

ENGLAND AND WALES / JUDGMENT

Re C (Art 13(b): Summary Return to Lithuania)

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Case No: FD25P00344 Neutral Citation Number: [2026] EWHC 1120 (Fam) IN THE HIGH COURT OF JUSTICE FAMILY DIVISION The Senior Courts Act 1981 The Child Abduction and Custody Act 1985 Royal Courts of Justice Strand, London, WC2A 2LL Date: 5 May 2026 Before: CATHERINE COWTON KC (SITTING AS A DEPUTY HIGH COURT JUDGE)

- ----- Between: LM
- and – LF Applicant Respondent
- ----- Re C (Article 13(b): Summary return to Lithuania)
- ----- Charlotte Georges (Counsel instructed by Sills & Betteridge Solicitors) for the Applicant mother Olivia Gaunt (Counsel instructed by MSB Solicitors) for the Respondent father Hearing dates: 20-21 April 2026
- ----- Approved Judgment This judgment was handed down remotely on 5 May 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives. 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.

Introduction

1. The parties are: 1.1. The Applicant mother: LM; she is of Lithuanian nationality, and lives in Lithuania; 1.2. The Respondent father: LF; he is of Lithuanian nationality, and currently lives in England.
2. The child who is the subject of the application is C who was born in September 2019 and so is now aged 6½ years. He is the only shared child of the applicant mother and the respondent father. He is of Lithuanian nationality, and is currently living with the father in England.

3. This is the final hearing of the mother's application under the Child Abduction and Custody Act 1985 for the summary return of C to Lithuania. The application is dated 16 June 2025 and was issued on 17 June 2025.
4. This final hearing was listed with a time estimate of 1½ days on 20-21 April 2026. On 20.4.26, the father attended in person, with his Counsel and solicitor. The mother attended by video-link from Lithuania; her Counsel was present in court and her solicitor attended remotely. On 21 April, I provided a draft of this Judgment to the parties' Counsel prior to a hearing in the afternoon to deal with consequential issues, which the parties and their legal representatives attended remotely. The order was finalised following the 21 April hearing. I gave the parties' Counsel until 28 April to provide any suggested corrections to the draft Judgment; there were no requests for clarification of any points. This final Judgment is being handed down after receipt of Counsel's responses.
5. Both parties have been assisted by Lithuanian interpreters during this final hearing. I was told that the mother does not speak or understand English. The father's English is not fluent, and he needed the assistance of an interpreter throughout the hearing.
6. Counsel agreed, and the Court approved, that there was no need for oral evidence from the parties at this final hearing.
7. The CAFCASS officer Ms Callaghan, who had written a report dated 10 March 2026, attended court, having been asked to do so by the mother's Counsel at a time when she believed that the father might be a litigant in person at this final hearing, to avoid any delay or difficulty, if he might seek to ask questions arising out of her report. The mother's Counsel had no questions to ask Ms Callaghan on behalf of the mother. However, the father's Counsel sought to ask Ms Callaghan a small number of questions. She gave brief oral evidence for no more than 10 minutes at the beginning of the hearing, confirming the contents of her report, and then left the hearing by agreement.
8. Otherwise the case was dealt with by way of Counsel's oral submissions on the afternoon of 20 April 2026, after I had read carefully all of the written evidence. Overview of the issues
9. The father accepts that: 9.1. C was habitually resident in Lithuania in August 2024 when he removed him to England (the father is unclear about the precise date that he and C travelled to England, but thinks it was on 2 August 2024); 9.2. The mother had rights of custody in Lithuania at the time of the removal, and these rights were being exercised by her; 9.3. The mother did not consent to the removal of C to England; and 9.4. The mother has not since acquiesced to C remaining in England.
10. Putting the above factual agreements in their legal context: 10.1. There was a wrongful removal by the father of C from Lithuania on 2 August 2024, within the meaning of Article 3 of the 1980 Hague Convention; 10.2. The mother's application to the English court for summary return was issued on 17 June 2025, and so the "settlement defence" in Article 12 is not available to the father (as the application was issued less than one year after the

wrongful removal); 10.3. Pursuant to Article 12, the English court “shall return the child forthwith”, unless the father can establish that any of the exceptions in Article 13 apply; 10.4. The father accepts that the Article 13(a) exception does not apply (not exercising custody rights / consent / acquiescence); 10.5. The father also does not (now) rely on C’s objections to being returned.

11. The father’s defence to the mother’s application is based on Article 13(b) of the Hague Convention: “there is a grave risk that his return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation”.
 12. In his Article 13(b) defence, the father relies on two “strands”, to be “evaluated holistically”:
12.1. 12.2. The mother’s alcohol use and mental health; and The impact of undue delay.
 13. The legal burden is on the father to establish this defence, on the balance of probabilities. Legal framework: Article 13(b), grave risk 1 This was also the date he notified to Lithuanian Children’s Services as being the planned date of travel, when telling them on 1.8.24 that he was going to England with C for a 3-month period, until 2.11.24.
 14. In their position statements and oral submissions, Counsel for both parents essentially agree the applicable legal principles, which I summarise below.
 15. The leading authorities on the Article 13(b) exception are Re E (Children) (Abduction: Custody
- [2011] UKSC 27 ('Re E') and Re S (A Child) (Abduction: Rights of Custody) [2012] UKSC 10. Lady Hale and Lord Wilson stated in Re E at §32-36: Appeal)
32. First, it is clear that the burden of proof lies with the "person, institution or other body" which opposes the child's return. It is for them to produce evidence to substantiate one of the exceptions. There is nothing to indicate that the standard of proof is other than the ordinary balance of probabilities. But in evaluating the evidence the court will of course be mindful of the limitations involved in the summary nature of the Hague Convention process. It will rarely be appropriate to hear oral evidence of the allegations made under article 13b and so neither those allegations nor their rebuttal are usually tested in cross-examination.
 33. Second, the risk to the child must be "grave". It is not enough, as it is in other contexts such as asylum, that the risk be "real". It must have reached such a level of seriousness as to be characterised as "grave". Although "grave" characterises the risk rather than the harm, there is in ordinary language a link between the two. Thus a relatively low risk of death or really serious injury might properly be qualified as "grave" while a higher level of risk might be required for other less serious forms of harm.
 34. Third, the words "physical or psychological harm" are not qualified. However, they do gain colour from the alternative "or otherwise" placed "in an intolerable situation" (emphasis supplied). As was said in Re D, at para 52, "'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". Those words were carefully considered and can be applied just as sensibly to physical or psychological harm as to any other situation. Every child has to put up with a certain amount of rough and tumble, discomfort and distress. It is part of growing up. But there are some things which it is not reasonable to expect a child to tolerate. Among these, of course, are physical or psychological abuse or neglect of the child herself. Among these also, we now understand, can be exposure to the harmful effects of seeing and hearing the physical or psychological abuse of her own parent. Mr Turner accepts that, if there is such a risk, the source of it is irrelevant: eg, where a mother's subjective perception of events leads to a mental illness which could have intolerable consequences for the child.

