



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF Z AND OTHERS v. FINLAND

(Application no. 42758/23)

JUDGMENT

Art 8 • Family life • Order for return of two children from Finland to Russia under the Hague Convention following removal by their father • Domestic courts' examination in compliance with procedural requirements inherent in Art 8 • Relevant and sufficient reasons • Domestic courts genuinely took into account the factors capable of constituting an exception to their immediate return in application of the Hague Convention • No grave risk • Children's asylum status derived automatically from that of their father • Younger child, unlike older one, not of an appropriate age and degree of maturity to take account of his views • Children's return to Russia deemed to be in their best interests, notwithstanding older child's objections and difficulties to maintain contact with their father after their return • Interference "necessary in a democratic society"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

16 December 2025

Referral to the Grand Chamber

11/05/2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Z and Others v. Finland,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Jovan Ilievski,

Péter Paczolay,

Gediminas Sagatys,

Juha Lavapuro,

Hugh Mercer, *judges*,

and Hasan Bakırcı, *Section Registrar*,

Having regard to:

the application (no. 42758/23) against the Republic of Finland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by three Russian nationals, Mr Z and his two minor sons, X and Y (“the applicants”), on 15 December 2023;

the decision to give notice to the Finnish Government (“the Government”) of the application;

the decision not to have the applicants’ names disclosed;

the decision to give priority to the application (Rule 41 of the Rules of Court);

the decision to indicate an interim measure to the respondent Government under Rule 39 of the Rules of Court and the fact that this interim measure has been complied with;

the observations submitted by the respondent Government and the observations in reply submitted by the applicants;

the comments submitted by the AIRE Centre and Ms G., the mother of the second and third applicants, who were granted leave to intervene as third parties by the President of the Section;

Having deliberated in private on 18 November 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the domestic courts’ decision to order the return of the applicant children, who were granted asylum in Finland, to Russia pursuant to the Hague Child Abduction Convention.

THE FACTS

2. The applicants are Russian nationals. The first applicant, who was born in 1983, is the father of the second and third applicants, who were born in 2011 and 2013 respectively and are also Russian nationals. The applicants

were represented before the Court by Mr H. Nevala, a lawyer practising in Kemi.

3. The Finnish Government (“the Government”) were represented by their Agent, Ms Krista Oinonen, from the Ministry for Foreign Affairs.

THE CIRCUMSTANCES OF THE CASE

4. The facts of the case may be summarised as follows.

5. The applicants used to live in Russia. The first applicant and the mother of the second and third applicant have been separated since the children were five and three years old, respectively. The children lived with their mother but the first applicant had regular contact with them and they occasionally stayed overnight at his home. In addition to the second and third applicants, the family also includes an older sister who lives with the mother.

6. In September 2022 the first applicant took the second and third applicants from Russia to Finland without their mother’s consent.

7. After arriving in Finland, on 14 September 2022, the first applicant applied for asylum on his own behalf and on behalf of the children. His claim was based on his opposition to the current regime in Russia and the war in Ukraine, which meant that he risked political persecution in Russia.

8. On 23 January 2023 the children’s mother instituted proceedings in the Helsinki Court of Appeal for their return under the Hague Convention on the Civil Aspects of International Child Abduction (hereafter “the Hague Convention”).

9. The first applicant, relying on Article 13 § 1 (b) of the Hague Convention (see paragraph 25 below), opposed the mother’s application, arguing that there was a grave risk that the return of the children to Russia would expose them to psychological harm or place them in an intolerable situation. He submitted, in particular, that the children had been forced to attend a military school in Russia where they had been “brainwashed” by being taught how to use guns and exposed to war propaganda. Relying on Article 13 § 2 of the Hague Convention (see paragraph 25 below), he also argued that the children objected to being returned.

10. On 8 March 2023 the Helsinki Court of Appeal dismissed the mother’s application. On the basis of the evidence provided by the parties, it held that there was a grave risk that, if returned to Russia, the children would continue to attend the same military school they had previously attended, which would expose them to psychological harm. It stated that a situation in which minor children handled weapons, even if they were not real weapons, dressed as soldiers and otherwise engaged in activities that could be seen as military could not be considered appropriate for their development and well-being. Furthermore, based on interviews that child welfare officers had conducted with the children, the court also found that both children objected to being returned to Russia but that only the older child had reached an age and degree

of maturity at which it was appropriate to take account of his views. As both parents had sought to influence the children's views in a way favourable to themselves, the children could not be considered able to form independent opinions. Given the age of the children, their opposition to being returned to Russia was not enough to refuse their return, although the children thought it should be. What was important was the grave risk that returning the children to Russia would expose them to psychological harm.

11. The mother appealed against that decision to the Supreme Court. She argued that the Court of Appeal had wrongly assessed the evidence about the school and that it had placed excessive weight on the evidence presented by the first applicant. Furthermore, she pointed out that at the hearing in the Court of Appeal she had acknowledged that the children's opinion of the school had changed and that she had therefore expressed her readiness to provide them with a different type of education.

12. In his reply, the applicant reiterated the arguments he had put forward in the Court of Appeal (see paragraph 9 above). In addition, he submitted:

“If returned, [the children] would hardly ever be able to see their father again. The mother and the children's sister would be able to visit the children in Finland, unlike the position of the father, who would not be able to go to Russia.”

