

ROMÂNIA
JUDECĂTORIA PITEȘTI
STR. EROILOR NR. 49, PITEȘTI, JUD. ARGEȘ
PITEȘTI-ARGEȘ
SECȚIA CIVILĂ

Destinatar:
Chirvasoiu Venites
Filipine - Block 2 lot 10, 1 st Camelia
Homes - Malvar Santiago City 3311,
Filipine, județul

DOSARUL NR. 5108/280/2021

Materia: Minori și familie
Stadiul procesual al dosarului: Fond
Obiectul dosarului: divorț CU COPII + STAB. DOM.
MINOR + PENSIE + EXERC.AUT. PARINT. + STAB.
PR VIZITA MINOR + REVENIRE NUME
Complet: c4-11

**RECOMUNICARE
HOTARÂRE CIVILĂ**

NR. 2404/2024 DIN DATA DE 12 Aprilie 2024

Stimată doamnă/Stimate domn,

vă comunicăm, alăturat, copia hotărârii civile nr. 2404/2024, pronunțată la data de 12 Aprilie 2024, de către JUDECĂTORIA PITEȘTI SECȚIA CIVILĂ.

Notă: Pentru a vizualiza unele documente din dosar, accesați www.curteadeapelpitesti.ro secțiunea Dosare și folosiți parola: ~~2024data~~. Aveți obligația de a nu divulga parola altor persoane. comunicare prin publicitate.

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M.V. 29.10.2024 12:51

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Case file no.: 5108/280/2021

ROMANIA
PITEȘTI DISTRICT COURT
CIVIL MATTERS DIVISION
Divorce judgment no. 2404/2024
Open court of 12 April 2024
Panel of judges composed of:
PRESIDENT Denisa Ana Maria DANCIU
Clerk of the Court: Cătălina Ioana GHENCEA

Pending before the Court: trial of the Family Division case with regard to petitioner Mr. **CHIRVĂȘOIU Mihai Teodor** and the respondent Mrs. **CHIRVĂȘOIU Venitess** in the matter of **divorce with children + setting underage child's place of residence + child maintenance allowance + exercise of parental authority + setting visiting rights and custody of the underage child + return to maiden surname.**

Debates on the merits took place in the open session dated 21/03/2024, parties' allegations being recorded in the hearing report on that date, which is integral part to this judgment, when the court, needing more time to deliberate, stayed proceedings successively for 05/04/2024 and 12/04/2024, when it gave the following ruling:

THE COURT

Having deliberated on the instant civil case, finds the following:

A petition was forwarded before the Pitești District Court's docket on 01/04/2021 under no. 5108/280/2021 by petitioner **CHIRVĂȘOIU Mihai Teodor** against respondent **CHIRVĂȘOIU Venitess** petitioning the court to rule: the dissolution of the marriage celebrated by parties on 25 May 2013, registered under number 175 in the Local Community Public Register of People Registration of Pitești on grounds of mutual fault of spouses; order the respondent to return to her maiden surname, that of **ANTONIO**; set the place of residence for the underage children: **CHIRVĂȘOIU Paris Mihai** and **CHIRVĂȘOIU Hector Mihai** with their mother's dwelling place; award joint exercise of parental authority over the children; concede visitation rights and custody to the father in connection with the underage children as follows: in the children's Summer holiday from 1 August to 1 September and 2 weeks during winter holidays at his residence; order the petitioner to pay child maintenance allowance in favour of the underage children in a share of 33% of his monthly income as of the date the divorce action was lodged and further on; no Court fees.

In support of his petition, the petitioner stated he married the respondent **CHIRVĂȘOIU Venitess**, Philippine citizen in Pitești on 25 May 2013 and it was registered under number 175 in Pitești Local Community Public Service for People Registration. Two children resulted from their marriage: **CHIRVĂȘOIU Paris Mihai**, born on 3 November 2013 in Bayombong-Philippines and **CHIRVĂȘOIU Hector Mihai**, born on 1 August 2016 in Abu Dhabi.

The marital home on the marriage celebration date and for a period of 3 years thereafter was in Dubai. Subsequently, they returned to Romania in March 2017 and they lived together with their children in his parents' house from Pitești and this was their last joint residence.

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The petitioner stated that although in the beginning of their marriage they had a harmonious relationship, it began deteriorating, and so they began having arguments, quarrels mainly due to how different they looked at things about family life and the responsibility incumbent upon each of them as a couple. In the summer of 2017, the respondent went to the Philippines with the children, and he went to Dubai to work, from where he sent the respondent money monthly, so she could procure everything she needed to procure the necessities of life, including to the underage children.

