating relationship, as is the case here, much of the truth may be obscured by heightened emotions, mutual recriminations, and flawed recollections. I have had regard, in making my findings, to the helpful summary of principles set out by Poole J in *MA v FA* [2026] EWHC 1514 (Fam) at [11]. In the present case, much of the factual background is agreed, and many of the events of July and August 2025 can be pieced together from documentary evidence. However, as regards the state of mind of the parents and the children when travelling to Kenya, there is a sharp divide between the evidence of Mother and of Father. Mother says that the family went to Kenya for a 6-week holiday; Father says that it was permanent move, which they had discussed, planned, and agreed.

22. Ms Guha KC, leading Ms Tait on behalf of Mother, submits that determining what those involved knew or intended comes down to a question of credibility of the two parents. Ms Guha KC further submits that Father's evidence cannot be trusted, and that Father's coercive and controlling nature shows that, rather than discussing any move with Mother, he would have made any decisions unilaterally. Father disputes the attacks on his credibility, and denies the allegations of abuse. In seeking to evidence Father's abusive conduct, Mother places particular emphasis on Father's conduct in November and December 2025. 23. For these reasons, after first considering the factual background and the events of July and August 2025, I will turn to consider the events of November and December 2025, and make findings as to the credibility of each parent and about the relationship between Father and Mother more broadly. I will then turn to consider the evidence of the children's accounts of the circumstances in which they travelled to Kenya, as reported by Ms Ciara Murphy of CAFCASS. The factual background
24. Both parents were born in Somalia. Father travelled to the UK as a child, and had his primary education and some of his secondary education here. Mother grew up in Somalia, where she was educated only to around aged 10.

25. The parents, who are first cousins, met in around 2003, when Mother was living in Kenya. There is a conflict of evidence, but both agree that Mother lived there for at least two years. In 2009, the parents married in Kenya. Father is, and was then, a UK citizen, and the couple moved to England to live, with Mother having the benefit of a spousal visa. Mother applied for UK citizenship in 2012, and was naturalised as a UK citizen in 2013. A and B were born in England, then in 2014 the family moved to Kuwait, where C was born. In 2015, they moved to England again, before moving Page 7 Approved Judgment TK v SD to Saudi Arabia later in 2015 where D was born. The family lived in Saudi Arabia until 2021, when they moved to England, where E was born. 26. In September 2022, the family left England for Kenya, intending to stay there permanently. This move had been discussed and agreed between Mother and Father. Mother's evidence is that Father "said he wanted them to grow up in Africa, and that they would have a good education there. He said that he was going and that the boys needed him. I didn't want to separate the boys from their dad, so I agreed and we moved to Kenya in 2022...". Father emailed the boys' school to inform them that the family was moving out of the area. The school's Education Welfare Officer emailed asking for the new address, and name of new school the children would be attended. Father responded with false information, providing the name of a school in Perthshire, Scotland, and a residential address nearby.
27. The move to Kenya did not work out, and after only six months the family moved back to England. From early 2023, until mid-July 2025, the family lived together in England.
28. Documents disclosed by the landlord (a limited company which also acts as a lettings agent) show that the family took a tenancy, in Father's sole name, for a house in London in March 2023 (the 'London house'). A further tenancy agreement was entered into, in the names of both Father and Mother, in April 2025, with a break clause which permitted two months' notice to be given any time from 10 August 2025.
29. The four older children all went to the same school in England, a different school from the school they had been attending in 2022, where they thrived. In March 2024, C was referred to CAMHS by the school to be assessed for autism. A CAMHS autism checklist was completed by the school in conjunction with Father, noting a range of traits. However, on 19 May 2025, CAMHS discharged C, "due to no engagement with family". CAMHS reported having made attempts to contact the family in March and April 2025 by telephone, text message and letter, without success. The events of July and August 2025
30. On 14 July 2025, the family flew by Ethiopian Airlines to Addis Ababa, where they transited for a further flight to Mombasa, Kenya, arriving on 15 July 2025. The family travelled on one-way tickets, booked on 5 July using Mother's payment card. The family travelled with eight or nine suitcases. Mother's sister and family were already in Mombasa when the family arrived, having travelled there for a holiday.

