



**Save the Children**



# JUSTICE YOUTHOPIA

LETTER TO A JUDGE



This guide was developed as part of the European Justice Youthopia project, which aims to bring into practical action the principle of a more child-friendly justice system.

<https://legale.savethechildren.it/justice-youthopia/>

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# JUSTICE YOUTHOPIA

## LETTER TO A JUDGE



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# INTRODUCTION

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This document is the result of a workshop carried out as part of the European Project **Justice Youthopia**, which included a group of fourteen boys and girls from the city of Bari involved in criminal proceedings or placed in the community.

Starting from the objectives of the project, the intention was to build a path that would allow these young people to access a space where, in an environment of closeness and trust, they would feel welcomed, seen, and free to tell their stories, without any judgement or prejudice.

The aim of the course was to facilitate the transformation of a group made up of individual requests into a community of meaning, so that the personal story gradually became a collective narrative.

The workshops also facilitated the meeting of two different perspectives in the field of juvenile justice that hardly ever have the opportunity for dialogue. On the one hand, that of those who have been accused of having committed a crime, the criminal aspect, on the other hand that of those who have found themselves outside their family, the civil aspect.

For all participants, contact with justice was a painful and traumatic event, of which they never imagined the consequences, but at the same time it was significant, insofar as it determined the impression that each person gives to their own life.

In their words, the encounter with justice was the start of a journey - which they did not choose - where they felt fear, anxiety, insecurity, anger; followed by arrogance and prejudice, while they wanted to find sensitivity, transparency, listening, humanity, empathy, help. In short, a more just kind of justice.

A long journey, during which they have acquired courage, awareness, personal responsibility, self-confidence and strength to claim, also on behalf of other young people who are or who will eventually find themselves in their same condition, rights, listening, respect and understanding.

The course of the **workshops** also represented an intense journey of sharing painful feelings for what it was, but also an opportunity to give voice to one's own idea (or utopia?) of justice tailored to the child and one's dreams: improving one's school performance, finding a stable job, the "job I like" (being a barber in an American-style salon or teacher); practising boxing; taking part in a creative writing workshop, writing a book; travelling; having ties, being with family, friends; finding love and experiencing motherhood; living one's spirituality; leaving a positive contribution for the world.

The participants' reflections have been brought together as a guide for peers and in the writing of a letter addressed to an imaginary judge, which is included in the following pages. The final part of the document contains some suggestions to sensitize judges and professionals involved in the proceedings to communicate in an understandable and **child-friendly** language.

## 1.1 A JOURNEY INTO THE JUSTICE SYSTEM IN ITALY

The encounter with justice, especially for those like us who have lived this experience as minors, represents the beginning of a **long journey**, during which we experience intense emotions, including negative ones, such as fear, anxiety, insecurity and anger to the extent that, rather than encountering a listening ear, sensitivity, transparency, humanity, empathy, help, (just) justice, we are faced with situations of arrogance, discrimination and injustice.

It is a journey **that we have not chosen**, but that has still allowed us to acquire courage, awareness, sense of responsibility, self-confidence and strength to claim, also on behalf of other young people who are or come to be in our same condition, rights, respect and understanding.

What you will find below is the story of what our journey was. We decided to write it, drawing up a letter addressed to an imaginary judge, because we think it can help make the journey that young people who come into contact with this world a little less difficult.

## 1.2 PLACES AND TIMES OF JUSTICE IN ITALY

### First contact

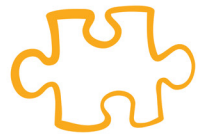
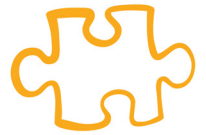
The first contact with justice is a traumatic moment for a minor. What may happen, as has happened to many children, is that they are taken to a place that is not known and that no one explains where they are, why and who are the people that the child is in front of.

