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

SECOND SECTION

DECISION

Application no. 44592/17
R. N.
against Türkiye

The European Court of Human Rights (Second Section), sitting on 13 January 2026 as a Chamber composed of:

Arnfinn Bårdsen*, President*,
Saadet Yüksel,
Jovan Ilievski,
Oddný Mjöll Arnardóttir,
Gediminas Sagatys,
Juha Lavapuro,
Hugh Mercer*, judges*,

and Dorothee von Arnim, *Deputy Section Registrar,*

Having regard to the above application lodged on 22 June 2017,

Having regard to the decision to give notice to the Turkish Government ("the Government") of the application,

Having regard to the decision not to have the applicant's name disclosed,

Having regard to the observations submitted by the Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

## INTRODUCTION

1. The applicant is an Uzbek national who fled his country in 2014 with his wife and children, allegedly for fear of persecution on account of his political and religious convictions, in particular his affiliation with the "Rashad movement" in Uzbekistan. The case mainly concerns (i) the applicant's proposed expulsion to Uzbekistan, despite the real danger of persecution that he alleges he would face there and at the expense of the family life that he had built in Türkiye, (ii) the alleged failure of the Constitutional Court to conduct a proper examination of his requests for an

interim measure, and (iii) the absence of an effective remedy to challenge the deportation order issued against him.

# THE FACTS

## A. The circumstances of the case

2. The applicant, Mr R.N., is an Uzbek national who was born in 1989. He was represented before the Court by Mr E. Kafadar, a lawyer practising in Istanbul.

3. The Government were represented by their Agent.

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

### *1. The applicant's request for international protection and first deportation order*

5. On 10 March 2013 the applicant entered Türkiye with his family via regular means, through Atatürk Airport.

6. On 1 March 2014 he entered Syria illegally, and remained there for approximately one week.

7. On 7 March 2014 he was apprehended at the border in Hatay while attempting to cross back into Türkiye in an irregular manner.

8. On 14 March 2014 the applicant applied for international protection in Hatay. He claimed to have been persecuted in Uzbekistan on account of his membership of the "Rashad movement", an opposition group, and for his religious beliefs. He complained that he had been subjected to ill-treatment by Uzbek intelligence agents and law-enforcement authorities for having allegedly organised and participated in demonstrations and for having engaged in activities perceived as opposing the Uzbek government.

9. On 17 April 2014 the applicant's application for international protection was rejected. He subsequently brought an action in the Ankara Administrative Court, seeking to have that decision set aside. On 28 May 2015 the court dismissed his claim. It found that the applicant, having previously entered Türkiye, had been apprehended at the Syrian border while attempting to re-enter the country illegally, and that only then had he applied for international protection. It further noted that the applicant had entered Syria with another Uzbek national to visit a Syrian friend, whose details remained unknown. Accordingly, the court found those facts to be sufficient grounds for the administrative authorities to exercise their discretion in rejecting the applicant's application for international protection.

10. On 26 September 2014 the Istanbul governor's office issued an order for the applicant's deportation. The applicant subsequently brought an action in the Istanbul Administrative Court, seeking to have that order set aside. On 31 March 2015 the Istanbul Administrative Court handed down a final judgment dismissing the applicant's case. It found that the applicant posed a

threat to public order and security, basing that finding primarily on the entry bans imposed on him and the fact that he had been apprehended while attempting to enter Türkiye illegally from Syria.

11. On 3 June 2015 the applicant lodged an individual application with the Constitutional Court. On 17 April 2019 the Constitutional Court, having jointly examined seventy-four individual applications, including that of the applicant, held that there had been a violation of Article 17 of the Constitution (prohibition of inhuman or degrading treatment). It based its decision primarily on its finding that the first-instance administrative courts had failed to undertake a proper assessment of the risk of persecution allegedly faced by the applicants in the event of their removal to the respective destination countries. It further noted that appeals against deportation orders issued on specific grounds (see paragraphs 33-36 below) did not have automatic suspensive effect under the legislation applicable at the time, which left the applicants exposed to a risk of imminent deportation. That being so, the Constitutional Court ordered that the applicants were not to be deported pending the outcome of any related reopened proceedings before the first-instance courts.