35. Fourth, article 13b is looking to the future: the situation as it would be if the child were to be returned forthwith to her home country. As has often been pointed out, this is not necessarily the same as being returned to the person, institution or other body who has requested her return, although of course it may be so if that person has the right so to demand. More importantly, the situation which the child will face on return depends crucially on the protective measures which can be put in place to secure that the child will not be called upon to face an intolerable situation when she gets home. Mr Turner accepts that if the risk is serious enough to fall within article 13b the court is not only concerned with the child's immediate future, because the need for effective protection may persist.
36. There is obviously a tension between the inability of the court to resolve factual disputes between the parties and the risks that the child will face if the allegations are in fact true. Mr Turner submits that there is a sensible and pragmatic solution. Where allegations of domestic abuse are made, the court should first ask whether, if they are true, there would be a grave risk that the child would be exposed to physical or psychological harm or otherwise placed in an intolerable situation. If so, the court must then ask how the child can be protected against the risk. The appropriate protective measures and their efficacy will obviously vary from case to case and from country to country....
16. In *Re IG (A Child) (Child Abduction: habitual residence: Article 13(b))* [2021] EWCA 1123 Lord Justice Baker summarised the relevant principles at §47:
 - (1) The terms of Article 13(b) are by their very nature restricted in their scope. The defence has a high threshold, demonstrated by the use of the words "grave" and "intolerable".
 - (2) The focus is on the child. The issue is the risk to the child in the event of his or her return.
 - (3) The separation of the child from the abducting parent can establish the required grave risk.
 - (4) When the allegations on which the abducting parent relies to establish grave risk are disputed, the court should first establish whether, if they are true, there would be a grave risk that the child would be exposed to physical or psychological harm or otherwise placed in an intolerable situation. If so, the court must then establish how the child can be protected from the risk.

- (5) In assessing these matters, the court must be mindful of the limitations involved in the summary nature of the Hague process. It will rarely be appropriate to hear oral evidence of the allegations made under Article 13(b) and so neither the allegations nor their rebuttal are usually tested in cross-examination.
- (6) That does not mean, however, that no evaluative assessment of the allegations should be undertaken by the court. The court must examine in concrete terms the situation in which the child would be on return. In analysing whether the allegations are of sufficient detail and substance to give rise to the grave risk, the judge will have to consider whether the evidence enables him or her confidently to discount the possibility that they do.
- (7) If the judge concludes that the allegations would potentially establish the existence of an Article 13(b) risk, he or she must then carefully consider whether and how the risk can be addressed or sufficiently ameliorated so that the child will not be exposed to the risk.
- (8) In many cases, sufficient protection will be afforded by extracting undertakings from the applicant as to the conditions in which the child will live when he returns and by relying on the courts of the requesting State to protect him once he is there.
- (9) In deciding what weight can be placed on undertakings, 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 for enforcement in the requesting State, in the absence of compliance.
- (10) As has been made clear by the Practice Guidance on "Case Management and Mediation of International Child Abduction Proceedings" issued by the President of the Family Division on 13 March 2018, the question of specific protective measures must be addressed at the earliest opportunity, including by obtaining information as to the protective measures that are available, or could be put in place, to meet the alleged identified risks."
- 17. As to the father's reliance on the impact of the delay as part of his Article 13(b) defence, in *Re D (A Child) (Abduction: Rights of Custody)* [2006] UKHL 51, a case where the child had been in England for nearly 4 years by the time of the HL decision, Baroness Hale stated that a lengthy delay in bringing or resolving proceedings can give rise to intolerability falling within Article 13(b), including at §53: "In this context, a delay of this magnitude in securing the return of the child must be one of the factors in deciding whether his summary return, without any investigation of the facts, will place him in a situation which he should not be expected to have to tolerate. He is not responsible for the passage of time. But the passage of time has contributed to a situation in which he is adamantly opposed to returning to Romania. As reported by the very experienced CAFCASS officer, these views are "authentically his own". They are confirmed by the very experienced solicitor who now acts for him. It is not simply that he is settled here within the meaning of article 12. He has spent nearly half his life here and has no life that he can recall in Romania. While the father has offered certain undertakings about his life there, it is quite clear that the father intends to oppose his return to the country which he now regards as his home and that if returned to

Romania he will face months if not years of further litigation between his parents.”