13. On 16 May 2023 the Supreme Court, with the assistance of child welfare officers and in the absence of the parents, interviewed the older child in order to hear his views on the matter and establish whether they were genuine. On 19 June 2023 an oral hearing was held which both parents attended.

14. On 27 September 2023 the Supreme Court ordered the return of both children to Russia. The court held that it had not been shown that, if the children were to be returned, they would be treated in a manner contrary to human dignity, exposed to physical or psychological harm or otherwise placed in an intolerable situation, whether because of the school they would attend or for any other reason. According to the case-law developed under the Hague Convention, the return of a child was most likely to be refused on the grounds related to the behaviour or personal circumstances of the parent applying for the child's return or because for some reason the child was considered to be exceptionally dependent on the parent who had wrongfully removed him from the State of his habitual residence. In the present case, the Supreme Court observed that it had not even been alleged that the children's basic needs would not be met if they were returned to live with their mother. Nor was it alleged that the children were at risk of being caught up in a war or living in a war zone. It observed that the Russian school system, unlike the Finnish one, did include elements of military training, at least in some schools. It also observed that it was possible that on their return the children would be treated negatively at school because they had gone to Finland with their father. However, there was no sufficient evidence of grave risk that the return of the children would expose them to physical or psychological harm

or to otherwise put them in an intolerable situation. It furthermore observed that the mother had stated that the children would not continue in the same type of education and that there was no reason to doubt her statement (see paragraph 11 above).

15. The Supreme Court further found that the older child, who was twelve years old at the time, strongly and genuinely objected to being returned, and that he had attained an age and degree of maturity at which it was appropriate to take account of his views. The younger child, who was ten years old at the time, had also objected to being returned. However, on the basis of the interviews the child welfare officers had conducted with the children (see paragraph 10 above), the Supreme Court found that he had not reached an age and degree of maturity at which it was appropriate to take account of his views.

16. In making an overall assessment, the Supreme Court gave weight to the fact that the children had lived all their lives in Russia, where they had a sister and other relatives, and that they had not had any ties with Finland before their wrongful removal. The Supreme Court also considered it possible that the older child was not able to assess the long-term effects of his separation from his mother, which might make contact between them more difficult. It observed that the evidence suggested that during the stay in Finland the younger child had had more contact with his mother, which supported the conclusion that his return was in his best interests.

17. The Supreme Court also held that the children had lived together all their lives and that it was in their best interests not to be separated. While it was true that returning the children to Russia would probably make it more difficult for them to maintain contact with their father, the court concluded that it was in the children's best interests to be returned to Russia, where they would continue to live with their mother, with whom they had lived prior to their wrongful removal (see paragraph 5 above). Taking into account the purpose of the Hague Convention, the narrow application of the grounds of objections and their discretionary nature, the older child's objections could not be accorded such weight as to prevent the children's return to Russia.

18. Having regard to the above considerations, the Supreme Court concluded that the children's return to Russia would not disproportionately restrict the first applicant's right to respect for his family life.

19. The first applicant then made an application for the quashing of the Supreme Court's decision of 27 September 2023 (see paragraph 14 above), by the use of an extraordinary remedy under domestic law which permitted the re-examination of a case resolved by a final judgment or decision in the event of the emergence of relevant new facts or circumstances capable of calling into question that judgment or decision. The applicant submitted that the mother would hand the children over to a religious sect, which the Supreme Court understood from its name to be the local church.

20. In her reply, the mother stated that the children would return home and that the first applicant's allegations were not true.

21. On 27 October 2023 the Supreme Court dismissed the application for the extraordinary quashing of its decision of 27 September 2023. It stated that the threshold for quashing a final judgment or decision was high, and that the mere reliance on a new fact was not by itself sufficient to justify it. Instead, the new fact and its probable impact on the outcome of the disputed decision must be credible enough to justify a more detailed assessment and investigation of the matter. The Supreme Court held that the applicant had not established that this threshold was met.

22. On 12 December 2023 the Immigration Service granted asylum to all three applicants (see paragraph 7 above). The first applicant was granted asylum because there were grounds to believe that he would be persecuted for his political opinions in Russia. The children were granted asylum automatically as they are the minor children of a father who had been granted asylum. The relevant part of that decision reads as follows:

“In view of the explanations provided in your case and the general and up-to-date information on the situation in your home country, the Immigration Service considers that you have well-founded reasons to fear that you will be persecuted in your home country because of your political opinions within the meaning of section 87 (1) of the Aliens Act.

...

As to your children, you have also referred to domestic violence committed by the mother and sister, military schooling, and brainwashing [by the leader of a religious sect]. Since it has been held above that the conditions for asylum are met in your case and your children are granted asylum as the minors in your family, it is not necessary to assess those elements in this decision.”

23. The first applicant then lodged a second extraordinary application, seeking the quashing of the Supreme Court's decision of 27 September 2023 (see paragraph 14 above) on the grounds of new facts. He argued, *inter alia*, that in the meantime

- (i) the children had been granted asylum, and
- (ii) their mother had accepted that the second applicant would stay in Finland, which meant that the children would be separated if the third applicant were returned to Russia.