In 2018, he bought a house in the Philippines, via a bank loan, to make sure the respondent and the children have a house to live in but, unfortunately, because of the pandemic and lack of money, in 2020 he couldn't afford to pay the respective instalments anymore.

Moreover, the petitioner stated that the underage child CHIRVĂȘOIU ~~Rapsodia~~ ~~Mihai~~ is suffering from autism and is enrolled in Philippines in a kindergarten for children with special needs. He has permanently taken care of and paid for his therapy ever since he was born, and this is why in 2017 he decided to go back to Dubai to work, in order to be able to earn more money than he could have in Romania.

In 2018, but also in 2019, he went to the Philippines and stayed for three weeks each year, so he could be with the respondent and their children.

At his last visit to the Philippines in 2019, the respondent told him she wanted them to separate.

They thus concluded that their marriage had irretrievably broken down and it would be impossible to continue being married.

He believes the underage children's residence should be set with the respondent, seeing as they are at a tender age and mainly need the care and presence of their mother. Subject to the respondent's consent, he shall seek the dissolution of their marriage by mutual consent.

De jure, his action was founded on the provisions of Articles 373 para. 1, sub-para. b), 383 par. 3, 400, 397, 401 and 529 of the Civil code.

In evidence, he sought the administration of the written evidence, testimonial evidence and social welfare report.

Albeit having been legally summoned, the respondent did not file a statement of defence.

During the judicial investigation, the following evidence was adduced: documentary and testimonial and the carry out of a social welfare report at the petitioner's place of residence was ordered.

Having analysed the papers and works brought to the case file, the court holds the following:

In fact, parties got married on 25/05/2013, their marriage being registered in Pitești Municipality's Civil Register under series CG no. 401721, based on the marriage certificate no. 175 (page 1). Two children resulted from their marriage: CHIRVĂȘOIU ~~Rapsodia~~ ~~Mihai~~, born on 1 August 2016 (page 12) and CHIRVĂȘOIU ~~Rapsodia~~ ~~Mihai~~, born on 3 November 2013 (page 13).

With regard to the head of claim on the dissolution of marriage, the petitioner sought to have it dissolved on grounds of mutual fault, claiming that the family relationship has deteriorated, and the respondent has been living in the Philippines since the Summer of 2017.

Pursuant to Article 259 para. (6) of the Civil code: "*Marriage can be dissolved by divorce, under the law*". According to Article 373 sub-paragraph b) of the Civil code: "*divorce may be ruled when, due to true and just case, the relationship between spouses has*

irretrievably broken down and it is impossible to continue the marriage". Pursuant to Article 379 para. (1) of the Civil code: "... for the case provided under Article 373 sub-paragraph b), divorce may be ruled where the Court may establish one of the spouses' fault for the marriage breakdown. However, if the evidence adduced to the case show that both spouses are to blame, the Court may rule the divorce on grounds of mutual fault, even if only one of them has filed a petition for divorce".

Corroborating legal texts, it follows that, in order to rule the dissolution of a marriage, there have to be reasonable grounds, which render the relationship between spouses impossible.

Dissolution of a marriage implies a validly concluded marriage between spouses, a requirement which is fulfilled.

The Court finds, from the evidence adduced to the instant case, that the relationship between parties has broken down, since this relationship has irretrievably broken down.

The witness CHIRVĂȘOIU Teodor (page 43 vol. 2) testified that the parties started to no longer get along ever since they came to Romania, and the respondent left to the Philippines, and the petitioner went to the Emirates.

Having regard to the evidence adduced, taking also into consideration the passive attitude of the respondent, who did not file a statement of defence, nor did she appear for questioning, the Court finds that both parties are guilty of their relationship's breakdown. The family relationship broken down further to the culpable conduct of both parties, who failed to reach a common ground on the family relationship. Under these circumstances, marriage can no longer continue, all the more that parties are de facto separated.

Consequently, under Article 934 para. (2) of the Civil procedure code, in conjunction with Article 373 para. b) and Article 379 para. (1) of the Civil code, the Court shall grant the action and shall rule the dissolution of marriage on both parties' fault.

With regard to the petitioner's petition that the respondent should return to her maiden surname, the Court shall rule that she returns to her maiden surname, i.e.: "ANTONIO".