31. When the family first arrived in Mombasa, they stayed in a 'mafrusha', meaning a fully-furnished property. However, there is evidence of Father seeking to equip an unfurnished property, both before that time and in the weeks after the family arrived in Kenya. (1) Father has produced WhatsApps showing discussions by Father on 27 June 2025 with someone on a Kenyan mobile number, for the purchase of a fridge. Father asked for a video, saying "Mrs wants to have a look". Page 8 Approved Judgment TK v SD
- (2) On 2 July 2025, Father received a WhatsApp message about buying mattresses, and on 17 July Father asked for payment details.
- (3) On 23 July 2025, Father messaged a Kenyan number, asking whether they could make a shoe rack to carry 50 pairs of shoes.
- (4) On 17 July 2025, according to WhatsApps produced by Father, someone on a Kenyan mobile number messaged "I would like to know if you are still collecting the sofa by Sunday". On 19 July, a message was sent reminding Father that complimentary storage ended the following day. There were further messages about when the sofa would be collected, and on 26 July, Father sent a WhatsApp confirming that 38,000 Kenyan shillings had been paid from Mother's account.
- (5) On 30 July 2025, Father messaged a Kenyan number, asking "do you have a 90cm cooker". The reply contained a photo of a 6-ring gas hob. Father replied asking for the price.
32. On 17 July 2025, a shipping company specialising in transporting goods between the UK and Kenya collected four boxes from the London house, for transport to Father in Kenya. Mother's sister assisted with this. There is a dispute between the parties as to whether these were goods for Father's mother (which is Mother's case), or whether these were the family's goods. The shipping invoice simply reads "clothes" and "utensils". However, Father's nephew, who went to the London house a few days later, sent Father a message "They didn't take the bikes", suggesting that it was expected that the shippers would have taken these.
33. On 22 July 2025, Father was sent a WhatsApp message by a school in the [G] neighbourhood of Mombasa, with entrance exam results for C and D. On 6 August, the school issued invoices for admission and tuition for C and D. WhatsApp messages show that, later that month, there were discussions about the school start time, the boys' uniforms and, at Father's request, Mother was added to the Year 6 WhatsApp group. 34. Father has produced an unsigned tenancy agreement, dated 30 July 2025, for an apartment in [G] neighbourhood. The lease required payment of a deposit of 190,000 Kenyan shillings, plus 95,000 shillings per month rental for a two-year period. That is supported by a screenshot of WhatsApps dated 29 July showing payment of 190,000 shillings, and requesting a deep clean of the apartment. (Mother's evidence is that, after Father said in mid to late August that the family was not going to return to England, "we then found this house and moved into it". This recollection is not consistent, chronologically, with the documentary evidence.)

35. On 4 August 2025, an academy in Mombasa emailed Father, to confirm an entrance interview for A and B on 6 August. On 8 August, the school emailed again to inform Father that the boys did not perform “to our required standard in their entrance exams”, and hence could not be given places.
36. The children had missed the last week of term at their school in London. As a result, their school sought to contact the family, but without success. On 21 August, Father emailed the school notifying that the children were all being withdrawn “as our Page 9 Approved Judgment TK v SD family will be moving out of the borough”. The school replied that day asking for a new proof of address, and evidence of the children being enrolled in another school. Father provided an address in Glasgow, and the name of a school in Paisley. However, when children’s services in Glasgow emailed for more information, Father replied to tell them: “Following our move from London, our family has now relocated abroad due to work commitments in the UAE”. Father emailed the school to say the children would be attending a school in Abu Dhabi, which he identified by name and telephone number.
37. As regards the London house, rental payments were made regularly, if a little late, throughout the term. Rent was due on the 11th of each month, but generally received by the landlord on about the 25th of each month. Payments were made on 25 July and 23 August 2025. The events of November and December 2025
38. The parents’ relationship had become particularly fraught by the beginning of November 2025. Father claims that Mother was becoming “increasingly distant”. Mother says the week before she left on 9 November was “a nightmare. I had been saying to [Father] that I could no longer live with him”. Mother told me, which I accept, that a particular bone of contention was whether A and B would be enrolled in a school, or just have private tutors.
39. Mother was sharing her unhappiness with her sisters. On about 3 November 2025, one of her sisters sent a screenshot of a fictitious conversation with a lawyer, in which Mother appeared to seek legal advice about “family issues”. Mother took a screenshot, knowing that any photographs or screenshots taken were automatically uploaded to a Google drive as back-up, accessible to both parents. This appears to have been a gambit by Mother to try to get Father to take her seriously, although Father says he did not see this screenshot at the time.
40. On 7 November, further screenshots were uploaded to the Google drive from an Android phone. These screenshots included: first, an AI-generated response to a question asked as to whether it would be possible for a mother and children who are British nationals to travel, if a father has their passports and refuses to hand them over; and, second, the contact details for the British High Commission in Nairobi. Both parents deny having created these screenshots. However, I am satisfied, from all the evidence I have heard, that these were the result of searches by Mother, at a time when she was contemplating fleeing with the children to the UK, anticipating that Father would refuse to hand over the passports. I note that Mother had an Android phone, while Father used an iPhone, and these searches are

consistent with the evidence of Mother's increasing unhappiness, and her experience of Father as someone who would seek to control her.

