

**IAML EUROPEAN CHAPTER  
YOUNG LAWYER'S AWARD 2016**

**RELOCATION CASE STUDY**

Mrs. Brand and Mr. Yun have lived together for 20 years in State A and have two children: Paul, born in 2010, and Rebecca, born in 2003.

Mrs. Brand and Mr. Yun separated in April 2013. Following their separation they have continued to live in the capital of State A, a French speaking country, and Mr. Yun has agreed that Paul and Rebecca would live with their mother and spend 2 weekends per month and half of school holidays with him. Due to Mrs. Brand's limited income and since the main residence of the children is with her, Mr. Yun is paying alimony/maintenance for the children.

Mrs. Brand's employer has offered her a new position located at the company's headquarters in State B. Mrs. Brand is highly interested in this offer as such a move would provide excellent career opportunities and increase her income by 40%. In addition, State B is a well-developed English speaking country where Paul and Rebecca would have better access to educational opportunities than in State A.

However, Mr. Yun is concerned about Mrs. Brand's proposed move. Whilst Rebecca is curious and positive about living in State B, Paul is younger and has suffered from chronic allergies since the age of 2. Thanks to the efforts of the family doctor based in the capital of State A, Paul's allergies have been reduced to a minimum. The family doctor believes that Paul is now in reasonably good health but must still be seen on a regular basis by a specialist doctor. Treatments and specialised doctors in State B are not as accessible as in State A. The treatments are more expensive and the closest specialist doctor is more than 100 km away from Mrs Brand's intended place of relocation.

Also, Mr. Yun has been facing difficulties with contact/access arrangements in recent past months and is concerned that Mrs Brand's wish to relocate in State B would damage the strong relationship he has with Paul and Rebecca. In fact, traveling from State A's capital city to the place of relocation in State B would require 6 hours flight to State B and 2 hours' drive from the nearest airport. In addition, while they have been speaking French at home with the children, Mr. Yun knows that Mrs. Brand has relatives in State B and that Mrs Brand, who is a native English speaker, may not use French to converse with the children if they settle in State B.

Mr Yun, a Buddhist, has always been very clear that if the children do not live with him on a daily basis they should continue to take instruction on his faith. Paul and Rebecca have continued to study Buddhism since their parents' separation and have attended their local Buddhist temple. Mr Yun is concerned that that Mrs Brand may not comply with this condition once she relocates.

1. A. Mrs Brand is consulting you in relation to her situation and her wish to relocate to State B. She has informed you that she was married to Mr. Yun and that their divorce was finalised in 2013. Their custody agreement was registered by the competent court at that time.
  - (i) What would be your advice to Mrs Brand?
  - (ii) What would be the approach of the courts of the jurisdiction in which you practise to the proposed relocation of the children?
  - (iii) In particular, how would the courts in your jurisdiction deal with Mr Yun's ongoing contact with the children, their maintenance in State B, and their health costs going forward.
  - (iv) What kind of evidence would be as seen useful in supporting Mrs Brand's case?
- B.
  - (i) What would have been your advice if Mr. Yun had consulted you rather than Mrs Brand?

(ii) What kind of evidence would be seen as useful in supporting Mr Yun's case?

2. Would your advice be different if Mrs Brand and Mr. Yun had never been married and no court order or court registered agreement had been put in place for arrangements concerning the children after their separation?
3. What would have been your approach if Mrs Brand and Mr. Yun had agreed on shared custody/residence since 2013 (such as alternating weeks with each parent)?
4. Would your advice be different if Mrs Brand was either a national of or had a domicile in State B?
5. Would your advice vary if Mr. Yun and Mrs. Brand had the same religion?
6. Mr Yun is very keen that if Mrs Brand and the children were to move to country B, then the courts of country A should be able to review any court order setting out arrangements for the children (including contact/access) – what would your advice be to him? Would your advice be different if the agreed arrangements for the children were not incorporated in a court order?
7. How would your advice differ if Mrs Brand was offered a temporary posting of say only one year to country B to carry out a research project there?

**NOTE TO CANDIDATES: Please answer each numbered question separately**

**Your combined answers should be between 2000 to 3000 words**