With regard to the head of claim on the joint exercise of parental authority with regard to the underage children CHIRVĂȘOIU Teodor Mihai, born on ~~04 August 2006~~ (page 12) and CHIRVĂȘOIU ~~Pana Mihai~~, born on 3 November 2013, the Court holds the following:

Article 483 para. 1 of the Civil code defines parental authority as: "*the totality of rights and duties concerning both the person, and the assets of the child, and is incumbent upon both parents jointly*"; paragraph 2 regulates that "*parents shall exercise parental authority only in the child's best interest with the respect owed to their person and they shall involve the child in all decisions concerning him/her, taking account of the child's age and degree of maturity*", and paragraph 3) rules that "*both parents are responsible for the raising of their children*".

Thus, pursuant to the provisions of Article 2 para. (4) of Act 272/2004: "*the child's best interest shall prevail in all approaches and decisions concerning children, made by public authorities and authorised private bodies, as well as in cases settled by courts. At the same time, pursuant to the provisions of Article 2 paras. (2) and (3) of Act 272/2004: "the child's best interest is circumscribed to the child's right to normal physical and moral development, to social and emotional balance and to family life, the principle of the best interests of the child being imposed also in relation to the rights and obligations of the child's parents, other legal representatives of the child, as well as any other persons to whom the child has been legally placed. Thus, the establishment of parental authority in favour of both parents is an undeniable benefit for minors whose families are going through the experience of separation.*



Only by way of exception, in accordance with Article 398 of the Civil Code, the court may decide that parental authority may be exercised by one parent only, having regard to the best interests of the child. However, the court will bear in mind that in the present case none of the grounds set out in the illustrative enumeration of Article 36 para. (7) of Law no. 272/2004. that would justify the exercise of parental authority by one of the parents: *alcoholism. The following are among the legal grounds justifying the exercise of parental authority under Article 36(2) of the Act: alcoholism, mental illness, drug addiction of the other parent, violence against the child or the other parent, convictions for offenses of trafficking in persons, drug trafficking, sexual offenses, violence, as well as any other legal reason of risks for the child, which would derive from the exercise of parental authority by that parent.*

As long as the factual situation, proven by the evidence adduced, leads to the conclusion legally confirmed that it is in the best interests of the minors that the parental authority is exercised jointly by both parents, none of the cases provided by Article 36 para. (7) of Law no. 272/2004 apply, which would justify the exercise of parental authority by a single parent, the court shall order, pursuant to Article 397 Civil Code, that the exercise of parental authority over the children CHIRVĂȘOIU ~~Florin~~ ~~Mihaela~~, born on ~~01/09/2016~~ and CHIRVĂȘOIU ~~Florin~~ ~~Mihaela~~, born on ~~01/09/2016~~, to be exercised jointly, by both parents.

Having examined the head of claim on the setting of the children's place of residence with their mother's home, the Court holds that the petitioner is seeking to have the place of residence of children set with their respondent mother's home, and it follows, from the instruments lodged to the case file at page 52 vol. 2 and the following that she has proper housing conditions and wants the children to stay with her, which is why the Court shall grant the petitioner's request and shall order that the children's place of residence be set with the respondent mother's home.

With regard to the head of claim in the determination of the contribution to the children's raising and education, pursuant to Article 402 of the Civil code: *"The guardianship supervisory authority shall determine, via the divorce judgment, each parent's contribution to the expenses relating to raising, education, learning and vocational training of children".*

Having regard to the fact that the Court shall order the setting of children's place of residence with their mother, she shall thus contribute to the expenses on the raising and education of the children in kind, and the petitioner (**erroneously entered respondent*) shall contribute to such expenses by the determination of a monthly amount of money, to be paid as child maintenance allowance, a solution which is in line with the provisions of Article 530 para. (1) of the Civil code.

Consequently, the Court shall order the petitioner (**erroneously entered respondent*) to pay child maintenance allowance amounting to 33% of the national minimum income, as of the date the divorce proceedings were brought, i.e.: 01/04/2021, until the children's age of majority.

Having examined the personal ties schedule proposed by the petitioner-respondent, the Court deems it is balanced, aiming to ensure the maintenance and development of actual ties specific to a parent and their children, to the instant case not being raised any reasonable grounds for which its limitation should be ordered.

Court concedes a personal ties schedule with the children in the following manner: in the children's summer vacation: from 1 August to 1 September, and 2 weeks during the winter holiday, at his home.

With regard to Court fees, the Court takes note that the petitioner (**erroneously entered respondent*) does not request Court fees.

**PROVIDED THE STATED GROUNDS
IN THE NAME OF THE LAW
COURT SHALL RULE AS FOLLOWS:**

Grants the action brought forward by petitioner **CHIRVĂȘOIU Mihai Teodor**, Social Security Number (CNP): ~~1790023034978~~, with usual address in: jud. Argeș, Pitești, ~~Rosetti nr. 4 (bl. 20, sc. A, ap. 4)~~ versus the respondent **CHIRVĂȘOIU Venițess**, with usual address in the Philippines.