18. In *RS v KS & LS* (also referred to as *Re KS*) [2009] EWHC 1494 (Fam), where the child had been removed by the mother from Lithuania, and lived in England for over 2 years, Mrs Justice Macur (as she then was) stated at §45: “That undue delay and settlement may, in appropriate cases, constitute the basis of an argument that a child would be exposed to an intolerable situation if summarily returned to their country of habitual residence prior to removal is recognised by Baroness Hale in *In re D (A Child) (Abduction: Rights of Custody)* [2006] UKHL 51;
[2007] 1 AC 619 at 639 at paragraphs 51-53. In particular I note that the word "intolerable" in this context should be taken to mean "a situation which this particular child in these particular circumstances should not be expected to tolerate". Such an approach is fact specific and, in my opinion, does not detract from nor undermine the well established statement of principle found in *Re C (Abduction: Grave Risk of Psychological Harm)* [1999] 1 FLR 1145, that there is: "...an established line of authority that the court should require clear and compelling evidence of the grave risk of harm or other intolerability which must be measured as substantial, not trivial, and of a severity which is much more than is inherent in the inevitable disruption, uncertainty and anxiety which follows an unwelcome return to the jurisdiction of the court of habitual residence."
19. The Court of Appeal in *Re L-S (A Child)* [2017] EWCA Civ 2177 acknowledged that *Re KS* was decided correctly (§79). Lord Justice McFarlane stated at §80 (Mrs Justice Parker having been the first instance Judge in this case): “Parker J was, however, entirely correct in sounding a strong note of caution with respect to the extent to which the mere passage of time may be deployed in establishing an intolerable situation sufficient to satisfy Article 13(b). The determination of whether a period of 'one year has elapsed from the date of the wrongful removal or retention' at the date of the commencement of Hague Convention proceedings under Article 12 is simply a matter of calculation. Where a period of settlement is to be relied upon in support of an 'intolerable situation' claim under Article 13(b) the judicial evaluation is of a wholly different character. The passage of time in that context, rather than being a simple matter of calculation, must, as Mr Scott submitted, be viewed through the lens of the requirements of Article 13(b). As the joint judgment of Baroness Hale and Lord Wilson in *Re E (Children) (Abduction: Custody Appeal)* [2011] UKSC 27; [2012] 1 AC 144 explains (at paragraphs 29 to 37), the very terms of Article 13(b) make it a provision of restricted application requiring a risk that is 'grave' and a situation that is 'intolerable'.”
20. In dealing with an Article 13(b) defence, where a party relies on various “strands” (as here) in *Re B (Children)* [2022] EWCA Civ 1171, Lord Justice Moylan said at §70: "The authorities make clear that the court is evaluating whether there is a grave risk based on the allegations relied on by the taking parent as a whole, not individually. There may, of course, be distinct strands which have to be analysed separately but the court must not overlook the need to consider the cumulative effect of those allegations for the purpose of evaluating the nature and level of any grave risk(s) that might potentially be established as well as the protective

measures available to address such risk(s)."

21. I was also referred to some authorities which deal with the "settlement defence" under Article 12, which are helpful in terms of the factual matters the court looks to, to establish whether a child is "settled" in this country. However that specific legal defence does not apply to this case given that the mother's application was issued less than one year after the father's wrongful removal of C. I need to consider the issue of delay, and its impact on C, "through the lens of the requirements of Article 13(b)". Written evidence
22. I was provided with a bundle of 344 pages², which I read carefully. This included: 22.1. 22.2. 22.3. The mother's C67 application, form C1A, and numerous orders; Three witness statements from each party (with exhibits); A CAFCASS report dated 10.3.26, and CAFCASS letter with the outcome of Police National Computer Check enquiries dated 16.3.26; 22.4. Papers relating to Lithuanian court proceedings between the parties, relating to C; 22.5. 22.6. 22.7. A letter from the Lithuanian Children's Services dated 23.1.26; A letter from C's former nursery in Lithuania, dated 28.1.26; The Notice given by the father to the X City Family Centre dated 1.8.24, of his planned trip to England from 2.8.24 to 2.11.24 with C; 22.8. Responses from third parties to the numerous Disclosure Orders made by the English court after these proceedings started, to try to locate the father and C.
23. I was also provided with helpful Position Statements from both Counsel, for which I am very grateful.

Background

24. Both parties are aged in their 30s. They met and began their relationship in 2018. They did not marry. C was born in September 2019. They separated in early 2022.
25. After separation, by agreement, C lived with his mother and maternal half-brother D (now aged 12) and had contact with his father. (I note that C also has paternal half-brother, E, 2 Including English/Lithuanian translations of various documents who is an adult and lives independently.) A Lithuanian court order was made on 22.3.22 (a copy of which I do not have), which I believe formalised this caring arrangement for C.
26. The mother alleges that the father has been abusive towards her both during their relationship and since their separation, and coercively controlling, including threats to remove C from her care, and malicious reports made by him to Lithuanian Children's Services. She has not provided much detail of specific incidents in her witness statements, but I note that there is some supporting evidence: 26.1. The CAFCASS officer, Ms Callaghan, provided Police National Computer checks on 16.3.26, which confirmed that there was no trace for the mother, but that there is a record for the father on 1.1.19: "Complaint: Whilst under the influence, he has argued with his partner and assaulted her by strangling her". The mother confirmed that she was this partner. She did not support a prosecution, and the police took No Further Action. 26.2. Within evidence provided by Lithuanian County Police (dated 1.7.25), there is reference to a report made by the maternal grandmother (the

mother's mother) on 12.8.21 "regarding the fact that the boyfriend of her daughter... used physical violence against [her daughter]... The victim did not seek medical treatment for the physical pain she suffered. The specialised assistance centre and Child Rights Protection Division..were informed". A pre-trial investigation was opened by the police on 12.8.21, but on 23.8.21 a decision was made to discontinue the investigation.

