



Neutral Citation Number: [2025] EWHC 3340 (Fam)

Case No: FD25P00649

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/12/2025

Before:

MR JUSTICE MACDONALD

Between:

G Applicant
- and -
L Respondent

Mr Frankie Shama (instructed by **Oliver Fisher Solicitors**) for the **Applicant**
Mr Martin Ward (instructed by **Giambrone & Partners LLP**) for the **Respondent**

Hearing dates: 16 December 2025

Approved Judgment

This judgment was handed down remotely at 10.30am on 19 December 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

.....
MR JUSTICE MACDONALD

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 and legal bloggers, must ensure that this condition is strictly complied with. Failure to do so may be a contempt of court.

Mr Justice MacDonald:

INTRODUCTION

1. In this matter I am concerned with D, born in April 2013 and now aged 12. The mother applies under the Child Abduction and Custody Act 1984 for a return order pursuant to the Convention of 25 October 1980 on the Civil Aspects of International Child Abduction (hereafter “the 1980 Hague Convention”) after D was wrongfully retained by his father in this jurisdiction on 12 August 2025, following an agreed holiday. The mother’s application was issued on 10 October 2025. The mother is represented by Mr Frankie Shama of counsel. The father is represented by Mr Martin Ward of counsel.
2. The following matters are not in dispute between the parties with respect to the 1980 Hague Convention:
 - i) D is under the age of 16 years.
 - ii) Immediately before D’s retention the mother had rights of custody in respect of D and was exercising those rights of custody.
 - iii) Immediately before D’s retention on 12 August 2025 he was habitually resident in the jurisdiction of Italy.
 - iv) In the circumstances, the retention of D by his father in the jurisdiction of England and Wales was wrongful for the purposes of Art 3 of the 1980 Hague Convention.
3. In the circumstances, the issues before the court centre on the exceptions to return that are relied on by the father. Namely that:
 - i) There is a grave risk that D’s return to the jurisdiction of Italy would expose him to physical or psychological harm or otherwise place him in an intolerable situation pursuant to Art 13(b) of the 1980 Hague Convention.
 - ii) D objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his views pursuant to Art 13 of the 1980 Hague Convention.
4. In deciding this matter, I have had the benefit of hearing oral evidence from Ms Odze of Cafcass and oral submissions from Mr Shama and Mr Ward supplementing their written submissions. I have also had the benefit of the court bundle and a bundle of authorities.

BACKGROUND

5. The applicant mother is an Italian national aged 42. The father is a British national aged 46. The parties met in London in 2006. They married in England in 2012 before moving to Italy in 2012 to start a family.
6. The parties separated in 2016. The mother alleges in her written evidence that the father abused alcohol and cocaine and subjected her to domestic abuse, including

pushing her to the floor whilst she was pregnant with D and throwing a knife at her whilst she was holding D, both whilst the father was under the influence of alcohol. On a further occasion, the mother alleges that she returned home to find the father collapsed on the sofa and D in his crib. The mother contends that the father's retention of D following the agreed holiday in England is an extension of the father's abusive and controlling behaviour. For his part, the father states that he "did have a minor drug issue during a three-month period with alcohol which I admit" but that the mother's allegations are not true. A PNC check for the father conducted by Cafcass indicates that the father has received cautions for common assault on 21 December 2005 and 24 October 2007. No details of those common assaults were available. The father was also involved in a common assault on 6 February 2021, after he threw property causing damage and assaulted his mother by throwing a box at her head.

7. With respect to D, the parents reached a separation agreement which was formalised by the Italian court on 19 February 2017. It provided for joint custody, for D to live with mother permanently and spend time with father pursuant to the agreement. The mother asserts that there were continued difficulties with the contact, centring on concerns in respect of the father's ability to co-parent and his alcohol misuse while caring for D. The mother cites an incident when D was eight or nine years old and called her to say that his father was not responding and he was scared. A friend of the mother's is alleged to have discovered the father on the floor, unresponsive and drunk. She alleges that the father would insist any clothes that he bought for D were only worn during his time with D. The mother contends that the father paid maintenance for D for only 10 months. The father disputes these matters.
8. The mother met a new partner, Mr O. The mother and Mr O have been in a relationship for 8 years and have resided together for 4 years. The mother and Mr O have a child, T, who was born in December 2022. He is D's half brother. Prior to his wrongful retention, D lived with his mother and Mr O in Italy. Prior to his wrongful retention, D was attending secondary school in Italy, and was due to recommence his schooling in Italy on 15th September 2025.
9. In his statement, the father raises a series of allegations against Mr O that he contends that D has reported to him regarding Mr O's alleged treatment of D and his mother's alleged failure to protect him:
 - i) The father alleges that in August 2021, D told him that Mr O had struck him "a few days earlier". The father asserts he confronted the mother and Mr O and that Mr O "did confirm things got a little heated between him and D and that he had 'tapped D on the back of the head.'" The father alleges that D said this was a lie and that Mr O had "slapped him in the face".
 - ii) The father alleges that on 27 April 2024, D informed him that he had "got into an altercation with another boy called V". This allegation does not involve either the mother or Mr O.
 - iii) The father alleges that in June 2024, in an incident relayed to him by D in June 2025, Mr O slapped D continuously and shouted profanities at him and chased him when D ran from the house, at which point D said he fell and grazed his knees. D alleged that Mr O slapped him against whilst they were outside.

- iv) The father alleges that on 15 February 2025, D telephoned him and told him that Mr O had “twisted his arm and bent it around his back” and “threatened to break it if he were ever to be disrespectful to him again”. D is alleged to have told his father that Mr O was intoxicated at the time.
- v) The father alleges that, on unspecified dates, D told him that Mr O “is relentless in his emotional abuse”, and stated that Mr O had told him that D was “abandoned by his father, his father can’t help him and that he can hit him whenever he wants and there is nothing I or anyone else can do about it.”
- vi) The father alleges that on 23 June 2025, D messaged him and the paternal grandmother stating “he hit me again”. The father asserts that D alleged that Mr O pulled his hair, hit him and sent him to his room without dinner after D’s football landed on a neighbour’s balcony. The father alleges that D told him that the mother responded only by saying to Mr O “you’ve made your point, just let him go to his room.”