24. On 18 January 2024 the Supreme Court dismissed the second extraordinary application to quash its decision of 27 September 2023. It stated that the mother had denied accepting that the older child would stay in Finland. Furthermore, the Supreme Court held that the granting of asylum to the children did not in itself exempt the State from its obligations under the Hague Convention. It also found that the asylum decision in the applicants' case was not a new fact which would have led to a different outcome in the proceedings for the return of the children. This is because the children's asylum status was derived from that of their father, rather than being based

on a risk of harm to the children themselves were they to return to Russia (see paragraph 22 above). In its earlier decision, the Supreme Court had already assessed the grounds for refusal based on a grave risk, having regard to the circumstances of the case, and, as to grounds for refusal relating to the children's objection, had taken into account that returning them to Russia would probably make it more difficult to maintain contact between them and their father, who had moved to Finland. The Supreme Court further noted that the asylum decision did not reveal any new circumstances capable of leading to a different result in the return matter.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. INTERNATIONAL LAW

25. The relevant provisions of the Hague Convention on the Civil Aspects of International Child Abduction, which entered into force in respect of Finland on 1 August 1994 and in respect of Russia on 1 October 2011, read as follows:

“The States signatory to the present Convention,

Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect, and have agreed upon the following provisions –

...”

Article 1

“The objects of the present Convention are –

a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and

b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.”

...

Article 3

“The removal or the retention of a child is to be considered wrongful where –

a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and

b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

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The rights of custody mentioned in sub-paragraph a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.”

Article 4

“The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.”

Article 5

“For the purposes of this Convention –

a) ‘rights of custody’ shall include rights relating to the care of the person of the child and, in particular, the right to determine the child’s place of residence;

b) ‘rights of access’ shall include the right to take a child for a limited period of time to a place other than the child’s habitual residence.

...”

Article 11

“The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. ...”

Article 12

“Where a child has been wrongfully removed or retained in terms of Article 3 and at the date of commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.”

Article 13

“Notwithstanding the provisions of the preceding Article, 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 which opposes its return establishes that –

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a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or

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

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence."

Article 20

"The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms."

26. In addition, Article 3, paragraph 1 of the United Nations Convention on the Rights of the Child, adopted in New York on 20 November 1989, reads as follows:

"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

II. DOMESTIC LAW

27. The relevant provisions of the Act on Child Custody and Right of Access (*laki lapsen huollosta ja tapaamisoikeudesta, lagen angående vårdnad om barn och umgängesrätt*, Act no. 361/1983) read as follows:

Chapter 5

Return of a child under the Hague Convention

Section 30

Return order

"A child present in Finland and wrongfully removed from the State where he or she is habitually resident, or wrongfully not returned to this State, shall be ordered to be returned at once, if immediately before the wrongful removal or retention the child was habitually resident in a State which is a Contracting State to the Convention on the Civil Aspects of International Child Abduction ..."

Section 31

Jurisdiction

"A return order shall be made, upon application, by the Helsinki Court of Appeal."

Section 32
Wrongful removal and retention

“The removal or retention of a child is wrongful if:

1) it is in breach of rights of custody held by a person, an institution or another body, either jointly or alone, under the law of the State where the child was habitually resident immediately before the removal or retention; and

2) at the time of removal or retention those rights were being exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The removal or retention of a child shall not be wrongful, if the holder of the rights referred to in subparagraph 1 ... has consented to it or acquiesced in it either explicitly or implicitly.”

Section 33
Rights of custody

“In this chapter, rights of custody mean the right and obligation to take care of matters relating to the person of a child and, in particular, the right to determine the child’s place of residence.”

Section 34
Grounds for the refusal of a return order

“An application for the return of a child may be rejected if:

1) the application is made after one year has elapsed from the date of the wrongful removal or retention of the child and the return of the child would be contrary to his or her best interests;

2) there is a grave risk that the return of the child would expose him or her to physical or psychological harm or otherwise place the child in an intolerable situation; or

3) the court finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take his or her views into account.

A child who has attained the age of 16 years cannot be ordered to be returned.

If the child’s habitual residence immediately before the wrongful removal or retention was in a Member State referred to in Article 2(3) of the Brussels IIa Regulation, the provisions of Article 11(4) of the Regulation also apply to the rejection of an application for return under subparagraph 1 of paragraph 2.”

III. DOMESTIC PRACTICE

28. In a precedent case, KKO 2016:65, the Supreme Court had assessed whether a child should be returned who had been wrongfully brought to Finland and where one of the persons who had custody of the child had later been granted asylum and refugee status in Finland. The Supreme Court held the following:

“[...] Finland is bound by both the Hague Convention and the Refugee Convention. The Hague Convention was concluded later than the Refugee Convention. The Hague Convention does not provide that it is dependent on the Refugee Convention and does

not take a stand on the status of the Refugee Convention or on the mutual priority of the two Conventions.

The purpose of the Refugee Convention is to protect the right of a person with refugee status to reside in the Contracting State which grants them asylum, whereas the purpose of the Hague Convention is, as stated above, to secure the prompt return of children wrongfully removed to or retained in any Contracting State. The Conventions therefore have different objectives, and this may lead to a conflict between them in some individual situations where they both apply. Case-law collected from various Contracting Parties to the Hague Conference on Private International Law also shows that the relation between the two Conventions has room for interpretation.