27. The father denies any allegations of abuse, and I am not able within these summary proceedings to resolve issues of fact.
28. The mother has also provided (with the court's permission) four voicemail messages (with translated transcripts) of calls made by the father to her friend, herself and her partner on various dates in February 2026. In these messages he is gloating over the mother in respect of the court proceedings here and in Lithuania, and the separation of her and C. In parts, the messages are abusive and make threats. They include the following extracts: 28.1. Message to the mother's friend on 5.2.26: "maybe [C] already has another mom now"; 28.2. Message to the mother's partner on 6.2.26: "the Lithuanian court is a worthless court. The main court is here, and I will win this court, and automatically on the same day – well not the same day, but at the end of this month – I will deregister [C], I will deregister us from Lithuania, because we are still registered as Lithuanian citizens, which is why the court case is taking place in Lithuania....since I will deregister both of us from Lithuania, the court in Lithuania won't be able to obligate me to anything. Even if [the mother] wanted to sue for something, she would have to come here, to England, and she would no longer get a free lawyer – there's no chance...a family case costs about ten thousand pounds..." 28.3. Message to the mother on 6.2.26: "Congratulations – this is already your what, third family?...send regards to your boyfriend. He is a loser, small, you will never see the child. All because of him. So, happy holidays. Let's prepare for the courts. I have a powerful, very powerful gift for the courts...to give to the court about you. So let's wait. Goodbye." 28.4. Long message to the mother's partner on 18.2.26, including: "First of all, I don't care – if I took the child away, then I did what I needed to do. As I had said before: if a person doesn't change, I'll take the child away. I said it many times. I always declare things openly; I always warn people and give them a chance to fix things. I always warn about my plans. I can predict what will happen next. I'm warning you. After the first court hearing, you know what I can do? The very same day the first court ends, I can deregister the child from Lithuania and block [the mother]. Just block her completely. And you'll see – nobody will be able to do anything to me. But I probably won't do that...Stop controlling her, stop messing with her head. She could have met the child long ago and wouldn't have had to wait a year and a half. But she'll wait another year if I want her to. I don't care about [the mother] anymore – only [C] matters to me. I want [C] to see his mother, I really do. But you prevented it. I don't have to bring him anywhere – get that into your head. When you understand this simple fact that I am not obligated to bring him back, maybe then we'll start talking. Stop saying [I] must return him. No, [I] doesn't have to. And [I] won't. You'll see. I'll win the court in England and I'll tell the Lithuanian court to f*** off. They won't do anything to me. I live in England and follow English law. These laws will apply, and Lithuanian laws will be worthless. English law has

priority. You need to know that. So that court in Lithuania is a paradox. There are clowns sitting there. Some woman sitting alone making decisions – it's laughable. When I win here and then go there, I'll tell the judge to stop talking nonsense and follow the higher court's decision. Going there feels like talking to some secretary. So the point is – you filled her head with nonsense, that's why the child doesn't see his mother..."

29. During this final hearing, the father's Counsel in submissions indicated that the father had received a threatening voicemail from the mother's partner, and sought to rely on this within his defence to the application for summary return. No application was made to put this voicemail into evidence, and so I have neither heard nor read it, and do not take it into account. I note that the mother's proposals on a summary return, include a concession that her partner will not spend time with C (before any Lithuanian court hearing considering the position).
30. The father alleges that the mother has mental health difficulties and abuses alcohol. He relies in particular on the events of March-June 2024 which are referred to in documents I have received from Lithuanian Children's Services ("Children's Services) and the County Police ("the Police"). I deal in further detail below with this evidence and the incidents referred to, as it forms an important strand of the father's defence to the application for summary return.
31. It is not contentious that the mother suffered a mental health crisis at this time, and received medical and psychiatric treatment including: 31.1. 31.2. 31.3. 30.4.24-3.5.24: she was treated at the acute ward of the Psychiatric Hospital; 9.5.24-21.5.24: she was treated at the Addiction Treatment Centre; 21.5.24-3.6.24: she was treated at the inpatient psychosocial rehabilitation department.
32. The mother alleges that the father's abusive and controlling behaviour towards her put pressure on her mental health, leading to the incidents which the father relies on. This is a factual dispute which I cannot resolve in these summary proceedings.
33. On 29.4.24, as a result of the mother's poor mental health and admittance to hospital, C was placed in his father's care.
34. On 28.5.24, the Lithuanian court made an interim order that C should live with his father, and the mother should pay child maintenance of €200/month.
35. On 25.6.24, the Lithuanian court approved a "Peaceful Settlement Agreement", reached between the parents on 13.6.24 and sent to the court on 19.6.24, which provided for C to continue to live with his father, for the mother to "have contact with and participate in the upbringing of [C]..by mutual agreement between the mother and father, taking into account the mother's options to have contact with her son and taking into account the interests of the child". There were no specific (date/time/duration) contact arrangements set out, and nor was there any requirement for the contact to be supervised. There was no permission granted by the Lithuanian court (or consent by the mother) for the father to remove C to

England. The mother was to pay €150/month child maintenance.

36. In June and July 2024 the mother did spend time with C, although my understanding is that the father was present on each occasion.
37. On 31.7.24, the mother reported the father to the Lithuanian police for threatening to take C abroad. The police attended, but took no further action. On 2.8.24, the father moved abroad with C without the mother's consent, or the Lithuanian court's permission.
38. The father accepts that the mother has had no direct contact with C since the end of July 2024, just before he removed C to England. There has been some video contact between the mother and C by MSN Messenger, but C has not seen his mother in person for nearly 2 years (or 1/3rd of his lifetime).
39. I deal below with the Lithuanian court proceedings which the mother initiated after the father took C to England, and did not return. Those proceedings are currently stayed, pending the decision of the English court on this summary return application. English proceedings
40. The mother's C67 application under the Child Abduction and Custody Act 1985, for summary return of C to Lithuania, is dated 16.6.25 and was issued on 17.6.25. It was accompanied by a Form C1A. Despite the Hague Convention being a summary procedure, these proceedings have taken nearly 10 months to resolve. One of the reasons for this was that it took several months to locate the father and C in England, as the mother had no idea where the father and her son were living. There have also been some delays in listing court hearings.
41. In summary: 41.1. On 18.6.25, Ms Justice Henke made a Location Order, Disclosure Orders addressed to the NHS, Department for Education and Department for Work and Pensions. She adjourned the case until 14.7.25, directing the father to attend in person. The mother was to file a statement dealing with various specific issues by 30.6.25, and the father to set out any defence to the application, and evidence in support; 41.2. The NHS disclosure provided an address for the father and C in a city in England, City Z. Tipstaff enquiries revealed that they were not living at this address; 41.3. The DWP disclosure stated that the father's last known address was in Lithuania, and they could not trace C; 41.4. The Department for Education had no information about C on the National Pupil Database; 41.5. The mother was able to provide details of an English mobile phone number to her solicitors, and it was discovered that this was a number associated with Telephone Company A. She made a C2 application on 30.6.25 for Telephone Company A to provide disclosure; 41.6. On 1.7.25, Mr Justice Williams made Disclosure orders addressed to Telephone Company A, and a primary school in a city in England, City Y; 41.7. The Primary School confirmed that a transfer request for C was made by the father on 24.6.25, but that C was put on the waiting list as his year group was full; C was not attending the school. The school provided an address in City Y for the father; 41.8. Telephone company A confirmed that they could not provide the ordered information, as the phone number was connected via another telephone company (Telephone Company B); 41.9. On 14.7.25, Mr Justice Harrison made