*“I felt like I was in a tunnel, I didn’t know what was going to happen to me... There were so many great people who didn’t explain to me what was happening and why I couldn’t be with them anymore... In the community, they took my phone away, and I couldn’t call anyone; I was distressed... I saw only darkness and I felt a lot of **anger** because I didn’t choose **this journey**. I felt lost, alone and scared, suddenly catapulted into the adult world.”*

*“After the arrest, I happened to be locked in the station for six hours without calling my parents. Meanwhile, the phone was ringing. It was my mother. I asked if I could answer, but they said no.”*

*“I had just arrived in Italy, alone, without any relatives. I had faced a very difficult trip by sea and the experience of the violence in Libya. There was no linguistic mediator and I did not understand anything they told me, where I was and why... **For us foreigners, it is even more difficult.**”*

*“There should be **figures who are specialised** in welcoming, understanding the emotions of those who arrive and explaining where we are and why. Even if guilty, we often fail to understand why we are there and how we should behave. Often law enforcement, lawyers, and judges don’t have the chance to do all this.”*



## The Hearing

“When I first went there, the court seemed like a **rhinoceros**, with its imposing and austere appearance, inciting fear. Inside, in fact, it is difficult to find suitable spaces where you can be heard. During the hearing, you may find yourself in a room where strangers are coming in and out, while you are talking about ‘your own business’.”

“Justice tailored to me, is justice behind closed doors.”

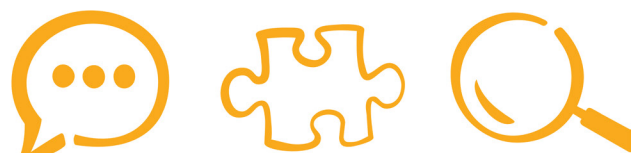
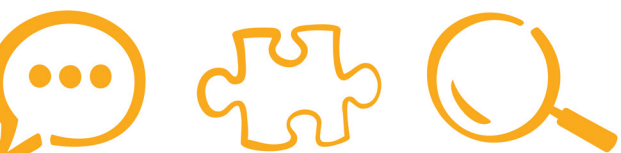
“Not to mention the issue of **time** for us boys who enter the criminal circuit. We live in **drawn-out** and **uncertain** times because, from the moment of detention to when the sentence or probation arrives, it takes a long, long time. It is like you are **suspended in time** because you feel like you have put your life **on hold**, without goals or objectives, and when the sentence arrives you will struggle to understand its **meaning**.”

“After all this time, when you are anxiously waiting for the first hearing so that you can talk to the judge, you may find yourself in a room for only a few minutes without even having the opportunity **to express your opinion**.”

“In my case, the hearing was postponed four times: I was tried after a year and a half and the only thing the judge asked me is **where I lived**. Then they convicted me.”

“They didn’t really consider me. The judge asked me about any **good intentions for the future**, while I would have liked him to have **asked me first how I felt at the time**.”

“I don’t know when I will leave this community, I need to know what will happen to me. Being like this without knowing, without anyone telling me anything for so long, thinking that even a year can pass between one measure and another, it is really bad, and it hurts so much. I really want the judge to hear me now that I’m older, so I can tell him what I think.”



## 1.3 REPRESENTATION, GUARDIANSHIP, PROTECTION

### People, not files

*“What do we have to do to be heard?” “Why doesn’t the person who decides our lives care to hear what we have to say?” ... “These are the questions that we most frequently ask ourselves in an imaginary dialogue with the judge who is in charge of our case.”*

*“We expect clear, understandable and truthful **answers** from the judge - because what is said to a minor **must be true** - and we expect these answers to arrive within a reasonable time.”*

*“Participation is something reciprocal: **a hearing without listening is like talking to the wall**... Judges should remember that behind the files and protocol numbers... there are people.”*

*“We have the impression of not being considered, but of being simple **spectators**.”*

*“Meeting in a room for ten minutes and not even having the chance to speak becomes a simple **formality**.”*

*“I didn’t feel heard or understood, because they decided for me.”*

*“Social workers, carers or guardians, lawyers, etc. enter our lives suddenly without **anyone explaining to us the function** or task of each person.”*

*“It is important that they learn to understand our reasons. I just didn’t want to feel like I was being taken for a ride. I didn’t understand what the measure said. The important thing is not just to read, but **someone to help me understand. It’s my life after all**.”*

*“It’s been a year since I’ve seen or heard anyone... social workers change continuously without anyone notifying us.”*

*“I felt compelled to admit to something I hadn’t done, not quite, not that way.”*