Rules the dissolution of the marriage on grounds of both parties' fault.

Orders the respondent to return to her maiden surname, that of "ANTONIO".

Awards the joint exercise of parental authority over the underage children **CHIRVĂȘOIU Hector Mihai**, born on ~~1 August 2016~~ and **CHIRVĂȘOIU ~~Paul~~ ~~Mihai~~** born on ~~6 November 2016~~.

Sets the place of residence of the underage children with their mother's dwelling place.

Orders the petitioner to pay child maintenance allowance in favour of the underage children **CHIRVĂȘOIU Hector Mihai**, born on ~~1 August 2016~~ and **CHIRVĂȘOIU ~~Paul~~ ~~Mihai~~** born on ~~6 November 2016~~ amounting to 33% of the minimum guaranteed income, as of the date the divorce proceedings were brought until the children's age of majority.

Concedes the petitioner a child visitation and custody schedule in the following manner: in the children's summer vacation: from 1 August to 1 September, and 2 weeks during the winter holiday, at his home.

Takes note of the fact that the petitioner did not request the obligation of the respondent (**erroneously entered respondent*) to pay Court fees.

Right of appeal within 30 days as of the document was served, the petition being lodged before the Pitești District Court.

This judgment was ruled today, 12/04/2024, by making the solution available to the parties via the court's registry office today, pursuant to Article 396 para. 2 of the Civil procedure code.

President
Denisa Ana Maria DANCIU

Clerk of the court
Cătălina Ioana GHENCEA
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Drawn-up by D.A.M.D./ 4 counterparts of 25/07/2024
Typewritten by: CIG of 18/04/2024
Served: 2 counterparts

End of translation

I, the undersigned COVĂLEANU MARIA - ALINA, sworn translator and interpreter for the foreign languages English/French, based upon authorization no. 19256 of 17 January 2012 issued by the Romanian Ministry of Justice do hereby certify the exactness of the text with the original document in Romanian; the text shown to me was translated in full, without omissions and its content and meaning have not been distorted.

Sworn Translator and Interpreter
COVĂLEANU MARIA - ALINA



ROMANIA

**PITEȘTI DISTRICT COURT
CIVIL MATTERS DIVISION**

Case file no. 5108/280/2021

COURT RESOLUTION STAYING SUBSEQUENT PROCEEDINGS

Open court of 5 April 2024

Panel of judges composed of:

PRESIDENT Denisa Ana Maria DANCIU

Clerk of the Court: Cătălina Ioana GHENCEA

Pending before the Court: trial of the Family Division case with regard to the petitioner Mr. CHIRVĂȘOIU Mihai Teodor and the respondent Mrs. CHIRVĂȘOIU Venitess in the matter of divorce with children + setting underage child's place of residence + child maintenance allowance + exercise of parental authority + setting visiting rights and custody of the underage child + return to maiden surname.

Debates on the merits took place in the open session dated 21/03/2024, parties' allegations being recorded in the hearing report on that date, which is integral part to this judgment, when the court, needing more time to deliberate, stayed proceedings for 05/04/2024 when it made the ruling as follows:

THE COURT

Having regard to the fact that it needs more time to deliberate and record the minutes, pursuant to Article 396 para. 1 of the Civil procedure code,

**PROVIDED THE STATED GROUNDS
IN THE NAME OF THE LAW
COURT SHALL RULE AS FOLLOWS:**

Stays proceedings for 12/04/2024.

Right to a remedy at the same time as the merits.

Judgment ruled by making the solution available to the parties via the court's registry office today, 05/04/2024.

President
Denisa Ana Maria DANCIU

Clerk of the court
Cătălina Ioana GHENCEA
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Typewritten by: CG on 08 April 2024

Page 1 of 1

End of translation

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Sworn Translator and Interpreter
COVĂLEANU MARIA - ALINA



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ROMANIA

PITEȘTI DISTRICT COURT CIVIL MATTERS DIVISION

Case file no. 5108/280/2021

COURT RESOLUTION STAYING INITIAL PROCEEDINGS

Open court of 21 March 2024

Panel of judges composed of:

PRESIDENT Denisa Ana Maria DANCIU

Clerk of the Court: **Cătălina Ioana GHENCEA**

Pending before the Court: trial of the Family Division case with regard to the petitioner **Mr. CHIRVĂȘOIU Mihai Teodor** and the respondent **Mrs. CHIRVĂȘOIU Venitess** in the matter of **divorce with children + setting underage child's place of residence + child maintenance allowance + exercise of parental authority + setting visiting rights and custody of the underage child + return to maiden surname.**

Roll call for the hearing session: petitioner **CHIRVĂȘOIU Mihai Teodor** appeared in person and assisted by lawyer **Maria Cristina LETU**, and the respondent **CHIRVĂȘOIU Venitess** did not appear.