Disclosure orders addressed to Telephone Company B and HMRC; 41.10. HMRC confirmed that the address they had on file for the father was in Lithuania. Tax records showed that his employment had ceased on 25.7.19. There was no record of any child benefit being paid for C; 41.11. On 21.7.25, Mrs Justice Judd made a Disclosure order against the landlady of a property in City Y (the Tipstaff having visited the property, and found no evidence that the father and C were living there, save for a letter addressed to the father about a speed awareness course); 41.12. Telephone Company B confirmed on 29.7.25 that the mobile number was only registered to an email address, not a physical address, and was “pay as you go”, so they had no bank details. They indicated that Telephone Company A held full information about incoming and outgoing calls; 41.13. The landlady of the property in City Y confirmed that the father had never held a tenancy at that address, and that after further enquiries she had ascertained that the previous tenant had permitted the father to stay at the house for two weeks. She did not know his current location, or C’s; 41.14. On 2.9.25, Mrs Justice Judd made further Disclosure orders addressed to the Department for Education and NHS England. She also directed the disclosure of a case summary from the mother’s Lithuanian lawyer of the applications before the Lithuanian court, and the address the father had provided to the Lithuanian court, and for all the Lithuanian court papers to be disclosed in these proceedings; 41.15. On the evening of 2.9.25, the Tipstaff confirmed that the father had been served at a different address in City Y, and had now attended at the police station and his and C’s travel documents were surrendered. This address had been provided by the father at a recent hearing in the Lithuanian proceedings; 41.16. A process server attempted to serve the father with documents at this address on 3 occasions on 8 and 9 September, but the door was not answered; 41.17. NHS England confirmed the last address they had for the father was a different address in City Y, from 28.6.25; 41.18. The Department for Education on 16.9.25 confirmed that C was still not registered on the National Pupil Database; 41.19. On 30.9.25, the father was served with all the court papers by WhatsApp, by the mother’s solicitors; 41.20. On 8.12.25, the father attended a court hearing (remotely) for the first time. Mrs Justice Judd made various directions about the filing of his answer to the application, evidence and protective measures, the mother’s evidence in response, and listing a pre-trial review and final hearing; 41.21. On 30.1.26, Mr Justice MacDonald heard the pre-trial review. At this point the father was also relying on C’s objections to being returned to Lithuania. A CAFCASS report was directed in respect of the child’s views, wishes and feelings about returning to Lithuania, his maturity, whether he should be separately represented and whether he wished to meet the trial judge. The final hearing was listed on 23-24.3.26; 41.22. On 18.3.26, the final hearing on 23-24.3.26 was adjourned due to judicial unavailability, and the dates refixed for 20-21.4.26. The father obtained legal representation in advance of the final hearing initially listed on 23-24.3.26. CAFCASS report

42. The court has had the benefit of a CAFCASS report from Ms Callaghan dated 10.3.26. She met C on 23.2.26 (with a Lithuanian interpreter), reviewed the court bundle and spoke to the Deputy Safeguarding Lead at his Primary School (where he started on 8.9.25). In overview, her report states: 42.1. C presents as a young 6-year old. This was also the view of his school,

who described him as immature for his age and more in line with a Reception class child with an age of 4 or 5 years, which was also Ms Callaghan's perception. He was not particularly communicative with her during their meeting; 42.2. When he did speak, he spoke in English (with an accent from City Y), but at times it was difficult to understand him and the interpreter would clarify in Lithuanian what he was saying; 42.3. She was not confident that C grasped what she was telling him about these court proceedings and the potentially lifelong consequences of the decisions to be made. The weight to be given to his wishes and feelings was impacted by this, and his level of maturity; 42.4. She did not think he was able to understand the concept of meeting the Judge, or that it would be in his best interests to be joined as a party to these proceedings; 42.5. During their meeting C said that he would be happy to remain in City Y and would be happy to return to Lithuania. In answer to her question about going back to Lithuania, C said "it would be good", and if the judge said he could stay in City Y, he said "I would be happy". Ms Callaghan was not convinced that he fully understood the situation. Although C stated that "[City Y] is my favourite place" he also stated that "I want my mum to be in [City Y]"; 42.6. C did not raise any concern relating to his mother or father, and at one point stated he wanted to live with both of them. When asked about his mother he said "mum gives me hugs". When asked if his father gave him hugs he said "no dad doesn't and mum does not get cross. I would like to be with mum and dad"; 42.7. In her view, if C were returned to Lithuania, the Family Court there would be best placed to resolve the dispute between his parents about which parent he should live with. She recommended that Lithuanian Children's Services should be notified if C was to be returned to Lithuania, and the Lithuanian court proceedings should be restored at the earliest opportunity; 42.8. She noted that the mother had agreed to all protective measures proposed by the father, and did not consider that any other protective measures were necessary. This was confirmed in her oral evidence.