*“I believe that good justice should ensure that the children continue to be looked after even when the proceedings are concluded, because we should always have someone to refer to when we need help from a social or legal point of view.”*



## The offence and the measure

*“It happens to many of us that we wait a very long time for the probation procedure and when it comes, it is presented to you as a ‘favour’, as if it were some kind of **concession**.”*

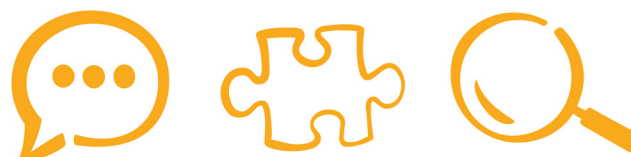
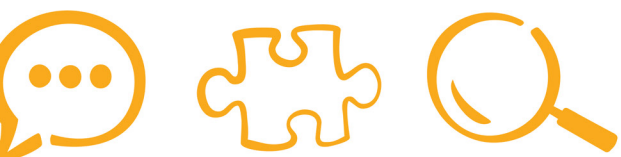
*“When you’re involved in a group offence, they practically do homologation; they don’t take the subjective case. I wasn’t even allowed to explain **my point of view**. They told me that opening a debate about my personal position would take a long time and a lot of money.”*

*“Probation cannot start after a year and a half. In the meantime, I’ve forgotten.”*

*“I was in doubt as to whether or not I should admit it. They didn’t even find the bar, but since my lawyer was unable to cope with the situation, **I was forced to admit it**.”*

*“**We need people who are willing to talk** to children/young people, listen to them and understand that children often stop in the face of the complexity of the criminal proceedings, and in order not to serve many years, as had been proposed to me, they prefer to admit things that are not entirely their responsibility. The child does not insist, and the staff believe they are doing the right thing. And that’s how the experience goes.”*

*“For us foreigners too, juvenile justice must be only probation... We too must be heard... you cannot condemn a boy of fifteen-sixteen-seventeen years but must rather benefit from probation, because otherwise it is difficult to continue living... **At fifteen, I cannot find myself locked in a facility for a mistake**. There must be freedom for all...”*



## 1.4 THE FUTURE

“Another important moment in the relationship with justice concerns *the future*, when you complete the measure or leave the community...When you turn eighteen you are nothing, you no longer exist... from one day to the next you feel abandoned.”

“You’re afraid of being *stigmatised* for what you’ve done. If you live in a small place and everyone knows you, what happens is that they treat you badly, they use unfair words against you. In my case, it’s always the same [police officer], who stops me at the checkpoint and inspects me, even if I have done nothing. How am I supposed to stay here? This makes me feel awful.”

“I believe that every patrol, and even in the station, must have a black box that records everything they say so that they could be criminally prosecuted *when they do not behave with us as they should*.”

“We would like everyone involved - from public security agents to justice operators - *to be trained on the issues of juvenile justice*, not to be expiated but for there to be fair justice that corresponds to our case.”

“I am the victim of injustice. Especially when I compare myself to my friends who came with me to Italy and who today have also been helped with a job, I feel that I have been treated differently because I entered the criminal circuit. In addition to serving a sentence, juvenile justice should be concerned with helping us, *to build a different future* so as not to make mistakes anymore. My daily life is not beautiful, because even though I have integrated well in Italy, not yet having definitive documents, I cannot lead a peaceful life and have certainties for the future.”

# LETTER TO A JUDGE



Dear Judge,  
We are a group of boys and girls of different ages and with different backgrounds.

Each with our own lives, our own families, our own habits, our own friends, our own dreams, our own desires, but with a **common history**: we have all “been through” the experience with the justice system.

Some of us are working, others are studying, others are looking for work, others are still in the community, others are facing criminal proceedings.

At first, it was not easy to bring out our fears, our disorientation, and decide to tell our story.

Asking us, just us, how we imagine **justice tailored to minors** surprised us: we could never have thought that the **adult world** could stop for a moment and ask us what is wrong and what we could and should improve... together!!!

For those of us who have entered the criminal circuit it was not at all something we are proud of, but we want to say that we were often lacking the **right guidance** before, during and perhaps even after our history with justice.

Many of us have committed a crime **without being aware** that that particular action was punishable.

