



Center District Court – Lod

FA 56394-10-25 Anonymous (female) v. Anonymous (male)
FA 50373-10-25 Anonymous (male) v. Anonymous (female)

Before: Honorable Judge Zvi Weizmannm, President of the Court
Honorable Judge Zvia Gradstein Papkin
Honorable Judge Eli Brand

The Appellant in FA 56394-10-25 A.C.
(the Respondent in FA 50373-10-25) By counsel, Adv. Eitan Lipsker et. al.

-Versus-

The Respondent in FA 56394-10-25 C.M.
(the Appellant in FA 50373-10-25) By counsel Edwin Friedman et. al.

Judgment

Introduction

These appeals were filed by both Parties against the judgment of the Family Court in Petah Tikva (Hon. Senior Judge R. Makayes) dated October 19, 2025 (FC 66078-07-25), in which the court ruled on the father's petition for the return of his daughter to Ireland pursuant to the provisions of the Hague Convention (Return of Abducted Children) Law, 5751–1991 (hereinafter: the “**Hague Convention Law**”). In this context, the court ordered the mother to return the Parties' minor daughter to her habitual residence in Ireland by November 5, 2025. Concurrently, the court established conditions for the minor's return and financial guarantees to ensure compliance with said conditions. Among the return conditions, it was determined that the minor shall be returned to the city of Dublin, where the Parties resided until January 2024, and not to the town of Kenmare, where they had lived prior to the removal of the minor from Ireland; the nature of the educational institution in which the minor shall study was defined as one without religious affiliation, i.e., a general institution; and temporary visitation arrangements with the minor were also



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established. In addition, the court further ruled that the mother shall be entitled to travel with the minor to her family in England during Jewish holidays three times a year, for a period of 7 days each time.

Both Parties appealed the judgment of the Lower Court.

The father was first to file an appeal (FA 50373-10-25), arguing, in brief, that the court erred by exceeding its jurisdiction in setting return conditions to Ireland that go beyond those permissible under the framework of returning abducted children pursuant to the **Hague Convention Law**.

Shortly thereafter, the mother also filed her appeal (FA 56394-10-25), the main claims of which were that the father's petition under the **Hague Convention Law** should not have been accepted for several reasons. First, the father's petition should have been dismissed in limine due to his extreme lack of good faith. The mother pointed out that the minor had returned to Ireland solely based on promises and agreements made by the father, agreements that were granted the force of judgment by the court in England and were later breached by him. Second, the court erred in not accepting her claim concerning the applicability of the "grave risk" exception under section 13(b) of the **Hague Convention Law**.

For the sake of convenience, the Appellant in FA 56394-10-25 shall be referred to as "the mother" or "the Appellant," while the appellant in FA 50373-10-25 shall be referred to as "the Father" or "the Respondent."

Matters for Determination

1. The Appellant is a Jewish woman holding Israeli, British, and Irish citizenships. The Respondent is a resident and citizen of Ireland from a Catholic family, although, according to his declaration, he does not consider himself affiliated with any religion. The Parties met in Israel in 2014 and subsequently moved to live together in Dublin, Ireland. On September 21, 2017, the Parties were married in a civil ceremony in Dublin (see marriage certificate, Appendix 2 to the Respondent's Statement of Appeal, p. 49 of the appendices), and additionally held a wedding ceremony with Jewish elements in Israel, even though, as stated, the Respondent is not Jewish (see photographs in Appendix B to the Appellant's Statement of Appeal, pp. 54–58 of the Appellant's appeal appendices, depicting a wedding ceremony under a chuppah, the



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couple wrapped in a tallit, the groom wearing a white kippah, the breaking of a glass, the signing of a ketubah, etc.). According to the Appellant, this was done due to the Parties' intent to reflect Jewish religion and culture in the family unit they were forming. At some point, the Respondent even considered converting to Judaism but abandoned the idea due to the procedural complexity.

2. On September 15, 2020, the Parties' minor daughter, M. (hereinafter: the "Minor"), was born in Dublin (Appendix 3, p. 51 of the Respondent's appeal appendices).

The Proceedings and Judgment in the Court in England dated November 8, 2023

3. As the Appellant's family resides in England and the Respondent's family resides in Ireland, in the town of Kenmare (County Kerry), the Appellant used to travel with the Minor to England from time to time to visit her family, particularly during Jewish holidays. At the end of 2023, the couple experienced a marital crisis, and in October 2023 the Appellant traveled to England with the Minor. While staying there, she informed the Respondent that she did not intend to return to Ireland with the Minor.
4. Accordingly, the Respondent initiated proceedings under the Hague Convention (Child Abduction) before the Family Court in England. In that proceeding, a judgment was rendered on November 8, 2023, which essentially adopted the Parties' agreements, as detailed below (hereinafter: the "**Judgment in England**"; Appendix 4, p. 52 ff. of the Respondent's appeal appendices).

In the Judgment in England, it was stated that the Appellant voluntarily agreed to return the Minor to Ireland, no later than November 15, 2023 (section 9 of the judgment, p. 58 of the appendices). Conditions were set for the return to Ireland, including various undertakings assumed by the Parties, detailed in Appendices A and B to the judgment (section 5 of the judgment, p. 58 of the appendices). The Judgment in England included a warning to both Parties that failure to comply with the undertakings given under the judgment could constitute contempt of court and subject them to imprisonment or a fine (first page of the judgment, p. 57 of the Respondent's appeal appendices).

As part of the undertakings, the Respondent committed not to initiate any civil or criminal proceedings to punish the Appellant for removing the Minor from Ireland



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to England (section a of Appendix A to the judgment, p. 61 of the Respondent's appeal appendices); not to disparage the Appellant's religion in the presence of the Minor (section f of Appendix A to the judgment, p. 61); not to file motions or initiate legal proceedings without informing the Appellant and drawing her attention to the submission of such motions, until the first hearing between the Parties in the court in Ireland (section h of Appendix A, p. 61); and to allow the Appellant to travel with the Minor to England, subject to the Appellant fulfilling her own undertakings until the first hearing between the Parties in the court in Ireland (section i of Appendix A, p. 61).

The Appellant, for her part, undertook to notify the Respondent of any travel to England with the child at least seven days in advance, and that the duration of each visit would not exceed 14 days (section f of Appendix B to the judgment, p. 62).

Return to Ireland

5. The Appellant returned with the Minor to the city of Dublin, Ireland, on the date set in the judgment (November 15, 2023), and the Parties resided in separate homes due to the dispute between them. Subsequently, the Parties moved with the Minor to the village of Kenmare, where the Respondent's family resides, though they continued to live in separate apartments, with the Respondent bearing the rental costs due to the disparity in their financial means. The Parties remained in Kenmare until June 2025, when the Appellant traveled to England, as will be detailed below.

Proceedings in the Court of County Kerry, Ireland

6. Following the Appellant and the Minor's return to Ireland in accordance with the judgment in England, as detailed above, the Appellant initiated legal proceedings before the court in County Kerry, Ireland, petitioning for permission to relocate to England with the Minor. In the framework of this proceeding, a social worker's report was submitted on **October 29, 2024** (Appendix 5 to the Respondent's appeal), in which the Appellant told the social worker that the reason for the dissolution of the marriage between the Parties was the Respondent's emotional abuse of her and his lack of support for her faith and religion (section 6.1.2 of the report, p. 69 of the



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Respondent's appeal appendices). She further stated that the Respondent does not acknowledge or accept the Minor's identity as a Jew (section 6.1.11, p. 70):

"6.1.11 Mrs. C stated that she does not believe that [the child]'s Jewish identity is valued or respected by (the father), and added that this was the main reason for the marital breakdown."

The social worker further noted that, in the Appellant's view, she and the Minor lack any emotional or social support in Kenmare, and she believes she cannot fulfill her Jewish religious practice there (section 6.1.18, p. 71). At the same time, the social worker noted that both parents love the Minor and are good parents (section 9.1.4 of the report, p. 78).

7. In her report, the social worker considered three possible alternatives: first, maintaining the status quo and current visitation arrangements; second, allowing the Appellant and the child to relocate to England; and third, determining joint parental responsibility for both parents. The social worker ultimately recommended the third alternative – joint parental responsibility for the Minor. She noted that, regarding the relocation to England, and after considering the pressures on both parents, she did not feel that this option served the best interests of the Minor. The social worker acknowledged the difficulty for the Appellant and the Minor to practice their Jewish faith in the rural village in Ireland, as well as the Appellant's need for family support, but stated that this need must be balanced against the Minor's relationship with her father and the potential decline in the Minor's quality of life due to impairment of that relationship (sections 10.4 and 10.5.1, p. 86 of the Respondent's appeal).