43. The three brief questions asked by the father's Counsel focussed on the specific questions Ms Callaghan had asked C about his parents and his wishes, and C's answers, but in my view did not progress the case, and the contents of the report were confirmed by Ms Callaghan.
Art 13(b) Grave Risk – discussion and conclusions
44. The father relies on two "strands" in seeking to establish the Article 13(b) exception. I will consider the evidence relating to each strand, and then consider holistically whether the "grave risk" required by Article 13(b) has been established.
45. I bear in mind that the evidence I have in these summary proceedings is partial, that I have not heard oral evidence from either party, and that I am not in a position to resolve any disputed issues of fact. A. The mother's alcohol use and mental health
46. The father relies in particular on four incidents in March and April 2024, which are dealt with in the Lithuanian Children's Services and Police disclosure: 46.1. On 6.3.24 at 17:52, the father reported the mother to the police for consuming alcohol in her home in the presence of her mother and D (not C). He told them that emergency medical assistance was not required. The police attended the property and found the mother under the influence of

alcohol, and her own mother also under the influence of alcohol. D was placed in the care of the mother's friend; 46.2. On 13.4.24 at 11:01, the father reported the mother to the police for being under the influence of alcohol. The police attended and carried out a domestic violence risk assessment but no restraining order was issued; 46.3. On 29.4.24 at 18:25, the father reported the mother to the police, stating that she had attempted suicide. The police attended and found the mother under the influence of alcohol, and admitting to having suicidal thoughts. Emergency medical services were called, and the mother was taken to the Psychiatric Clinic at the Hospital; 46.4. On 17.5.24 at 14:37, the father reported the mother to the police for consuming alcohol and not taking care of C. The mother was said to be receiving treatment at the Centre of Addiction Diseases, and C was placed in his father's care.

47. The father has provided a short video clip, which I believe was recorded by him (standing outside the mother's home, on the driveway) on 29.4.25. In this clip, through an open window, it is possible to see the mother, and her own mother, inside the home. The video not very clear, but the father states that the mother was holding a knife, which her mother removed from her.
48. I have already summarised at paragraph 31 above the medical treatment which the mother received from 29.4.24 until 3.6.24. The mother's evidence is that she has not needed treatment for psychiatric issues, or alcohol abuse, since this time. She states that her mental health is stable, and she does not now abuse alcohol.
49. I note that the burden of proof is on the father. When asked for any more incidents or concerns on which he relies in respect of his "grave risk" defence, since May/June 2024, I was taken to the letter from Lithuanian Children's Services dated 23.1.26, which states: "In 2024 there were four reports, and in 2025 there was one report of violations of the rights of her son [D] who lives with her, and of inadequate living conditions. [The mother] is trying to live a sober life, has found a job, but chooses to live with her partner, who do not inspire trust, who does not provide the children a safe environment, a stable life, a good example. Lives in a rented flat, keeps the house tidy and clean. In 2025 [the mother] has not been recorded as intoxicated. There have been positive changes in [the mother's] life, but risk factors remain."
50. I have not been provided with any details of who made the 2025 report, what prompted it, or what it concerned, nor the mother's response to this. I have minimal information about her partner.
51. However, and importantly, despite this, Lithuanian Children's Services are satisfied that it is appropriate for D (age 12) to live with his mother, which indicates that they do not currently have material concerns about her ability to care for him safely.

52. I do not have the mother's detailed evidence in respect of the circumstances surrounding the 2024 incidents. As this is a summary procedure, I will take the incidents as set out in the papers for the purpose of my consideration. Particularly the incident on 29.4.24 was serious, involving the police, and the mother being admitted for immediate psychiatric treatment.
53. However, were I to order summary return of C to Lithuania, neither party is suggesting that he would immediately return to his mother's care. Both parties agree that C would – at least until the first Lithuanian court hearing – remain living with his father. The Lithuanian courts and Children's Services would clearly be in a far better position than the English court to carry out all necessary investigations into the current circumstances of the mother, and her partner. B. The impact of undue delay
54. Ms Gaunt for the father emphasised in her submissions that this is not a "hot pursuit" summary return case, given that C has lived in England for 20 months, or nearly 1/3 rd of his life. She submitted that the mother had been "relaxed" about this, contributing to the delay by her inaction in taking various litigation steps. The evidence I have is as follows: 54.1. The father says that he travelled from Lithuania to England on (or about) 2.8.24; 54.2. Although he had threatened the mother on 31.7.24 that he would go to England with C (as she reported to the police that day), she did not believe that he would (and he knew that he did not have her consent). The first the mother knew that C was in England was a photograph the father sent to her own mother on 29.8.24, of him and C at the airport; 54.3. The father signed a document on 1.8.24 to the Director of the City Family Centre stating that he will be "away on planned long term leave abroad to England, [City Y] from 2nd of August 2024 to 2nd November 2024. My son [C] and [E] are coming with me". He also asserted that the mother "is notified about the leave". Although the father asserted within these proceedings that he had moved to England for "safeguarding" reasons, to protect C from his mother, this was not the reason he gave to the Lithuanian authorities in this document. I understand that under Lithuanian law, a parent cannot take a child abroad for more than 3 months (the period in the father's Notice), without the other parent's consent or the permission of the Lithuanian court; 54.4. The mother believed that the father would return to Lithuania with C by 2 November 2024. She therefore took no formal steps between August and November; 54.5. When he did not bring C back, she approached lawyers in Lithuania in November 2024, obtained legal aid, and with their assistance made an application for a defined contact order in Lithuania (I am unclear about whether this application was issued in November 2024 or March 2025, as both dates appear in the evidence); 54.6. The mother's evidence, which the father did not challenge, is that she knew nothing about the Hague Convention, or issuing proceedings through Central Authorities for a summary return, which was why she approached the Lithuanian courts first. There was also, of course, the 25.6.24 Lithuanian order which provided for contact between her and C, and did not give the father permission to take C abroad; 54.7. It was the Lithuanian court which indicated to the mother in March 2025 that she should make an application in respect of child abduction, seeking assistance from the Central Authority; 54.8. The mother reported the father to the Lithuanian police on 2.4.25 for taking C abroad; 54.9. The mother applied to the Lithuanian Central Authority on

3.4.25; over the following weeks, via ICACU, she was put in touch with English solicitors to represent her in these English summary return proceedings; 54.10. On 26.5.25, the father filed a response in the Lithuanian court proceedings, asking for the mother's application for a defined contact order to be dismissed; 54.11. On 16.6.25, the mother's English solicitors made an application to the English court for summary return; this was issued on 17.6.25; 54.12. I have set out above the numerous orders required in the English proceedings to make progress, in the absence of knowledge of the father's and C's whereabouts; 54.13. At a court hearing in Lithuania on 25.8.25, the father provided his then address (where he was able to be contacted by the Tipstaff); 54.14. The Lithuanian court proceedings were stayed at the next hearing on 22.9.25, pending the outcome of this summary return application.