[...]

In assessing the grounds for refusal of return under the Hague Convention, the possible reasons for granting asylum must be taken into account. Asylum granted to a child does not in itself constitute grounds for not applying the obligation to return the child under the Hague Convention. Instead, the return must be assessed from the standpoint of the above-mentioned grounds for refusal under the Hague Convention, taking into account the best interests of the child.”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

29. The applicants complained that the Supreme Court’s order for the return of the children was in breach of their right to respect for their family life. They relied on Article 8 of the Convention, the relevant part of which reads as follows:

“1. Everyone has the right to respect for his ... family life

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

A. Admissibility

30. The Government considered that the decision of the Supreme Court was not arbitrary in any respect and did not amount to a disproportionate interference of the applicants’ rights under Article 8 in the circumstances of the case. In the Government’s view, the complaint under Article 8 should be declared inadmissible as manifestly ill-founded for these reasons.

31. The applicants stressed that the decision of the Supreme Court violated the applicants’ right to the protection of their family life, contrary to Article 8 of the Convention.

32. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. *The parties' submissions*

(a) The applicants

33. The applicants reiterated that for more than two years the children had been unwavering and clear in their view that they wanted to stay in Finland, despite the fact that their mother had kept in touch with them and expressed her point of view throughout. The older child (second applicant) had decided independently to limit contact with his mother and did not keep in touch. The mother only kept in touch with the younger child. Even after the Supreme Court's ruling, the mother had stated that the children belonged to the sect leader. In Russia, the children were considered traitors to their country, which meant that there was already a psychological and physical threat to them. The mother uncritically believed all Russian propaganda and uninhibitedly exposed her children to it. The father had always been closer to the children since the mother had never been able to take care of them by herself, not even when they were younger. In practice, the children had always been in the care of either the father's parents or the father himself when he was not at work. Moreover, the children had clearly indicated that they would rather die than leave for Russia. They had been admitted to a psychiatric ward after an earlier attempted forced repatriation, and in 2023-2024 the third applicant had been medically treated for anxiety on several occasions.

34. The applicants pointed out that the religious group to which the mother was attached was not a local church but a sect operating outside the local church. The sect's premises were located away from the city and were a kind of a camp. The father had visited there with his own father and the youngest child. The sect leader was Father Nikifor, who often travelled to Ukraine to motivate soldiers fighting in the war there. The purpose of the sect was to mould soldiers loyal to God and to President Putin. The mother sympathised with the sect and allowed the sect leader to make all decisions for her. She had also introduced a priest to her sons in Russia, saying "here is your new father, he will teach you what men should be like".

35. The applicants further reported that the second and third applicants had attended cadet classes at school. They had been taught, among other things, how to handle weapons. The second applicant, who was then eleven years old, should have represented his class at the Victory Day parade on 5 September 2022 and taken the military oath. It was therefore not a hobby that was pursued as an extra-curricular activity or anything of a similar nature.

36. The applicants considered that the Supreme Court had not given any assessment of the position of the first applicant under Article 8 of the Convention in its decision. He could not return safely to Russia, which meant that he could not have a family life there with the second and third applicants. He would have to waive the protection of Article 3 of the Convention in order

to realise his rights under Article 8 of the Convention. The second and third applicants' mother did not face a similar risk and was free to travel to Finland in order to exercise her rights under Article 8 of the Convention without running any risk of treatment contrary to Article 3 of the Convention. If the second and third applicants crossed the border into Russia, the Russian authorities would not allow them to return to Finland. The Supreme Court had therefore failed to strike a fair balance between the challenges presented by the facts and the best interests of the children.

(b) The Government

37. The Government acknowledged that the Supreme Court's decision to return the second and third applicants to Russia amounted to an interference with the applicants' right to respect for their family life. However, this decision was based on section 30 of the Act on Child Custody and Right of Access, which implemented Article 12, paragraph 1 of the Hague Convention, was therefore in accordance with the law. The interference pursued the aim of protecting the rights and freedoms of others.

38. As to whether the decision had been necessary in a democratic society, the Government observed that the Supreme Court had not found any circumstances that would warrant the conclusion that the conditions in the mother's home would jeopardise the well-being of the children, nor did any allegation to that effect seem to have been made. The Supreme Court had conducted an oral hearing and had heard the older child separately. On the basis of the mother's account, the Supreme Court had concluded that the older child would not return to the cadet class with military skills training after returning to Russia. Ideological and practical differences between the Finnish and the Russian school systems did not of themselves meet the grounds in the Hague Convention for refusing a return order on the basis of a grave risk. The Supreme Court therefore held that the father's allegation of a grave risk had not been made out. The Supreme Court concluded that the return of the second and third applicants would not expose them to a risk of treatment in violation of their human dignity. It had observed the principle that it had to assess the various alternative solutions objectively from the perspective of the best interests of the child. The children had spent their entire lives with their mother in Russia, where they also had other relatives, and this supported the conclusion that it was in the best interests of the children to return to Russia. The Supreme Court had also taken into consideration the fact that returning the children to Russia would probably hinder their contact with their father, but concluded that their return had nonetheless been in their overall best interests.