10. The mother contends that the accounts provided by the father of what he has been told to him by D have been shorn of their context and exaggerated or falsified by the father in order to provide him with *ex post facto* justification for the wrongful retention of D in this jurisdiction. In her first statement, the mother states that she has never seen Mr O hit D and that D has never alleged to either the mother or the maternal grandmother that Mr O has hit him. The mother further asserts that D has likewise never made such allegations to his teacher at school, with whom he is very close.

11. In her second statement, the mother sets out what she contends is the context for the incidents that the father alleges. The mother further asserts that in August 2021 the father made no mention of D being mistreated by Mr O. The mother denies that Mr O slapped D in June 2024 or twisted D’s arm behind his back on 15 February 2025. The mother notes that the father did not speak to her about these incidents and did not take any legal or other action. With respect to the father’s allegations of emotional abuse, these too are denied by the mother, who states that Mr O responded to D stating “you are not my father”, after D had almost caused an accident with his bike, by saying ““Of course I am not your father but as your father is not here, people refer to me or your mum and it’s important that you behave well also for your safety as you almost went under a car”. With respect to the alleged incident in June 2025, the mother states that D had simply been told that the street was not a football field and that nothing else had happened.

12. As I have noted, the mother asserts that the father’s allegations, which she contends are exaggerated or fabricated, are an extension of the abusive and controlling behaviour she experienced from the father during their relationship. The court has had the benefit of listening to the audio clips exhibited to the mother’s second statement, which record exchanges between the father and the mother. In those voicemails, the father accuses the maternal grandmother of being “cheap” and in another states that:

“I don’t want to be near you, you disgust me, it is really that simple. Your family is a different story, because they still love me. But yeah, you, I don’t want any part of you. You literally make me sick okay. So, err, digest that and, erm, have a good night.”

13. In the context of the allegations he makes in respect of the conduct of the mother's partner, it is also notable that the father appears to threaten the mother's partner in one of the voice notes:

“Oh, and one more thing. Tell your boyfriend [Mr O] if I find a dog shit next to my car I’m going to come looking for him. Like five years ago. Okay, don’t think I don’t know that it wasn’t him.”

14. When she spoke to D, Ms Odze considered, in her assessment, that D’s allegations of emotional and physical abuse by Mr O came across as genuinely coming from direct experience. Ms Odze records the following in her report:

“[30] D told me that he did want to go back to Italy because “my Mum’s boyfriend, he abused me, he hit me and when I didn’t finish my food he let me starve until I went to bed”. I asked him for examples of the abuse and D said “it started 4 years ago when he (the mother’s boyfriend) moved into the house. Once I tried to get away from him, he caught me and hit me”. D said that he reported that incident to his mother and who said to him that “I was over-reacting”. He went on “there is a lot more. At the dinner table, he (Mr O) held me by my hair when I did not want to finish my food, my mother was watching but she did not do anything. They (the mother and Mr O) fight a lot”. D explained “they scream at each other when he (the mother’s boyfriend) is drunk and threatens to take the car and leave her and take the baby and leave her”. D told me that Mr O used to scream at him if he was not quick enough to set the table, in the presence of his mother. He also said that Mr O used to scream at him “in front of guests and my friends” and that he “pulled me by my hair once when we were out, and I talked back to him it was in front of my mother who did not do anything”.

[31] D went on to say that he was once playing football outside with friends when he threw the ball too high, and it landed in the balcony of someone who did not want to give it back. Ms G told Mr O who “screamed at me and took my electronics and I could not go out for one week. My mother also screamed at me, and he hit me”. I asked D if his mother also hit him and he promptly replied, “my mother would never hit me”.

.../

[37] Moreover, D told me that Mr O gets drunk and that he has had to look after his brother when his mother and Mr O are fighting. I have therefore looked at the Cafcass’s Child Impact Assessment Framework (CIAF 2018) which highlights that the effect on a child of domestic abuse cannot be underestimated. Research from Callaghan (2015) indicates that children experience domestic abuse not just as witnesses but as victims. Domestic abuse creates a distressing, stressful and harmful environment. This is another important aspect to consider about D’s views about a return to Italy.”

15. The mother does not seek to deny that she has encountered some difficulties with D’s behaviour, in the context of her endeavouring to parent him by setting boundaries, providing discipline to address misbehaviour and engaging in day to day parenting

tasks. Within this context, the mother considers that D has come to see his father as the easy option in the context of appropriate parenting and boundary setting by her in her capacity as his primary carer. Prior to the father making a belated criminal complaint in October 2025, after D had arrived in this jurisdiction, it is accepted by the father that there have been no concerns expressed by D's school in Italy in respect of the mother and Mr O's care of either D or T and no involvement of the Italian Social Services. As I have noted, the father accepts that he did not contact social services regarding his concerns about the conduct of the mother's partner or the mother.

16. Approximately 3 years ago, the father moved back to England. As a result, the parents reached an agreement that D would spend time with his father in England during the course of the school holidays. Pursuant to this, it was agreed between the parents that this summer D would be in England with the father from 29 June until 12 August 2025. The father failed to return D to Italy on 12 August 2025. Text exchanges between the parents show that the father continued to give the impression to the mother that D would be returning imminently following a British passport being obtained for him, the application for which the father contended had required him to send away D's Italian passport. However, when the mother made an appointment for D at the Italian Consulate on 12 September 2025 to enable D to travel home using an emergency travel document, the father failed to ensure D attended.
17. On 12 September 2025, the mother received a letter from the father's lawyers making allegations of abuse against Mr O and saying D would not be coming back and wished to remain in England. She also received a message from D saying Mr O had hit him and he is scared he will continue to hit him, and he hoped to see her for holidays.
18. The mother alleges that a plan for D not to return to Italy at the conclusion of the summer holiday had been arrived at *prior* to him departing for England. The mother relies on the fact that D told Cafcass that he "had not said anything to his mother about his plan not to go back to Italy for fear that she would not have allowed him to come to the UK." Within this context, the mother asserts that D was, accordingly, encouraged by the father to lie to his mother prior to travelling and during the period where the mother was kept by the father under the misapprehension that he would shortly return. She contends that the father thereby made D complicit without regard for his relationship with his mother. D told Ms Odze that he said nothing to his mother about his plan not to return to Italy "for fear that she would not have allowed him to come to the UK". The mother contends that this shows that the plan had been put in place by the father and D prior to his departure. The father denies this, and asserts that D arrived at the plan to travel to and remain in England by himself and without any encouragement or input from his father, although Mr Ward conceded in submissions that D may well have been aware that his father would support him in this aim.
19. It is plain from emails from the father that there was, in fact, a degree of pre-planning involved on the father's part to secure D in England, and therefore that the father, at least, knew of D's intentions. In an email sent by the father to the English Consulate in Italy in April 2025 he said:

“Thank you for your email. My sn (*sic*) is ok for the moment, he is counting the days until I pick him up from Italy, which will be the 17th of April so that he will be staying with me over the Easter holiday.