Judgment of the Court in Ireland Dated April 30, 2025

8. On April 30, 2025, the Irish court rendered a judgment rejecting the Appellant's request to emigrate to England. In addition, the judgment included the following rulings: the court granted a judicial separation order regarding the Parties' marriage of September 21, 2017, in Dublin; ordered the Respondent to pay child support and housing expenses for the Minor in the amount of EUR 1,500 per month (first page,



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section 1 of the judgment, p. 93 of the Respondent's appeal appendices). Joint custody of the Minor was also established (first page, section 4 of the judgment, p. 93), and visitation arrangements for the Respondent were determined, including visitation rights during Christmas holidays with six weeks' advance notice to the other Party (first page, section 5 of the judgment, p. 93). The judgment further stated that the Appellant is not permitted to relocate the Minor permanently outside the jurisdiction and judicial district of that court (see end of p. 94 of the Respondent's appendices, and also the statements of the Appellant and her counsel at the hearing on November 13, 2025, p. 14, lines 26–33 of the transcript).

The Appellant's Travel to England with the Minor in June 2025

9. The Parties later agreed that the Appellant would travel with the Minor to England from June 21, 2025, until June 28, 2025, and again from September 22, 2025, until September 29, 2025. Additionally, it was agreed that the Respondent would travel with the Minor to Spain from June 30, 2025, until July 6, 2025, and again from July 30, 2025, until August 6, 2025. It was further agreed that upon the Minor's return to Ireland, her passports would be deposited again with the court registry in Ireland. The Parties' agreement was granted the force of a judicial order by the court in County Kerry, Ireland (see Appendix 7, pp. 96–101 of the Respondent's appeal). It should be noted that subsequently, due to his concern that the Appellant would abduct the Minor, the Respondent submitted a motion to the Irish court to prevent the Minor's travel to England with the Appellant (section 14 of the Respondent's appeal).
10. On June 20, 2025, the Irish court issued a decision permitting the Appellant to travel to England with the Minor from June 21, 2025, until June 28, 2025. The court noted that the decision was based on the Appellant's undertaking given before it on June 19, 2025, and approved on June 20, 2025, whereby she would depart with the Minor on June 21, 2025, and return the Minor to the jurisdiction of Ireland on June 28, 2025, and that the Appellant would deliver the Minor's passport to the Respondent upon their return from England on June 28, 2025 (hereinafter: the "**Irish Court Decision**"; see Appendix 8, pp. 103–106 of the Respondent's appeal).
11. On June 21, 2025, the Appellant flew with the Minor to England; however, instead of returning to Ireland on June 28, 2025, as she had undertaken and been ordered to do in the Irish Court Decision, the Appellant flew with the Minor to Israel.



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The Appellant's Travel to Israel with the Minor and the Subsequent Proceedings

12. On **June 27, 2025**, the Appellant sent the Respondent an email in which she informed him that she and the Minor were in Israel, and that he could maintain contact with the Minor via WhatsApp or video call to the Appellant's Israeli mobile number, once a week (Appendix 9, p. 108 of the Respondent's appeal). Correspondence followed between the Parties, in which the Respondent stated that he demanded contact with the Minor for more than 15 minutes per week and requested to know the Minor's address in Israel (Appendix 11, p. 127 ff.).
13. On **June 30, 2025**, the Respondent approached the Central Authority in Ireland with a request for the return of an abducted child pursuant to the Hague Convention. On **July 24, 2025**, the Respondent filed a petition with the Family Court in Rishon LeZion, under the **Hague Convention Law**, in which he requested that the court rule that the Appellant is unlawfully retaining the Minor in Israel and order the immediate return of the Minor to Ireland.
14. In her response to the petition, the Appellant argued that, since the Respondent breached the conditions for the Minor's return to Ireland, as set forth in the judgment of the court in England, he has no right to petition for her return to Ireland. The Appellant contended that the Respondent did not comply with, and does not intend to comply with, the terms of the English court's judgment. She claimed that the Respondent objected to raising the Minor in a Jewish lifestyle and providing her with a Jewish education; harassed the Appellant based on her religion and nationality; restricted the movement of both the Appellant and the Minor and prevented them from traveling together during Passover to visit her family in London; continued to behave in a coercive and violent manner, including surveillance of her; and violated the return condition prohibiting him from initiating ex parte proceedings, such as the proceeding he initiated to prevent the Appellant's travel with the Minor. Therefore, the Respondent is not entitled to claim for the return of the Minor to Ireland, and the **Hague Convention Law** is inapplicable due to the aforementioned breaches.
15. The Appellant further argued that the exception to the return of an abducted minor under section 13(b) of the **Hague Convention Law** applies in this case, due to the grave and substantial harm that may be caused to the Minor by her return to her



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habitual residence. The harm likely to befall the Minor, according to the Appellant, arises from the extreme antisemitism and anti-Israel sentiment prevailing in Ireland, which places the Minor at serious and grave risk. The Appellant noted that in December 2024, the Embassy of Israel in Ireland was closed, and that there had been a significant increase in antisemitic incidents in Ireland following the events of October 2023. The Appellant further argued that the return of the Minor to Ireland would cause her harm by denying her the ability to receive a Jewish education and to lead a Jewish lifestyle. She added that there exists a risk of physical harm to the Minor due to her religious and national identity, stemming from said antisemitism, placing the Minor in grave danger. Moreover, the Respondent's conduct toward the Jewish religion and Israeli nationality deprives the Minor of fundamental rights to realize her religious and national identity. In light of all the above, the Appellant requested that the Respondent's petition be dismissed.

16. Additionally, in support of her claims, the Appellant submitted, *inter alia*, an affidavit and testimony from the Chief Rabbi of Ireland, Rabbi Yoni Wieder, who described in his affidavit the state of the Jewish community in Ireland and the presence of antisemitism in the country, based on his knowledge of the area and the Jewish population residing there. Also submitted was the testimony of Mr. Barry Williams, a social worker, regarding his impression of the antisemitic atmosphere in Ireland and the potential harm that could be caused to the Minor if she were forced to return there (the court did not accept Mr. Barry Williams' testimony as expert opinion but allowed him to testify as a regular witness; see Appendices F and G, pp. 94–119 of the Appellant's appeal appendices).

Judgment of the Lower Court Dated October 19, 2025

17. In its judgment, the Lower Court accepted the Respondent's petition for the return of the Minor to Ireland, but ruled that the Appellant shall return with the Minor to the city of Dublin, where the Parties resided for most of their joint life until January 2024, and not to the town of Kenmare, where the Parties had resided prior to the Appellant's departure from Ireland.

The Lower Court found that the removal of the Minor from her habitual residence in Ireland had been unlawful and that, since the Minor was removed without the Respondent's consent, who also holds rights of custody, as defined in the **Hague Convention Law**, the provisions of section 3 of the Law concerning wrongful



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removal of a minor were satisfied. The Lower Court emphasized that there was, in fact, no dispute between the Parties on this point, since it was not claimed that Ireland was not the Minor's habitual residence – this being the place where she was born, raised, and educated in kindergartens, and considering the Parties' joint parental responsibility and the Respondent's full exercise of his rights under that arrangement. In light of the above, the Lower Court held that it was required to act in accordance with section 12 of the **Hague Convention Law**, which obligates the court to order the return of the minor to her habitual residence (sections 186–190 of the judgment). As for the Appellant's claim regarding the Respondent's extreme lack of good faith by breaching the judgment which gave force to the agreed-upon return conditions from England to Ireland, the court held that it was indeed persuaded that the Respondent had acted in breach of his undertakings under the English court's judgment. The court found that it had been proven that, contrary to the agreements whereby the Appellant was entitled to travel with the Minor to visit her family in England, the Respondent had prevented them from doing so for approximately a year and a half.

Similarly, the court determined that the Respondent had also breached the agreements by unilaterally enrolling the Minor in a Catholic school, despite knowing the Appellant's opposition. The court held that the mere fact that this matter was pending before the courts in Ireland did not negate the breach of the agreed conditions. Nonetheless, the court concluded that these breaches did not preclude the return of the Minor to Ireland pursuant to the **Hague Convention Law**, given that the Minor's habitual residence is in Ireland and that the breaches did not entitle the Appellant to abduct the Minor from her habitual residence (sections 191–194 of the judgment). The court was of the view that the Respondent's breaches and their implications must be adjudicated by the court in Ireland, but that this does not nullify the act of abduction itself and its consequences under the Hague Convention.

18. The court further rejected the Appellant's claim for protection under section 13(b) of the **Hague Convention Law** – the “grave risk” exception. The court clarified that a party asserting the “grave risk” exception bears a very heavy burden of proof, and that the required standard of proof for the realization of the risk is “beyond a reasonable doubt.” Accordingly, this exception should only be applied in extreme and exceptional cases, and any doubt regarding the existence of the exception should



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lead to the return of the minor to her habitual residence. The court found that in this case, the conditions for applying the exception under section 13(b) had not been proven nor met, subject to the return conditions set forth in the judgment, which are presented below.