55. I do not detect in the extensive steps taken by the mother in Lithuania or in England, any sense of her being "relaxed" about the father having taken C abroad, or her not having any contact with her son, as the father's Counsel submitted to me. Instead, she has been engaged in contentious litigation in two countries, for most of the intervening period, trying to obtain orders to see her son, and then for him to be returned to Lithuania. I understand from her evidence that she has found her separation from, and lack of direct contact with, her son extremely distressing.
56. It is argued by the father that C has become fully settled in England, since they moved here and including during this period of proceedings delay, and that sending C back to Lithuania now would place him in an intolerable situation.
57. I have carefully considered the evidence which the father provides in respect of the stability (or otherwise) of C's life here, since 2.8.24, which I summarise below: 57.1. Accommodation: the father and C have not had settled accommodation. This is not a case where they moved to the father's home in England, or the home of a close member of his family or a partner. Instead they have lived in a series of temporary rented properties around the City Y area. The father states that he and C have lived at: a) [Address] City Y from 2.8.24 to April 2025 – I note that the landlady has stated that he had no legal right to stay there, and she was told by the tenant that they were only there for 2 weeks; [Address] City Y from April to July 2025; "Temporary Airbnb accommodation" from July 2025 to a date not stated: "Current address" (at the date of his 2nd statement) of [Address] City Y. In court he confirmed that he and C remain at this address, and said they had lived there for 7 months. b) c) d) The statement does not mention the property where the father was served on 2.9.25. I note that throughout the period from 2.8.24 until the 25.8.25 Lithuanian court hearing, the father did not disclose to the mother where he and C were living. I do not accept that C's accommodation since August 2024 has had a "settled" character. The numerous property moves must have been destabilising from C, not least after moving from his mother's primary care in April 2024 for the first time in his life. 57.2. Schooling: although in Lithuania I understand that there is no requirement to attend formal school until a child is aged 7, C attended Kindergarten from 1.9.21 (the month in which he turned 2 years old) until 30.7.24. This was his settled nursery in Lithuania. The father's case is that C did not attend school in

England (where the starting school age is 4) at all from arriving here on 2.8.24 until 8.9.25. He therefore missed the Reception year at English school entirely. On 8.9.25 he started at Primary School in City Y in Year 1. The school described him to the CAFCASS officer as immature for his age, and “more in line with a reception class child with an age of 4 or 5 years”, no doubt partly because he had missed the whole of the Reception year at school. The school also explained to the CAFCASS officer that “[C] did not speak much when he first joined the school however he is now a lively, excitable and chatty little boy who is always happy to be in school”. The father has provided a letter from the school Headteacher dated 20.1.26, confirming C’s start date, that he had 97.5% attendance, and had settled into the school. He was said to be “currently working below the expected year standard in the core subjects but with daily support, interventions and as his English language develops, he will continue to achieve”. He is described as “a happy little boy who has made lots of friendships and is a sociable child...He has adjusted well to life at [school]”. The school also notes their positive relationship with the father who is “communicates well and is involved with school life”. 57.3. Employment: the father has provided evidence (a letter from his employer dated 19.6.25) that he had been employed since 9.9.24, earning £35,000 p.a. (plus bonuses based on performance). His work is full-time. I understand that this remains his employment position. 57.4. Caring arrangements for C: the father has not provided a clear picture of how C has been cared for since 9.9.24, when he started working full time. In his evidence in the English proceedings he has said that his adult son E assisted with C’s care, but at some point (date unclear), E returned to live in Lithuania. The father stated to the Lithuanian court that a “nanny” was looking after C, but no details have been given. When asked in court about the current arrangements for this 6 year old child, the father’s Counsel stated that C attends breakfast club and after school club every day, and the father drops him off at school and picks him up, for these extended hours. During the Easter holidays, the father said he took time off work to care for him. The mother has expressed significant concern in her evidence about who has been looking after their son over the last 2 years. 57.5. Language: C spoke only Lithuanian when he moved to England. It is clear from the CAFCASS report and letter from his school, that he can now speak some English, but still has language difficulties, and is being supported at school to learn more English. The CAFCASS officer used a Lithuanian interpreter to try to make sure that he understood her questions. 57.6. Family: the father’s Counsel mentioned during the hearing that the father has a brother who lives in England, about 2 hours’ drive away from City Y. I have not been provided with evidence about time which C has spent with his uncle while here. Otherwise, I understand that all other members of the maternal and paternal families, including both of C’s half-brothers (maternal and paternal), live in Lithuania. 57.7. Friends: the letter from C’s Headteacher indicates that he has made some friends at his Primary School since September 2025. I have no evidence from the father of any other important social connections, friends or colleagues in this country. 57.8. Medical care / GP: Disclosure orders made to NHS England (twice) did not succeed in locating C. The father has provided with his evidence screen shots of messages and an email showing (unsuccessful) attempts to register C and himself with a local GP in City Y in January 2026. 57.9. HMRC: HMRC had (at the time of the Disclosure

order in July 2025) no record of the father earning or working in this country since 25.8.19, and only had a Lithuanian address for him. 57.10. Immigration status: the father's written evidence did not deal with his immigration status, which I therefore asked about during the hearing. The father and C only have Lithuanian passports. The father does not have a work visa, or any other long-term visa, and does not have settled status here. I was told by his Counsel that he had applied for settled status last year (having lived in England for about 4 years up to 2019), but his application was rejected. He has renewed the application, but currently neither he nor C has a stable immigration status here. 57.11. I note that the extent to which the father remained "under the radar" for authorities in this country, is emphasised by the number of Disclosure orders which the High Court made to try to locate him, none of which were successful. 57.12. Contact: it is accepted that C has had no direct contact with his mother, who was his primary carer throughout his life until April 2024, since July 2024.