What we are always asked is whether we have really repented for what we have done, whether we have understood that we have made mistakes, how probation is going and how many absences we have incurred in during the volunteering activity.

For our part, we can say that there were many shortcomings and many things that did not work, that did not go the way they should have gone or as we would have expected.

In our experiences with justice we have often felt disregarded, unheard and powerless. Sometimes, we also felt mocked.





*That's why we're here to write to you...*

With regard to the **proceedings**, we have seen and endured long - too long - periods in both civil and criminal matters: from the moment of reporting to placement in the community, between hearings, for authorisations to return home, for admission to the probation, for measures that concerned or still concern our situation.

With regard to the **right to be heard**, we have suffered because we have not been heard, but truly heard.

We noted the absence of **adequate spaces** to make ourselves felt in a place of effective protection; we experienced the lack of attention to our privacy during both civil and criminal hearings, as well as to our individualities and personal living conditions.

We have suffered from a lack of **qualified representation and information** (for example on the procedure, the timing of the process and the probation paths). With regard to **the measures**, we have seen that they arrive either late or not at all.

In any case, they are unclear and partial in the information provided, and often we have not found what had been shared or anticipated during the hearings. Your Honour, we would like to tell you that you are talking to us, because it is our discomfort, our suffering that is being talked about.

*So that this does not happen again, we ask:*

→ That the judges and all the adult figures we meet in our "journey" in the justice system - social workers, lawyers, guardians, special carers, police forces - have the **necessary skills and training** to work with minors. In particular, the first contact with justice is a delicate and important moment, for this reason it would be appropriate for us to have **sensitive and empathetic people** at our side, **adequately trained** in the subject of juvenile justice and listening to minors, including foreigners. We need to contain the anger and fear of those moments so that we can understand what is happening.

→ That we are guaranteed in all phases of contact with justice **the right to be informed** about what is happening to us and what awaits us in a fully conscious way, in a manner consistent with **our age** and degree of maturity and in a **language** we understand.

→ That **the roles** and tasks of the workers who enter our lives are **clearly** explained to us.





→ That we be given the opportunity to express our considerations so as to be **participants and protagonists** of our trial experience and not mere spectators under a judging eye and to be truly heard by those who, like you, **decide on our lives**.

→ That **the timings** for any criminal and civil proceedings **also** take into account **our own life schedules** - personal, family, cultural, school - and not only the bureaucratic and formal needs, avoiding, for example, to set audiences on the day of our birthday or in the vicinity of particular holidays or significant events.

→ That the Court is an **appropriate environment** for us, a place of effective protection, with spaces and methods capable of guaranteeing respect and privacy, thus ensuring that the hearings are held in closed doors, avoiding the presence of persons unrelated to the proceedings.

→ That there is always a guarantee of **qualified legal assistance**, whether it is a lawyer or a trusted lawyer: the quality of our defence cannot be linked to the economic viability of our family of origin.

→ For those of us who come from a **different legal and cultural** context, the presence of linguistic and cultural **mediators** is guaranteed at all stages of civil or criminal proceedings.

→ That the provisions are written in a **language** that is more familiar to us, that we can understand and recognise, that avoids terms that we might perceive as incomprehensible, when not openly stigmatising or offensive.

We hope that these reflections, which are the result of our personal experiences and suffering and of everything we have experienced, will be taken into account so that we can fill, in the not too distant future, the existing gaps in the **Justice system** so that it is truly **made for minors**.



# CHILDREN INSIDE OR AT THE HEART OF THE JUVENILE JUSTICE SYSTEM?

*“Everyone is telling a truth. Everyone knows what they have heard and is sure of what they have touched with their hands. But experience is only one part of the truth, and only by ‘listening’ can everyone go further, understand the truth they seek.”*  
**(taken from a Hindu story)**

Minors may come into contact with the juvenile justice system for various reasons: in the event of separation of parents, for matters related to their custody, in the event of adoption, if they are victims of crimes, if they are perpetrators of crime, if they are unaccompanied foreign minors in Italy, etc.

Many children experience this traumatically, although this should not be the case. Although there are many legal instruments at the international, European and national level for the protection of the rights of minors and the promotion of juvenile justice, it is quite clear that there is still a discrepancy between theory and reality.

