[2023] EWHC 3455 (Fam)

Case No: FD23P00108

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: Friday, 21 April 2023

Before :

WILLIAMS J
(In Private)

- -

Between :

T	**Applicant**
- and -	
L	**Respondent**

(1980 Hague Abduction Convention: Article 13b: Evaluating Evidence of Risk)

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Miss J Renton (instructed by **(instructed by Freemans Solicitors**) for the **Applicant**
Miss A Guha (instructed by **Dawson Cornwell**) for the **Respondent**

Hearing dates: April 21st 2023

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Approved Judgment

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WILLIAMS J

This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.

1 It is now 26 minutes past 3 on the afternoon of Friday 21 April 2023 and I am delivering an *ex tempore* judgment in the case of T against L. The case involves an application pursuant to the 1980 Hague Child Abduction Convention seeking the summary return of three children of the parties: S, Y, and X. The applicant mother is represented by Miss Renton with Freemans Solicitors and the respondent father is represented by Miss Guha with Dawson Cornwell.

2 The immediate background is that the children were brought to England from Israel by the father on or about 15 February 2023, they having resided in Israel since about April 2021 and the mother having travelled here for the purposes of a visit combined with a health appointment in relation to her pregnancy, she now being about seven and a half months pregnant with the parties' fourth child. It was that removal of the children from Israel by the father in February 2023 that is said to be wrongful and led to the proceedings.

3 What led up to that in terms of the background is this. The respondent father was born in Israel with the applicant mother being born in Israel. The parties undertook an arranged marriage having been introduced, I think, in late 2013 and marrying on 1 January 2014. Their first child S was born. The parties then moved to London and the reasons for that I will come back to. Y was born in England.

4 In 2018, the family visited the Ukraine where the father was involved in a tragic car accident which resulted in the death of a girl. He was arrested and remained in the Ukraine for something like ten months, two months in custody and eight months under house arrest. The mother in that period returned to Israel with the children and X was born in September of that year in Israel. They returned in November to London and lived in London with the mother undertaking the role of primary carer and the father working, I think, in various capacities, possibly as a plumber, or running a plumbing business, until April 2021 when the family returned to Israel again in circumstances which are disputed. So, since April 2021, the mother and children lived in Israel, initially with her father, then in an apartment, I think, rented by her father, and subsequently in an apartment rented by the father.

5 The father himself split his time between Israel and London, including a period in 2021 when, following his visits to Israel shortly after the mother and the children returned there, he was admitted to hospital for a period of weeks. The mother believes he was sectioned there. The father says he was unwell and believes he was possibly poisoned in relation to allegations, or his involvement in the support of allegations, of sexual abuse within the orthodox community. Whilst in Israel, the children began attending schools or playgroups and in late 2022, the parties separated. The mother puts it as November and the father, I think, in December by which time, of course, the mother was already about three or four months pregnant.

6 In February 2023, the mother had made an arrangement to visit London. The Father says that this was in connection with an agreed plan to relocate to London and that she had booked a midwife appointment in relation to her pregnancy. Father's position is that this was part of a package of the family relocating. The mother's position is that that was not the case but that she had been persuaded, I think, by the father to come for a health appointment in England and then extended it to a couple of days to spend some time with a friend. She left the children in Israel, I think in the family home, which was rented in the father's name but in the care of the maternal grandfather. The circumstances around that are what led to the removal of the children because the

father, having learned that the children were in the care of the paternal grandfather, travelled to Israel and removed the children from the maternal grandfather's care and brought them back to England, renewing one of the passports, I think, at Tel Aviv on the way through.

7 When he arrived in England, he located the children, I think, in the West Country or the borders, and the mother fairly rapidly sought legal advice. In the meantime, there was communication between the parents over the situation, in particular in relation to contact, and at that point, the mother says for the first time, the father says one of many repeated times, he raised his concerns about the risks that the maternal grandfather and uncles posed to the children in terms of sexual abuse. He made clear that he sought joint custody of the children and if they were to return to Israel, that he sought a restraining order which would prevent the maternal grandfather and the family members having contact with the children having regard to that risk.

8 The mother commenced these Hague Convention proceedings on 28 February and on 1 March, following orders having been made without notice, including, I think, a collection order, (if it was not a collection order it was a handover order of some sort), but when the father brought the children to the family centre for contact, he was served with the order which required him to handover the children. The children have returned thus to the mother's care and have lived with her and the maternal grandfather at an undisclosed location, or undisclosed to the father, anyway, since that time. The proceedings continued with orders made by Roberts J, Moor J, and I think Morgan J.

9 On the initial occasion when the father attended - I am not sure whether he was represented or not - it was indicated that three issues might be raised in relation to the mother's application for summary return. The first was identified as a possible question mark over whether the children were habitually resident in Israel prior to 15 February. The second was whether these children would object to a return to Israel. The third was the assertion that there was a grave risk of physical and psychological harm, or other intolerable situation were the children to return to Israel.

10 A Cafcass report was ordered and S and Y were seen by a Cafcass officer who got relatively little out of the children. They were somewhat reluctant to engage, although the Cafcass officer put forward reasons why that might have been, but the net result was that nothing emerged from those discussions which might have formed the basis of a child's objections exception and the father sensibly has not sought to pursue that avenue of defence. Equally, by the time he had filed his statement, although it contains much evidence about life in London and the children's attachment to London, he did not pursue the issue of habitual residence, again sensibly in my view. Whilst his habitual residence may be in England rather than Israel, the uncontested facts of the children's life in Israel since April 2021 would undoubtedly support the conclusion that they were habitually resident in Israel at the point of their removal.

11 So the issue narrows down to the question of whether the Art.13(b) exception could be established. The case was listed for a one-day final hearing which has been today. I have been provided with a bundle numbering 280-odd pages, including appropriate and focused statements from both of the parties, sensible numbers of exhibits, helpful Skeleton Arguments from their advocates, and in the course of today, I have heard oral submissions in relation to the Art.13(b) defence. No oral evidence was suggested whether on the substance of the allegations or on undertakings and, again, it seems to

me on the facts of this case that it would have been inappropriate to hear oral evidence on either of those.