19. The Lower Court held that the size of the Jewish community in Ireland had not changed since the Parties began living together there and when they lived together in Dublin for approximately ten years, during which they maintained a Jewish communal life. The court found that in Dublin, there are synagogues, Jewish education, and an environment that allows for the observance of Jewish tradition. The court did not disregard the existence of antisemitism in Ireland and acknowledged that it had intensified since the events of October 7, 2023, but clarified that this phenomenon is not unique to Ireland, and that in fact, there are countries in which antisemitism is even more prevalent, given the size of their Jewish communities, as also confirmed in the testimony of Rabbi Yoni Wieder (who testified on behalf of the Appellant). Accordingly, the court held that the mere existence of an antisemitic atmosphere in one country or another does not justify abducting minors to Israel, for otherwise there would be no end to such cases, effectively nullifying the purpose of the Convention to which Israel is a party. Israel has not withdrawn from the Convention nor submitted reservations or objections concerning any of the signatory states. In any event, since doubt exists as to the applicability of the exception, the court must order the return of the Minor to Ireland, her habitual residence.
20. Regarding the imposition of conditions on the Minor's return to Ireland, the Lower Court held that it has the authority to do so in order to protect the Minor's best interests. The Lower Court referred to the rulings of the Supreme Court and the District Court (see CA 2499/18 (May 14, 2018) and FA (Tel Aviv District) 2070-07-19 (July 17, 2019)), in which it was held that, in light of the heavy burden imposed on a party invoking section 13(b) of the **Hague Convention Law**, and in light of the purpose of the Convention, and so that "a wrongdoer does not profit from his wrongdoing," it is necessary to balance conflicting considerations by imposing conditions that allow for the return of the child while ensuring his or her physical, mental, and emotional safety during the initial return period, until the interested party applies to the competent court for determination of custody.



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Accordingly, the court established the following conditions for the Minor's return to Ireland, the main elements of which are:

- A. The Minor shall return to **Dublin** and not to **Kenmare**, due to the absence of a Jewish community in Kenmare and, in contrast, the availability of a Jewish communal life in Dublin.
- B. The Minor shall be enrolled in a **general educational** institution, and not one with religious affiliation (e.g., Catholic or Protestant).
- C. **Temporary** visitation arrangements shall be established for the parents.
- D. The Appellant shall be permitted to visit her family in England three times a year during Jewish holidays, for a period of seven days each time.

As noted, the Lower Court also ordered the deposit of mutual guarantees by both Parties to be held in trust by their respective counsel for a period of three years. The Appellant was ordered to deposit the sum of **EUR 15,000** to guarantee that she would not abuse the freedom of movement granted to her by the court and would not act contrary to the various judgments. The Respondent was ordered to deposit the sum of **EUR 45,000** to ensure the Minor's return to the city of Dublin, her enrollment in a school without religious affiliation, and to secure the Appellant's freedom of movement during Jewish holidays, pursuant to the conditions set forth.

As said, mutual appeals by both Parties were filed against the judgment of the Lower Court.

Summary of the Appellant's Arguments in Her Appeal (FA 56394-10-25)

- 21. The Appellant argued that the Lower Court erred in ordering the return of the Minor to Ireland. The court ignored the extreme bad faith demonstrated by the Respondent in filing the petition under the **Hague Convention Law**, while he himself had blatantly violated the return conditions set forth by the court in England. The court erred in that, despite its factual determination that the father had breached the return conditions, it did not find that such breach invalidated the petition.



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22. In the present case, the Convention is not applicable and no wrongful removal took place. The habitual residence of the Minor is not Ireland but rather England. The Appellant's agreement to return the child from England to Ireland, which was confirmed in the judgment of the court in England, was given voluntarily and conditioned upon the Respondent's undertakings. Once the Respondent breached the return conditions, the claim that Ireland constitutes the Minor's habitual residence pursuant to Article 3 of the Convention no longer stands.

It should be noted that in the hearing held before us, and following the panel's remarks, counsel for the Appellant withdrew this claim regarding Ireland not being the Minor's habitual residence. Accordingly, the matter requires no further discussion (see p. 2, line 13 of the transcript of the hearing dated November 13, 2025).

23. The Lower Court erred in rejecting the defense claim under section 13(b) of the **Hague Convention Law**. The court erred in treating the testimony of social worker Williams as mere witness testimony and not as expert opinion. The court further erred in disregarding the fact that the witness was not meaningfully cross-examined regarding the content of his testimony on the existence of antisemitism in Ireland and its potential harm to the Minor. The court also failed to address the Foreign Ministry letter cited in the opinion, regarding the expert's professional work, nor did it consider the relevance of the expert's professional experience in Ireland, his ability to assess risks to the Minor in Ireland, or the significance of the risks he pointed out. The Lower Court erred in failing to provide adequate reasoning as to why the severe antisemitic atmosphere prevailing in Ireland does not justify refusal to return the Minor in light of the harm she may suffer. The court erred in failing to give weight to the closure of the Israeli Embassy in Ireland, failed to address the Deputy Ambassador's letter describing the danger in Ireland, and ignored the risk posed to the Minor by a Catholic school curriculum. The court further erred in not ruling on the risks to the Minor resulting from her return to Ireland, including social ostracism, identity conflict, legal risks, and social isolation. Although it can be inferred from the judgment itself that the court acknowledged the existence of serious risk, it nonetheless rejected the claim subject to return conditions, conditions which the Appellant argued provide no meaningful protection for the Minor.



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24. The Appellant further argued that the Lower Court erred in determining return conditions that do not reflect the best interests and needs of the Minor. The court erred in requiring that the Minor attend a general educational institution, despite the factual finding that the family is affiliated with Judaism. The court also erred in limiting the Minor's travel with the Appellant to England to only 3 times per year, and in failing to establish any conditions for travel to Israel, despite the Appellant's strong ties to Israel. The Appellant claimed that return conditions should have been set to ensure the Minor's freedom to travel with her mother, subject to visitation arrangements, and should have taken into account all Jewish holidays throughout the year. Moreover, no effective enforcement mechanism for the return conditions was established. The court further erred in not ordering the Respondent to pay legal costs.

Summary of the Respondent's Arguments Regarding the Appellant's Appeal

25. The Respondent argued that the Lower Court rightly determined that a wrongful removal had occurred – the Minor's habitual residence is in Ireland, where she has lived since birth, where she received medical care and attended preschool. The Appellant's claim that the Minor's habitual residence is in England and not in Ireland was raised for the first time on appeal, constitutes an impermissible expansion of the scope of the dispute, and should not be entertained. Furthermore, the Appellant is not entitled to argue an alternative factual claim that the Minor's habitual residence is either in England or, alternatively, in Israel.

As noted, counsel for the Appellant withdrew this claim regarding the Minor's habitual residence.

26. The court correctly held that the "grave risk" exception under section 13(b) of the **Hague Convention Law** was not proven; this defense concerns the risk of serious physical or psychological harm and is reserved for rare and exceptional cases, of which the present matter is not one. The Appellant and the Minor never experienced any antisemitic incident in Ireland, and this was not the reason the Appellant left Ireland. Even Rabbi Wieder admitted he does not know the Minor personally and certainly cannot identify any specific harm that would befall her; moreover, he testified that aside from a few rare cases in the past two years, there had been no



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incidents of physical violence against Jews in Ireland. Social worker Mr. Barry Williams admitted in his testimony that he is unfamiliar with the Hague Convention, its terms, or its procedures. Accepting the claim of antisemitism in Ireland as a basis for the “grave risk” exception would carry broad implications and would open the door to child abductions to Israel from various countries based on similar claims – contrary to the purpose of the Convention.

27. Regarding the Appellant’s claim of breach of the return conditions to Ireland set forth by the English court, the Respondent argued that the Appellant never initiated contempt proceedings or any other legal process before the Irish courts, but instead took matters into her own hands and abducted the Minor. Contrary to the Appellant’s claims, the Respondent never objected to exposing the Minor to Jewish traditions and holidays. The Appellant was aware, at the time of marriage, that the Respondent is not Jewish, and the Parties jointly decided that he would not undergo a conversion process due to its length and complexity. The Respondent did not oppose enrolling the Minor in a Jewish school; rather, the Parties agreed that the Minor would attend the best school available academically.
28. The Respondent further argued, regarding the return conditions set by the Lower Court, that according to case law, such conditions are to be viewed as interim relief meant to address the essential needs of the minor until the court in the minor’s place of residence adjudicates the matter. Therefore, the Lower Court erred by acting contrary to the provisions of the **Hague Convention Law** and relevant case law, and by setting return conditions to Ireland that exceeded its jurisdiction and the scope of permissible interim relief.

Summary of the Respondent’s Arguments in His Own Appeal (FA 50373-10-25)

29. The Respondent argued that the Lower Court erred in exceeding its jurisdiction and setting return conditions that it had no authority to impose. The conditions concerning education, visitation, and holidays are matters that should be addressed by the court in Ireland, not by the court in Israel. The determinations and conditions set forth by the Lower Court in its judgment fail to respect the authority of the competent court in Ireland, where proceedings are still pending, and such conditions are



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unenforceable there. The court further erred in ordering the Minor's return to a city other than that in which she resided prior to the abduction, and in requiring that the financial guarantees be held in Israel for a period of three years.