Justice must always be very attentive to children and young people who are involved in both civil and criminal proceedings, regardless of who they are and what they have committed.

Minors have specific rights, and it is therefore a priority that the overall justice system is effectively tailored to them: avoiding anything that creates discomfort, fear, suffering, mistrust and intervening directly on the environments, on the times, on the approach, on the method of participation.

All the figures who are part of the justice system (judges, social workers, guardians, special carers, advocacy workers, judicial police officers, operators of social and health services, educators) must know how to present themselves to minors as someone they can trust, who knows how to listen and is heard, who tells the truth even when a mistake has been made or when it is not pleasant, who is on their side and who will seek a solution to the specific situation without standardised interventions.

*“Don’t walk in front of me, I might not follow you. Don’t walk behind me. I may not know where to go. Walk by my side and be a friend to me.”*  
**(A. Camus).**

A juvenile justice system must be able to treat minors with care, respect and dignity:

- ➔ It is an accessible, immediately understandable and reliable justice system, free from stigma and prejudice.
- ➔ It is a justice system that listens to minors and takes serious account of their point of view, their words, their feelings, the difficulties that may arise.
- ➔ It is a justice system based on the participation of minors.

The participation of minors in the justice system is a right that is recognised by international conventions and by European and Italian law, which must be guaranteed not only procedurally, but also substantially, with the specific protections and guarantees provided for by law.

It is not something that has already been given, but an essential objective to be achieved with the necessary caution and attention, given the condition of vulnerability associated with minors. It is a very important act that can guide the decision in its own interest, without giving the child a responsibility that he cannot and must not assume.

The minor must receive all information on the proceedings concerning him/her, on the functioning of the justice system, on his/her rights, on what happens from time to time, on the role and functions of all the parties involved, on the methods and consequences of his/her statements, on the timing of both civil and criminal proceedings.

## Prerequisites

→ Correct listening of the child → Adequate and complete information

- Make every effort to listen to and collect the child's statements: the presence of attentive and competent professional figures, the guarantee of adequate spaces and times, the creation of favourable conditions for the story, respect for his/her well-being and any difficulties that may arise are very important.
- Nothing should be left to chance: the approach, the words used, the tone of voice, the physical environment, the time that is dedicated, the interest shown, the gestures.
- Consider their age, maturity and understanding: interventions should be proportionate to their needs.
- Address the child with respect and sensitivity, paying him/her the right attention, but without burdening him/her with the responsibility of making decisions that correspond to adults.
- Do not create false expectations: the child must always be able to trust the system; he/she must know that he/she is told the truth even when it is difficult.
- Using a multidisciplinary and concerted method of work: repeated calls by different professionals can create confusion and anxiety in minors.
- The judge, social worker, guardian, special carer, advocate, health professional, educator or judicial police officer must always use an appropriate approach and child-friendly language appropriate to the age and level of maturity.
- Consider that time has a significant impact on the child's condition and well-being: any delay can be incomprehensible and have harmful consequences. The adoption of provisional decisions, where longer time is needed for evaluations, may be important.

- Each measure could be accompanied by a letter in which to communicate the decision directly to the child, in understandable language, illustrating how that decision was reached, what information and statements were acquired, also highlighting the feelings that most affected the panel, the elements taken into account, those in favour and those critical.
- Even in criminal cases, the final decision should be accompanied by the reasons that led the panel to take it. The form and presentation of decisions are a significant aspect of children's access to justice: the overall juvenile justice system has a duty to improve children's ability to participate in proceedings concerning them.

## “THIS CASE IS ABOUT YOU AND YOUR FUTURE”...


Efforts to put into practice the principles of child-centred justice have so far concerned the pre-decision phase, i.e. the time for the child to be heard and to participate in proceedings concerning him or her. While it is increasingly clear that the child's point of view must be taken into account especially by the judge, the question of **how, by whom and whether decisions** should be communicated **directly to the child** is still being debated.

In recent years, in the United Kingdom, as in other European countries, there have been several court decisions that have shown how it is possible to adopt a child-centred approach based on how decisions concerning children are communicated to them.