12 The father's case in a nutshell is that if the children are returned to the mother's care in Israel, they will be returned to a family environment where sexual abuse is both prevalent but also suppressed and that the mother would be unable to protect the children from it, perhaps unwilling to protect the children from it, and that not only is the grave risk of harm established but that no framework of protective measures would be effective, in practice, to reduce the risk to a level below the Art.13(b) threshold. His case in more detail is contained within both the position statement and his statement, both of which I have read but I cannot hope to incorporate in extensive detail in this. However, I do think aspects of his statement in particular warrant inclusion in order to consider the context of the allegations which he makes.

13 At para.7, the father sets out his account that he was sexually abused himself by an individual who it turns out later in his statement is the maternal great grandfather. In para.10, he refers to the maternal great grandfather's position at the time the parties were married and he says:

> "While we were going to .. T's house, C said there were many incidents of sexual abuse in the maternal family. The abuse was known to be so common that T, aged 15, was sent to the USA to keep her away from it."

The mother denies that that was the reason for her going to spend time in the USA.

14 At para.11 he says,

> "T and I got married in January 2014 in Israel. When we talked about our future, T told me that she had been sexually abused from the age of 7 in her parents' home and she simply did not feel safe living close to them. Therefore, we decided to live abroad."

Again, the mother denies either that she had been sexually abused, or that she said anything to the father along those lines, or that she did not feel safe living close to her family. In fact, her case is to the contrary that she is close to her family and enjoys very much their support.

15 The father goes on in para.12:

> "T has told me in the past that she was raped by a family member. I know this could possibly have been her uncle or father, at age 6, in her own home. Her two uncles have been convicted for paedophilia serving prison sentences between fifteen and twenty years in Israel."

The father refers to a case report. I am not sure whether it is a journalistic report, or a legal report of proceedings relating to the maternal uncle who was sentenced to fifteen years' imprisonment for extensive child sexual abuse of children at a religious school he was teaching at. The mother says that this uncle is somebody who I think she has only met once at a wedding of one of her cousins when he was released from prison to attend it. I think the mother would have been about 8 when this individual was sentenced to that lengthy term of imprisonment.

16 The report supports the father's position, which is that within their community, issues of child sexual abuse are regarded as something that should be dealt with internally and should not be put into the world outside of their community, whether police, Social Services, or otherwise, and that those who do so are pressured if not isolated and excluded from their community. He says that aligns with his own experience of how he and others have been treated when they have tried to raise their concerns about sexual abuse. It is, in part, that which he relies upon in relation to protective measures because he says the mother herself will find it difficult, if not impossible, to raise issues of sexual abuse outside their community given both the fact that her father would be the target of one allegation but also he would be a significant member of the community who would put pressure on her to deal with matters within the community rather than externally.

17 In para.13, the father says that:

> "We travelled to Israel in April 2015 and rented a flat in Jerusalem. I started working as a plumber there. T told me that she did not want to work as she felt unsafe being so close to her family and that her traumatic memories were starting to return."

18 At para.15:

> "In 2017, when S was 2 years old, we moved to London. T was pregnant again and we hoped our life in London would be happy. T was relieved and relaxed that she did not have to be worried about the danger her family posed anymore."

19 Paragraph 19:

> "In or around 1 April 2021, the maternal grandfather bought plane tickets for T and the children to travel to Israel in the middle of Passover. When I came home on 1 April, I saw T packing her suitcase and getting ready to leave. When I talked to T, she informed me that she was going to Israel with the children. I immediately bought myself tickets to join them on the same flight. T went straight to her father's house despite my last-minute booking of an Airbnb for all of us. I did not consent for the children to stay there as I believed they would not be safe. My understanding was that T wanted to travel to Israel for a holiday and stay at her father's place. I tried to retrieve them, but T's father would not let me into the property. I was aware of the children being in danger and I did not understand why T decided to stay with her father. I was extremely surprised that she had returned to a place she wanted to keep away from as far as possible. I stayed in Israel for about ten days before I returned to London. I had become very unwell in Israel and one week back into being back in London I was still not feeling any better. I therefore went to see a doctor who referred me to the Hospital. I was hospitalised and discharged when I was better."

20 It was shortly before the mother relocated with the children to Israel that the father was involved in further road traffic incidents, and he received convictions for them in August 2020, December 2020, and for driving under the influence of drugs in March 2021. The mother says that his admission to Hospital, she thinks, was a section which

may have been in connection with drug misuse. I am not in a position to determine that. The father, as I say, suggests that it was in relation to an undefined illness which he believes may have been the result of poisoning.

21 The father goes on at para.21:

> "I rented a place in Israel and travelled back and forth to London. T and the children stayed in Israel. At first, they were staying with the paternal grandfather but then when I talked to T and told her I was not happy with it, her father rented them a place next to his house. When I left Hospital, I rented T and the children a place in another part of the city as I believed that they should be as far as possible from the maternal family, and they moved there."

22 Of course, on the father's case, the situation which he describes would have enabled him to bring an application under the Child Abduction Convention for the return of the children from Israel but that was not something which was pursued. So the children then established their lives in Israel living in the same city as the maternal family and apparently having regular contact with the maternal family, with some aspects of the paternal family, and becoming integrated into a life in Jerusalem. Needless to say, the mother's account of the circumstances of the relocation to Israel and the discussions about accommodation are at significant variance with the fathers. She does not accept that there was ever any discussion about their location being linked to risks posed by her family that were rather dictated by the father as head of their household which had led to them moving to London in the first place.

23 The father goes on at para.22 to say that:

> "In the summer of 2022, whilst in Israel, I walked into a room with T's brothers B and D."

24 The father clarified in the course of submissions that he had meant to say B and E, I think, and that E had his hand in X's trousers, and, at the same time, Y was sitting on his lap. He says:

> "I was shocked. I immediately told him this was unacceptable and warned him to stay away from my family. This resulted in T's family sitting me down to explain that I should refrain from speaking to him in that manner because he is very sensitive. The above situation resulted in S telling me *[I am not quite sure how she came to be aware of it as she is not mentioned in the earlier part of the paragraph which focuses on X and Y*] that she is uncomfortable with her maternal grandfather showering her every time when she is at his place. Then I asked how he was showering her and she showed me that he was touching and playing with her private areas. When I approach the maternal grandfather about this behaviour, he only informed me that he wanted to help them giving them showers."

25 There was some discussion in submissions about whether this amounted to an allegation of sexual abuse but, certainly, I had read it as and Miss Guha and the father confirmed that it should be read that it was the maternal grandfather who was touching and playing with S's private areas. Again, the mother says that this is

simply untrue and that her father may have helped with bathing them but that is only in the course of normal grandparental involvement in dealing with young children.

