

Press release issued by the Registrar

**ADMISSIBILITY DECISION**  
**ESKINAZI AND CHELOUCHE v. TURKEY**

A Chamber of the European Court of Human Rights has **declared inadmissible** the application lodged in the case of *Eskinazi and Chelouche v. Turkey* (application no. 14600/05). (The decision is available only in French.)

**The applicants**

The case concerns an application brought by Ethel Teri Eskinazi, who has French and Turkish nationality, on her own behalf and on behalf of her daughter Caroline Ruth Chelouche, who has French, Turkish and Israeli nationality. The applicants were born in 1963 and 2000 respectively and live in Istanbul.

**Summary of the facts**

In 1997 Ms Eskinazi married Jacques Chelouche, a French-Israeli national, in a ceremony conducted by the French consular authorities in Tel-Aviv (Israel). A Jewish religious ceremony also took place. The couple's daughter, Caroline, was born in Tel-Aviv in January 2000.

The family travelled constantly between France, Turkey and Israel, in all of which Ms Eskinazi and her husband carried on their occupations.

Despite a deterioration in the couple's relationship, Ms Eskinazi, accompanied by her daughter, continued to pay regular visits to her husband in Tel-Aviv, travelling on tourist visas obtained from the Israeli consulate in Turkey.

In April 2004 Ms Eskinazi and her daughter travelled to Turkey to celebrate *Pesach*, with the intention of staying for ten days. However, Ms Eskinazi prolonged her stay and subsequently filed a petition for divorce. Mr Chelouche, in turn, filed a petition for divorce with the Tel-Aviv Rabbinical Court, composed of three religious judges. On 17 May 2004 the Rabbinical Court ordered Ms Eskinazi to bring her daughter back to Israel within seven days; failure to do so would be treated as "wrongful removal" of the child within the meaning of the Hague Convention on the Civil Aspects of International Child Abduction. The Rabbinical Court also authorised Mr Chelouche to "use all the avenues open to him" to safeguard his rights, and issued an order prohibiting Ms Eskinazi and her daughter from leaving Israel.

In June 2004 the Israeli Ministry of Justice instituted proceedings to secure Caroline's return to Israel by the Turkish authorities. The Turkish Ministry of Justice referred the case to the Sariyer public prosecutor. At the latter's request, the Turkish courts prohibited Ms Eskinazi from leaving Turkey and withdrew custody of her daughter from her. Meanwhile, the public prosecutor instituted proceedings to secure the return of the child to her father in Israel. On

the basis in particular of the information provided by the Israeli authorities stating that Caroline had spent most of her life in Israel and that her country of habitual residence, for the purposes of the Hague Convention, was Israel, the family court hearing the case decided on 25 October 2004 that the child should be returned to Israel. The judgment was upheld by the Court of Cassation on 29 March 2005.

In October 2005 Mr Chelouche commenced proceedings seeking judicial enforcement of the decision ordering his daughter to be returned. On 12 October 2005 the European Court of Human Rights requested the Turkish Government, under Rule 39 of its Rules of Court (interim measures), to refrain for the time being from taking action to remove Caroline.

### **Complaints**

The applicants contended that sending Caroline back to Israel would amount to a violation of Article 8 (right to respect for private and family life) of the European Convention on Human Rights. According to Ms Eskinazi, it would be against the best interests of the child to be separated from her mother and sent to a country where she had no points of reference and did not speak the language. She further argued that, should her daughter be sent to Israel, she would be permanently deprived of her right to a fair hearing within the meaning of Article 6 in the Turkish courts, as the decisions concerning the divorce and related issues would then be taken by the Rabbinical Court.

### **Procedure**

The application was lodged with the European Court of Human Rights on 20 April 2005. On 16 August 2005 the President of the Court gave Caroline's father, Mr Jacques Chelouche, leave to intervene as a third party. A hearing took place in public in the Human Rights Building, Strasbourg, on 6 December 2005.

### **Decision of the Court<sup>1</sup>**

The Court observed, in the light of the case file as a whole, that, at the time when the Israeli central authorities lodged the request for Caroline's return, she was regarded as having been wrongfully removed for the purposes of the Hague Convention. The Turkish authorities had no substantial grounds for refusing the request, either under Articles 13 and 20 of the Hague Convention or on the basis that possible shortcomings in any proceedings to which the applicants might be subject in Israel were liable to amount to a "flagrant denial of a fair trial".

Having reiterated that Article 8 of the Convention was to be interpreted in the light of the Hague Convention, the Court held, having regard to all the evidence before it, that, in deciding to return Caroline to Israel, the Turkish authorities could not be regarded as having been in breach of their obligations under Article 6 of the Convention, or of the right to respect for family life guaranteed by Article 8.

Accordingly, the Court decided, by a majority, that the application should be rejected as manifestly ill-founded.

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<sup>1</sup> This summary by the Registry does not bind the Court.

The decision is available today on the Court's Internet site (<http://www.echr.coe.int>).

**Registry of the European Court of Human Rights**

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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. Since 1 November 1998 it has sat as a full-time Court composed of an equal number of judges to that of the States party to the Convention. The Court examines the admissibility and merits of applications submitted to it. It sits in Chambers of 7 judges or, in exceptional cases, as a Grand Chamber of 17 judges. The Committee of Ministers of the Council of Europe supervises the execution of the Court's judgments. More detailed information about the Court and its activities can be found on its Internet site.*