39. The Government observed that the Supreme Court had balanced the competing interests openly and carefully and assessed which solution would be in the overall best interests of the second and third applicants. The Supreme Court had assessed the grounds for refusal extensively in the light

of evidence presented directly and orally. It had taken into account, on the one hand, that maintaining contact between the father and the children would become more difficult if the children were returned and, on the other hand, that it would become more difficult for the children to maintain contact with their mother and older sister if the children were not returned. The Supreme Court did not conclude that the relationship between the children and the father would be severed if the children were returned.

40. The Government asserted that the Supreme Court had taken into account the relevant factors, weighed them and given reasons for its decision in the manner required by the case-law of the Court. The outcome of the Supreme Court's ruling was within the margin of appreciation enjoyed by Contracting States in this sphere. The interference with the applicants' right to respect for their family life was not disproportionate and there was therefore no violation of Article 8 of the Convention.

(c) Third-party interveners

(i) Ms G., the mother of second and third applicants

41. In her third party observations Ms G., the mother of the second and third applicants, pointed out that she had had the primary custody of the children for most of their lives. The correct balancing of interests was between the degree of protection offered to the mother and the children's ties to her against the degree of protection offered to the father and the children's ties to him. The mother strongly rejected the notion that the children's ties to their father might be "severed" by their return to Russia since the geographical and infrastructural barriers to the children visiting their father in Finland were by no means insurmountable. The mother was and had consistently been fully open to the children maintaining contact with the father, both in person and via the internet. The Supreme Court had addressed each key element in its judgment:

- 1) it was likely that maintaining contact would be harder than before;
- 2) the children had met their father regularly even after the parents had separated;
- 3) the best interests of the children were nonetheless best protected by the children moving to Russia where their primary custodian lived; and
- 4) under the circumstances the father's right to family life would not be excessively restricted if the children were returned to Russia.

42. Considering all the domestic proceedings in their entirety, the mother felt very strongly that, rather than there having been an equal balance of competing interests, the interests of the father had effectively taken precedence over hers and the children's. The interim measures issued by the Court, which had already been in place for well over a year, could lead to a *de facto* separation of a mother from her children for as long as the measures remained in place.

(ii) *The AIRE Centre*

43. The AIRE Centre also submitted third-party observations, stating that, when implementing the provisions of the Hague Convention on the Civil Aspects of International Child Abduction, European Union member States were required, as a matter of EU law, to respect the integrity of the EU community *acquis*, including the EU asylum *acquis*. Under Article 53 of the Convention, where individuals had been recognised by an EU member State as entitled to international protection from return, the provisions of the Hague Convention could not be invoked so as to undermine or dilute the protection from return guaranteed by EU law under the Qualification Directive. While the provisions of the Directive did not appear to have been given to the CJEU as an example of “other EU common Rules”, the Directive remained in force and still bound EU member States, including Finland. Under Article 53 of the Convention, when Contracting Parties to the Convention were also bound by EU law, the Court had to ensure that Convention rights were protected and applied in a manner which did not diminish the rights guaranteed under EU law.

44. The AIRE Centre further observed that the principle of the best interests of the child required an assessment of the risk of harm to any child should he or she be removed, in line with a State’s *non-refoulement* obligations. The removal of a child without an individual assessment of the child’s right to refugee status might give rise to a risk of a violation of the duty of *non-refoulement*, which would be likely to constitute a violation of Article 3 of the Convention. A child who had been granted international protection was recognised as being at risk of violation of their human rights and had to be considered an exception to return under Article 20 of the Hague Convention. The Committee on the Convention on the Rights of the Child had stated that “granting of refugee status constitutes a legally binding obstacle to return to the country of origin and, consequently, binding to family reunification therein”. Refugee status is also a legally recognised obstacle to ordering the return of a child under the Hague Convention to the State from which they have been granted asylum. The limited case-law on the interrelationship between asylum and child abduction focused on situations where an asylum application was being considered by public or administrative law bodies, or by courts, at the same time as a return request under the Hague Convention was being considered by a private law court or body. The present case was therefore a novel one legally in that it concerned children who were recognised refugees. In the light of all the foregoing, a construction of the Convention in accordance with Article 53 of the Convention precluded the return under the Hague Convention of children who had been recognised as refugees and granted asylum by a Contracting Party to the State in respect of which they had been granted international protection from return.

2. *The Court's assessment*

(a) General principles

45. The principles relevant to the right to respect for family life under Article 8 of the Convention in cases concerning the return of children under the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980 are summarised in *X v. Latvia* [GC], no. 27853/09, §§ 92-108, ECHR 2013. With regard to these principles, the Court notes first that there is a broad consensus – including in international law – in support of the idea that in all decisions concerning children, their best interests must be paramount. This same principle is also inherent in the Hague Convention, which is aimed at protecting the child from the detrimental effects of the abduction. The Hague Convention associates this interest to protect the best interest of the child with restoration of the *status quo* by means of a decision ordering the child's immediate return to his or her country of habitual residence in the event of unlawful abduction, while taking account of the fact that non-return may sometimes prove justified for objective reasons that correspond to the child's interests, thus explaining the existence of exceptions, specifically in the event of a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation (Article 13, first paragraph, (b)) (*ibid.*, §§ 96-97).