What has been decided with the lawyers is that it would be best to start legal proceedings against my ex wife once D's here in the country. This is mainly due to D being afraid of the consequences from my ex wife's partner [Mr O] once she receives the letter of intention from the lawyers.

So for now we just have to wait until he is with me and then see how his mother will react and how she wants to move forward.

I will of course update you once proceedings have officially begun and I thank you for your continued support during this difficult time Caterina.”¹

20. It is not entirely clear whether this email is referring to the father's English lawyers or his Italian lawyers and whether it is referring to English proceedings or Italian proceedings. However, I pause to note if the father's lawyers were advising him in April 2025 that it would be possible to commence proceedings with respect to D in this jurisdiction immediately after his arrival in England, that advice was plainly wrong. All parties accept that D was habitually resident in the jurisdiction of Italy at this time. As such, there would have been no basis for the English court to entertain proceedings in relation to D in circumstances where the jurisdiction of England and Wales would not have had jurisdiction in respect of D under Art 5 of the 1996 Hague Convention.
21. The father exhibits to his statement a signed document from D dated 5 September 2025. In his statement in these proceedings, the father asserts as follows with respect to that document:

“D has consistently and unequivocally objected to his return to Italy. He has signed a statement and a declaration which I enclose at Exhibit AKL10 asserting his wish to remain in the UK.”
22. Whilst the father now appears to assert that the documents to which he refers in his statement arose as a requirement of the criminal proceedings he instigated in Italy, the description of the document that the father gives in his statement appears to bely that assertion. Neither the letter nor the declaration appear to have been written by D having regard to the language used and that fact that the Italian version of the declaration is replete with spelling mistakes that D would not ordinarily make, although they are each signed by him. Both documents are addressed to the father's lawyer. The allegations made in the declaration reflect closely the allegations made in the father's statement to this court. When speaking to Ms Odze, D referred to his understanding that “we went to court” and that “he wrote a letter to the court”. Ms Odze thought it was odd that D did not want to write to me, as the judge deciding his case, when it is said by the father that he had provided signed statements to the father's lawyers expressing his wishes.

¹ There is, in fact, no suggestion that the FCDO was endorsing a course of action leading to the unlawful retention of D in the jurisdiction of England and Wales.

23. Following his wrongful retention in this jurisdiction, D had no contact with his mother until the matter came before the court and an order was made requiring contact to take place. The court made an order for video contact to recommence so that D could speak to his mother on 3 occasions per week, as well as for direct contact in England if the mother was able to travel to England. As a result of the father's wrongful retention of D he did not return to his school in Italy on 15 September 2025 and was not in educational provision in England for a month. D was enrolled in school in this jurisdiction on 4 October 2025.

24. Ms Odze completed a report dated 2 December 2025 in respect of D which sets out his views on returning to Italy. The salient points regarding D's wishes and feelings are as follows:

- i) As I have noted, D commenced his reasoning for not wanting to return to Italy as being "my Mum's boyfriend, he abused me, he hit me..." and set out a list of his difficulties what he asserts is Mr O's behaviour towards him, which I have set out above.
- ii) As to the position were a return order to be made, D said "I will be really sad" if the Judge makes a return order "mostly because he (Mr O) is going to be in town and hit me".
- iii) D also stated (it might be thought somewhat counterintuitively given the jurisdictions involved) that he did not want to return to Italy "because I want a proper education and I need a lot of studies to become a chef".
- iv) Save for his concerns about Mr O and, in passing, his school curriculum, D had nothing negative to say about Italy as a country, where he has friends, cousins he likes very much, a good relationship with his maternal grandmother and where the food is good.
- v) He spoke positively about his mother who he was clear "would never hit me". Ms Odze noted D's fondness for his mother, concluding that D "formed the view that he "truly enjoys speaking to his mother and sharing his news and updates with her about his life in the UK" noting he had said "she is really nice, she is fully, really good person apart from the fact that she did not protect me."
- vi) Ms Odze noted that "D's face lit up when I asked him about his brother which conveyed a genuine fondness when he spoke about him."
- vii) Ms Odze concluded that D's views of not wanting to return to Italy were "clearly centred around Mr O and his mother."

25. During her oral evidence, Ms Odze reiterated that D "did not want to go back but it was definitely because of Mr O and not because of Italy and he wanted a bit more support from his mother."

26. The views expressed by D were considered by Ms Odze to be authentically his own. As I have noted, the father denies offering any encouragement or input to D with respect to coming to England, although, as also noted, Mr Ward conceded in

submissions that D may well have been aware that his father would support him in this aim. Ms Odze noted that the father had previously requested D to come to England to live with him and “the idea of coming here might have been planted in the mind of D who would have found it appealing.”

27. Ms Odze concluded D is a “resilient young man”, and that she found D to be articulate and understood everything she told him. However, with respect to D’s level of maturity, Ms Odze assessed his maturity to be below that which would be expected to be commensurate with his chronological age. In oral evidence, Ms Odze stated that there is a difference between being articulate and mature. Ms Odze considered that D demonstrated a certain naivety and noted that D was surprised that he might have to return to Italy but did not ask the questions that would be expected of a 12 year old child such as when, how long it would take and who with. Ms Odze also noted that D said he understood the role of a Cafcass officer before asking at the end why children come to see someone from Cafcass and that:

“D did not demonstrate that he was reflective when he said that he did not tell his mother about his plans and how she would feel when she reads it in the report.”