26 The father goes on at para.23 to say:

> "23. In addition, I realised that when I wanted to hug or kiss my children, they would move away from me and anyone else. I noticed that T's brothers hold, kiss, and hug the children for a long time and the children do not like it. I think that they are traumatised by this kind of behaviour.
>
> 24. I approached T about the behaviour of her family and informed her that the children are not safe there. In addition, the children were asking to return to London. T and I had decided to return to London at the beginning of 2023. I arranged an apartment. In December 2023, T got pregnant but when everything was arranged for us to return to London, T informed me that she wanted to separate with me as I had stepped away from the Hasidic community. I was surprised as nothing had changed between us and I believed that we were a happy family together.
>
> ...
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> 26. During the time we were planning for our family to return to London, T made an appointment with her midwife on 14 February in England. When I talked to her on 13 February, I asked her who would be looking after the children when she travelled to the UK. T replied that it would be her father. I was petrified. I knew that the children were not safe with him but when I approached T about it, she replied that it was not a matter for me as I do not behave like a Hasidim. I felt that I did not have another option but to fly to Israel and make sure that the children were safe.
>
> ...
>
> 28. I have always been extremely concerned about my children living in close proximity to T's family, as has T. This is a difficult topic to bring up with T although I have raised my concerns multiple times. When T first left London with the children in March 2021 for Israel, my first concern was keeping the children apart from her father, brothers, and uncles. Once I realised she wanted to stay there longer than planned, although not permanently, I set her and the children up in an apartment on the other side of Jerusalem away from her family. I did this with the intention of keeping them as far from each other as possible and ensure that the children would only be looked after in mine and T's absence by female members of both of our families, or, alternatively, trusted neighbours.

> 29. I am extremely concerned that the maternal grandfather is now in London and that the children, if returned to Israel, will be subject to more sexually inappropriate behaviour and abuse. I do not trust that T will be able to protect the children."

27 The father also prays in aid that the maternal grandmother has exchanged messages with him in which she appears to criticise, or it could be interpreted that she is criticising in a significant way the maternal grandfather. It is accepted by the mother that her parents are separated and live separately but not that her mother is targeting the grandfather or tarnishing him with the brush of a sexual abuser. I think, in fact, she says that the messages are exchanged in some sort of attempt to deceive the father in a way to secure the return of the children.

28 He goes on para.31:

> "I strongly believe that the hidden sexual abuse in the Hasidic community is a real danger. Victims of sexual abuse are not offered any support or given a voice. Survivors who have reported abuse to the authorities in these communities have been evicted from their homes, have lost their jobs, their children have been expelled from their schools, and they have been completely ostracised from their communities and synagogues. Reporting sexual abuse in the orthodox Hasidic community can mean losing everything in the process."

29 So those provide the factual foundation for the father's Art.13(b) case. Miss Guha on his behalf says that those factual foundations, taken at their highest, clearly meet the threshold in Art.13(b), whether it is under the formulation of a grave risk of physical or emotional harm, or whether it is an intolerable situation. I do not think that that can be seriously in dispute. Her position is that they cannot be confidently discounted and, thus, they must be taken at their highest. So that being so, the father's position is that protective measures would not be sufficient to reduce it below the Art.13(b) threshold because the mother cannot be trusted to be able to protect the children or to abide by any undertakings she gives to this court because the position she finds herself in vis-à-vis her father, and the reliance she places on him and the influence he has over her and her life.

30 I think it is suggested that for the mother, as demonstrated by her approach to these proceedings, there are no circumstances in which she will give credence to any allegations against her family members and thus will not have the insight to act in a way which would be protective of them. In particular, the father relies upon the fact that until I raised the issue in the course of submissions this morning that the mother's position had been that because of the loss of the family home, being in the father's gift, of course, she would have been obliged to live with her father who is the closest support to her and has been living with her in London helping her with the children since 1 March. In the course of the submissions, the mother indicated her willingness to live with her mother in Jerusalem rather than her father but the father says that really, her stance indicates strongly that she cannot contemplate the grandfather as being a possible source of harm and thus could not be trusted to implement any undertakings that she may give, whether it were not to live with him and to live with her mother, whether it were to limit his contact with the children to supervised contact, or whether it were to undertake to not allow him to be involved in personal

tasks with the children. None of those could sensibly be relied upon and thus given that the function of the protective measures is to provide an effective protective framework which will, in fact, reduce any risk below the threshold, that the court should not order a return because the protection will not do the job that it purports to do.

31 He does propose various protective measures which, if the court orders a return, he seeks to be implemented albeit his primary position is that no protective framework would actually be effective to address the risk and those undertakings are set out in his statement. That would include, of course, the non-contact with the maternal grandfather and the maternal uncles as well as non-prosecution and other standard undertakings.

32 In relation to the question of undertakings being lodged in the court in Jerusalem, the father says, and there is no reason to disbelieve him, that he was unaware of there being proceedings in Israel, documents which were produced extremely late in the day. Thereby, the mother appeared to show that there are proceedings in the family court in Jerusalem which had been listed for some sort of conciliation appointment in March but the father had not been served with those documents. I am not quite sure why the mother had not raised the fact that there was, in fact, a conciliation appointment which the parties were due to attend in Jerusalem at some point in March but, nonetheless, those documents only have come to light fairly late although they do appear, as I say, to certainly resemble the documents which one would expect to see from a family court in Jerusalem. They appear to bear some seals and I am prepared at this stage to work on the assumption that there are proceedings in place in Israel, albeit proceedings the father was unaware of.

33 His position though was that if undertakings had no foundation on which to be enforced, that the mother's word alone was insufficient to rely on. If they are lodged in a court in Israel, of course, they may gain a greater degree of bite than they would and the mother's lawyers have confirmed that undertakings could be lodged with the family court in Jerusalem when it reopens after the sabbath on Sunday and that on the same occasion, she would be able to ask for a hearing date such that the parties could get the matter into court in Jerusalem within about two weeks. The father does have an Israeli lawyer apparently engaged but not lined up to deal with custody proceedings. He has offered to fund the cost of a separate rental property to enable the mother and children to live separately. The mother has said that she does not wish to be beholden to him and would prefer to live with her family. Were she not 34 weeks pregnant that would seem an unusual decision to take but given that she is on the cusp of giving birth to the parties' fourth child and would, on the face of it, be a single mother with four children to care for under the age of 7, including a new baby, the idea of living with family is probably more attractive than setting up a new home requiring new furnishings and clothing and everything else that comes with a home but the undertaking is there from the father nonetheless.

