



## Domestic courts must examine of their own motion the appropriateness of hearing the child before ruling on his or her return to a parent in child abduction cases

The case of [M.P. and Others v. Greece](#) (application no. 2068/24) concerned a mother and her two children, who complained of the return of the two children to their father in the United States by order of the Greek courts in international child abduction proceedings.

In today's **Chamber judgment**<sup>1</sup> in this case the European Court of Human Rights held, by 5 votes to 2, that there had been a **violation of Article 8 (right to respect for private and family life)** of the European Convention on Human Rights.

The Court found that the Greek courts had assessed the situation without considering whether it would be appropriate to ascertain the children's views, which were, after all, a key consideration. As a result, it found that the Greek courts had not been able to make an informed assessment as to whether there had existed a "grave risk" to the children within the meaning of Article 13 (b) of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction, and that the decision-making process under domestic law had not met the procedural requirements inherent in Article 8 of the Convention. The forcible return of the two children to the United States could not, therefore, be regarded as necessary in a democratic society.

This is the first case concerning child abduction proceedings in which the Court has held that the national courts are required to examine of their own motion whether it would be appropriate to hear the child, either directly or otherwise, in order, if necessary, to rule out that possibility in a reasoned decision.

### Principal facts

The application was lodged by three Greek and United States nationals, a mother (M.P., who was born in 1981) and her two children (I.R.A., born in 2016, and E.A.A., born in 2018).

In 2015 M.P. went to the US, where she began working in a day nursery in Houston (Texas) in 2016. The same year, she married G.A., a Greek and United States national whom she had met in 2014. The couple first lived in Houston, where I.R.A. was born, then moved to Florida, where E.A.A. was born. From 2018 to 2020, they experienced episodes of conflict.

In 2020 M.P. and her two children travelled to Rhodes (Greece) with the father's consent, given in a statement made before a notary, scheduling their return to the United States for 4 February 2021.

While M.P. and the children were in Rhodes, the airline informed them that, on account of the COVID-19 pandemic, the itinerary of their flight had changed and the return destination was now Miami. M.P. informed her spouse that the new itinerary was inconvenient and that she intended to return to Florida with the children in May 2021.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

She then enrolled the children in a school on the island and registered them with the Greek social security system. In March 2021 she began working as a psychologist in Rhodes; she did not return to the United States.

Subsequently, G.A. applied to the Greek courts to have the children returned to the United States.

In May 2022 the Rhodes Court of First Instance found that there was a grave risk that the two children would be exposed to psychological harm and placed in an intolerable situation if returned to the United States, on the grounds, in particular, that they were enrolled in school and had integrated into their new environment in Rhodes. It further noted that G.A. had a demanding job and lacked social support or the support of family and friends for the children's day-to-day care.

G.A. lodged an appeal. In December 2022 the Dodecanese Court of Appeal overturned the judgment delivered at first instance and ordered the children's return to their father in the United States. The Court of Appeal held that the two children's integration in Rhodes was not sufficient for their return to their habitual place of residence to constitute an ordeal or an intolerable situation. In December 2023 the Court of Cassation upheld that judgment.

Meanwhile, G.A. had filed for divorce in the United States courts, which had been granted in September 2022.

The children returned to the United States to live with their father in December 2024. M.P. lives in Rhodes.

## Complaints

Relying on Article 8 (right to respect for private and family life) of the Convention, the applicants submitted that their allegation of a grave risk to the children if returned to the United States had not been examined in an effective manner by the Greek courts. They further complained that the two children had not been heard by the Greek courts in the domestic proceedings.

## Complaints procedure and composition of the Court

The application was lodged with the European Court of Human Rights by M.P., on her own behalf and on behalf of her two children, on 19 January 2024.

G.A., the father of the two children, was granted leave by the President of the Section to intervene as a third party in the proceedings before the Court.