46. As regards, more specifically, the question of the relationship between the Convention and the Hague Convention, the Court reiterates that in the area of international child abduction the obligations imposed by Article 8 on the Contracting States must be interpreted in the light of the requirements of the Hague Convention (*ibid.*, §§ 93-97). In this respect, the Court has set out the principles to be applied in this context as follows (*ibid.*, §§ 106-107):

“106. The Court considers that a harmonious interpretation of the European Convention and the Hague Convention (...) can be achieved provided that the following two conditions are observed. Firstly, the factors capable of constituting an exception to the child's immediate return in application of Articles 12, 13 and 20 of the Hague Convention, particularly where they are raised by one of the parties to the proceedings, must genuinely be taken into account by the requested court. That court must then make a decision that is sufficiently reasoned on this point, in order to enable the Court to verify that those questions have been effectively examined. Secondly, these factors must be evaluated in the light of Article 8 of the Convention (see *Neulinger and Shuruk*, cited above, § 133).

107. In consequence, the Court considers that Article 8 of the Convention imposes on the domestic authorities a particular procedural obligation in this respect: when assessing an application for a child's return, the courts must not only consider arguable allegations of a “grave risk” for the child in the event of return, but must also make a ruling giving specific reasons in the light of the circumstances of the case. Both a refusal to take account of objections to the return capable of falling within the scope of Articles 12, 13 and 20 of the Hague Convention and insufficient reasoning in the ruling dismissing such objections would be contrary to the requirements of Article 8 of the Convention and also to the aim and purpose of the Hague Convention. Due

consideration of such allegations, demonstrated by reasoning of the domestic courts that is not automatic and stereotyped, but sufficiently detailed in the light of the exceptions set out in the Hague Convention, which must be interpreted strictly (see *Maumousseau and Washington*, cited above, § 73), is necessary. This will also enable the Court, whose task is not to take the place of the national courts, to carry out the European supervision entrusted to it.”

(b) Application of these principles to the present case

47. Having regard to its case-law (see, for example, *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 90, ECHR 2010), the Court finds that the Supreme Court’s decision ordering the return of the second and third applicants to Russia constituted an interference with the right to respect for family life of all three applicants.

48. Having regard to the scope of the case as presented before the Finnish courts and subsequently argued by the parties before the Court, the Court accepts that the interference in question was lawful as it was based on section 34 of the Act on Child Custody and Right of Access, a provision incorporating Article 13, paragraph 1 of the Hague Convention (see paragraphs 25 and 27 above). It also pursued the legitimate aim of protecting the rights and freedoms of others, namely the rights of the second and third applicants as well as the rights of their mother (see, *mutatis mutandis*, *Neulinger and Shuruk*, cited above, § 106).

49. In determining whether that interference was “necessary in a democratic society”, the decisive issue is whether a fair balance was struck between the competing interests – those of the two children and their two parents – within the margin of appreciation afforded to States in such matters, taking into account, however, that the best interests of the children must be a primary consideration (see, *mutatis mutandis*, *X v. Latvia*, cited above, § 95). In the context of an application for return made under the Hague Convention, the concept of the best interests of the child must be evaluated in the light of the exceptions provided for by the Hague Convention. This task falls in the first place to the national authorities of the requested State, which have, *inter alia*, the benefit of direct contact with the interested parties. In fulfilling their task under Article 8, the domestic courts enjoy a margin of appreciation, which, however, remains subject to a European supervision (*ibid.*, § 101).

50. Accordingly, when exercising its supervisory function, the Court’s task is not to substitute its own assessment for that of the domestic courts (*ibid.*, § 101). Rather, it must assess, in the light of the case as a whole, whether the reasons adduced to justify the interference were relevant and sufficient for the purposes of Article 8 § 2 (see, for example, *Adžić v. Croatia* (no. 2), no. 19601/16, § 82, 2 May 2019; and *Z. v. Croatia*, no. 21347/21, § 86, 1 September 2022). Reasons must be given for the dismissal or acceptance of objections to the return of the children under the Hague Convention, which must be interpreted strictly. The issue of whether it would be possible for the abducting parent to follow the children to the State of their

habitual residence and to maintain contact with them must also be dealt with. A failure to address either of these issues would be contrary to the procedural requirements under Article 8 of the present Convention (*ibid.* and *X v. Latvia*, cited above, §§ 106-107 and 117).

51. In the present case, given the arguments raised by the first applicant (see paragraphs 9 and 12 above), the domestic courts had to examine

(a) whether there was a grave risk that return to Russia would expose the second and third applicants to psychological harm or otherwise place them in an intolerable situation;

(b) whether the second and third applicants objected to being returned and had attained an age and degree of maturity at which it was appropriate to take account of their views; and

(c) whether it was possible for the first applicant to visit the second and third applicants in Russia and to maintain contact with them.

52. The domestic courts considered all the arguments put forward by the first applicant and addressed each of these issues. The Supreme Court relied on interviews with the children, conducted by the child welfare officers at a hearing attended by both parents, to assess the risk of psychological harm, establish the children's views, and determine their level of maturity. It also heard the older child (the second applicant) separately (see paragraphs 13 and 15 above). It later noted that the asylum decision did not reveal any new circumstances capable of leading to a different result in the return matter (see paragraph 24 above).