28. During her oral evidence, Ms Odze reiterated these views and told the court that she does not think that D is able to understand the implications of a decision not to return to Italy. Ms Odze was of the view that D is “not able to be mature enough to look at the consequences of the short and long term of staying here and not being with his family back home.” Cross examined by Mr Ward, Ms Odze stated that D “did not weigh the pros and cons about not returning, he did not think about what it would mean for his relationships and he came to stay because that is what he thought would happen” and that “He had not had that insight and reflection.” In her report, Ms Odze noted D did not:

“...consider the consequences of his relationship with his mother and his brother who clearly misses him from the description D gave me of his brother excited during video calls, if the court was to determine that he does not go back to Italy.”

29. With respect to protective measures, the following protective measures are advanced by the mother to address any grave risk of harm that the court may identify:

- i) The mother agrees to Mr O leaving the family home pending a risk assessment that is to be undertaken by Italian social services, as I come to below.
- ii) In the alternative, upon return D will live with his maternal grandmother who, as Ms Odze makes clear, D has a good relationship and who lives nearby and regularly cares for both D and T.
- iii) The mother undertakes to take all necessary steps, including involving the Italian authorities, to ensure that Mr O has no contact with D pending the risk assessment to be undertaken by Italian social services. She will immediately alert the police should contact between D and Mr O occur.

iv) The mother undertakes to co-operate fully with the social services risk assessment addressing any concerns that D has about residing in the same home as Mr O.

30. Finally with respect to protective measures, and of relevance in that context, Ms Odze has written to the mother's solicitors requesting that they contact ICACU for the purposes of ICACU facilitating, pursuant to Art 7 of the 1980 Hague Convention, a referral to social services in Italy. Italian social services have confirmed that they will undertake an assessment of risk upon D's return to Italy and have offered support, including ongoing therapeutic support for D should he need this upon return, indicating that they are "able to plan, structure, monitor and provide social-assistance interventions" upon D's return. The letter from ICACU states as follows:

"Further to your letter of 2nd December setting out the Article 7 request, for your information the Central Authority of Italy has replied as follows:- we can ask to the Juvenile State Authority ... who can charge with the social service to assess the risk of harm of the child upon the return in Italy under article 7 of the Convention without any other formality."

31. If the court makes a return order, Ms Odze recommends that a copy of her report, and the documents in these proceedings, are disclosed to Italian social services to inform the assessment and support of D.

RELEVANT LAW

32. The law in relation to the exceptions relied on by the father is well settled. It is important to characterise the exceptions as *exceptions*, rather than 'defences', as is sometimes the terminology used. At one point during his submissions, Mr Ward suggested on behalf of the father that it could not be said that his actions were wrongful *until* the court had determined the 'defences' under Art 13 of the 1980 Hague Convention. It is important to make clear that the fact that a parent can bring themselves within Art 13 of the 1980 Hague Convention does not render their conduct in wrongfully removing or retaining a child lawful. The exceptions to return in Art 13 are just that, narrow *exceptions* to the ordinary consequences of wrongful removal, they are not 'defences' that act to exonerate a parent's wrongful conduct.

Art 13(b) Harm

33. The proper approach to Art 13(b) and the question of grave risk of exposure to physical or psychological harm or otherwise place the child in an intolerable situation was examined and clarified by the Supreme Court in *Re E (Children)(Abduction: Custody Appeal)* [2012] 1 AC 144. The applicable principles may be summarised as follows:

i) There is no need for Art 13(b) to be narrowly construed. By its very terms it is of restricted application. The words of Art 13 are quite plain and need no further elaboration or gloss.

ii) The burden lies on the person (or institution or other body) opposing return. It is for them to produce evidence to substantiate one of the exceptions. The standard of proof is the ordinary balance of probabilities but in evaluating the

evidence the court will be mindful of the limitations involved in the summary nature of the Convention process.

- iii) The risk to the child must be 'grave'. It is not enough for the risk to be 'real'. It must have reached such a level of seriousness that it can be characterised as 'grave'. Although 'grave' characterises the risk rather than the harm, there is in ordinary language a link between the two.
- iv) The words 'physical or psychological harm' are not qualified but do gain colour from the alternative 'or otherwise' placed 'in an intolerable situation'. 'Intolerable' is a strong word, but when applied to a child must mean 'a situation which this particular child in these particular circumstances should not be expected to tolerate'.
- v) Art 13(b) looks to the future: the situation as it would be if the child were returned forthwith to his or her home country. The situation which the child will face on return depends crucially on the protective measures which can be put in place to ensure that the child will not be called upon to face an intolerable situation when he or she gets home. Where the risk is serious enough the court will be concerned not only with the child's immediate future because the need for protection may persist.

34. Whilst the evaluation of Art 13(b) proceeds on the assumption that the allegations made by the respondent are true, as made clear by Moylan LJ in *Re C (Children) (Abduction Article 13(b))* [2018] EWCA Civ 2834, the approach in *Re E* does not mean that there is no assessment of the credibility or substance of the allegations. In *Re A (Children) (Abduction: Article 13(b))* [2021] EWCA Civ 939, [2021] 4 WLR 99 Moylan LJ articulated the position by reference to the Guide to Good Practice under Art 13(b). Having quoted the judgment of Baroness Hale in *Re E*, Moylan LJ observed in *Re A (Children) (Abduction: Article 13(b))* that:

"[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 *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."

Art 13 Objections

35. The leading case on child's objections remains the judgment of Black LJ (as she then was) in *Re M (Republic of Ireland) (Child's Objections) (Joinder of Children as Parties to Appeal)* [2015] EWCA Civ 26, [2016] Fam 1. In evaluating whether the exception under Art 13 based on the child's objections is made out, the court will adopt a two-stage approach. The court will first examine whether, as a matter of fact, the child objects and has attained the age and degree of maturity at which it is appropriate to take account of his or her views. If that threshold is met, the court will then consider whether, in its discretion, to order the return of the child notwithstanding his or her stated objection.