41. Matters came to a head on 9 November 2025. The previous day, according to Ms Murphy's report of what she was told in her interviews of the children, Mother had told the boys that the parents were splitting up and she would be leaving. Mother's evidence, which I accept, is that there was a heated argument about money between the parents that morning. Mother's evidence, which I again accept, is that Father told the children that she was "mentally ill" and "running away from them". It is common Page 10 Approved Judgment TK v SD ground that Mother went to the coach station, with A, to buy a ticket, and that evening took an overnight coach to Nairobi, to be with her own mother.
42. Mother says that after leaving the family home on 9 November, she lost access to her emails (her 'Hotmail account') and to the messages and photographs that she had on her phone. Father denies this. I am satisfied on the evidence that Mother did lose access to her Hotmail account, which I consider was most likely as a result of Father changing the security settings to require two-factor authentication which he controlled. I reach this conclusion by reference to the interaction on 9 December 2025 (described at paragraph 47 below), which shows both that Father retained access to Mother's Hotmail account at that time, and that he knew that Mother had no such access. However, there was some confusion as regards the other evidence, which seemed to me to derive from a lack of any good understanding of the technology, and so I make no finding either way as to whether Father took steps to prevent Mother having access to messages and photographs on her phone.
43. On about 12 November 2025, Father came to the UK – alone – for about 48 hours. It is not clear what the purpose of that trip was.
44. Disclosure which has been provided by the Home Office, and from HM Passport Office, together with Mother's own evidence and exhibits and a witness statement from a Home Office civil servant, enables me to make the following findings of fact as to events following Mother's departure from the family home in Kenya on 9 November 2025.
 - (1) The same day as Mother left the family home, Mother's passport was reported lost. The Home Office was told that the passport had been lost on 1 August 2025, while Mother was socialising. The email address provided on the lost passport report was Mother's Hotmail account.
 - (2) That same day, at 1.10pm GMT (4.10pm in Mombasa) an application was made to renounce Mother's UK citizenship. The email address given was Mother's Hotmail account. Mother's civil status was described as "Divorced or civil partnership dissolved". The application attached a copy of Mother's certificate of naturalisation as a British citizen.
 - (3) On 25 November 2025, Mother applied for a new passport, with the assistance of her niece. The application was made using her niece's email address.

45. Rent on the London house had continued to be paid up to 26 September 2025. However, notice to quit had not been given, and the October 2025 payment was missed. On 12 November, the landlord of the London house emailed notice of intention to begin possession proceedings by reason of more than two months of rent being overdue, totalling £4,000. Father responded that day: “You’ll need to take me to court should you want to return the house so please don’t try to force your way in. As it’s still legally rented to me until the court says otherwise”. However, on 20 November, Father emailed: “I’ve moved out your [sic] able to take the property back now”. After the landlord acknowledged receipt and informed Father that £2,657.73 was still due, Father responded asking “how much my deposit is minus deduction”. It appears that the overdue amount was less than the £4,000 originally stated because Page 11 Approved Judgment TK v SD £1,500 had been paid from Mother’s bank account on 6 November, the day after the identical amount had been received there from Father’s account.
46. On 16 November 2025, Mother boarded a flight to the UK. However, she was removed from the flight, because her passport had been reported lost and so had been cancelled. Mother obtained emergency travel documents from the High Commission in Nairobi, and on 22 November she travelled to the UK using those documents.
47. On 9 December 2025, Father applied for a new passport for Mother, using her Hotmail account. He informed her of this by text message at 9.23am, sending her a screenshot of an email from HM Passport Office to Mother’s Hotmail account. He then called her over WhatsApp at 9.58am, 11.41am, and 12.27pm. Mother did not answer any of these calls. At 12.29pm, Father messaged her: “You’ll have your passport back soon. So do whatever you [sic]. I’ve fixed what I broke”. Father’s evidence to me was that he made the application after speaking to Mother on the phone, and offering to help her. He says she gave him permission to access her Hotmail account, and gave him the code from the two-factor authentication app to enable him to log into her emails. I do not accept Father’s evidence in this regard. Mother did not need his assistance to apply for a new passport, both because she had her niece’s assistance and because she had already applied for one. Father’s evidence of having spoken to Mother to obtain access to the emails is inconsistent with the contemporaneous WhatsApps which show no earlier communication that day, whether by message or voice call. Father’s evidence is also inconsistent with his claim that Mother continued to have access to her Hotmail account, since if this were true then she would not need to receive a screenshot of an email received by that account.
48. On 16 December 2025, having blocked and then unblocked Father’s number, Mother messaged Father: “Can I talk to [E] if that is okay”. Father responded: “Don’t call my number. I’m sure FUCK OFF is a language you understand. Your fucking with my boys head. Please please if you don’t intend on coming to be with us then leave us alone the hell alone... I’m being direct. [C] is getting much much worse every time he hangs up the phone from you because you left. [D] says how much does ma hate us. Let this go through your thick head. Your sisters fucked you over by taking you u away from your family you had for 16 years.