Among the most significant (due to its unconventionality), there is undoubtedly “Letter to a young person” (2017-EWFC-48)<sup>1</sup> by Sir Peter Jackson who was considered an example of practical application of the principle of “friendly” and child-friendly justice.

As the title says, it is a written measure in the form of a letter, the length of one page, addressed directly to the minor<sup>2</sup>, which illustrates in clear terms the current law, the role of the judge, the aspects that have been taken into account to arrive at the sentence and the court decision itself.

Here's what the judge writes:



In July, I heard a private law case concerning the future of a 14-year-old boy. I will call him Sam, though that is not his real name. He lives with his mother and stepfather and sees his father regularly. His father wanted to take him to live abroad and the boy said he wanted to go. Being competent to give instructions, he instructed his own solicitor and the matter reached High Court level because the original application was in fact made by Sam himself. After some preliminary skirmishing, the application was then taken over by the father.

One issue that arose was whether Sam should give evidence at the hearing. He wanted to do so and his father supported that, but his mother and stepfather and the experienced Cafcass officer<sup>3</sup> disagreed, saying that I should instead see him privately, which I was willing to do. In fact, I decided that Sam should give evidence briefly at the beginning of the hearing, but that he should not be questioned directly by either of his parents.

<sup>1</sup> The original version of the court decision is available at <http://www.bailii.org/ew/cases/EWFC/HCI/2017/48.html>.

<sup>2</sup> The case (No. MA17P00163) concerned a child under the age of 14, the father (who filed the appeal), the mother and her partner. His father was represented by himself, his mother and partner did not have their own lawyer but acted in court in person, and the minor was represented by his lawyer.

<sup>3</sup> The Children and Family Court Advisory and Support Service (Cafcass) is a non-departmental public body in England established to promote the interest of children and families involved in family law cases.



Each of them prepared five questions which, after his solicitor had asked him five introductory questions, I put to Sam myself. In this way, his evidence took less than half an hour, and he was not subject to direct questioning by either parent. Sam was satisfied. At the end of his evidence, he left court and went on a school trip for the rest of the week, which was what he wanted. After he had gone, I heard evidence from the three parents and the Cafcass officer.

At the end of the hearing, I gave my decision in the form of a letter to Sam, which I read to his parents and gave to his solicitor to give to him and to discuss with him when he returned from his trip. Sam received the decision with apparent equanimity.

I therefore asked the parties for their views about whether the letter, amended to protect their identities, should be published. Sam, his mother, stepfather and the Cafcass officer agreed to the publication. In contrast, the father was vehemently opposed to any publication; however, he offered no reasons for his opposition.

So here is the letter I sent to Sam:

PJ / 26 July 2017

*“Dear Sam,*

*This case is about you and your future, so I am writing this letter as a way of giving my decision to you and to your parents.*

*When a case like this comes before the court, the judge must apply the law or, he must consider your welfare before anything else. There is also a list of factors I have to consider, to make sure that everything is taken into account.*

*The information I have comes from a variety of sources. There are the papers from the old proceedings years ago. There are more papers from the proceedings this year, especially your own statements, your mum and Paul’s statements, your dad’s statements, and the report of Gemma, the Cafcass social worker. Then there is the evidence each of you gave at court. I have taken all this into account.*

*When I was appointed as a judge, I took the oath that every judge takes to apply the law in a way that is fair to everybody. Some people will say that this or that decision isn’t fair, but that’s usually their way of saying that they don’t like the decision. People who like decisions don’t usually say they are unfair. Here, your father loudly says that Cafcass is biased against fathers and during the hearing it became clear that he doesn’t have much confidence in me either. He is entitled to his view, but I can tell you that I found no sign of bias on Gemma’s part (the Cafcass social worker); on the contrary, I found her someone who had thought very carefully about you and your situation and used her professional experience of many, many family cases to reach an honest view of what would be for the best.*



The decisions that I have to take are these: (1) should you go and live abroad? (2) should you become a citizen there? (3) if all your parents are living in England, should you spend more time with your dad? (4) if your dad goes abroad, and you stay here, how often should you see him?