DISCUSSION

36. One of the fundamental objectives of the 1980 Hague Convention, as set out in Art 1 of the Convention, is to secure the prompt return of children wrongfully removed from or retained in any Contracting State. Within that context, where a child has been wrongfully removed or retained, pursuant to Art 12 of the 1980 Hague Convention, the court *shall* make a return order, unless one of the narrow exceptions to return provided for by the 1980 Hague Convention is made out. Having considered carefully the evidence of Ms Odze and the submissions of Mr Shama and Mr Ward, I

am satisfied that neither the grave harm exception under Art 13(b), or the child objection exception under Art 13, acts in this case to prevent the court making a return order and, in consequence, that a summary return order should be made requiring the return of D to the jurisdiction of Italy. My reasons for so deciding are as follows.

Art 13(b) Grave Harm

37. The first stage of the Art 13(b) evaluation is to decide whether there is a grave risk that D would be exposed to physical or psychological harm or otherwise placed in an intolerable situation were the court to order his return to Italy. The standard of proof is the ordinary balance of probabilities but in evaluating the evidence the court will be mindful of the limitations involved in the summary nature of the Convention process. Arriving at an assessment of risk (i.e. in deciding whether there is a grave risk that D would be exposed to physical or psychological harm or otherwise placed in an intolerable situation) requires consideration of the nature of the risk, the likelihood of the risk materialising, and the consequences of the risk materialising for D.
38. It is the cumulative effect of the matters relied on by the father to meet Art 13(b) that determine whether there is a grave risk that D would be exposed to physical or psychological harm or otherwise placed in an intolerable situation if returned. The court is evaluating the allegations as a whole, not individually. There may be distinct strands which have to be analysed separately but it is important not to overlook the need to consider the cumulative effect of the allegations made by the father for the purpose of evaluating the nature and level of grave risk. The assessment is a prospective one. The assessment of risk is arrived at by considering the situation as it would be if D were to be returned forthwith to Italy.
39. Within this context, the court is required to make a reasoned and reasonable assumption of the level of risk at its highest as part of the court's general process of reasoning in its appraisal of the exception under Art 13(b), which process will include evaluation of the evidence before the court in a manner commensurate with the summary nature of the proceedings.
40. The father's own evidence tends in some respects to undermine the assertion that the allegations on which he relies ground a grave risk of harm. Through Mr Ward, the father accepted that he did not contact social services regarding his concerns about the conduct of the mother's partner or the mother, nor did he contact the Italian police until after D was in this jurisdiction and only made a 'formal criminal complaint' against the mother and Mr O on 1 October 2025. On the father's own case, save in respect to an incident in August 2021, the father concedes that he has not raised his concerns with the mother or Mr O, despite his assertion that D continued to raise issues with him. Within this context, the father has returned D to the care of the mother and Mr O on multiple occasions after D had visited him in England. Finally, the father likewise accepts that, notwithstanding the concerns he now relies on to establish the exception under Art 13(b) of the 1980 Hague Convention, he did not seek to institute proceedings in the jurisdiction of the child's habitual residence.
41. In addition, there is no evidence that the Italian authorities have intervened of their own volition in respect of D's welfare. Beyond the father not having contacted Italian social services, there has been no involvement from Italian social services for any other reason. The mother and Mr O also have care of T. There is no indication that

there has been any intervention of the Italian Social Services or that he is at risk of harm.

42. Against this, having spoken to D, Ms Odze concludes that in her assessment, that D's allegations of emotional and physical abuse by Mr O came across as genuinely coming from direct experience. In this context, and as conceded by the mother (which concession in itself is indicative of a protective and realistic approach on her part), taken at their highest, given the nature of the risk, the likelihood of the risk materialising, and the consequences of the risk materialising for D, I am on balance satisfied that the harm evidenced by D's allegations is of such a nature, and of sufficient detail and substance, that *if true* it could constitute a grave risk that D would be exposed to physical or psychological harm or otherwise placed in an intolerable situation were he to be returned forthwith to the jurisdiction of Italy. I bear in mind in particular that, *if true*, as made clear by the ECtHR clear in *OCI v Romania* (Application No: 49450/17) [2019] 2 FLR 748, “The risk of domestic violence against children cannot pass as a mere inconvenience necessarily linked to the experience of return, but concerns a situation which goes beyond what a child might reasonably bear.”
43. In the foregoing circumstances, the court must consider whether protective measures are capable of meeting the level of risk assumed. Whereas the first stage concerned the *assessment* of risk, the second stage concerns the *management* of risk.
44. The question for the court is whether are there protective measures that can be put in place that are sufficient to protect D from the grave risk I have identified above for the purposes of Art 13(b). The court must be satisfied that the proposed protective measures will be sufficiently effective in the requesting state to address that risk. This requires the court to examine in concrete terms the situation that would face D on return. In this context, there is a distinction to be drawn between the practical arrangements for D's return and measures designed or relied on to protect D from an Art 13(b) risk I have identified. The efficacy of the latter needs to be addressed with care.
45. If made the subject of a return order, D will be returning to the town in which Mr O resides and to the environment of grave risk that the court has identified as being present if the allegations are true. In this context, D will require protection from coming into contact with Mr O pending a risk assessment by Italian social services and the presence of protective persons or agencies to mitigate what is alleged to be the mother's failure to protect D from the alleged actions of Mr O.
46. I am satisfied that the foregoing situation of risk arising from the circumstances on the ground should D be returned can be met either by Mr O leaving the family home or by residing temporarily with his maternal grandmother pending the outcome of that risk assessment. It is plain from the report of Ms Odze that D is used to being cared for by the maternal grandmother, twice a week, and that he is fond of her (he told Ms Odze that he likes her and she “gives good hugs” even if she can be “grumpy”). The maternal grandmother lives close to the family home and therefore in an area familiar to D.
47. It must be acknowledged that these protective measures that I have so far referred to are in the form of undertakings by the mother, in particular to ensure that D does not

come into contact with Mr O at the family home by either Mr O moving out temporarily or by D temporarily residing with the maternal grandmother. In deciding what weight can be placed on undertakings as a protective measure, the court has to take into account the extent to which they are likely to be effective both in terms of compliance and in terms of the consequences, including remedies, in the absence of compliance. There is a need for caution when relying on undertakings as a protective measure and there should not be a too ready acceptance of undertakings which are not enforceable in the courts of the requesting State.