Patients [sic] would have made you successful. Now take me to court like you promised...”.

49. On 30 December 2025, a new UK passport was issued for Mother, following her application of 25 November. However, this was cancelled on 20 January 2026, when the renunciation of Mother’s UK citizenship took effect. Following steps taken by Mother’s lawyers, the Home Office has only now agreed to void the renunciation and restore Mother’s UK citizenship. The parents’ evidence Mother 50. I found Mother’s evidence to be generally credible. In much of her evidence, I was left with no doubt that she was painfully and truthfully recounting what had happened to her. In particular, I was satisfied that her evidence concerning the events of 9 November 2025, when she left her children in the family home in Mombasa, was Page 12 Approved Judgment TK v SD painful to recount. She said that Father told the children that she was mentally ill, that she was leaving them and running away, and I have no doubt that was true. She was honest and open when questioned about such matters as her current living arrangements, and her ability to access Father’s phone, when such answers were unhelpful for her case.
51. Having said that, however, I cannot conclude that everything that Mother said to me was true. There were times where her evidence was so inconsistent with the documents and the inherent probabilities, that I did not consider it to be accurate. Mother also understandably struggled to accept that the children could be happy in Kenya, or enjoy even elements of their life there, given her absence from them. Father
52. As for Father, he is plainly a confident and intelligent man. He is well educated, signing himself as ‘Dr’ and claiming to have obtained a PhD in Applied Linguistics (although he was somewhat sensitive about this claim when pressed). But, rather than answering questions frankly and honestly, he preferred to joust with counsel, challenging the formulation of questions or their relevance.
53. Having carefully read, listened to, and considered Father’s evidence, I am driven to the conclusion that his word simply cannot be trusted. Father was willing to lie whenever he thought it would suit his interests to do so. I reach this conclusion for the following reasons: (1) (2) (3) (4) Father has two convictions for dishonesty offences. In September 2012, Father was convicted of fraud by false representation, and sentenced to a total of five months’ imprisonment. In August 2013, Father received a further conviction for false representation to make gain for self or other, and received a suspended sentence, together with an unpaid work requirement. In 2022, as described at paragraph 26 above, Father provided false information to the boys’ school when asked where the family was moving. He claimed that they had moved to Scotland. When asked about this in cross-examination, he claimed he had been advised to do this by the Somali community. He could not explain why that might be, saying only that he thought there would be “repercussions” if he said they were moving to Kenya. While I cannot speculate as to Father’s true motivations, I do not believe the explanation he did give. In November 2024, Father acquired a car. Mother cannot drive, but he nonetheless registered it in Mother’s name, albeit with the title ‘Mr’. When pressed in cross-examination, Father could provide no explanation for this. In my judgment, this is a

further example of Father's willingness to deceive authorities, and others, where it suits his own ends. It is plain from the detailed letter from CAMHS in May 2025 (see paragraph 29 above) that C was discharged from the service due to non-engagement by the family. CAMHS reported attempts to contact the family in March and April 2025 by telephone, text message and letter, without success. When questioned about this, Father claimed he had missed the text messages because when they Page 13 Approved Judgment TK v SD were sent he had been in Kenya, and not using his UK sim. But then he claimed he had contacted CAMHS on his return, and had rescheduled the appointment for a date in June or July 2025. He said he had asked Mother to take C to that appointment, as he was again out of the country, but she had refused. I am satisfied that this evidence was untrue. The May 2025 letter was exhibited to, and discussed in, Mother's witness statement of mid-May 2026, but Father had not provided this account until cross-examined. I had the strong impression that as Counsel pressed him on whether he was responsible for C missing out on a CAMHS assessment, Father made up a tale to shift the blame, unjustifiably, onto Mother. In August 2025, as described at paragraph 36 above, Father lied to the boys' school again, and to children's services in Glasgow. He lied about moving to Scotland, and then about moving to the UAE, on each occasion giving false information about the particular school to which the boys were supposedly moving. On their face, these lies were senseless, and no rationale has been provided for them. However, the effect of these lies was that the school was unable to pass on reports and records to the children's new teachers, which would have assisted those new teachers to meet all of the children's needs. Father repeatedly claimed in evidence not to have access to Mother's Hotmail account. However, as described at paragraph 47 above, he sent a message to Mother on 9 December 2025 which was a screenshot of an email received to that account, which he had just accessed. I explain there why I do not believe Father's account of what happened that day, and why I conclude that his evidence to me was a lie. Father denies having had any involvement in cancelling Mother's passport on 9 November 2025, implying that Mother did this herself. He suggests that the episode with the screenshot of fictitious legal advice (see paragraph 39 above) shows that Mother and her sisters were willing to act deceptively. However, I consider that Father's evidence on this matter was wholly untruthful. I accept Mother's evidence that Father told her that he had cancelled her passport. That is clearly supported by Father's later WhatsApp, when he applied for a new one on her behalf, that "I fixed what I broke" (see paragraph 47 above). It makes no sense that Mother would report her own passport missing, and then seek to leave the country using that passport the following week. Mother had anticipated that Father would seek to stop her leaving the country (see paragraph 40 above) but Father did so by cancelling her passport, rather than by simply withholding it. Similarly, I consider that Father's denial that he had applied to renounce Mother's UK citizenship was untruthful. I am satisfied that he did make that application, at the same time as he applied to cancel Mother's passport and took control of her Hotmail account. Again, there is no motive for Mother to make such an application, which would risk stranding her in Kenya, even when she wanted to return to the UK. On the other hand, it makes sense that Father would do this in order to control Mother, to prevent her leaving Kenya, and to compel her to return to him on his terms. (5) (6) (7) (8)