Here are the main matters that I take into account:

1. Your stated views. You told me that you have long wanted to live abroad and that you could see yourself living there with your dad. If that doesn't happen, you want to go back to having week on/ week off. It worked in the past and you enjoyed it. You feel that your father helps you more with your education. If your dad goes abroad without you, you would be extremely unhappy. Your mum and her partner are very against you seeing more of your dad.
2. I believe that your feelings are that you love everyone in your family very much, just as they love you. The fact that your parents don't agree is naturally very stressful for you, and indeed for them. The social worker could see that when she met you, and so could I when you briefly gave evidence. Normally, even when parents are separated, they manage to agree on the best arrangements for their children. If they can't, the court is there as a last resort. Unfortunately, in your case, there have been court orders since you were one year old: 2004, 2005, 2006, 2009, 2010, 2017. What this shows is how very difficult your parents have found it to reach agreements. This is unusual, but it is how you have grown up. The danger is you get used to it.
3. I was impressed with the way you gave evidence. You are of an age where your views carry a lot of weight with me, and I consider them in the light of your understanding of what has made things as they are. As to that, I don't think anyone of your age in your situation could understand it better than you do, but nor could they fully understand the influences that you are under and the effect that has on you.
4. Your parents have very different personalities. There is nothing wrong with that, it's one of the joys of life that people are different. One of your homes is quite conventional, the other very unconventional. There's nothing wrong with that either. What is of concern to me is this. I see your mother and her partner as being content with the life they lead, but I don't see that in your father. He is a man with some great qualities. When he is relaxed, he has charm and intelligence. But underneath that, I see someone who is troubled, not happy. He has not achieved his goals in life – apart of course from having you. Because of his personality style, and the love you feel for him, he has a lot of influence over you. All fathers influence their sons, but your father goes a lot further than that. I'm quite clear that if he was happy with the present arrangements, you probably would be too. Because he isn't, you aren't.
5. So I have a view on the question of whether the idea of these proceedings comes from you or from your dad. My view is that you brought the proceedings mainly as a way of showing your dad how much you love him. It was mainly to meet his needs, and not yours. I have seen the self-centred way that he behaves, even in the courtroom, and how he makes sure everybody knows how little respect he has for anybody who disagrees with him. Even as a judge, I found it hard work stopping him from insulting the other witnesses. Your mother certainly finds his behaviour difficult,



so difficult that she avoids contact with him whenever possible. I don't think you yet realise the influence that your father has over you. It leads you to side with him and praise him whenever you can. You don't do the same for your mother. Why is that? Is it because you sense that he needs it and she doesn't? Also, I may be wrong, but when you gave your evidence I didn't get the feeling that you actually see your future abroad at all. Instead, what I saw was you doing your duty by your dad while trying not to be too unfair to your mum. But you still felt you had to boost your dad wherever you could. That's how subtle and not-so-subtle pressure works. So I respect your views, but I don't take them at face value because I think they are significantly formed by your loyalty to your father.

6. And it is not just that. I believe your father has in some ways lost sight of what is best for you. He told me that he felt absolutely no responsibility for the state of the relationship between him and your mother. Nor did he satisfy me about his decision to emigrate without you, and why he would want to do something that would so obviously cause you such unhappiness. Earlier, he told me it was 95% likely that he would go alone. Yesterday he told me it was 100% certain. Today he said he was 99.9997% but in his closing remarks a short while ago he said: "If I go abroad" before correcting "if" to "when". My conclusion about all this, I'm afraid, is that, whether he knows it or not, your father has a manipulative side. I don't believe he has any real idea whether he will go abroad or not, so nor do I. I can see that for him personally, Scandinavia may have some attractions, but I don't believe he will find it at all easy to stop seeing you. I very much hope he will stay for your sake, even if it is at a cost to himself. The evidence shows that you are doing well in life at the moment. You have your school, your friends, your music, and two homes. You've lived here all your life. All your friends and most of your family are here. I have to consider the effect of any change in the arrangements and any harm that might come from it. In any case where parents don't agree about a move overseas, the parent wanting to move has at least to show that they have a realistic plan. That plan can then be compared with other plans to see which is best. That has not been possible here. You will remember that at the earlier hearing, I made very clear to your father that if he was going to seriously put forward a move to Scandinavia, he had to give the court proper information about where you would be living and going to school, where the money would be coming from, and what the arrangements would be for you to keep in touch with family and friends in England. At this hearing, no information at all has been given. Your father described the move to Scandinavia as an adventure and said that once the court had given the green light, he would arrange everything. That is not good enough. In over thirty years of doing family law cases, I have never come across a parent who thought it might be, and no court could possibly accept it. What it means is that I have no confidence at all that a move to Scandinavia would work. Your dad thinks he would find a good life and good work there, but I have seen nothing to back that up – he hasn't made a single enquiry about houses, schools or jobs. You do not speak the language and even your father has not been there (in Scandinavia) for more than 10 years. I also doubt his ability to provide you with a secure home and a reasonable standard of living if you lived with him full-time. I would worry about how it would be for you if things started to go wrong. I think you would find it exciting at first, but when reality set in, you might become sad and isolated. I also don't think it is good for you to be with your father 24/7. In some ways, he would expand your vision of the world, but in many more ways he would narrow it, because he holds such very strong views himself, and because I believe that (maybe sincerely and without realising it)