Summary of the Appellant's Arguments Regarding the Respondent's Appeal

30. The Appellant argued that the Respondent's appeal disregards the fact that he breached the return conditions to Ireland as determined by the court in England, and that measures must be taken to prevent a recurrence of such conduct if the Appellant and the Minor are returned to Ireland. From the judgment itself, it is evident that the Lower Court acknowledged the existence of a serious risk, or at least a concern regarding such risk, and therefore imposed conditions aimed at preventing harm. According to case law, the court has jurisdiction to consider factors necessary to protect the welfare of the minor, balancing the objectives of the Convention against the need to prevent harm to the minor, as the exception under section 13(b) of the Law reflects the best interests of the child. The court has authority to impose return conditions in cases of bad faith and violation of judicial orders, and there is a factual finding in this case that the Respondent breached the return conditions set by the English court. Therefore, the Appellant argued that the Lower Court acted within its jurisdiction.
31. We will start our discussion by summarizing the fundamental concepts – in Israel, the **Hague Convention Law** grants a binding effect to the Hague Convention – which aims to ensure the immediate return of children who were wrongfully removed by one parent from the lawful custody of the other parent and taken to another country, and to guarantee that custody rights recognized in the state of origin are respected by the state to which the child was abducted. The Convention is based on the principle that the best interests of the child require immediate return to the custody of the parent in the state from which the child was abducted (sections 2–3 of the **Hague Convention Law**; FA 672/06 *Anonymous (Male) v. Anonymous (Female)* (2006); CA 4391/96 *Roe v. Roe* (1997) (hereinafter: *Roe*); CA 5532/93 *Gunzenburg v. Greenwald* (1995)). Thus, the fundamental rule in applying the Convention is the immediate remedy of the abduction by restoring the situation to its original state through the prompt return of the child. Questions concerning the child's



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welfare in the context of custody arrangements are to be resolved in the state of origin (Roe, p. 345). At the same time, the **Hague Convention Law** enumerates a number of exceptions to the core principle underlying the Convention, that a child who has been abducted must be returned immediately to the state of origin. These exceptions are premised on the understanding that there may be unique and exceptional circumstances involving the child's condition, whose particular weight may override the Convention's central objective. In the present matter, the Appellant invoked the "grave risk" exception under section 13(b) of the **Hague Convention Law**, claiming that the return of the Minor to Ireland may expose her to widespread antisemitism that poses a physical danger and significantly undermines her personal security, Jewish identity, and human dignity. This exception shall be the focus of our discussion further below.

Applicability of the Hague Convention Law

32. At the outset, it must be stated that in the present case, the applicability of the Convention was proven beyond all doubt, based on the fact that the Minor was removed from her habitual residence in Ireland. In this regard, counsel for the Appellant withdrew his claim that the Minor's habitual residence was in England and not in Ireland (see p. 2, line 13 of the hearing transcript dated November 13, 2025). This conclusion also clearly emerges from the full set of facts: the Minor's place of birth, the location where she resided since birth, the kindergartens she attended, the healthcare clinic in which she received treatment, the Parties' agreed relocation to Kenmare, custody and visitation determinations rendered by the Irish court, and so forth. These and other facts establish that the Minor's habitual residence is in Ireland. It has been held in case law that a child's "habitual residence" is a factual matter reflecting a continuous reality in the place where the child lived prior to the abduction, including consideration of the parents' future intentions (see CA 7206/93 *Gabay v. Gabay* (1994); CA 7784/12 *Anonymous (Female) v. Anonymous (Male)* (2013)). In the present case, beyond the aforementioned facts, the Irish court is the one that determined the Parties' joint custody rights and prohibited the Appellant from relocating to England with the Minor. These proceedings alone clearly demonstrate that the Minor's habitual residence is in Ireland. Furthermore, it was proven that there was never any agreement or joint intention on the part of the Parties to relocate with the Minor outside of Ireland at any stage.



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There is also no dispute that both parents, including the Respondent, were granted custody rights in relation to the Minor (see section 4 of the judgment of the Irish court dated April 30, 2025, p. 93 of the Respondent's exhibits). Accordingly, the removal of the Minor to Israel without the consent and knowledge of the Respondent triggers the applicability of the Convention under section 3 of the **Hague Convention Law**. In any event, the Appellant did not raise the argument that England is the Minor's habitual residence before the Lower Court; thus, raising this argument at this stage, which was withdrawn by counsel for the Appellant, constitutes an impermissible expansion of the scope of the proceedings.

33. The Appellant also sought to argue that the Convention should not apply in the present matter due to the Respondent's extreme bad faith. This argument primarily refers to the 2023 proceedings held in the court in England, when the Appellant took the Minor to her parents in England and did not return to Ireland at the agreed time. In those proceedings, also conducted pursuant to the **Hague Convention**, the Parties reached agreements under which the Respondent undertook to allow the Appellant to travel with the Minor to England with seven days' prior notice, for periods not exceeding 14 days at a time, and further undertook not to harm the Appellant's religious sentiments.
34. The Lower Court was persuaded that the Respondent did indeed fail to uphold his full obligations under the English judgment, but correctly found that this does not affect the applicability of the Convention. The exceptions to the Convention are few and specifically defined, and no additional exceptions are to be created beyond those expressly provided for. The English judgment explicitly states that if either of the Parties breaches his or her undertakings, it may constitute contempt of court, subjecting the violator to sanctions – whether imprisonment or fine – imposed by the court. However, this in no way legitimizes the abduction of a child from his or her country of residence.

A breach of a contractual undertaking between spouses cannot justify such severe harm to the child and to the other parent as to deprive the latter of custody rights, based on the unilateral action of the abducting parent.



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It is worth noting that there is doubt as to whether the Lower Court, in its limited jurisdiction in this proceeding, was authorized to make categorical determinations and findings concerning the Respondent's alleged breach of the English judgment, as well as the nature and implications of such breach. The Lower Court is not the appropriate forum for such a broad inquiry, which would require updated opinions and welfare reports that were not before it, and the Respondent may well be able to explain his actions. The role of the Lower Court is limited solely to determining, under the **Hague Convention Law**, whether the Minor should be returned to her country of habitual residence.

On the other hand, it may also be said that the Irish court determined the specific dates on which the Appellant was permitted to travel with the Minor from Ireland to England, but the Appellant took matters into her own hands and traveled with the Minor to Israel, without the knowledge or consent of the Respondent, thus breaching the material undertakings she assumed under the English judgment.

We are unable to determine which of the Parties was more at fault in this matter regarding the fulfillment of their mutual undertakings, and it is not the role of the court adjudicating Hague Convention issues to delve into this question. Regardless of who bears the blame, such conduct does not give rise to any of the exceptions justifying the non-return of the Minor under the Convention.

35. Counsel for the Appellant sought to infer from isolated statements in case law that conduct in bad faith may negate the applicability of the Convention. In our view, this argument reflects a distortion of those statements taken out of context. To clarify: counsel for the Appellant relied on remarks made by the Honorable Justice Y. Amit, then serving as a minority opinion judge in the Haifa District Court in FA 218/02 *Anonymous (Male) v. Anonymous (Female)* (2002), suggesting that conduct in bad faith may negate the applicability of the Convention. In that matter, Justice Amit wrote:

“A man invites his partner to a foreign country with their mutual child, after solemnly undertaking, through signs, symbols, and a signed agreement, not to prevent her from returning with the child to her homeland. Relying on that,



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the woman arrives in the foreign country. And yet, after a while, the man breaches his commitment and seeks to bar her return through a stay of exit order.”

However, not only was the Honorable Justice Amit in the minority in that matter, but his remarks were directed specifically at situations where one party lures another to settle in a particular country based on a promise of a short and temporary stay. Such circumstances may indeed point to the **exception of “consent”** under section 13(a) of the **Hague Convention Law**, where deception may be viewed as implied consent to the return of the other parent to the habitual residence. In our view, however, this cannot be extrapolated into a broad and binding principle, and certainly does not support the conclusion that the Convention’s provisions cease to apply simply because the Respondent may have breached one undertaking or another. We find counsel for the Appellant’s conclusion drawn from Justice Amit’s words to be exaggerated, disconnected from the original context, and therefore unacceptable.