Judgment was given by a Chamber of seven judges, composed as follows:

Peeter **Roosma** (Estonia), *President*,  
Ioannis **Ktistakis** (Greece),  
Lətif **Hüseynov** (Azerbaijan),  
Diana **Kovatcheva** (Bulgaria),  
Mateja **Đurović** (Serbia),  
Canòlic **Mingorance Cairat** (Andorra),  
Vasilka **Sancin** (Slovenia),

and also Olga **Chernishova**, *Deputy Section Registrar*.

## Decision of the Court

### Article 8

The return of the two children by order of the Greek courts constituted an interference with the applicants' right to respect for their family life. Such interference was based on the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction ("the Hague Convention"), which had been incorporated into Greek law by Law no. 2102/1992, and was intended to protect the rights and freedoms of the two children.

As to whether the interference was necessary in a democratic society, the Court took the view that the main question was whether the decision-making process had pursued the best interests of the two children and, in particular, whether it had ruled out any "grave risk" to them, within the meaning of Article 13 (b) of the Hague Convention.

The Court noted, firstly, that the domestic courts had taken into account all the evidence produced by the applicants, including sworn statements and psychological expert reports produced by M.P. regarding to the children, and that they had also heard witnesses. It noted, in this connection, that the applicants had not complained that the domestic courts had failed to take evidence submitted by them into account.

As to the complaint that the two children had not been heard, the Court observed, in the light of its case-law on the requirements under Article 8 of the Convention in child abduction matters, that it had not, to date, clearly established a positive obligation on the domestic courts to examine of their own motion whether it would be appropriate to hear the children in proceedings in which their rights were in issue.

However, in the light of the relevant international instruments, in particular the recent Recommendation CM/Rec(2025)4 of the Committee of Ministers to member States, there was a consensus among the States Parties as to the obligation to provide the child with a genuine and effective opportunity to express his or her views, either directly or otherwise, and to support him or her in doing so through a range of child-friendly mechanisms and procedures.

Having regard to these considerations, the Court now considered that the time had come to assert that the national authorities were required to examine of their own motion whether it would be appropriate to hear the child, either directly or otherwise, in order, if necessary, to rule out that possibility in a reasoned decision.

In the present case, it noted, first, that the applicants submitted that it was essential to hear the children, in order to determine whether any of the exceptions provided for in Article 13 (b) of the Hague Convention were applicable.

It further noted that the children's return to the United States from Rhodes – where their mother and their maternal and paternal grandparents lived – had been liable to entail substantial changes in their lives.

Consequently, it took the view that, having regard to the specific circumstances of the case, namely, the domestic courts' conflicting decisions as to the return of the two children and the radical change in their living conditions entailed by such a return to the United States, the domestic courts ought to have endeavoured, in keeping with their obligation to act in the children's best interests, to examine whether it would be appropriate to hear the children, and to do so irrespective of any express request to that effect by the applicants.

In the present case, however, the domestic courts had assessed the situation without considering of their own motion whether it would be appropriate to ascertain – either directly or otherwise – the children's views, which were, after all, a key consideration, in order, if necessary, to rule out that possibility in a reasoned decision.

Consequently, the Court concluded that the domestic courts had not used all the means at their disposal to rule out any “grave risk”, within the meaning of Article 13 (b) of the Hague Convention. The decision-making process under domestic law had therefore not met the procedural requirements inherent in Article 8 of the Convention and the forcible return of the two children to the United States could not be regarded as necessary in a democratic society. **There had therefore been a violation of Article 8 of the Convention.**

### Just satisfaction (Article 41)

The Court held that Greece was to pay the applicants 7,500 euros (EUR), jointly, in respect of non-pecuniary damage and to pay M.P. EUR 4,200 in respect of costs and expenses.

### Separate opinion

Judges Roosma and Hüseyinov expressed a joint dissenting opinion, which is annexed to the judgment.

*The judgment is available only in French.*

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**The European Court of Human Rights** was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.