53. Having assessed the evidence obtained, the Supreme Court held that there was no grave risk that the return of the children to Russia would expose them to physical or psychological harm; nor would it place them in an intolerable situation, within the meaning of Article 13 § 1 (b) of the Hague Convention (see paragraph 14 above). It further held that the subsequent granting of asylum to all three applicants in Finland did not call that risk assessment into question because the children's asylum status had been derived from that granted to their father (see paragraphs 22 and 24 above). The Court sees no reason to contradict these findings.

54. The Supreme Court also addressed the second and third applicants' objections to being returned. It found that the younger child (the third applicant) had not attained an age and degree of maturity at which it was appropriate to take account of his views (see paragraph 15 above). It further found that the older child (the second applicant) had attained such an age and degree of maturity and genuinely objected to being returned (see paragraph 15 above). However, after examining a series of factors, the Supreme Court held that the second applicant's return to Russia would be in his best interests (see paragraphs 16-17 above). Having regard to its case-law on the subject (see *K.B. and Others v. Croatia*, no. 36216/13, § 143, 14 March 2017; and *Gajtani v. Switzerland*, no. 43730/07, §§ 106-115, 9 September 2014), the

Court sees no reason to contradict those findings or to substitute its view for that of the Supreme Court.

55. Lastly, the Supreme Court recognised that returning the children would make it more difficult for them and the first applicant to maintain contact, but held that it was in the children’s best interests to return to Russia. In the given circumstances, those interests prevailed over the interests of the first applicant (see paragraphs 16-18 above). In that regard the Court reiterates that

(i) the Hague Convention, save for the exception provided for in its Article 13 § 1 (b) (see paragraph 24 above), associates the best interests of the children with restoration of the *status quo ante* (the position previously obtaining), namely with their immediate return to the country of their habitual residence in the event of wrongful abduction (see *X v. Latvia*, cited above, § 97); and

(ii) that its aim is to prevent the abducting parent from benefiting from his or her own wrongdoing (see, for example, *G.S. v. Georgia*, no. 2361/13, § 56, 21 July 2015).

Having regard to that case-law and the State’s wide margin of appreciation under the Convention, the Court, as regards this issue, likewise finds no strong reason to substitute its view for that of the Supreme Court.

56. Against this background (see paragraphs 51-55 above) and in the absence of specific submissions to the contrary in the application, the Court is unable to conclude that the domestic courts failed to carry out an effective examination of the relevant issues (compare and contrast with *X v. Latvia*, cited above, §§ 109-19). On the contrary, those courts complied with the procedural requirements inherent in Article 8 of the Convention, when genuinely taking into account the factors capable of constituting an exception to the children’s immediate return in application of the Hague Convention. The reasons given by the Supreme Court to justify the interference with the applicants’ right to respect for their family life were relevant and sufficient for the purposes of the second paragraph of that Article. The reasoning of the Supreme Court was not automatic and stereotyped, but sufficiently detailed in the light of the exceptions set out in the Hague Convention, which must be interpreted strictly. That interference was therefore “necessary in a democratic society”.

57. There has accordingly been no violation of Article 8 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

58. The applicants complained that, if returned to Russia, the second and third applicants would be subjected to ill-treatment. They relied on Article 3 of the Convention, which reads as follows:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

Admissibility

59. The Government considered that there was no violation of Article 3 of the Convention and that this complaint should be declared inadmissible for being manifestly ill-founded.

60. The applicants asserted that the decision of the Supreme Court had deprived the second and third applicants of their right to protection under Article 3 of the Convention when they had been ordered to be returned to Russia.

61. In her third party observations, Ms G. said that she could not see any tangible risk of Article 3 violation, and, in so far as such a risk might arise, she would take any steps necessary to protect her children from it.

62. The Court considers that these complaints are linked to those examined above under Article 8 of the Convention and that it has already examined the principal arguments raised under Article 3 of the Convention in relation to the second and third applicants in its considerations under Article 8 (compare and contrast with *Y.S. and O.S. v. Russia*, no. 17665/17, §§ 104-105, 15 June 2021). Having regard to those considerations (see paragraph 53 above), the Court finds that there are no substantial grounds for believing that the second and third applicants would be exposed to a real risk of being subjected to treatment contrary to Article 3 of the Convention if returned to Russia in the current circumstances.

63. It follows that this part of the application is inadmissible under Article 35 § 3 (a) of the Convention as manifestly ill-founded, and that it must be rejected pursuant to Article 35 § 4 thereof.

III. RULE 39 OF THE RULES OF COURT

64. The Court reiterates that, in accordance with Article 44 § 2 of the Convention, the present judgment will not become final until (a) the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if referral of the case to the Grand Chamber has not been requested; or (c) the Panel of the Grand Chamber rejects any request to refer under Article 43 of the Convention.

65. It considers that the indications made to the Government under Rule 39 of the Rules of Court should remain in force until the present judgment becomes final or until the Court takes a further decision in this connection (see point 3 of the operative part).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint concerning Article 8 admissible and the remainder of the application inadmissible;
2. *Holds* that there has been no violation of Article 8 of the Convention;
3. *Decides* to continue to indicate to the Government under Rule 39 of the Rules of Court that it is desirable in the interests of the proper conduct of the proceedings not to expel the second and third applicants until such time as the present judgment becomes final or until further notice.