Moreover, the conditions for the Appellant’s return from England to Ireland were established in the judgment of the English court dated November 8, 2023, and it was explicitly stated that they were determined “until the first hearing between the parties in the family court in the Republic of Ireland dealing with welfare issues related to the child.” In other words, it is beyond doubt that these were bridging and temporary conditions pending adjudication by the appropriate court empowered to resolve such issues. Since November 2023, the Appellant has not approached the court in Ireland, has not raised before it any claim that the Respondent violated the return conditions, has not sought enforcement of those conditions, has not initiated contempt of court proceedings, and more. It is questionable whether the Appellant can now raise such claims before the court dealing with the child’s abduction, after having chosen to act unilaterally. The Appellant’s assertion that she refrained from approaching the Irish court because such claims could not be raised there (see p. 58, lines 20–33 of the Lower Court transcript) appears facially dubious and was, in any case, not proven. Similarly, doubt must be cast on counsel’s argument before us that the Appellant lacked the financial means to bring claims – an argument not raised until now and inconsistent with her previous filing of a relocation petition in the Irish court.



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36. A similar conclusion applies to the Appellant's claim before the Lower Court that the Respondent breached the condition, whereby he undertook not to initiate ex parte proceedings. First, such matters are to be adjudicated by the court in Ireland and, in any event, cannot serve to justify the abduction of the Parties' minor child to Israel. Second, the Respondent testified that he petitioned the Irish court for a temporary stay of exit order because he feared the Appellant intended to abduct the Minor, as, in fact, she ultimately did. By their nature, stay of exit orders are submitted ex parte, and the opposing party becomes aware of them only after the order is issued, so that they may contest it.

In any case, even if the Respondent did act wrongfully in this matter, it does not nullify the provisions of the Convention. At the very least, the Appellant should have turned to the court in Ireland with her claims, rather than taking the law into her own hands by abducting the Minor.

37. The same applies to the Appellant's claim that the Respondent harmed her religious beliefs. It should be noted that there is no dispute that the Respondent is not Jewish, and the Appellant was aware at the time of their marriage that he is a Catholic Christian (p. 38, lines 32–34 of the Lower Court transcript). On the face of it, no evidence was presented to show that the Respondent opposed exposing the Minor to Jewish traditions and holidays. In fact, the Parties celebrated all holidays – Jewish and Christian alike. According to the Respondent, it was the Appellant who undermined his attempts to celebrate Christmas with the Minor and his family (p. 34, line 27 of the Lower Court transcript). He further claimed that he registered the Minor at two educational institutions in their residential district – one Catholic and one general – only to ensure her timely enrollment. However, he had no objection to preferring the general school if space was available. He added that the Parties themselves, in their conversations, preferred a general institution over a Jewish one, as it was considered academically superior and they believed this would be in the Minor's best interest. Based on the foregoing, and especially given the limited scope of the proceedings concerning the return of abducted children under the Convention, it is difficult to conclude from the testimonies and evidence presented before the Lower Court that the Respondent consistently acted to thwart the Appellant's wish to instill a Jewish cultural identity in the Minor.



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Moreover, the matter of the Minor's schooling was scheduled for hearing before the court in Ireland, but was ultimately not held because the Appellant abducted the Minor to Israel. Likewise, the conditions for the Minor's travel with the Appellant to England were determined by the Irish court during hearings held there.

The Appellant's claim that those conditions were inconsistent with the ones determined by the English court does not necessarily constitute a breach by the Respondent, since, as stated, the original undertakings were valid only until a substantive hearing on the Minor's matters would take place before the competent Irish court, the authority vested with jurisdiction to decide such matters through permanent rulings.

From all the above, it can be concluded that, at a minimum, there are arguments on both sides concerning compliance with the conditions set by the English court. However, even if the Appellant's claim that the Respondent breached those conditions is accepted, this does not entitle her to remove the Minor from Ireland and not return her without the consent or permission of the Respondent.

Existence of the Grave Risk Exception

38. One of the Appellant's central claims in her appeal is that the circumstances of the case meet the conditions of the "grave risk" exception under section 13(b) of the **Hague Convention Law**. According to the Appellant, returning the Minor to Ireland, a country she describes as antisemitic and anti-Israel, would expose the Minor to "grave physical or psychological harm" and place her "in an intolerable situation." The Appellant contends that the risk is not isolated but stems from a combination of multiple risk factors: institutional antisemitism, social exclusion, identity conflict, cultural isolation, and legal risks. She argued that Ireland is currently referred to as "the most antisemitic country in Europe," thereby intensifying the risk to the Minor. The danger is particularly acute because the Appellant herself is Israeli and served in a combat unit in the Israel Defense Forces. To prove the prevailing antisemitic climate in Ireland, the Appellant submitted, *inter alia*, a letter from a former Deputy Ambassador to Ireland and referred to the closure of the Israeli Embassy in Dublin as official evidence of the severity of the situation. She further argued that the danger to the Minor also arises from being forced to grow up in a "fundamentally Catholic Roman environment" (particularly in County Kerry, where the Parties resided prior



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to her departure from Ireland), with no access to Jewish infrastructure (synagogues, kosher food, Jewish education), and from the fear that the Appellant might be harassed or arrested due to her military service, potentially resulting in the severance of contact between her and the Minor, and causing the Minor a traumatic experience.

39. As stated, the Appellant also submitted a document presented as an expert opinion by social worker Barry Williams, who claimed that there is a grave risk to the Minor resulting from her return to Ireland due to her Jewish identity. The Appellant argued that the Lower Court erred by not recognizing the document as an expert opinion and treating Williams's testimony as that of an ordinary witness. She further contended that the Lower Court failed to give proper weight to the testimony of Rabbi Yoni Wieder, Chief Rabbi of Ireland, who also described the antisemitic atmosphere in Ireland.

Having thoroughly reviewed the Appellant's arguments, we find them unpersuasive and uphold the determinations of the Lower Court on this matter. Our reasoning is as follows:

40. Section 13(b) of the **Hague Convention Law** establishes the exclusion for the obligation to return an abducted minor as follows:

“Notwithstanding the provisions of the preceding section, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body opposing the return establishes that –

(a) ...

.... or

(b) there is a grave concern that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.”

The Supreme Court has consistently ruled that this exception, like the other exceptions in the Convention, must be construed narrowly and precisely, in order to preserve the effectiveness of the Convention (see, for example, **Roe**, *supra*; FA



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5579/07 *Anonymous (Male) v. Anonymous (Female)* (2007); FA (Haifa) 6426-07-21 *T. v. T.* (2021)). The case law clarifies that this exception applies only in rare and exceptional cases in which the child's specific needs and interests outweigh the severity of the abduction itself. That is to say, some "additional factor" must be present, pointing to an extraordinary and individualized hardship that would prevent the child's return to the state of origin in order to protect the child's mental well-being, despite the fundamental purpose of the Convention. The harm must be clear, unequivocal, and substantiated by compelling evidence. The focus is on the severity of the risk itself, not the likelihood of its occurrence (see FA (Be'er Sheva) 104/08 *Anonymous (Female) v. Anonymous (Male)* (2008), para. 4 of the judgment of then-President N. Hendel and the references cited therein). The burden of proof for establishing the exception lies with the abducting parent and is a heavy one, requiring "clear and compelling evidence" (see FA 1855/08 *Anonymous (Female) v. Anonymous (Male)* (2008); FA (Haifa District) 18415-12-23 *Anonymous (Male) v. Anonymous (Female)* (2025)). As stated in HCJ 7285/08 *Anonymous (Male) v. Minister of Foreign Affairs* (2009):

"The use of the authority not to order the return of the child to his or her habitual residence, based on the protection of grave risk, is limited and restricted to exceptional cases in which it has been proven that the return would place the child at grave risk or subject the child to severe harm of a substantial nature."

It has been clarified that this exception does not concern the child's "best interests" in the conventional and broad sense, as examined in custody proceedings, because such a broad interpretation would strip the Convention of its substance. Instead, the exception reflects a "narrow and specific best interests of the child," focusing on the prevention of "harm to the child" – namely, the prevention of severe harm to the minor arising specifically from the return to his or her habitual residence. The emphasis lies on the danger the child would face upon being returned to the place from which he or she was abducted (see *Roe, supra*; ACP 10136/09 *Anonymous (Female) v. Anonymous (Male)* (2009); CA 2808/15 *Anonymous (Male) v. Anonymous (Female)* (2015)). The harm required for the application of this exception has been interpreted as harm that would result from the return to the



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country of origin – not from separation from the abducting parent or from returning to the custody of the other parent. The relevant judicial test is the causal connection between the return of the child and the potential harm. Claims regarding the petitioner-parent's personality, parental competence, or relationships within the family are generally irrelevant, unless they create an intolerable situation in the country of origin (see ACP 7259/13 *Anonymous (Female) v. Anonymous (Male)* (2013); LCA 7994/98 *Dagan v. Dagan* (1999), hereinafter: **Dagan**). The assessment of the exception must be forward-looking, focused on the child's circumstances upon returning to the country of origin, and whether those circumstances will expose the child to grave risk.