34 The mother's primary position in response to that is that the court can confidently discount the allegations made by the father to the extent that no protective measures in relation to sexual abuse are necessary. Her secondary position is that if the court is not satisfied that it can confidently discount the allegations that she offers a protective framework, including living with her mother rather than her father, an undertaking that would prevent the maternal grandfather or maternal uncles having any contact with the children save in the presence of the mother or another trusted family member pending the courts in Jerusalem considering what arrangement should be in place

under a substantive jurisdiction, that she would undertake that the grandfather and uncles would not play any role in the personal care of the children as recommended by Cafcass. She, as I say, offers a package of soft landing undertakings as well, including non-prosecution, to lodge the undertakings with the court in Israel, and to seek a court hearing as early as possible, the implication being it would take place within about fourteen days of the request being made.

35 In support of her case that the court can confidently discount the allegations, she relies on the evidence contained within her statement which, in effect, on the allegations amounts to a complete refutation of really every aspect of the allegations in relation to sexual abuse but also a very significant refutation of the father's account of the history of the marriage and the motives for them moving. It also contains not quite a root and branch critique of the father's character but a very significant critique of the father's character in terms of his recklessness, his drugtaking, and his abusive and coercive control behaviour, including more details in relation to the death of the child in the Ukraine, the reckless motor vehicle use linked with drugs, and his allegedly unstable mental health. None of those factual issues are capable of resolution within these proceedings and none of them help me very much in answering the ultimate question of whether a grave risk of physical or psychological harm, or other intolerable situation faces the children upon a return to Israel.

36 What she does principally rely on in relation to the submission that no credence should be given to these allegations and so they fall into the category where I can confidently discount them is that the father asserts that he has had long-standing historic concerns about the maternal family but, in particular, the maternal grandfather and yet, on the face of it, he has done almost nothing to protect his children, or, indeed, his wife from them but, rather, has stood by and tolerated at best, if not supported, a continuing relationship between the mother, their children, and the maternal grandfather who I use as a focus for these submissions, and that this is just simply inconsistent with him genuinely being concerned about there being a risk to the children, or, indeed, his wife. In particular, Miss Renton says that once the father with his own eyes, if he is telling the truth, saw an uncle abusing his son, and once his daughter told him with her own mouth that her grandfather had sexually abused her, it is inconceivable that he would have done what, in effect, amounts to nothing in order to protect the children and that he would have continued to leave the children for extended periods of time alone in Israel with the mother and her family nearby not having even raised it within the community, still less having raised it with the police, or Social Services, or anybody who might have intervened from the outside to protect his children from the risk of abuse. By February 2023, if he had been convinced for seven months that the grandfather had been abusing S, he had done nothing and then was contemplating and indeed planning with the mother that she should come to England without the children for a medical appointment with them being left alone, presumably with the maternal family or trusted neighbours, whilst the mother travelled to England.

37 The father, of course, says that throughout this period, he had raised it with the mother and was trusting her to protect the children when he was not there and that it was only when the mother said that she was leaving them with her father that I think, as it was put, that it became clear to him that, in fact, the mother was far from protecting the children but was actively exposing them to a risk of abuse. The mother says that it is simply incomprehensible that he would have organised for the mother to come to England if he had been concerned about the children being left in the care of a potential sexual abuser. If he was arranging for the mother to come to England, he

would have put in place measures himself in advance to ensure that the children would not be put in that position. So, the mother's case, in essence, is that the court can inferentially conclude that there is no weight to be given to the father's allegations in those circumstances.

38 As I say, her secondary position is that if the court is not in that position but is in the position of taking the allegations at their highest, she says that the mother can be trusted because she is and always has been their primary carer. Her track record demonstrates that the father trusted her to be the primary carer and was content with the care she was giving them until after their separation when he removed them from her care. She says rhetorically: why would she expose them to abuse when the track record shows that she acts protectively? She says that her undertakings can be trusted because she is somebody who has no track record which would suggest that she would not take seriously an undertaken to the court. The suggestion that she has behaved dishonestly in relation to benefits, Miss Renton says, is not something which should be held against her in relation to her willingness to abide by undertakings which would be lodged with the court in Israel, and which would reflect badly upon her if lodged there and were not stood by.

39 A particular issue in relation to the undertakings she gives and if return were ordered is when she should return. The grandfather is apparently booked on to a flight departing next Tuesday 25 April. The mother wishes to accompany him because she wishes, not surprisingly, to return to Israel as rapidly as possible to avoid the possibility that she will give birth to their fourth child in England and then face a possible issue over whether she can remove that child to Israel given that that child would not be subject to the Hague abduction regime as the child would never have been habitually resident in Israel. However, I think irrespective of that, given that she is 34 weeks pregnant, she wants to get back to establish herself in Israel, to re-establish the children in Israel as rapidly as possible, and to minimise the possibility of an early labour which will, as I say, catch her out here. So she wishes to return on Tuesday.

40 She proposes now that she would live with her mother who she says lives with a sister rather than with either of the brothers, who the father identifies as being complicit in the sexual abuse of X, one being the perpetrator and the other sitting by observing or being present. Miss Renton was seeking to make contact with the maternal grandmother to confirm that she was willing to give an undertaking that she would not have those men living with her whilst the mother and children were there. That has not yet been confirmed but I shall await a further update on that. Also, as I have already alluded to, the mother is willing to put undertakings into the Israeli court and to seek an early return date so that the court can consider what protective framework should be in place and to consider what contact the father should have. I should say, I think the father has only had remote contact since 1 March, I think because there have been concerns about whether he still holds other passports for the children, it being said that he holds Portuguese passports, and the father having rather blotted his copybook by having lied to one of the judges about having put the children's passports in a bin outside Luton Airport, which was, in fact, not true, they subsequently having been retrieved from wherever he had left them with a friend, perhaps, and handed over to the Tipstaff.

The Legal Framework

41 The Convention, of course, applies in respect of a child who was habitually resident in a Contracting State immediately before their wrongful retention; Article 3 identifies that a retention is wrongful if it is in breach of rights of custody. As it happens in this case, there is no issue raised by the father as to whether the mother had rights of custody, nor whether there was a retention in breach of those.