he needs you to fall in with his way of thinking. I also think it would be very harmful to be living so far away from your mum.

**7.** I very much see you completing your schooling here. If, when you finish your A levels, you want to move to Scandinavia, you will be 18 and an adult – it will be up to you. Until then, you should make the most of the many opportunities that life here has to offer you. Although your dad is not that impressed with your school, most kids across the country would give a lot to have the life chances you already have. You don't need more chances, or changes, but rather to make the most of what you have already.

**8.** I have thought carefully about your request to spend more time with your father. I'm afraid that I think that the idea of spending week on/week off would be disastrous. It may have worked, with some difficulty, when you were a primary school, but it will not help your development to share your time between two homes with such different philosophies. In the end, not without some hesitation, and only if your father decides to remain living in England, I'm going to follow something like the arrangement that your social worker recommends. It will give you some more time with your dad, and more independence in getting to and from school. It won't surprise you to hear that your dad told me that any outcome like this would be totally unacceptable to him and to you: can I suggest that you do your own thinking and don't let his views drown out yours?

**9.** There needs to be an end to proceedings of this sort. They have been extremely stressful for everyone. This is the fifth case there has been about you and, unless something pretty extraordinary happens, it should be the last.

So, coming to the orders I am going to make:

I dismiss your dad's applications to take you to live in Scandinavia.

You will have a holiday of a week in the second half of August this year with your dad, to be spent at his home unless he and your mother agree that it is going to be spent somewhere else.

I shall direct your father to write to your mother to inform her whether or not he will be moving to Scandinavia and, if so, when.

If he writes that he is going to be moving (or does not write at all), contact will remain as it is: i.e. alternate weekends from Friday evening to Sunday evening. After he goes, contact (face-to-face and by phone/Skype etc.) will be as agreed between your parents.

If your father writes to your mother that he is not going to be moving, contact will take place as follows: From the beginning of September, alternate weekends from Friday direct from school to Monday direct to school, until the end of the year. From the following year, it will be alternate weekends from Thursday direct from school to Monday direct to school. I have not followed the social worker's suggestion exactly because I think it is harder on you going backwards and forwards between the two homes every week. I think it would be better if you did that once a fortnight and



*that the increase is phased in. I will make an order under s. 91(14) of the Children Act that no further applications concerning you can be brought before the court by anyone, including yourself, without the Designated Family Judge giving permission. I do not think it need run for longer than that. The court will always give permission if someone wants to bring a reasonable application, but it gives the court control before any fresh proceedings are started.*

*I realize that this order is not the one that you said you wanted me to make, but I am confident that it is the right order for you in the long run. Whatever each of your parents might think about it, I hope they have the dignity not to impose their views on you, so that you can work things out for yourself. I know that as you get older, you will come to see why I have made these decisions. I wish you every success with your future and if you want to reply to this letter, I know that your solicitor will make sure that your reply reaches me.*

*Lastly, I wanted to tell you that your dad and I enjoyed finding out that we both love the film My Cousin Vinny, even if it might be for different reasons. He mentioned it as an example of a miscarriage of justice, while I remember it for the best courtroom scenes in any film, and the fact that justice was done in the end.*

*Kind regards".*

## Notes

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