We may therefore summarize and state: the grave risk exception under section 13(b) of the **Hague Convention Law** pertains to an extreme, exceptional, and unequivocal situation that presents a serious concern of significant physical or psychological harm to the minor or of placing the minor in an intolerable situation. The harm must stem from the return to the country of origin – not from separation from the abducting parent. The party asserting the exception bears a heavy burden of proof. The "legal equation" on this matter was aptly expressed by Hon. Justice E. Arbel in FA 5579/07, (see also HCJ 7285/08 *Anonymous (Male) v. Minister of Foreign Affairs* (2009):

“A decision not to return the child will only be made in extreme cases, where the weight of the child's interests and needs outweighs the seriousness attributed to the abduction.”

Therefore, we will examine whether in the case in question the said exception exists.

Antisemitism in Ireland as Grounds for Section 13(b) of the Hague Convention Law

41. The Appellant placed her trust, with respect to the existence of the real-risk exception, on the antisemitic atmosphere in Ireland and the difficulty of maintaining Jewish community life in that country, on the concern of an identity conflict for the minor due to the clashing cultures she would be forced to experience, and more.



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Indeed, regrettably, antisemitic sentiment is prevalent in Ireland, and it appears that the Parties do not dispute its existence. This is evident from various sources for which no evidentiary hearing is required. A brief glance at recent history since the early twentieth century reveals signs of antisemitism in Irish public life. Thus, in 1904, the so-called “Limerick Boycott” took place, during which Catholic priest Father John Creagh incited the public against the small Jewish community in Limerick, mostly of Lithuanian origin. As a result, a commercial boycott was imposed on Jewish merchants, accompanied by some instances of minor violence, leading many Jews to leave the city. Antisemitic expressions were also present within the Irish nationalist movement and the Sinn Féin party. For example, Oliver St. John Gogarty, a member of the party (and a friend of the author James Joyce, who famously selected a Jewish character, Leopold Bloom, as the protagonist of *Ulysses* in response to Irish antisemitism) published two particularly vitriolic antisemitic articles in 1906 in the party’s newspaper. For documentation of these events and quotations from Gogarty’s articles, see Dermot Keogh’s book *Jews in Twentieth-Century Ireland: Refugees, Anti-semitism and the Holocaust* (1998).

However, Ireland has also, from time to time, shown warmth toward the Jewish population living within it. Ireland warmly received its former Chief Rabbi, Rabbi Yitzhak Isaac Herzog, grandfather of the current President of the State of Israel, Mr. Isaac Herzog. Jews have served in the Irish Parliament; for example, Mervyn Taylor served as Minister for Labour and as Minister for Equality and Law Reform in several Irish governments in the late twentieth century. In the 1990s, a Jewish judge, Henry Barron, served on the Irish Supreme Court, and the mayors of Dublin during the late twentieth century included Jewish individuals (Robert Briscoe and his son, Ben Briscoe). Alan Shatter, a Jewish attorney, served as Ireland’s Minister for Defence and Justice from 2011 to 2014. It is also noteworthy that the Irish Constitution of 1937 recognized Judaism as a minority religion and guaranteed freedom from discrimination against it (see Tamar Fox, *Ireland – Jews of History: The People of the Book on the Emerald Isle*, <https://www.myjewishlearning.com/article/history-of-jews-in-ireland/>).

42. Prima facie evidence was presented before the Lower Court, indicating a rise in antisemitic incidents in Ireland following the events of October 2023, including hateful remarks and even expressions made by government officials against Israel



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(see: [European-Textbooks-Ireland-Review.pdf](#), cited by the Appellant and included among the exhibits she submitted). According to the Appellant's documentation, Foreign Minister Gideon Sa'ar announced the closure of the Israeli embassy in Ireland in December 2024. However, it seems that the closure was primarily directed at Ireland's official stance regarding Israel's conduct in Gaza following the October 2023 events – i.e., a political position against the State of Israel rather than against Jews per se.

As part of the proceedings, testimony was heard from Rabbi Yoni Wieder, the current Chief Rabbi of Ireland, who testified that he has resided in Ireland for approximately two years (having been appointed Chief Rabbi in 2024 at the age of 28). He also serves as the head of the Dublin Hebrew Congregation (DHC), heads Jewish Studies at Stratford College, and oversees the Kashrut Committee of Ireland. According to his testimony, before moving to Ireland, he resided in England. He stated that he has known the Appellant for just under a year, is not familiar with the details of the case, and does not know the minor. His testimony was intended to provide background on social life in Ireland and on Jewish communal life there (see p. 9 of the hearing transcript). In response to the Respondent's counsel's question regarding studies from Tel Aviv University suggesting that there are more antisemitic incidents in England than in Ireland, Rabbi Wieder confirmed during cross-examination that the Jewish community in England is **much larger** than in Ireland, and therefore, it is expected that there would be more incidents of antisemitism and violence there (p. 12 of the Lower Court transcript). According to him, the antisemitism experienced by Jews in Ireland **has not, for the most part, translated into incidents of physical violence in the streets**, and there have only been a few such cases in the past two years (*ibid*). However, he clarified that this does not mean that antisemitism is absent – there are indeed many instances of antisemitic expressions. Rabbi Wieder stated in his testimony that he is aware that the Israeli Ministry of Foreign Affairs issues travel warnings, and while he has not personally verified the danger level assigned by the Ministry to travel to Ireland compared with England, he was not surprised by the assertion that both countries are categorized under the same threat level (Level 2 – potential threat, with a recommendation to take precautionary measures; see p. 13 of the Lower Court hearing transcript).



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Nonetheless, from Rabbi Wieder's testimony, it was not possible to conclude that there is any real danger to the minor or even to Jewish minors in Ireland in general. Such danger was not demonstrated even with respect to minors living in non-Jewish environments. Violent incidents against Jews in Ireland are rare and, on their face, do not exceed the level of antisemitic violence in other Western European countries.

43. Nor can any clear or authoritative conclusion regarding potential harm to the minor be drawn from the testimony of Mr. Barry Williams, the social worker. The witness clarified that he is not familiar with the legal principles underlying the Convention and its provisions (p. 10 of the transcript). Although, according to his statements, he works as an **educational instructor** and has **15 years of experience** working with the Jewish community and the Israeli Embassy in Ireland, during which time he documented antisemitism and anti-Zionism, he was unable to point to any Jewish minors who suffered actual harm as defined under the Convention merely by living in Ireland – **including in the Kenmare area – even though he believed the region** to be "essentially Roman Catholic in character," and that it would be "too much for her" (p. 12 of the transcript). It is unclear from his testimony how he reached his conclusions, particularly with regard to the Kenmare area, given the absence of concrete evidence, even by his own admission.
44. It should be remembered that in the present case, the Family Court proposed the appointment of a court-appointed expert (see Regulation 108(c) of the **Family Court (Civil Procedure) Regulations, 5781–2020**), but the Parties did not agree to such an appointment, as noted in the judgment itself. Indeed, it is difficult to see what kind of expert could appropriately examine the Appellant's claim of harm due to an antisemitic atmosphere; however, it must not be overlooked that, at this stage, no argument has been made that the minor's mental state would render her return to Ireland a real danger. In Ireland, the minor enjoyed the company of each of her parents, both of whom were good and caring parents, and no claim was made that she experienced distressing events that affected her physical or mental state while living there.

And we shall remind that there is no dispute that during the time the family lived in Ireland, for over a decade, neither the Appellant nor the minor experienced any antisemitic incident directed against them (see Appellant's testimony, p. 37, lines 19–



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23 of the Lower Court transcript). The Appellant testified that she herself had served in the IDF and had not encountered any antisemitic incident as a result. Thus, it is unclear on what basis her claim that returning the minor to Ireland would endanger her is founded. It may be concluded that this claim was made in passing, without any substantial supporting evidence and certainly without the degree of proof required to establish the exception set forth in section 13(b) of the **Hague Convention Law**.

45. The Appellant did, indeed, claim that she was offended by a statement made by a judge during one of the hearings in Ireland, in which he said, **“It’s as clear as the nose on your face,”** and she attributed antisemitic connotations to the remark. However, it would appear that the judge merely meant to say, “It’s crystal clear,” and nothing more. The Appellant’s interpretation of the judge’s words stemmed from her subjective feeling that the legal proceedings were dragging on for too long (*ibid.*, pp. 37–38 of the transcript). Moreover, the Appellant clarified that she did not recall any other antisemitic remarks made toward her during all the years she lived in Ireland (*ibid.*, p. 38, lines 26–27).

We cannot also ignore the fact that the Appellant herself submitted a request to emigrate from Ireland to England, despite the recognition that antisemitic phenomena exist in England, perhaps even to a greater extent, due to the larger size of the Jewish community there (*ibid.*, p. 51, ll. 16–24). As noted, according to the information available on the National Security Council’s website, the travel warnings for England and Ireland are both classified at the same level (Level 2), and the mere existence of political tensions between the Government of Ireland and the Government of Israel does not place the minor at risk – at least not at this time.