48. I acknowledge Mr Ward's submission that the effectiveness of the mother's undertakings must be considered in the context of the mother characterising the circumstances about which D is concerned as giving "direction", "discipline" or "setting boundaries" and representing "reasonable parenting decisions", rather than serious physical and emotional abuse as experienced by D which leaves him afraid of even being in the same town as Mr. O.
49. However, whilst it is plain from his statements to Ms Odze that D considers that his mother has not protected him in the past, he has a good relationship with his mother, is clear that his mother loves him and has never hurt him. Further, and more importantly, the undertakings given by the mother will operate in the context of the involvement of Italian social services with D. Within the foregoing context, Italian social services will be conducting a risk assessment pending any further contact between D and Mr O and providing therapeutic support. Not only will that risk assessment investigate the concerns raised by D in respect of Mr O and life at home, they will provide a route for D, the mother and the father to raise any, and to address any, concerns. Including any concern that the undertakings are not being honoured or are otherwise ineffective. In addition, D will be in school during term time, with access to the protective environment consequent thereon, including a teacher with whom he is close. In circumstances where D is 12 years old, and evidently able to articulate his concerns, I am confident that he would raise any difficulties with social services or others. D will also be in education, with the benefit of oversight from teachers with whom he can raise any concerns, and who can themselves raise any concerns, should they arise. Both parents will have access to the Italian courts and to the Italian authorities should concerns arise. Having regard to the principle of comity, the court reposes confidence in the ability of the Italian social services to assess and manage any risk in respect of D effectively and appropriately.
50. The mother concedes that she has been reluctant to agree to a condition that excludes Mr O from the family home. The mother explains this in her third statement, stating in relation to an undertaking that Mr O would temporarily move out of the family home that:

"[9] I say this with some reluctance because I am very concerned about the longer term effects this could have on our relationship as a couple and as co-parents. I am especially concerned about the effects this could have on our younger son's relationship with his father. T has only just turned 3 and he will struggle to understand why his father is not at home.

[10] In many ways, I feel that by making this concession I am submitting to Mr L's continuing abusive control over my personal life which he did during our relationship / marriage and which he has sought to do even after

we separated. However, I understand the need to give D the assurance and space he needs to come back to his family and life in Italy and feel safe”

51. I accept Mr Shama’s submission that the mother’s reluctance is properly seen in this context. The mother has a child with Mr O who she parents with him, and with D before his wrongful retention. As noted, there have been no concerns expressed by D’s school in Italy in respect of the mother and Mr O’s care of either D and T and no involvement of the Italian Social Services. The father accepts that he did not contact social services regarding his concerns about the conduct of the mother’s partner or the mother.
52. Finally, whilst Mr Ward contends that protective measures cannot be sufficient whilst they fail to prevent Mr O approaching D in the streets in their town, which is a community of some 1300 people, there is no evidence that the grave risk I have identified extends beyond the confines of the family home to the town as a whole. I am likewise not able to accept the father’s somewhat hyperbolic submission that for D to live with his maternal grandmother 10 minutes from the family whilst a risk assessment is completed by the Italian social services would leave him living in a “ghost town” of 150 inhabitants with no police presence and no peer group for D.
53. In the foregoing circumstances, I am satisfied that the following undertakings offered by the mother will act to protect D from the risk identified by the court for the purposes of Art 13(b) of the 1980 Hague Convention:
 - i) The mother agrees to Mr O leaving the family home pending a risk assessment that is to be undertaken by Italian social services, as I come to below.
 - ii) In the alternative, upon return D will live with his maternal grandmother who, as Ms Odze makes clear, D has a good relationship and who lives nearby and regularly cares for both D and T.
 - iii) The mother undertakes to take all necessary steps, including involving the Italian authorities, to ensure that Mr O has no contact with D pending the risk assessment to be undertaken by Italian social services. She will immediately alert the police should contact between D and Mr O occur.
 - iv) The mother undertakes to co-operate fully with the social services risk assessment addressing any concerns that D has about residing in the same home as Mr O.
54. In such circumstances, I am satisfied that the exception under Art 13(b) does *not* justify in this case the refusal of the summary return order under Art 12 of the 1980 Hague Convention that is ordinarily consequent upon a wrongful retention.

Art 13 Objections

55. When considering whether the child objection exception under Art 13 of the 1980 Hague Convention is made out, the court is required to ask itself two questions (the first question being in two parts):
 - i) Does D object to being returned and has he attained an age and degree of maturity at which it is appropriate to take account of his views?

ii) If so, should the court exercise its discretion to make a return order in any event?

56. The first question for the court, whether, as a matter of fact, D objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of his views, is a question of fact. Answering it involves a straightforward and fairly robust examination of whether the simple terms of the Convention are satisfied.

57. As noted, in articulating his position, D gave to Ms Odze as his reason for not wanting to return to Italy as “my Mum’s boyfriend, he abused me, he hit me...” and thereafter set out a list of his difficulties with Mr O’s behaviour. In addition, he stated that he did not want to return to Italy “because I want a proper education and I need a lot of studies to become a chef”. As also noted, save for his concerns about Mr O, and a passing concern about his school curriculum, it is clear from Ms Odze’s report that D has numerous positive things to say about Italy, and nothing negative to say about Italy as a country. He made clear that he has friends, that he likes his cousins in Italy very much, has a good relationship with his maternal grandmother and that the food is good. Ms Odze noted that “D’s face lit up when I asked him about his brother which conveyed a genuine fondness when he spoke about him” and that he “truly enjoys speaking to his mother and sharing his news and updates with her about his life in the UK” noting he had said “she is really nice, she is fully, really good person apart from the fact that she did not protect me.”

58. In the foregoing circumstances, and as she reiterated in her oral evidence, Ms Odze concluded that D’s views of not wanting to return to Italy were “clearly centred around Mr O and his mother.” Within that context, and having regard to the numerous positive comments D made about Italy, I am satisfied that D’s objection centred not on opposition to an immediate return to Italy, but rather to a specific set of circumstances in his family home in Italy centred on Mr O and his perception that his mother does not protect him from Mr O’s actions.