Summoning procedure legally completed.

The hearing session court clerk drew up case minutes, bringing to the Court's attention: who the parties were, subject matter of the case and stage of the trial, as well as the fact that some clarifications were lodged to the case, via the Registry Office Department on 22/11/2023 by the Ministry of Justice – Department for International Judicial Cooperation, with regard to the forwarding of the petition to carry out a social welfare report. On 11/03/2023, the respondent **CHIRVĂȘOIU Venitess** lodged some instruments in support of the claim. Subsequently:

The Court calls into question the instruments lodged by the respondent **CHIRVĂȘOIU Venitess** into English to the instant case file.

Being given the floor, lawyer **Maria Cristina LETU** deems that by lodging the instruments it is proven that the respondent is aware of this trial date and this case file, highlighting the fact that the statement of defence is brought on legislative aspects from the Romanian language. Also, it highlights the fact that the respondent was obligated to lodge the instruments into the Romanian language.

Moreover, lawyer **Maria Cristina LETU** stated she has no knowledge of the contents of the instruments lodged to the case file, but she claimed that if they were lodged under the form of a statement of defence, this defence is belated, as the term of 25 days was not complied with, as laid down by the regularisation procedure. At the same time, she stated that even if they were to be examined as a Meeting resolution, in response to the statement of defence, the procedural time-limit to propose evidence and examine them has been exceeded.

Upon the Court's cross-examination with regard to contacting the respondent, lawyer **Maria Cristina LETU** stated she had only contacted her two years before, when they had initially established that the respondent is to appear before a notary public to give her consent to the dissolution of marriage, but the respective procedure did not take place.

Lawyer **Maria Cristina LETU** sought from the Court to review the previous provisions regarding the social welfare report carried out at the respondent's home, emphasizing that the petitioner has expressed his procedural position throughout the trial that he wishes to establish a joint authority in respect of the children, but that the minors should remain with the mother. She also affirmed that if the Romanian courts would establish that there are no favourable conditions at the mother's, the children's father does not wish the children's place of residence to be set with his dwelling place. For these considerations, believes that the

evidence with the social welfare report is not useful to the case, considering the longer period of time in which it has not been carried out, stating that the petitioner undertakes to pay the fees incurred with the social welfare report.

Upon the Court's cross-examination about contacting the respondent, the petitioner CHIRVĂȘOIU Mihai Teodor claimed he had contacted her many times, but she would always tell him she is not interested in any of that and that he should handle it. He also claims that the respondent did not want to tell him the exact address where the children live, as well as that after talking to them, he realized they were living in a house.

In relation to the clarifications made by both parties, the Court rules the reversing of the measure of the social welfare report ruled on the previous trial date, deeming it was no longer necessary to return with a notification.

Seeing as the parties have no more petitions to lodge and that there were no more incidents to solve, the Court finds the trial investigation over, under Article 244 of the Civil procedure code and pursuant to Article 392 of the Civil procedure code, declares the debates on the merits of the case open.

Being given the floor, lawyer Maria Cristina LETU seeks the granting of the petition and, as a consequence, the dissolution of marriage, return of the respondent to the maiden surname, establish joint parental authority over the two underage children, set the children's place of residence with their mother's home, and set a visitation and custody schedule in the manner exposed. Also, she sought the obligation of the respondent to pay Court fees, mainly the fees incurred by the petitioner with regard to the international procedure.

Under Article 394 of the Civil procedure code, the Court finds all the circumstances in fact and as of right, and declares the debates closed and postpones the case for settlement, pursuant to Article 397 of the Civil procedure code.

THE COURT

Having regard to the fact that it needs more time to deliberate and record the minutes, pursuant to Article 396 para. 1 of the Civil procedure code,

PROVIDED THE STATED GROUNDS IN THE NAME OF THE LAW COURT SHALL RULE AS FOLLOWS:

Stays proceedings for 05/04/2024.
Right to a remedy at the same time as the merits.
Judgment in open court today, 21 March 2024.

President
Denisa Ana Maria DANCIU

Clerk of the court
Cătălina Ioana GHENCEA
[Illegible signature]

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Typewritten by: CG on 22 March 2024

End of translation

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