46. This is also the appropriate point to recall that the minor was abducted to England as well. A proceeding under the Hague Convention was initiated there too, shortly after the events of October 2023. However, the Appellant did not raise, explicitly or even implicitly, any claim in that proceeding that antisemitism in Ireland should preclude the minor’s return, pursuant to the exception in Article 13(b) of the Convention. If such antisemitism existed and indeed prevented return to Ireland, one would expect the Appellant to have raised this argument before the court in England as well. And if antisemitism is equally present in England and could potentially harm the minor, it is unlikely that the Appellant would have sought to emigrate to England instead of



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to a country where antisemitism is less prevalent – raising serious questions in this regard.

47. Moreover, case law has clarified that with respect to the “grave risk” exception, one must avoid generalizations, such as the non-return of minors to a country that is claimed to be dangerous or undemocratic. Thus, recently, when the court was called upon to address an argument against returning a minor to Israel on the grounds that it is a war zone, the court emphasized that to invoke the protection of section 13(b) of the **Hague Convention Law**, specific evidence is required regarding the risk to the particular minor before the court, and not general evidence regarding the geopolitical or security situation in the country. In the court’s own words (free translation):

“On June 7, 2024, M’s new attorneys submitted a request dated June 1, 2024, to appoint a geopolitical expert (as described) to report on the situation in Israel in light of the country’s ongoing conflict with Hamas in and around Gaza. I rejected the request during the hearing on June 14, 2024. My reason for doing so was the requirement to avoid generalizations and, as much as possible, to assess the specific risk to these particular children in their particular area of return. (See, for example, R v Q (Fam) [2021] EWHC 2961 per Judge Williams, and Re X and Z (Children: Article 13(b): Return to Kyiv) [2022] EWHC 602 (Fam) per Dexter Dias KC...Accordingly, there was no need to obtain general evidence of the type proposed by M. to fairly resolve this aspect of the section 13(b) defense. (This judgment was attached as Appendix 7 to Respondent’s Response to Appellant’s Appeal.)

And already long ago, the Presiding Judge of this panel wrote the following in FC (K.S.) 13400/09 A.M. v A.K. (2009):

“In his summation, the Defendant’s counsel further argued that the harm expected to the minor as a result of her return



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to France is, *inter alia*, due to the prevailing antisemitism in that country and the danger it poses to Jews. This claim too was made in vague terms and is devoid of merit. Even if there are occasional manifestations of antisemitism in France, no evidence was presented showing that these manifestations are unusually severe compared to other countries. It goes without saying that hundreds of thousands of Jews live in France, and that country is not regarded as dangerous to them, and therefore it cannot be considered dangerous to the minor either... We, who live in the State of Israel, well-versed in terror attacks and surrounded by dangers, rightfully object when signatory states to the Convention determine that our country is dangerous for minors. It is thus appropriate that we exercise increased caution before declaring another Convention member state to be dangerous for minors.”

Indeed, the world continues in its course, antisemitism has existed and will likely continue to exist. At times its force surges and becomes overt, and at other times it is hidden and subtle. This phenomenon deserves full condemnation. However, for the purpose of proving the exception we are now examining, direct harm to the minor in question resulting from her return to Ireland must be demonstrated, along with a risk of substantial harm to her. No such harm has been proven, in the absence of any past acts of persecution against the minor (or the Appellant), and in the absence of evidence of humiliation or incidents that caused or are likely to cause the minor substantial harm, even emotional harm, as a member of any particular community.

48. It thus appears that there is merit in the argument made by the Respondent’s counsel, namely that acceptance of the Appellant’s claims in their substance carries significant broader implications. Should the court accept the argument that a Jewish minor should not be returned to Ireland due to antisemitism, this could open the door to child abductions from various countries based on similar claims – an outcome that risks creating legal chaos and encouraging abductions. Such an outcome could, in effect, render Israel’s commitments under the Hague Convention (Child Abduction) meaningless and nullify the significance of its incorporation into Israeli domestic



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law. As noted, Israel has not entered reservations to the Convention or to specific member states, including Ireland, and has not sought to withdraw from it. Accordingly, the following words of the Lower Court are apt:

“Counsel for the father is correct in stating that the Family Court in Israel cannot determine that, due to a harsh atmosphere in various countries, any parent may decide, contrary to the decisions of competent courts, to take his or her children to Israel, and that such actions must be based on a mutual decision by both parents regarding the fate of their children.” (Section 208 of the judgment of the Lower Court)

This general argument is significant given that the duty of return in cases of abduction under section 12 of the **Hague Convention Law** is absolute (see Dagan, *supra*; see also Roe, *supra*; FA 2499/18 *Anonymous (Male) v Anonymous (Female)* (2018)). Conversely, section 13 of the **Hague Convention Law** qualifies that duty. The exceptions provide the court with discretion that considers external grounds as well, and therefore, these exceptions must be interpreted narrowly, taking into account international considerations (see LCA 7994/98, *supra*; CA 4391/96, *supra*).

Accordingly, from all of the above, it appears that the Appellant cannot establish the “grave risk” exception in this matter, and in fact, she has no valid defense against the return of the minor to Ireland – her habitual residence prior to the abduction.

We are thus left to address the conditions set by the Lower Court for the minor’s return to Ireland – conditions that each of the Parties appealed and requested to modify in various ways, as briefly outlined above.

Setting Conditions for the Return of a Minor Abroad

49. The Family Court, when ruling on matters under the **Hague Convention Law**, is not required to and does not address issues of custody, the minor’s living arrangements, visitation schedules, or even the child’s best interests in the ordinary sense.



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Proceedings under the **Hague Convention Law** are not designed for such a comprehensive inquiry. The role of the court is to provide a form of “first aid” to the abducted minor for the purpose of returning him or her to the habitual place of residence. At the same time, it has been held that the child’s best interests are relevant in the context of issuing a temporary decision pending determination by the competent court in the habitual residence. As held, for example, in LFA 1648/92 *Turna v Meshulam* (1992):

“...The child’s best interest is relevant only as a consideration in determining whether to refrain from ordering the restoration of the status quo ante, pending a decision on custody by a competent court...” (see HCJ 836/86 [3], at p. 706 and the references cited therein)

Accordingly, case law reflects that alongside an order for the return of an abducted minor, courts have imposed conditions to ensure the welfare, safety, and needs of the child. These include conditions concerning the child’s residence, custody, financial guarantees to ensure support, limitations on visitation, and more – as temporary relief pending a final determination by the competent local authority.

50. Thus, in **Roe**, where the case involved a father with a criminal record and a history of aggravated violent behavior who petitioned for the return of an abducted child under the **Hague Convention Law**, the Supreme Court ruled that although the circumstances did not rise to the level of the grave risk exception, conditions should nevertheless be set for the minor’s return to ensure her welfare and safety. The conditions imposed addressed her custody, the nature of interactions with the father pending further decision by the competent English court, and the posting of financial guarantees to secure child support. The Supreme Court further ruled that the mother could choose to reside with the minor in any city she preferred, without time limitation or until another ruling was issued. The Court held:

“In summary: since we have not found justification to rule otherwise, Article 12 of the Convention applies in our case. Pursuant to the Convention, an order must be issued for Kara’s return to England, so that an English court may



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decide and rule on the questions of custody and future residence. The English court will act with its wisdom and experience, and we trust that it will reach a just and proper outcome. However, we believe that conditions must accompany our decision, for only thus, in our view, will Kara's best interests be served."

These are the conditions that shall apply to the return of Daphna and Kara to England:

(1) Custody of Kara: Kara shall be in the exclusive custody of Daphna, unless otherwise ordered by an English court. In light of the relationship between Adam and Kara, Adam shall not be entitled to see or visit Kara except by order of a competent court. It is presumed that the court will not issue such an order without first consulting relevant professionals, such as psychologists. Adam agreed to this condition and we have so recorded.

(2) Meeting between Adam and Daphna: Adam shall not be permitted to initiate any contact with Daphna or to communicate with her in any form, unless otherwise determined by the English court. Adam agreed to this condition and we have so recorded.

(3) Residence of Daphna: Daphna is entitled to reside in her own apartment with Kara, in a city of her choosing, and Adam shall bear the housing expenses.

(4) Support of Daphna and Kara: Adam agreed that he shall bear the burden of covering the living and maintenance expenses of Daphna and Kara – including incidental expenses related to Daphna's stay in England – and we have so recorded. In light of the dark past, we cannot rely on Adam to voluntarily support Daphna and Kara during their stay in England. Daphna also lacks the means to retain the services of an attorney or secure other essential services for herself and her daughter.



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We have therefore decided that to cover all the above, Adam shall deposit with Kara's legal counsel in Israel the sum of £5,000 (five thousand British pounds), and Daphna's legal counsel shall provide her with funds as needed, after assessing her needs. Needless to say, either party may apply to an English court to alter our determinations. Should such a court issue an order, Daphna's legal counsel shall act accordingly. To avoid doubt, we further note that travel to England shall be at Daphna's expense. (Emphasis added.)