- (9) One of Father's repeated devices when responding to questions was to claim that he was the victim of harmful actions of which Mother was the perpetrator, in a reversal of what I find to be the true position. For example, Mother's evidence in cross-examination was that before she left on 9 November, she had been forced to sleep on the floor of the elder boys' bedroom. In cross-examination, Father then claimed for the first time that it was he who had been compelled by Mother to sleep on the boys' floor. I regarded this as an obvious lie. Similarly, Father claimed that Mother "applied to renounce her own citizenship, with support from her family members, in order to frame me within these proceedings, and potential criminal proceedings too". In light of my finding that it was Father who applied to renounce Mother's UK citizenship, I find that this too was deliberate deception on Father's part.
- (10) Where Father's involvement in an action was undeniable, he equally sought – untruthfully, in my judgment – to share responsibility with Mother. He claimed that the lies he told to schools in both 2022 and 2025 were Mother and him "lying together". There was no evidence at all to support that, and I do not accept Father's evidence.
54. Of course, just because Father showed himself willing to lie whenever it suited him, does not mean that everything he said was untrue. Accordingly, while I consider I can place no weight on his written or oral evidence, that does not mean that I must reject his case. 55. Finally, I should note that Father produced a document which purports to be a letter from the Kenyan Directorate of Immigration Services, recording a request by Mother on 12 December 2025 to renounce the children's Kenyan citizenship. Father declares himself to be "gravely concerned" that Mother was willing to take unilateral steps in this regard, exposing the children to uncertainty about their nationality, identity and legal status. However, Mother suggested that this is not a genuine document, denying she made any such request, saying that in December 2025 she did not know the children had Kenyan citizenship, and pointing to certain features of the document (such as a mis-spelling of the name of the purported signatory) which raises doubts about its authenticity. It may be that this is a further example of Father seeking to attack Mother by a reversal of their positions. However, neither parent was asked about this document or these allegations in cross-examination, and so I make no finding either way in this regard. The allegations of coercive and controlling behaviour 56. I find as a fact that Father has subjected Mother to serious and ongoing coercive and controlling behaviour.
57. Mother's evidence in her witness statement was that Father was "very manipulative. He fully took advantage of me and the weight that I put in the sanctity of our marriage. He took control of everything and I felt helpless to stop him". Mother says "He told me that I was worthless until I believed him. He handled everything to do with our family, leaving me powerless". She says that "Throughout our marriage, [Father] has told me that I am nothing, he destroyed me", and that unless she changed for the better "he would bring another wife into the house and it would not be his fault". Having seen both Mother and Father give

evidence, and in light of my Page 15 Approved Judgment TK v SD 58. 59. 60. other findings, I accept this evidence. I accept also Mother's evidence that, when she said she would leave the family home in November 2025, he told the children that she was "mentally ill" and "running away from them". I find as a fact that it was Father who reported Mother's passport lost on 9 November