59. In this context, I note that in *Re M (Republic of Ireland) (Child's Objections) (Joinder of Children as Parties to Appeal)* Black LJ (as she then was) held as follows:

“[42] It is said that the child has to object to returning to the country habitual residence rather than to returning to particular circumstances in that country, although it has been clear from early on that there may be difficulty in separating out the two sorts of objection.

[43] The ground for this acknowledgment of the potential difficulty was laid in what Balcombe LJ said In re S [1993] Fam 242, 250F. However, it may be convenient to rely on what he said a little later in *In re R (Child Abduction: Acquiescence)* [1995] 1 FLR 716. Commencing at p 729, he set out the principles which he considered were to be deduced from the authorities dealing with child’s objections. He described the second of these as follows, at p 730:

“The second principle to be deduced from the words of the Convention itself, and particularly the preamble, as well as the English cases, is that the objection must be to being returned to the

country of the child's habitual residence, not to living with a particular parent. Nevertheless, there may be cases....where the two factors are so inevitably and inextricably linked that they cannot be separated. Support for that proposition will be found in the judgment of Butler-Sloss LJ in *Re M (A Minor)(Child Abduction)* [1994] 1 FLR 390 at p 395....”

[44] In *Re M* [1994] , Butler Sloss LJ had said:

“It is true that article 12 requires the return of the child wrongfully removed or retained to the State of habitual residence and not to the person requesting the return. In many cases the abducting parent returns with the child and retains the child until the court has made a decision as to the child's future. The problem arises when the mother decides not to return with the child. It would be artificial to dissociate the country from the carer in the latter case and to refuse to listen to the child on so technical a ground. I disagree with the contrary interpretation given by Johnson J in *B v K (Child Abduction)* [1993] Fam Law 17. Such an approach would be incompatible with the recognition by the Contracting States signing the Convention that there are cases where the welfare of the child requires the court to listen to him. It would also fail to take into account article 12 of the United Nations Convention on the Rights of the Child 1989 . From the child's point of view the place and the person in those circumstances become the same....I am satisfied that the wording of article 13 does not inhibit a court from considering the objections of a child to returning to a parent.”

[45] Ward LJ's approach in *Re T* was similar. Listing the matters that had to be established in a child's objections case, he began with the following (at 203):

“(1) Whether the child objects to being returned to the country of habitual residence, bearing in mind that there may be cases where this is so inevitably and inextricably linked with an objection to living with the other parent that the two factors cannot be separated.”

60. Whilst the cases cited by Black LJ in *Re M (Republic of Ireland) (Child's Objections)* (*Joinder of Children as Parties to Appeal*) present a somewhat mixed picture, Lowe and Nicholls in *International Movement of Children* (2016) 2nd Edn. conclude at [25.22] that “it must remain the case that an objection to returning to a particular parent is insufficient *in itself* to establish the exception” (italics in the original) and note the case of *Re G (Abduction)* [2008] EWHC 2558 (Fam), [2009] 1 FLR 760 in which Black J (as she then was) held that an 11 year old expressing a strong objection to returning to Lithuania because of the ill-treatment she alleged she had received at the hands of the father and stepmother, and because of her wish to live with the mother, did not amount to an objection that engaged the discretion under Art 13(b).
61. It is plain that D does not want to return to live with Mr O because of the conduct he alleges that Mr O has subjected him to and is doubtful of his mother's ability to protect him from that conduct. I am not, however, able to conclude that D objects to

returning to Italy *per se*, particularly having regard to the extensive positives cited by D himself regarding Italy. It is plain from Ms Odze's report that D raised his opposition to returning specifically by reference to Mr O, telling Ms Odze that "my Mum's boyfriend, he abused me, he hit me...". D thus *commenced* his reasoning for not wanting to return to Italy as being the conduct of Mr O, i.e. by reference not to Italy but to the situation at his family home in that jurisdiction.

62. Within this context, both in her report and in her oral evidence Ms Odze was clear that D's objection to return clearly centred around Mr O and his mother, telling the court in her oral evidence that D "did not want to go back but it was definitely because of Mr O and not because of Italy and he wanted a bit more support from his mother." Indeed, as I have noted, save for the presence of Mr O and his concerns about his mother's ability to protect him, it is clear from the remainder of what D said to Ms Odze that he would be very happy in Italy. Far from linking the two issues of a return to Italy and a return to the care of his mother and Mr O inextricably in his own mind, D appeared to distinguish clearly between the two in terms of positives and negatives. Within the foregoing context, I am not able to conclude on the evidence that D objects to returning to Italy *per se*.
63. Further, and in any event, with respect to the second element of the first question, I am not satisfied that D has reached an age and degree of maturity at which it is appropriate to take into account his views if, contrary to the foregoing conclusion, the court were to be satisfied that he did object to a return in the sense required by Art 13 of the 1980 Hague Convention.
64. In *Re S (Minors)(Abduction: Acquiescence)* [1994] 2 FCR 945, [1994] 1 FLR 819 as Waite J held at 827 follows with respect to the concepts of age and maturity in the context of Art 13 of the 1980 Hague Convention:

"When Art 13 speaks of an age and maturity level at which it is appropriate to take account of a child's views, the inquiry which it envisages is not restricted to a generalised appraisal of the child's capacity to form and express views which bear the hallmark of maturity. It is permissible (and indeed will often be necessary) for the court to make specific inquiry as to whether the child has reached a stage of development at which, when asked the question "Do you object to a return to your home country?" he or she can be relied on to give an answer which does not depend upon instinct alone, but is influenced by the discernment which a mature child brings to the question's implications for his or her own best interests in the long and short term."

65. Ms Odze was clear in her assessment that, whilst D is a "resilient young man" and articulate and understood everything she told him, D's maturity is "below that which would be commensurate with his chronological age", that he lacked some maturity and was somewhat naïve. As Ms Odze noted, there is a difference between being articulate and mature. I accept the evidence of Ms Odze that D's naivety and relative lack of maturity is demonstrated by his surprise that he might have to return to Italy and the fact, that in that context, he did not ask the questions that would be expected of a 12 year old child such as when, how long it would take and who with.

66. In that context, I further accept the evidence of Ms Odze that D is not able to understand the implications of a decision not to return to Italy and is “not able to be mature enough to look at the consequences of the short and long term of staying here and not being with his family back home.” As set out above, in her report Ms Odze concluded that D did not:

“...consider the consequences of his relationship with his mother and his brother who clearly misses him from the description D gave me of his brother excited during video calls, if the court was to determine that he does not go back to Italy.”