42 Article 12 of the Convention provides that a child who has been wrongfully retained where less than a year has elapsed since the date of wrongful retention, that the authority concerned shall order the return of the child forthwith. Article 13 identifies a number of exceptions, one of which is that the Court is not obliged to return the child if doing so would expose the child to a grave risk of harm or other intolerable situation.

43 In relation to Article 13(b), that has been subject to extensive consideration in the Supreme Court and the Court of Appeal, and this court, and has relatively recently been subject to Good Practice Guidance issued by the Hague Convention on Private International Law. Ultimately, however, the task that the Court has to evaluate, (and the burden lies on the father) is whether it is established that there is a grave risk that the children's return would expose them to physical or psychological harm, or otherwise place them in an intolerable situation. In this context, "grave" connotes such a level of seriousness as to warrant the term "grave" either in the magnitude of risk or in the consequences, and colour is added to that by the alternative "intolerable", which is a situation in which this particular child in these particular circumstances should not be expected to tolerate.

44 The source of harm can be from any source. In this case, the particular risks are linked to exposure to the risks of sexual abuse. The authorities indicate a need to focus upon the circumstances of **this** child returning to **that** country, and the risks which arise on their return and thereafter. Protective measures are a relevant consideration; they can take many forms. Essentially, however, the question the Court should ask is whether any protective measures ameliorate or negate a risk identified, in a concrete or effective way, such as to bring the case below the grave risk threshold identified in Article 13(b). Article 11 of the 1996 Hague Child Protection Convention which provides a jurisdictional route whereby protective measures made could become enforceable in the Country of Origin does not apply here but there are examples in the reports of cases with Israel including undertakings which may be lodged with the courts of Israel.

45 The starting point which emerges from *Re E* is that the asks the question: would, taken at their highest, the allegation or the allegations cross the Art.13(b) threshold. If the answer to that is no, taken at their highest they would not, then the Art.13(b) exception cannot be established. If the allegations taken at their highest would cross the Art.13(b) threshold, then the second stage is to ask whether the protective measures could in practice (rather than theoretically) reduce a risk to the children to a level below the Art.13(b) threshold. This simple starting point has been subject to some further exploration and elaboration as there has been some uncertainty about when the court should approach allegations on the basis that they are to be taken at their highest.

46 In most cases of this nature, the Court cannot undertake a detailed factual enquiry with hearing of oral evidence, and so some care has to be exercised in evaluating documentary and written evidence. In *Re C (Children) (Abduction Article 13(b))* [2018] EWCA Civ 2834, Lord Justice Moylan emphasised that the Court has to be

careful when conducting a paper evaluation, but equally affirmed that that does not mean that no assessment at all about the credibility or substance of the allegations can be made. In re A (Children) (Abduction: Article 13(b))Court of Appeal [2021] EWCA Civ 939 [2021] 4 WLR 99 Moylan LJ examined this further.

[91] The summary nature of the process inevitably impacts on the manner in which the court assesses the evidence. As Baroness Hale and Lord Wilson explained in In re E, at para 32:

> *"… in evaluating the evidence the court will of course be mindful of the limitations involved in the summary nature of the Hague Convention process. It will rarely be appropriate to hear oral evidence of the allegations made under article 13(b) and so neither those allegations nor their rebuttal are usually tested in cross-examination."*

This led the Supreme Court to endorse the following approach, at para 36:

"There is obviously a tension between the inability of the court to resolve factual disputes between the parties and the risks that the child will face if the allegations are in fact true. Mr Turner submits that there is a sensible and pragmatic solution. Where allegations of domestic abuse are made, the court should first ask whether, if they are true, there would be a grave risk that the child would be exposed to physical or psychological harm or otherwise placed in an intolerable situation. If so, the court must then ask how the child can be protected against the risk. The appropriate protective measures and their efficacy will obviously vary from case to case and from country to country. This is where arrangements for international co-operation between liaison judges are so helpful. Without such protective measures, the court may have no option but to do the best it can to resolve the disputed issues."

[92]*This does not mean, as I said in In re C, at para 39, that it was being "suggested that no evaluative assessment of the allegations could or should be undertaken by the court". In support of this conclusion, I quoted what Black LJ (as she then was) had said in In re K (A Child) (Abduction: Child's Objections) [2015] EWCA Civ 720 at [53], about the In re E approach: "I do not accept that a judge is bound to take this approach if the evidence before the court enables him or her confidently to discount the possibility that the allegations give rise to an article 13b risk." I would emphasise that Black LJ was referring to discounting the possibility that the allegations would give rise to an article 13(b) risk. She was not otherwise diverging from the approach set out in In re E. It is also plain that she was referring to the end of the spectrum, namely when the court was able confidently to discount the possibility that the allegations gave rise to an article 13(b) risk. This is not to dance on pins but is a distinction of substance derived from the court not being in a position to determine the truth of the allegations relied on as establishing the article 13(b) risk.*

93 *It was for this reason that, in In re C at para 39, I commented that "a judge has to be careful when conducting a paper evaluation" of the evidence. The court has to be careful for the reason given by the Supreme Court, at para 36, namely "the inability of the court to resolve factual disputes". This creates the "tension" there identified between this inability and "the risks that the child will face if the allegations are in fact true". This led the Supreme Court to adopt the "pragmatic and sensible solution" set*

out above. In its concluding paragraphs in In re E, the Supreme Court repeated, at para 52:

"Where there are disputed allegations which can neither be tried nor objectively verified, the focus of the inquiry is bound to be on the sufficiency of any protective measures which can be put in place to reduce the risk. The clearer the need for protection, the more effective the measures will have to be."