2025. I also find as a fact that it was Father who applied to renounce Mother's UK citizenship that same day. He took these steps in an attempt to control Mother, to limit or remove her ability to return to the UK, or to take the children to the UK. I regard these actions by Father as of the utmost seriousness. They constitute a form of 'stranding' or 'transnational abandonment', which is a "very serious form of domestic abuse": see Re A [2019] EWCA Civ 74 at [71], and Re A [2022] EWCA Civ 1652 at [14]. These actions were a deliberate attempt by Father to prevent Mother travelling to the UK, or having any residence right or right to state support in the UK, in order both to prevent her from bringing the children to live with her there, and to place Mother in such a difficult situation that she would submit to Father's will and control more generally. One result of Father's actions has been that Mother has been unable to return to Kenya in the 10½ months since she left, because she has had no passport and no certainty at all that if she left if she would be able to return. I find as a fact that Father prevented Mother accessing her Hotmail account from 9 November 2025, while continuing to access those emails himself, including for the purpose of reporting Mother's passport lost and renouncing her citizenship and, in an attempted demonstration of ongoing control, applying for a new passport for Mother in December 2025. I have set out the abusive message sent by Father to Mother on 16 December 2025 at paragraph 48 above. It is striking that this outpouring of abuse came from a simple request to speak to the youngest child. Father was controlling contact with the children, and using that as a bargaining chip to seek to force Mother to return to him ("if you don't intend on coming to be with us..."). Father was applying psychological and emotional pressure, claiming that C was "getting much worse" and D was asking "how much does ma hate us". The language was demeaning and humiliating ("your thick head"), and Father sought to drive a wedge between Mother and her sources of support ("your sisters fucked you over"). Father's only explanation in the witness box, which I do not accept, was that this language was out of character, and was a justified response to an earlier conversation in which Mother had used worse language. Father claimed that Mother's sisters were telling Mother that Father was "worthless", a further example, in my judgment, of Father seeking to reverse the true position. 61. I am not satisfied, however, contrary to submissions made on behalf of Mother, that Father's decision on 20 November 2025 to return the London house to the landlord was itself an act of control or coercion. As I have found, rent on that property had fallen into arrears in October. A partial payment of those arrears had been made on 6 November, but substantial arrears remained. By giving up on the tenancy on 20 November, Father was ensuring that the arrears could be almost entirely met out of the deposit. 62. For these reasons, I conclude and find that Father has subjected Mother to emotional and psychological abuse, and to other coercive and controlling conduct which has caused

serious harm to her well-being. Father humiliated Mother, and took steps to Page 16 Approved Judgment TK v SD make her subordinate and dependent on him. These steps were intended to deprive Mother of the means needed for her independence, and her ability to resist Father's wishes. These steps have also caused harm to the children, especially as Mother has been unable to travel to Kenya to see them in the 10½ months since she left the family home in November 2025. The evidence of Ms Murphy, Family Court Advisor

63. The final significant element of the evidence concerning habitual residence is the evidence of Ms Ciara Murphy, an officer of the CAFCASS High Court team.
64. Ms Murphy's instructions were formulated at a time when it was envisaged that there would be a hearing to determine only the issue of jurisdiction. Ms Murphy was instructed to provide a report on: (i) the children's views, wishes and feelings in respect of returning to England and remaining in Kenya, and (ii) about what the children's understanding of their journey to Kenya was. Ms Murphy was not instructed to consider the children's welfare more generally.
65. Ms Murphy spoke to each child, separately and privately, via video calls on 12 March 2026. She produced a report dated 9 April 2026, which I have found extremely helpful. As regards the children's wishes and feelings, Ms Murphy reported:
 - (1) A (aged 15) expressed a clear and consistent view to remain living in Kenya. He described feeling settled and positive about his daily life there. He enjoyed his established routine of regular football, tutoring, and Qur'anic study. He was clear he would feel unhappy about leaving Kenya to return to England. His primary concern was maintaining frequent contact with his mother.
 - (2) B (then aged 13) also expressed a preference to remain living in Kenya. He enjoyed daily football, friendships he has formed locally, and the home- schooling and Arabic classes he attends. He preferred his routine and environment to his lifestyle in England. However, he expressed emotional turmoil related to being separated from his mother.
 - (3) C (then aged 10), again expressed a preference to remain living in Kenya. He spoke positively about his home environment, play with his brothers, and his school. He stated that while he misses his mother, he feels safe living with his father.
 - (4) D (then aged 8), rated remaining in Kenya positively, and returning to England less so. He reported no worries living in Kenya, other than missing his mother and wishing that she would return there.
 - (5) E (aged 4) expressed positive feelings about both Kenya and England.
66. As regards the children's understanding of their journey to Kenya, Ms Murphy reported:

- (1) A expressed the clear view that the move to Kenya was planned and intended to be permanent, rather than an extended holiday. He had been spoken to in advance about the move, and had felt positive about the relocation. He had said Page 17 Approved Judgment TK v SD goodbye to several family members and friends before leaving the UK, and he noted this made him feel sad as he viewed the move as permanent. He reported that the family packed “basically everything we own”, so that the London house was “basically empty” before they left.
- (2) B also said he had had a clear understanding that the move to Kenya was permanent. He was told the move was forever, and he said the family had packed all their personal items, only leaving behind larger furniture. He said it had been hard saying goodbye to friends. He had felt anxious about the move, but settled in quite quickly once he made friends.
- (3) C’s understanding was more limited, and could not recall what he had understood about the move, nor when.
- (4) D said he had initially believed that the move to Kenya would be temporary, estimating that it would last three to five months, rather than being a permanent relocation.
- (5) E’s understanding of the journey to Kenya was minimal, as expected for a child of four years.
67. Ms Murphy specifically considered whether the children’s accounts might have been coached or influenced in some way, especially bearing in mind that they have been living exclusively with Father. However, Ms Murphy did not observe any evidence of this, noting that each of the children’s accounts varied.
68. Ms Murphy provided a further report to the court on 19 May 2026, updating with factual information she had obtained. I refer to that information, where appropriate, in my findings of fact below.
69. Ms Murphy gave oral evidence. That evidence reiterated the close bond between the boys and Mother. They spoke of her very fondly, “with love and respect” and indeed “with adoration”. Ms Murphy also underlined the confusion felt by the children as to why Mother had left. They understood the parents had separated, and Mother is now in the UK. She had left very hastily, telling A and B only the previous day that she was separating from Father and leaving, but there was no indication the boys felt angry at her or that she had abandoned them.
70. Ms Murphy reported that B had said that Father had given the boys a choice about where to live, and B chose Kenya. That was about a month before they left for Kenya.
71. Ms Murphy reiterated that she had probed to see whether the boys had been coached, and that this had taken up much of her interview time with the boys, but that she had seen no evidence of coaching. Ms Murphy commented that A in particular was confident and well able to articulate his views, so she would imagine that he would be difficult to coach. I also note that there is no evidence, from any source, that the children bear any ill-will towards

Mother – quite the contrary. 72. In closing submissions, Ms Guha KC made a sustained attack on the weight that could be placed on what the children had said to Ms Murphy. She pointed out that Page 18 Approved Judgment TK v SD the children had been in the sole care of Father for the four months or so prior to their interviews with Ms Murphy, which gave Father plenty of opportunity to coach or manipulate them into giving evidence which would assist him. Father knew what they would be asked from the specific instructions which had been given to Ms Murphy, and his controlling behaviour made it likely that he would seek to influence the report that would be made. Ms Guha KC submitted that the evidence that the children had said goodbye to their friends before leaving the school in London was inconsistent with that school's efforts to discover why the children had missed the last week of term, and where they had gone; as Ms Guha KC submits, if the school had simply asked the children's schoolfriends then, based on what the children had said, the school would have learned all of this.

73. As against this, Mr Gration KC on behalf of Father submitted that there was no basis for what he called a 'grand conspiracy'. He pointed out that Ms Murphy had looked for, but identified, no obvious markers of coaching, and that the detail and sophistication of the children's accounts, including discussing how they had felt, was good evidence of their genuine experiences. Conclusion on habitual residence 74. For the reasons that follow, I am satisfied that, by no later than mid-August 2025, the children's habitual residence had shifted to Kenya.
75. The family background is a significant element of the overall factual canvas. The family has a history of repeated, and sometimes sudden, shifts of residence. It is common ground that just three years earlier, the family had moved to Kenya, with Mother's agreement, intending the move to be permanent. While the family were deeply integrated in England in July 2025, with many extended family members living here, the family also had substantial connections to Kenya. Father and children were all Kenyan citizens, or entitled to citizenship. Father's father also lives in Kenya, while his mother spends significant time in both England and Kenya. Mother had herself lived in Kenya for a period during her childhood, and other members of the extended family lived there.
76. The documentary evidence makes plain that Father was taking steps from late June or early July 2025 to furnish a house in Kenya in which the family could live, including buying a fridge, mattresses, sofas, shoe rack and cooker. Although I accept that there is no documentary evidence establishing directly that Mother was aware of this, Father's reference to wanting a video of the fridge because "Mrs wants to have a look" suggests that Mother knew that these were steps Father was taking, even if Mother's actual involvement in decisions was limited. These steps are inconsistent with Mother's case that, when the family travelled to Kenya, they intended only to stay on holiday in a 'mafrusha' for a month or so. While a longer- term rental had not been identified before the family travelled, they had found an apartment by the end of July, which they moved into during August.