Done in English, and notified in writing on 16 December 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı
Registrar

Arnfinn Bårdsen
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the joint concurring opinion of Judges Yüksel and Mercer is annexed to this judgment.

JOINT CONCURRING OPINION OF JUDGES YÜKSEL AND MERCER

In the present case, while we agree with the majority’s position on the outcome, we respectfully dissociate ourselves from certain parts of the reasoning and approach adopted in the judgment for the following reasons.

1. In respect of general principles, the Chamber’s reasoning in the present case follows *X v. Latvia* ([GC], no. 27853/09, ECHR 2013), where the Court imposed a particular procedural obligation on Member States. Domestic courts must not only take account of the objections to return capable of falling within the scope of the exceptions provided by the Hague Convention, but must also provide sufficient reasoning in their ruling to dismiss such objections, failing which they would violate Article 8 and act in a manner incompatible with the very aim and purpose of the Hague Convention. To the extent that the Supreme Court in its judgment of 27 September 2023 adequately determined whether children’s objections to return could be taken into account in view of their level of maturity, examined the impact of return on the children’s continued relationship with their father and addressed each of the allegations of grave risk put forward by the applicant, including the fact that the elder child “strongly and genuinely objected to being returned”, we agree with the outcome adopted, which could be coherent with a form of process-based review and subsidiarity.

2. We would nevertheless like to stress that this case presents a novel issue. It asks for the first time the question of the return of children, pursuant to the Hague Convention, to a country from which they *have been* granted asylum. In this case the Supreme Court was asked to review its decision in the light of a new fact related to the children’s newly acquired asylum status. While, in line with the margin of appreciation, it is conceivable that the Court would not contradict the Supreme Court’s finding that the grant of asylum to the children did not need to be analysed for assessing a “grave risk” as it had been derived automatically from the father’s grant of asylum, we nevertheless have concerns about whether the fact that asylum was granted automatically to the children can remove the need for the Supreme Court to reassess the risk faced by the children in light of what we consider to be a new factor of importance.

3. Following our case-law, in this case, ascertaining whether domestic courts conducted a comprehensive and in-depth examination of all relevant factors requires evaluating whether asylum, one of such relevant factors, was sufficiently and genuinely examined (see *Neulinger and Shuruk v. Switzerland* [GC], no. 41615/07, § 139, ECHR 2010; *Maumousseau and Washington v. France*, no. 39388/05, § 74, 6 December 2007). With the utmost respect to our colleagues, we emphasise that the Supreme Court’s assessment, focusing on the automatic nature of the grant of asylum, is not sufficient of itself. This is so because a focus on the automatic nature of the

grant of asylum could lead the Supreme Court to fail to assess its implications for the risks faced by children in case of return.

4. Generally speaking, it is inherent in the notion of asylum that there is a grave risk for those granted asylum if they are returned to their country of origin. It is central to the protection against arbitrary *refoulement* that return to the country from which asylum seekers have fled is prohibited (*F.G. v. Sweden* [GC], no. 43611/11, § 117, 23 March 2016). Ultimately, even if the child’s asylum was derived from that of his or her parents, the child has in fact been granted asylum. Therefore, the Supreme Court’s order to return the children, without reassessing whether the grant of asylum could imply that there is a risk to be faced by the children if they are returned, may sidestep the core issue. As such, the Court should have noted that the Supreme Court was obliged genuinely to take into account all the factors capable of constituting grounds for refusing return in application of the Hague Convention when it considered the second extraordinary application for the quashing of its decision.

5. The Supreme Court’s approach also led it to not assess the risk of persecution of the applicant children given the grant of asylum to their father, and whether the risk of persecution faced by their father and recognised by the Finnish authorities when he was granted asylum could constitute a “grave risk” for the children if returned to Russia, one which needed to be evaluated before deciding on return (see paragraph 53 of the judgment). Nor has the Supreme Court satisfied itself that adequate safeguards to tackle this potential risk in the country of return were provided for (*X v. Latvia*, § 108 and see also *Y.S. and O.S. v. Russia*, no. 17665/17, § 98, 15 June 2021). Although this does not mean that the Court should by itself assess whether the applicant children faced a grave risk of political persecution, future courts must genuinely consider the implications of a grant of asylum in their assessment of all arguable allegations of a “grave risk”.

6. In conclusion, we are concerned that the approach adopted in this case regarding asylum and the return of children to countries from which they have been granted asylum may have important consequences for future cases brought before our Court. By approving the Supreme Court’s reasoning, the Court might be interpreted as approving a return order where a court simply considered that asylum did not constitute a new fact of importance for its risk assessment. Under this approach, even if children had been granted asylum separately, return could be possible if the Supreme Court considered that asylum was not a “new” fact of importance affecting the risk assessment adopted up until then by the lower domestic courts. The Court’s approach in this case thus could be interpreted as approving a superficial approach to asylum and weakening the European supervision for which our case-law provides.

APPENDIX

List of applicants:

Application no. 42758/23 (anonymity has been granted)

No.	Applicant's Name	Year of birth/registration	Nationality	Place of residence
1.	Z	1983	Russian	Oulu
2.	X	2011	Russian	Oulu
3.	Y	2013	Russian	Oulu