***94** In the Guide to Good Practice, at para 40, it is suggested that the court should first "consider whether the assertions are of such a nature and of sufficient detail and substance, that they could constitute a grave risk" before then determining, if they could, whether the grave risk exception is established by reference to all circumstances of the case. In analysing whether the allegations are of sufficient detail and substance, the judge will have to consider whether, to adopt what Black LJ said in In re K, "the evidence before the court enables him or her confidently to discount the possibility that the allegations give rise to an article 13(b) risk". In making this determination, and to explain what I meant in In re C, I would endorse what MacDonald J said in Uhd v McKay [2019] EWHC 1239 (Fam); [2019] 2 FLR 1159, para 7, namely that "the assumptions made by the court with respect to the maximum level of risk must be reasoned and reasonable assumptions" (my emphasis). If they are not "reasoned and reasonable", I would suggest that the court can confidently discount the possibility that they give rise to an article 13(b) risk.*

***95** But, I repeat, a judge must be careful when undertaking this exercise because of the limitations created by it being invariably based only on an assessment of the written material. A judge should not, for example, discount allegations of physical or emotional abuse merely because he or she has doubts as to their validity or cogency. As explained below, in my view this would lead the court to depart from the In re E process of reasoning while, equally, not being in the position set out in In re K*

***96** If the judge concludes that the allegations would potentially establish the existence of a grave risk within the scope of article 13(b), then, as set out in In re E, at para 36, the court must "ask how the child can be protected against the risk". This is a broad analysis because, for example, the situation faced by the child on returning to their home state might be different because the parents will be living apart. But, the court must carefully consider whether and how the risk can be addressed or sufficiently ameliorated so that the child will not be exposed to a grave risk within the scope of article 13(b). And, to repeat what was said in In re E, at para 52: "The clearer the need for protection, the more effective the measures will have to be."*

***97** In my view, putting it colloquially, if the court does not follow the approach referred to above, it would create the inevitable prospect of the court's evaluation falling between two stools. The court's "process of reasoning", to adopt the expression used by Lord Wilson in In re S, at para 22, would not include either (a) considering the risks to the child or children if the allegations were true; nor (b) confidently discounting the possibility that the allegations gave risk to an article 13(b) risk. The court would, rather, by adopting something of a middle course, be likely to be distracted from considering the second element of the In re E approach, namely "how the child can be protected against the risk" which the allegations, if true, would potentially establish.*

98 *The likely consequence of adopting this middle course is, in my view, that the court will be treating the allegations less seriously than they deserve, if true. Equally, there is the danger that, for the purposes of determining whether article 13(b) is established, the court will not properly consider the nature and extent of the protective measures required to address or sufficiently ameliorate the risk(s) which the allegations potentially create. In my view, as explained below, this is what happened in the present case.*

99 *This does not, of course, mean there is no evaluation of the nature and degree of the risk(s) which the allegations potentially establish. This is the essence of the approach endorsed in In re E because the court is required to determine whether the allegations, if true, would establish the required grave risk.*

47 One can discern a differential emerging in the cases in the Court of Appeal and this court since Re E from the relatively straightforward approach that the UKSC adopted in Re E, with the court now considering (deriving from the Good Practice Guide) whether the allegations made by the respondent are of such a nature and of sufficient detail and substance, in terms of evidence, that they could constitute a grave risk. Supplementing this Moylan LJ approved MacDonald J's phrase of asking whether the maximum level of risk is supported by "reasoned and reasonable assumptions". This is a rather more nuanced and detailed exercise than the pragmatic solution suggested in Re E as that proceeded on the basis of the assumption "if true" whereas both the Good Practice Guide and the Court of Appeal approach (incorporating that of MacDonald J) involve some evaluation of the evidence to determine whether they are of "sufficient detail and substance" or whether they are supported by "reasoned and reasonable assumptions".

48 The outcome envisaged by Moylan LJ if the allegations do not meet those tests is identified as them falling into the category of "*..the court can confidently discount the possibility that they give rise to an article 13(b) risk."* However, as Moylan LJ says in paras 93, 95 and 97 this evaluative exercise needs to be approach cautiously. On one reading of Moylan LJ's judgments, one could, by the application of the 2 forensic tools end up answering the ultimate Art 13b question in a binary way, either

a. The allegations are determined **not** to be of such a nature and of sufficient detail and substance and/or taking the allegations at their highest do not pass the reasoned and reasonable assumptions test and so fall by application of Moylan's approach at para 94 fall to be confidently discounted. The corollary of this is that Art 13b is not established and no protective measures fall to be considered (other than perhaps those addressing 'soft-landing' type issues rather than true Art 13b issues) **OR**

b. The allegations are determined **to be** of such a nature and of sufficient detail and substance and/or taking the allegations at their highest **do** pass the reasoned and reasonable assumptions test and so attract the full panoply of protective measures attached.

49 However, I do not think that this binary approach is what the authorities do mandate although the "falling between two stools" observation at # 97 might indicate this. As Art 13b itself and as the Supreme Court in Re E said at para 36 they envisage there

may be cases where neither forensic tool assists, in particular where protective measures could not address the risk or where the evidence in relation to protective measures is uncertain as to their effectiveness where the court has to do its best to resolve the disputed issues themselves and/or resolve dispute over the effectiveness of the measures.

50 It is self-evident that between taking the allegations at their highest on the basis of reasoned and reasonable assumptions, and confidently discounting the allegations there may be something of a forensic no-man's-land where, in practice, the evidence which is before the court does not sit easily within either the 'confidently discounted' or 'reasoned and reasonable assumptions' bracket. But this is a summary jurisdiction, and the court essentially works on the basis of protecting the child from risks which may exist, rather than taking risks with child protection. Although it is a rather binary process, it means that probably more cases fall into the 'reasoned and reasonable assumptions' territory than would, at first blush, meet the eye, and that the 'confidently discounted' territory is really a relatively limited territory where the court is satisfied, on good evidence or absence of evidence, that really there is no substance to the allegations which are made.

51 How should the court approach the case where the evidence on risk may in evaluative evidential terms fall somewhere between the two bases of on the one hand of "sufficient detail and substance/reasoned and reasonable assumption" justifying the allegations being taken at their highest and "confidently discounting" to fall under the 13b threshold.

52 This it seems to me leads to two possible courses; (a) the court has no option but to do the best to resolve the disputed issues which will rarely be appropriate in the summary process or (b) it applies a rather broader approach to the Re E 'taken at their highest' approach which permits of some careful evaluation of the nature and extent of the risk and the nature and extent of the protective measures required to ameliorate it but always under this option on the basis that a risk exists which requires ameliorating. This is supported by what the UKSC said in para 52 "The clearer the need for protection, the more effective the measures will have to be" and what Moylan LJ refers to in #99 of Re A and para 40 of Re C "the approach 'commended in *Re E* should form part of the court's general process of reasoning in its appraisal of a defence under the Article'." What the court should not do is fall between two stools by undertaking some form of summary fact finding which falls in the middle ground or between the two stools or I think into some sort of blighted forensic no mans land where you are neither clear of one thing or the other.