58. Taking all of the above into account, the evidence does not support the father's argument that C has become well settled in this country since August 2024.
59. I have to consider carefully the position for C in Lithuania were I to order a summary return, and whether this would place him at grave risk of harm or otherwise in an intolerable situation: 59.1. There is already a court order in Lithuania for him to live with his father which both parties agree would be the position immediately on return, until any different order was made by the Lithuanian courts; 59.2. The parties agree that the Lithuanian court proceedings initiated by the mother in November 2024, but stayed while these Hague Convention proceedings are resolved, would swiftly be reopened if C returned to Lithuania, so that the Lithuanian courts can consider welfare issues relating to C and make appropriate orders in respect of his future care, including defined contact orders with his mother if he is to live with his father; 59.3. Lithuanian Children's Services have already had involvement with the family over several years, and will be able to assist if necessary; 59.4. The father does not currently have accommodation for himself and C in Lithuania, but accepted through his Counsel that he would be able arrange suitable accommodation were they to return; 59.5. The father does not currently have a job in Lithuania, but has worked there for many years, and accepted through his Counsel that he will be able to find work; 59.6. The mother lives in Lithuania and C's direct contact with her can be reinstated much more easily if he returns; 59.7. Both of C's half-brothers live in Lithuania (D with the mother; E lives independently), and C will be able to spend time with them; 59.8. Most members of both parents' families are in Lithuania, and C can also spend time with them there; 59.9. C will retain his Lithuanian language. This is the only language his mother speaks (she does not speak any English), and is therefore crucial to maintaining their relationship longer-term.
60. Considering all elements of the case, and all of the evidence, holistically, I do not accept that there is "a grave risk that [C's] return [to Lithuania] would expose [him] to physical or psychological harm or otherwise place [him] in an intolerable situation". The mother's mental health circumstances and incidents of alcohol abuse in 2024 do not lead to the

conclusion that C would be exposed to physical or psychological harm now, or come close – in my judgment – to establishing the “grave risk” of harm required by the Article 13(b) exception. I note that after these events, in June 2024, the father agreed to a contact order (without express supervision). I do not consider that the mother’s behaviour in 2024 justified the father removing C to England for “safeguarding” reasons, not least when C was already by consent living with him in Lithuania as a protective measure, while the mother obtained medical treatment. To the extent to which there remain concerns about the mother’s and her partner’s current circumstances, they are not sufficiently “grave” as to found an Article 13(b) exception, but rather, should be the subject of further investigation by the Lithuanian courts and Children’s Services, on C’s return.

61. I also do not accept that C would be “placed in an intolerable situation” by being returned to Lithuania now, after 20 months of living in England. Indeed my conclusion, having considered all the evidence, is the reverse. The time C has spent away from his country of birth and nationality, and his mother, may well have caused him emotional harm. His presence in England appears to have been transitory and unsettled, without any proper contact with his mother or most of his extended maternal and paternal families, several changes of accommodation, changing caring arrangements, and until September 2025, no education.
62. I am in no doubt that the best place for consideration of future caring arrangements for C is the Lithuanian court, and that C should now be returned to Lithuania. Protective measures / “soft landing” provisions
63. There was no dispute between the parents about the practical arrangements for C, were I to order his summary return to Lithuania: 63.1. The father will pay for his and C’s flights to Lithuania, and he will accompany C on the flight; 63.2. C will remain in the father’s care in Lithuania, under the current Lithuanian June 2024 court order (until the Lithuanian court is able to consider the longer-term position); 63.3. Indirect contact between the mother and C (by video calls) should continue, and take place regularly; 63.4. Direct contact between the mother and C will be introduced gradually; the mother’s partner will not be present during this contact (until the Lithuanian court can consider the position) and a safe environment for C should be ensured.
64. The mother has also offered the following undertakings: 64.1. Not to attend at the airport in Lithuania when the father and C return; 64.2. Not to attend at the father’s address in Lithuania unless agreed in writing, or until any first welfare hearing listed in Lithuania concerning C; 64.3. To continue to pay €150/month in child maintenance (as in the June 2024 Lithuanian court order) to the father for C, until the first welfare hearing is listed in Lithuania concerning C; 64.4. Not to pursue any civil or criminal case against the father in Lithuania regarding C’s wrongful removal.

65. In oral submissions, the father's Counsel sought to argue that the mother's undertakings should be formally registered in the Lithuanian courts before any return of C to Lithuania. The mother's Counsel argued that this was unnecessary, given that the provisions of the 1996 Hague Convention (to which Lithuania is a signatory) would make the undertakings enforceable in any event. Although I agree with the mother's Counsel as a matter of Law, as in my judgment there is no grave risk of harm to C, I do not consider any greater protection than that voluntarily proposed by the mother in her undertakings to be necessary in any event.
66. The mother has sought some additional undertakings from the father, about which his instructions are being taken, including: 66.1. To inform the mother at least 48 hours before their return, of the area in Lithuania where he and C will be living (as he indicated during the hearing that he does not intend – at least initially - to return to their home town), and provide a contact phone number on which he can be reached; 66.2. To lodge C's passport with his Lithuanian solicitor within 24 hours of return; 66.3. Not to make any applications to the Lithuanian court without notice to the mother, pending the first inter partes hearing in the Lithuanian family court dealing with welfare issues relating to C.
67. If there are any issues about these points, I will hear oral submissions.

Conclusion

68. For all the reasons set out above, I have decided to make a summary return order for C to Lithuania. I will hear submissions from Counsel about the timeframe for return, but it should be swift. The details of the flight (date/time/airline/flight number), and copies of the flight tickets, must be promptly provided to the mother's solicitors.
69. The Tipstaff currently holds the father's and C's passports, and once the final order is made, these should be handed over to the mother's solicitors, and then by them to the father and C at the airport, as the father boards the flight to Lithuania with C.
70. A copy of this Judgment and the Court's final order should be promptly provided to the Lithuanian court. Both documents should be translated into Lithuanian, with the cost to be paid by the parties' legal aid funding. I also give permission for the rest of the papers in these English proceedings to be provided to the Lithuanian court and the parties' Lithuanian lawyers.
71. There will be no order as to costs, save for assessment of the parties' publicly funded costs. 5 May 2026 25

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