67. Once again, cross examined by Mr Ward, Ms Odze stated that D “did not weigh the pros and cons about not returning, he did not think about what it would mean for his relationships and he came to stay because that is what he thought would happen” and that “He had not had that insight and reflection.”

68. In the foregoing circumstances, I conclude on the evidence that D does *not* object to returning to Italy *per se* and that, even were I to have reached the opposite conclusion on the evidence, D has not attained a degree of maturity at which it is appropriate to take account of his views.

69. Finally, were I to be wrong in respect of the two questions asked at the first stage, I am nonetheless satisfied that the discretion that would arise, from D’s views amounting to an objection and D having attained a degree of maturity at which it is appropriate to take account of his views, would fall to be exercised in favour of making a summary return order returning D to the jurisdiction Italy.

70. The objections of the child are *not* determinative of the outcome, but rather give rise to a discretion. The discretion is at large. The child’s views are one factor to take into account at the discretion stage. The test is not whether there is any reason not to give effect to the child’s views but rather to balance the factors for and against the making of a summary return order including the child’s views as one element in that exercise. At the discretion stage there is no exhaustive list of factors to be considered. The court should have regard to welfare considerations, in so far as it is possible to take a view about them on the limited evidence available. As made clear by Peter Jackson LJ, in *Re G (Abduction: Consent/Discretion)* [2021] EWCA Civ 139 at [41]:

“[41] To sum up, the exercise of the discretion under the Convention is acutely case-specific within a framework of policy and welfare considerations. In reaching a decision, the court will consider the weight to be attached to all relevant factors, including: the desirability of a swift restorative return of abducted children; the benefits of decisions about children being made in their home country; comity between member states; deterrence of abduction generally; the reasons why the court has a discretion in the individual case; and considerations relating to the child’s welfare.”

71. D is 12 years old. As noted in *Re M and another (Children) (Abduction: Rights of Custody)* [2007] UKHL 55, [2008] 1 AC 1288 the older the child, the greater the weight that her objections are likely to carry. However, the House of Lords also made clear that this is a long way from saying that the child’s objections should only prevail

in the most exceptional circumstances. With respect to the weight to be accorded to D's views, the court can consider the nature and strength of his objections, the extent to which they are authentically D's own or the product of the influence of his father and the extent to which they coincide with, or are at odds with, other considerations which are relevant to D's welfare.

72. With respect to the nature and strength of D's objections, for the reasons I have set out, those objections centre on his desire not to return to the care of Mr O and his reticence regarding his mother's ability to protect him. He expresses no strong views that centre on return to Italy itself and, indeed, has only positive things to say about that jurisdiction itself. He is able to speak clearly about the pleasure he derives from his mother's company and the company of his wider family. With respect to the extent to which D's views are authentically his own, I am not able to accept the father's assertion that, as a 12 year old boy, D's view and actions were entirely independent of influence by his father. As set out above, it is plain that as early as April 2025 the father was informing the FCDO of a plan that necessarily required confidence on the part of the father that D would arrive in England with the intention of not returning to Italy. The letter and the declaration addressed to the father's Italian lawyers signed by D also speak to the father actively involving D in efforts to retain him in this jurisdiction. I also accept Mr Shama's submission that the chronology, and particularly the absence of any referrals to the police or social services in Italy prior to D's arrival in England regarding the risk of harm the father now seeks to rely on to prevent D's return to Italy, does strongly suggest that the father has sought to engineer a relocation "by the back door".
73. With respect to the extent to which D's views coincide with, or are at odds with, other considerations which are relevant to his welfare, D has resided in Italy all of his life. His schooling, friendship groups and family and cultural heritage are all in that jurisdiction. Further, if there is to be a child protection investigation in respect of the allegations made by the father, the outcome of which will inform future welfare decisions in respect of D, the obvious place for that to occur is in Italy, where D has resided all his life and where the matters of concern arose. The same reasoning applies were the father, as he should have done in the first place, now to make an application for permission to remove D from the jurisdiction of Italy. There is a plain welfare advantage in D returning to his life in Italy and for the Italian court to make a welfare decision in respect of him insofar as this is necessary. The protective measures that I have set out above and which, for the reasons I have given, are sufficient to protect D from the grave risk identified pending the completion of a social work risk assessment will ensure that D is not exposed to harm whilst the investigations are completed.
74. Finally, the court must give weight to Convention considerations and at all times bear in mind that the Convention only works if, in general, children who have been wrongfully retained or removed from their country of habitual residence are returned, and returned promptly. The Convention objectives do not necessarily carry more weight than other considerations. The further the case gets from the prompt return envisaged by the Convention, the less weighty the general Convention considerations will be in the exercise of the court's discretion.
75. I am satisfied that this was a blatant wrongful retention of a child, who has lived his whole life in Italy, by which the father took cynical advantage of a pre-arranged

contact. Once again, I accept Mr Shama's submission that the father has sought by his actions to engineer a relocation "by the back door" by presenting the mother with a fait accompli using concerns about which the father had not made complaint to the Italian authorities or courts until D was outside the jurisdiction. The father's attempt to place responsibility for this state of affairs on D's shoulders by his assertion that D, at 12 years old, acted unilaterally is particularly concerning. Within this context, I am satisfied that significant weight must be accorded in this case to the policy objectives of the Convention.

76. In all the circumstances, even if I am wrong in my conclusions that D does not object to returning to Italy *per se* and that D has not attained a degree of maturity at which it is appropriate to take account of his views, I am in any event satisfied that the court should nonetheless require D's summary return to Italy in the exercise of its discretion under Art 13.

CONCLUSION

77. In conclusion, and for the reasons I have set out, I shall make a summary return order in favour of the mother pursuant to Art 12 of the 1980 Hague Convention. Summary return orders are intended to be implemented promptly. I am satisfied in this case that the return order should be implemented within 21 days of the date of hearing and therefore no later than 7 January 2026 to ensure that D can recommence his education at his school in Italy in the new term. I will invite counsel to draw an order accordingly.