53 Thus, in addressing the question of whether the Respondent has established that there is a grave risk that return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation the range of approaches and outcomes include

a. The evidence establishes on the papers so that the judge is satisfied on the balance of probabilities that the grave risk exists. The court then in the light of its actual findings on the level and nature of risk asks what protective measures are available and whether or not they would be effective to ameliorate that determined risk. Examples might include those such as the subject cases in the UKSC ; Re E (impact on mother psychiatrically on return where the protective measures would ameliorate the risk) and Re S (domestic abuse established). Of course, the established risk might not fall at the top end

of the spectrum for instance in a domestic abuse case the risk established might be of emotional abuse rather than a risk of death or serious physical injury.

b. The evidence establishes on the papers so that the judge is satisfied on the balance of probabilities that there is no grave risk. This may be because the nature of the allegation taken at its highest simply could not establish a grave risk of harm or other intolerable situation or because the evidence in relation to the alleged risk is sufficiently clear on paper that a clear adverse conclusion can be reached. No Art 13b protective measures are then required.

c. The judge can on the papers confidently discount the allegation that there is a grave risk of harm. Forensically this would suggest the evidence is insufficient to determine on balance it does not in fact exist but is sufficiently weak (lacking in substance and detail, based on unreasoned and unreasonable assumptions perhaps) that it is not established. For the purposes of the summary process that Hague Abduction Convention cases involve the space between this category and (b) above may not be very large. Confidently discounting allegations in practice thus requires a fairly clear forensic evaluation of the evidence which concludes the allegations really are without substance. No Art 13b protective measures are then required

d. The court cannot confidently discount the allegations as the evidence is of such substance and detail or the allegation is based on reasoned or reasonable assumptions such that it should take the allegations at their highest and determine that the grave risk of harm threshold is passed. This approach is consistent with the legal burden which lies on the Respondent to establish the defence. In practice this means those cases which evidentially fall between 'confident discount' and 'sufficient detail and substance/reasoned and reasonable assumptions will fall into this bracket (assuming the court does not feel compelled to embark on a factual determination) however unsatisfactory this might feel and however close it feels to reversing the burden. The court must then consider protective measures and the nature, extent and effectiveness of them are a matter for evaluation for the court having regard to all the circumstances in particular where on the spectrum of risk (it having crossed the Art 13b threshold) the assumed risk falls. It seems in this category there would exist a spectrum of cases with some falling closer to the nature and extent of risk being of maximum severity where protective measures might not be capable of ameliorating the risk through to cases where the assumed risk of harm only just pass the Art 13b threshold whether because of the nature of the assumed harm or the extent of the assumed risk. In these cases, the courts evaluation of the protective measures will encompass more flexibility in terms of the range of protective measures required and the way in which the court approaches how effective they need to be. As an example – will an undertaking alone be sufficient, or should that undertaking be lodged with a court in the country of origin or does there need to be an order registered in the courts of the country of origin or an order made by the court of origin in like terms?

54 In many cases of domestic abuse, and consistent with the UKSC guidance in Re E, the court may swiftly be led to (d) because it will be clear on reading the evidence that neither (a), (b) or (c) is obviously available as an approach, although as the authorities demonstrate even in domestic abuse cases the evidence may be sufficiently clear to

enable the court to adopt one of those other approaches Where the grave risk is said to arise from other factors the availability or not of other approaches may be more nuanced. The obvious advantage that remains of the 'Taking them at their highest' approach and why no doubt it should remain the starting point for many if not most cases is that it can lead rapidly to an answer because the focus on protective measures will often enable the court to conclude that a package of **effective** protective measures will ameliorate the risk and so negate the 13b exception. Where there is less clarity about the effectiveness of protective measures the court will have embark on an evaluation of the protective measures rather than the underlying facts giving rise to the risk. This is likely to be a forensically more straightforward process and more compatible to the summary hearing.

55 This approach avoids the binary approach where if one does not feel there are reasoned and reasonable assumptions on which a 13b finding is to be based one falls into the confidently discounted bracket. This approach is more consistent with the need to protect the children which would be undermined by the binary approach.

56 Where this case falls begs the question in relation to protective measures. In some cases, it may be possible to register protective measures made in this jurisdiction, whether injunctions or undertakings, but Israel is not a signatory state of the 1996 Hague Convention and thus, protective measures cannot be made effective in that way. However, Israel is a country where the body of jurisprudence makes it clear that there are mechanisms by which orders and undertakings made in this court can be put into the courts in Israel in order to bolster their effectiveness to deliver the protection which the courts require in order to reduce the risk.

57 If, of course, the Art.13(b) defence is established taken at its highest and if the protective measures cannot ameliorate the risk to a satisfactory level, this exception is established

58 In the event that an exception is established, the approach to the exercise of the resulting discretion is set out in *Re M (Abduction: Zimbabwe)* [2007] UKHL 55, where the House of Lords confirmed that the discretion is at large; where policy considerations which accompany the Hague Convention will be weighed in the balance, along with any factors relating to the exception which has been established, and any welfare considerations which go to support either a non-return or a return. It has been recognised that in cases where the grave risk of harm exception has been established, it is quite difficult to envisage a situation where the Court would in the exercise of its discretion order a return, nonetheless. So the discretion on an Art.13(b) defence of this sort is more notional or more theoretical than real.

Evaluation

59 As I indicated earlier this afternoon when I gave the parties a summary of my decision, I had concluded that this was a case where a package of protective measures would ameliorate the grave risk of harm to such a level that the exception would not be established. The allegations that the father makes are of the utmost seriousness. If they are true, it is plain that the children would face a grave risk of harm and so, if one looks at it in that respect, taken at their highest, clearly a highly effective structure of undertakings or orders would be required to address that risk, and if that could not be established then the children would not return.

60 The allegations in this case, it seemed to me, whilst very serious are relatively weakly evidenced, most obviously in the father's own evidence of his approach to the risks

such that I conclude the risk of sexual abuse is a small one but were it to be true, it would be exceedingly harmful and thus a framework of protective measures is required. The risk cannot be confidently discounted but falls in (d) above where the extent of the risk needs to be considered as well as the protective measures. Because the risk of the harm eventuating is a modest one, the undertakings or framework do not require to be at the upper level of the spectrum of protection which might be required were they to be strongly evidenced. Indeed, if they were very strongly evidenced so as to be established in effect, it might be that undertakings would be insufficient to address that risk but that is not the case here.