Similarly, in FC (Petah Tikva) 29941-08-24 *Anonymous (Male) v Anonymous (Female)* (2024), the court ordered the return of a minor to the United States while requiring the father to pay rent for an apartment, to initiate proceedings in the U.S., and to submit a signed affidavit undertaking to act in accordance with the judgment (see CA 2499/18 *Anonymous (Male) v Anonymous (Female)* (2018)).

In any case, it is clear that the conditions set by the court in its return order are temporary conditions subject to the ruling of the local court, which is presumed to reach a just and proper result after consulting the relevant professionals where necessary.

It should also be emphasized that even within the framework of the proceedings between the Parties in England, initiated under the Hague Convention, conditions were set for the minor's return, including reference to residence, educational arrangements, holidays, and more. These terms were agreed upon and were given the force of a judgment, demonstrating that the Parties themselves accepted the court's authority to set such conditions.

51. Notwithstanding the foregoing, and despite the fact that the Respondent's claim regarding the very authority of the court adjudicating under the **Hague Convention Law** to set broad and varied return conditions cannot be accepted, we have found that there is room to intervene to some extent in the conditions determined by the Lower Court, as shall be explained below—

In this regard, with respect to the determination of the place of residence, the Lower Court was persuaded that, in light of the absence of a Jewish community in Kenmare



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on the one hand, and the apparent agreement between the Parties that the minor's Jewish identity should be preserved on the other hand, the minor should be returned to Dublin rather than to the Parties' residence in Kenmare.

We are of the opinion that, in doing so, the Lower Court overstepped its bounds by intervening in prior determinations and directives of the local court, which ordered that the Parties should continue residing in the Kenmare area, where they had lived prior to Appellant's departure from Ireland. A court adjudicating under the **Hague Convention Law** may not disregard the rulings of the competent court in the minor's habitual residence as if they had never existed. An order instructing the Appellant to return specifically to Dublin when, unlike in the Roe case, there is no father posing a danger to the minor, is unreasonable when it contradicts prior decisions of courts that are familiar with the Parties, act based on recommendations of social workers and welfare authority reports, and have conducted (or at least could have conducted) a thorough discussion of the matter. This stands in contrast to the proceedings in the Israeli court, which are focused solely on the return of the minor.

Conversely, the directive stating that the minor is to attend, for the time being, non-denominational educational institutions, which also exist in County Kerry near Kenmare, is reasonable and appropriate. It aligns with the Parties' commitments (including those established by the English court with the Parties' consent and even with the father's agreement before us, insofar as a place is found for her in such an institution), and with the need not to completely disregard the minor's religious identity. Naturally, this directive shall remain in force unless and until the Family Court in Ireland orders otherwise on this matter.

Moreover, it is evident that upon the Appellant's arrival in Ireland, appropriate housing for her and the minor must be secured, separate from the Respondent, as the Parties are separated. Accordingly, it is hereby ordered that the Respondent shall arrange for suitable housing for the Appellant and the minor for a period of one year, and shall provide confirmation of such housing. The Respondent may also fulfill this obligation by other means, such as allowing the Appellant and the minor to reside in the apartment where he had lived and himself relocating elsewhere, while committing to leave this arrangement in place, until a different decision is made by the local court, unless he finds other suitable housing for the Appellant and the minor, given



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that this idea was proposed by him. In any event, the return of the Appellant and the minor to Ireland is conditioned on written confirmation being provided to the Appellant's counsel and approved by him, attesting that housing for the Appellant and the minor has been secured as aforesaid. Should there be any dispute between the Parties regarding the validity of such confirmation, it shall be adjudicated by the Lower Court, until proceedings are opened in the court in Ireland, from which point onward the matter shall be determined there.

Furthermore, in addition to securing housing for the Appellant and the minor, the Respondent shall pay temporary child support for the minor in the amount determined by the court in Ireland.

The guarantees imposed on the Respondent shall also serve to ensure payment of the child support and the provision of housing for the Appellant and the minor during the first year following their return. The guarantee shall be transferred to the Appellant's counsel in Israel and shall be returned to the Respondent after one year, provided there is no impediment to doing so, unless otherwise ordered by the court in Ireland.

At the same time, there is justification to require the Appellant to deposit a guarantee in order to ensure that she does not again attempt to remove the minor from Ireland in violation of her undertakings and the various court judgments. Accordingly, we find that the amount ordered by the Lower Court for her to deposit is appropriate under the circumstances, in view of the disparity in financial capacity between her and the Respondent. Should the Appellant fail to deposit the required guarantee within seven days from today, the amount of the guarantee that the Respondent is required to deposit shall be reduced by the amount the Appellant was ordered to deposit.

52. With regard to the welfare of the minor and the importance of her mother, the Appellant, being at her side and accompanying her in daily life, we record the declaration of Respondent that he shall not approach the Irish authorities in order to initiate criminal proceedings against the Appellant, and it is to be expected that the Irish authorities will show understanding in this matter. See, in this regard, LCA 2610/99 *Anonymous (Female) v. Anonymous (Male)* (1999), where it was clarified that:



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“One must remember that in every case of abduction, the purpose of the Convention is to return the children to their country of origin so that custody proceedings may be conducted there, and if the abducting parent faces criminal sanctions upon arrival, how could he conduct a fair trial concerning the custody of the children, whose well-being and best interests are the concern of all involved?” (emphasis added).

See also CA 1372/95 *Lloyd Stegman v. Deborah Burke* (1995), where the court emphasized that this undertaking of the Respondent caused it to order in that case on the return of the minor”

“Counsel for the Appellant also declared that if the Respondent returns to the United States, then the Appellant will not submit any complaint to the U.S. authorities against the Respondent for violating an order issued by a U.S. court, or for having broken the law by abducting the minor. If such a complaint has already been filed, the Appellant shall request its withdrawal. This, since the Appellant believes that the best interests of the minor are to be with Respondent in California. For the aforementioned reasons, we decided at the time to grant the appeal.”

In addition, we are of the opinion that this matter must be secured by an official confirmation from the Irish authorities, as was required by the Supreme Court in CA 1855/08 *Anonymous (Female) v. Anonymous (Male)* (2008), where it was held:

“If the mother agrees to accompany the return of the minor to Belgium, even for the initial adjustment phase, the father shall be required to provide, by the date of return, namely, by June 1, 2008, confirmation from the prosecution authorities in Belgium and France that the mother shall not be prosecuted by them for the abduction of the minor or in connection therewith. In addition, the father shall submit to



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the Family Court an undertaking not to initiate any legal proceedings against the mother for the abduction of the minor or in connection therewith. The conditions established by the Family Court in FC 3450/07 shall apply.”

53. In summary, we hereby rule as follows –

The appeals of both Parties are dismissed, except with respect to the adjustment of the conditions required for the return of the Appellant and the minor, and subject to the following conditions:

- * The Appellant shall return with the minor to Ireland, and the Respondent shall be obligated to rent an apartment for her and the minor to reside in, until otherwise decided by the competent courts in Ireland, if such a decision is made.
- * For the purpose of Appellant and the minor's return to Ireland, the Respondent shall present confirmation of a one-year rental agreement or an alternative proposal guaranteeing housing for the Appellant and the minor in Ireland for at least one year.
Any dispute regarding such confirmation shall be adjudicated by the Lower Court.
- * Furthermore, for the return of the Appellant and the minor to Ireland, the Respondent shall provide written confirmation from the Irish authorities that no criminal legal proceedings will be taken against the Appellant which would prevent her from staying with the minor and taking care of her affairs. The Central Authority in Israel shall attempt to assist in clarifying this matter with the Central Authority in Ireland.
- * The Respondent shall deposit a guarantee for the performance of all his obligations in the amount of EUR 45,000, to be deposited with the attorney of the Appellant for one year from today. The deposit shall be made no later than December 15, 2025. The Appellant shall deposit with the attorney of the Respondent a guarantee in the amount of EUR 15,000 within seven days from



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today, to be held for one year. If she fails to do so, the guarantee amount that Respondent is required to deposit with her attorney shall be reduced by the same amount.

- * The Respondent shall pay child support for the minor to the Appellant as determined by the court in Ireland prior to the Appellant's departure from Ireland with the minor. In addition, the visitation arrangements between the minor and the Parties shall be as determined by the most recent decision of the Irish court prior to the Appellant's departure with the minor.
- * The minor shall be enrolled in a general educational institution without a distinct religious affiliation in the Parties' area of residence in Kenmare.
- * The Appellant shall return to Ireland within three days of receiving the above confirmations and the deposit of the guarantee by the Respondent.

54. No order as to costs.

55. Permitted for publication without identifying details of the Parties.

Given today, 28 Heshvan 5786, November 19, 2025, in the absence of the Parties.

Pronounced and delivered today, 22 Heshvan 5786, November 13, 2025, in the presence of those attending.

[Signed]

**Zvi Weizmann, Judge –
President of the Court**

[Signed]

**Zvia Gradstein
Papkin, Judge**

[Signed]

Eli Brand, Judge

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