77. The purchase of one-way tickets to Kenya is also significant. Mother says that Father showed her return tickets, but there is nothing to support that and, set in the context of the other evidence in this case, I do not accept Mother's evidence in this regard. Page 19 Approved Judgment TK v SD 78. I have carefully considered the possibility that Mother did agree to move to Kenya in July 2025, but did so only as a result of duress, such that her agreement was not freely-given. However, that is not Mother's case. Mother's case, and her evidence, has always been that she was deceived by Father into believing the trip was only a holiday, and that she did not know he intended to stay. I do not find that to be true, in part because of the other evidence suggesting that Mother was aware in July and early August 2025 that the move was intended to be permanent, and in part because, in my judgment, the relationship between the parents was such that Father would tell Mother what he wanted and expect her to comply, rather than feel the need to deceive her. I find that Mother knew of the plan to move, and, whether or not she actively agreed, she did not seek to prevent it. While one might doubt how free that choice was, given the coercive and controlling nature of Father's conduct towards Mother, the fact was that when the family travelled to Kenya, both parents knew that the intention was to remain there.
79. Mother's evidence is that it was around the middle of August 2025 that she asked when they would be returning to England. However, by that time, on the evidence I have seen, the family had already taken a tenancy of the apartment in [G] neighbourhood. In addition, A and B had taken entrance exams, unsuccessfully, to get into an academy, and Father had signed C, D and E up for a school as well. I do not regard it as remotely plausible, given the very close relationship between Mother and all her boys, that A and B would not have mentioned that they had been to sit an assessment for a school while in Mombasa – especially if, as is Mother's case, they thought they were only in Kenya for a holiday. 80. I accept as true the accounts given by the children to Ms Murphy of their understanding of the circumstances in which they travelled to Kenya in 2025. While, in light of my findings concerning Father's coercive and controlling behaviour, I have paid particular attention to the possibility that the children were coached by Father, I consider it more likely than not that the accounts they gave to Ms Murphy were their genuine recollections. I bear in mind in this regard that the consistent evidence is that A and B (in particular) are mature, intelligent and articulate boys, and that all the children care deeply for Mother. Ms Murphy was aware of the nature of the allegations made against Father, and is experienced in looking for evidence of coaching, and – albeit, only in the course of a single interaction – observed no indicators of it. I note that D's recollection varied from that of his older brothers, believing that the relocation was only for three to five months, but even he did not think this was the short holiday that Mother says it was. I also note that D was only eight years old in August 2025, so it is possible that he was told less than his older brothers of the move, or had a poorer understanding of what he was told. In any event, the family's experience in 2022 had been that what was intended as a permanent relocation in fact only lasted 6 months; if D had thought that history was going to repeat itself, that would be quite understandable.

81. The continued tenancy at the London house could be seen as a significant ongoing connection with England. However, the accounts of A and B, supported by the shipping invoice, was that before the family left they packed up all of their chattels, which were either carried in suitcases or transported out to Kenya. This suggests that the London house had ceased to be their home. Moreover, the contractual position was that Father had no right to give notice on the tenancy before 10 August in any Page 20 Approved Judgment TK v SD event, and he was obliged to keep paying rent until at least September, so retention of the property is not evidence of a deliberate choice to keep a connection to the UK.
82. Although it was submitted on behalf of Mother that C's ongoing needs in respect of the incomplete autism assessment were relevant to the question of habitual residence, I struggle to see how this is so. Even accepting the premise that C's needs could not be met in Kenya (which is not evidenced), I bear in mind that CAMHS had discharged C in May 2025 due to a lack of engagement.
83. Overall, I am satisfied that by mid-August 2025, at the latest, the children were habitually resident in Kenya. A permanent relocation is what both parents had intended when the family travelled to Mombasa in mid-July 2025, and this is what (to the extent appropriate to their ages) the children had understood. In the case of A and B this reflected their own preferences at the time. Kenya was, to an extent, a known quantity, given their previous move there in 2022, and the multiple familial links with the country. The family had packed up their possessions, and the children had said goodbye to their friends and family in England. In advance of moving, Father had taken steps to prepare to furnish a property in which the family would live, and Mother had at least some knowledge of these steps. Concrete steps had been taken to enrol all the children in education. By contrast, the connections to England were now much more tenuous. The children had said goodbye to their friends, and (although the school had not yet been informed, and so their places remained open) the children understood that they had left their school behind. The family still had access to the London house, but it was no longer their home. 84. I find that Mother deeply regretted agreeing to move to Kenya as her relationship with Father broke down. She found herself a long way from her sisters in England, the victim of coercive and controlling behaviour. She had suffered emotional and psychological abuse at Father's hands, and I have no doubt that such abuse will have caused harm to all the children. I am also sure that the ongoing forced separation, as Mother has been unable to return to Kenya to spend time with the children as a result of Father's actions, has caused the children further harm. However, for the reasons I have given, I am satisfied that by mid-August 2025, at the latest, the children's habitual residence had shifted to Kenya. Mother's return to the UK in November 2025 did not change that fact, and the children remain habitually resident in Kenya. Conclusion on jurisdiction under the Hague Convention 85. It follows from my findings that the children were not wrongfully retained in Kenya in late August 2025, or at all. They have been habitually resident in Kenya since mid- August 2025 at the latest.

86. As a result, I conclude that this court has no jurisdiction under the Hague Convention. Page 21 Approved Judgment TK v SD Conclusion on jurisdiction 87. In light of my conclusion, this court also has no jurisdiction under domestic law. The children were not habitually resident in England at the date this application was made (and nor, were it relevant, are they habitually resident in England now). Overall conclusion 88. 89. In light of my conclusion on jurisdiction, the other issues on the application do not arise, and I shall dismiss Mother's application. I am inclined to give permission for my judgment and my findings of fact to be disclosed to and relied upon before any court or other body considering the welfare of the children. However, I will consider any submissions on these matters. Page 22

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