61 The father's evidence about his attitude to risk is so at variance with what one would expect and so inconsistent in itself as to the mother's attitude to her family and his attitude to her family that it severely undermines the level of risk that can be established. If, for many years, the mother had wanted to keep away from her family because of the risk, why did she move close to them in 2021 but, more importantly, why did he accept it? There is no suggestion in his evidence that he said to her, "Well, this is quite incredible. You have told me for years that you did not want to live near them because you feared sexual abuse and now you are living in their bosom." In the context of him saying that he understood the mother had been raped by an uncle or her father himself, that just defies belief.

62 More significantly though is that during this whole period, and particularly if one focuses on the period from the summer of 2022 when he had the evidence of his own eyes and ears (if it is true), he still continued to commute between London and Israel. In a situation where he says that for several years the mother had said she was fearful of her family but then had, in complete contradiction to that, moved to live by them and with them for periods of time for him to then say that he trusted the mother to keep the children safe without the most robust enquiry into that and satisfied himself most robustly that, indeed, his children were safe that simply does not make sense. Yet, he carried on, in effect, as far as I can tell from his own evidence, with a pattern of commuting between London and Israel that remained unchanged from prior to him (on his account) seeing his son being sexually abused and his daughter telling him she had been sexually abused and afterwards. It simply does not make sense. So it is his own attitude to risk which seems to me to be the most telling indicator of the extent to which a risk exists. That is not to say that on ultimate enquiry the Israeli court may not find differently but his own approach to his children seems to have been to approach them on the basis that the level of risk was minimal, if it existed at all. So, it is for that reason that I discount the level at which one can evaluate the risk of these children.

63 However, does it fall into the territory where I can confidently discount them so as to say that no Art.13(b) risk exists, with the binary consequence that no protective measures are required? I am afraid that I cannot. As I have said, I am doubtful on the evidence of his own approach to risk that it is at a magnitude or seriousness, if it exists at all, where the highest level of protection is required but added to my doubts about what one can infer from his own behaviour is, of course, that this is a father who regrettably has lied to this court about an important matter relating to passports, and who has a certain disregard for the law given his repeated flouting of the laws relating to driving, which, in most cases, might not amount to much but when one has been involved in a fatal accident in relation to a child and continues to flout the laws suggests a disregard for the legal framework which is more concerning. However, I do not think that Miss Renton's submissions or the mother's case brings one into the territory of confidently discounting the allegations but that does not mean that, as I

say, the highest level of protection of the court taking them at their highest means. It seems to me that there is within that approach, bearing in mind what Moylan LJ says about the courts still needing to evaluate the risk and, in particular, considering the protective measures that there is a spectrum within allegations taken at their highest which permits a range of protective measures to be seen as effective to reduce the risk below the Art.13(b) threshold. It seems to me that this is such a case.

64 So one then turns to the protective measures. A significant component of that, of course, is whether the mother can be trusted to abide by promises that she makes to this court. It is self-evident that given her lack of strong ties to this country that undertakings given to me, if broken, are unlikely to result in her appearing before me to be committed to prison for contempt of court and so thus one might reasonably say the traction on the mother is limited but a different situation exists if the undertakings are lodged with the court in Israel and whether the court in Israel actually sees them as having penal consequences. The fact that she has given a promise to this court which has penal consequences, which is lodged in the court of Israel and which, if she fails to abide by, it will undoubtedly have consequences in terms of her credibility if nothing less, it seems to me to give undertakings additional force over and above whether the mother can be trusted. On the basis of what I have read about the mother, including what I have read in the Cafcass report, the father's own faith in the mother's ability to care for the children and, indeed, his faith in her ability to protect the children, as he would have it, up until 13 February 2023 leads me to conclude that the mother is to be trusted to keep her children safe. Thus, the undertakings she gives, albeit reluctantly, are ones which she will abide by.

65 I entirely understand the point made Miss Guha on behalf of the father that the mother's approach has been one of denial throughout, and last minute concessions about where she will live, or whether she will limit the grandfather's inclusion within the life of the children are, in effect, last ditch attempts having seen the way the wind was blowing in exchanges with me. That is probably right. It is as plain as a pikestaff that the mother does not accept that her father poses a risk of abuse to the children or that he has abused them in the past but then that does not necessarily mean that she will not abide by undertakings for a limited period of time until the courts of Israel intervene. It seems to me that the mother's track record overall, as evidenced by the presentation of the children to Cafcass and what can be inferred about how they are being brought up from that, the father's own trust in her, and the mother's essentially maternal instincts as a primary carer satisfy me that if she tells me that she will limit the grandfather's contact so that he is not left alone with any of the children or that he does not undertake personal tasks with them, I accept that that undertaking is something I can rely on and will be acted upon by the mother in Israel and in England.

66 That being so, with the additional knowledge that we have today that there is in place litigation in the family court in Jerusalem which will permit undertakings to be lodged and which will permit the family court in Jerusalem to embark upon proceedings in which the welfare of these children will be investigated and protective actions taken, where appropriate, together with what appears to be a document from the Department for Social Services and Welfare (I cannot remember the expression now), it seems to me that the package of undertakings proposed by the mother is sufficient to reduce the grave risk below the Art.13(b) threshold particularly having regard to the formulation that I have reached in relation to where that risk should be taken at the highest scale.

67 The only other issue, I think, was in relation to the date for return. It seems that the father and the mother, but particularly the father, should be given a window in which

he can get his lawyers up to speed in Israel and to start making enquiries and taking steps to implement ensuring that the undertakings are lodged and that a hearing is achieved. I think he is going to return to Israel in order to support that process. A return next Tuesday is unrealistic for the mother and whilst the father seeks fourteen days, if not longer, for a return, given the mother's stage of her pregnancy, getting her back to Israel with the children in a way which does not put her at risk of being forced to give birth here with consequent possible legal difficulties but also practical difficulties of returning with a tiny baby, depending on how the birth goes, seems to me the sensible compromise which allows the father to get his tackle in order. I note that he reinstructed his solicitors, I think, yesterday and they have been able to put together his case in a very effective way in the last 24-hours. He will be able to do the same with a pre-engaged lawyer in Israel. So I will direct that the return takes place not before a week today, 28 April 2023. If that means re-booking flights, so be it. It is unfortunate but that is, it seems to me, the appropriate order to make.

68 That is my judgment.

CERTIFICATE

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