12. In order to redress the violation identified by the Constitutional Court, the judicial proceedings in respect of the applicant were reopened. On 12 July 2019 the Istanbul First Administrative Court held that, despite the applicant having adduced evidence of an arguable fear of persecution based on his religious beliefs in Uzbekistan, the deportation order in respect of him had been issued without an assessment of the risks in the country of destination and, moreover, had failed to specify the country to which he was to be deported. It therefore set aside the deportation order dated 26 September 2014.

*2. Second deportation order*

13. On an unspecified date, Interpol issued a Blue Notice in respect of the applicant at the request of the Uzbekistani authorities, and the Turkish authorities subsequently imposed an entry ban ("*N-99 tahdit kodu*") on him.

14. On 9 March 2017 the applicant was taken into custody from his place of residence during a police operation targeting foreign nationals of Central Asian origin. This operation was conducted within the framework of a criminal investigation initiated pursuant to a decision of the Istanbul Magistrate's Court.

15. On 13 March 2017 the Istanbul Governor's office issued a second order for the applicant's deportation under section 54(1)(d) of the Foreigners and International Protection Act (Law no. 6458) on the grounds that he constituted a threat to public order and security. It also ordered his administrative detention pending deportation.

16. On 31 March 2017 the applicant lodged an individual application directly with the Constitutional Court, requesting an interim measure to stay

the enforcement of his removal, given that, at the material time, an appeal to the administrative courts, in cases such as his own, did not have automatic suspensive effect. He alleged that religious freedoms were severely restricted in Uzbekistan, that individuals holding religious beliefs, such as himself, were subjected to pressure, and that those practising their religion faced persecution and torture. In support of his claims, the applicant submitted a report by Human Rights Watch and a news article concerning the general situation with regard to rights and freedoms in Uzbekistan. He also submitted a translated document issued by the Consulate General of Uzbekistan in Istanbul and addressed to the Directorate General of Migration Management requesting information regarding the security operation conducted on 10 August 2016, during which hundreds of Uzbek nationals had been taken into custody. In particular, the Consulate General of Uzbekistan requested names, dates of birth, alleged charges, and other pertinent details.

17. On 3 April 2017 the Constitutional Court stayed the execution of the deportation order pending receipt of further information from the Directorate General of Migration Management concerning the applicant's case. It also asked the applicant's representative to submit all the relevant documents and information substantiating the alleged risk associated with the applicant's individual circumstances.

18. On 24 April 2017 the Constitutional Court lifted the interim measure. It held that, when examining cases where there was a risk of *refoulement*, its assessment was not confined to the contents of the case file, but also required an examination, of its own motion, of relevant human rights reports prepared by national and international organisations and by governments regarding the conditions in the country of return. However, it held that applicants were still obliged to submit specific information regarding their individual circumstances and the risk they allegedly faced in the receiving country. The Constitutional Court concluded that the applicant, despite having been requested to do so, had failed to submit sufficient information and evidence to substantiate his alleged fear of persecution in his individual circumstances.

19. On 27 April 2017 the applicant brought an action in the Istanbul Administrative Court, seeking to have the deportation order issued in respect of him set aside.

20. On 25 May 2017 the applicant made a further request to the Constitutional Court for an interim measure. That request was dismissed on 13 June 2017.

21. On 22 June 2017 the applicant, through his representative, lodged a request for an interim measure with the Court under Rule 39 of the Rules of Court. He sought the suspension of his threatened removal to Uzbekistan. In support of that request, the applicant argued that he was part of the "Rashad movement" and that his involvement in protests in Uzbekistan on behalf of that movement and in defence of religious freedom had led to his being targeted by the Uzbek authorities, which, he alleged, had detained and

tortured him. Following a request by the Court for further information and documentary evidence to substantiate his claims, the applicant submitted a copy of a list of wanted persons purportedly containing his name and photograph. On 10 July 2017 the duty judge refused his request.

22. On 31 October 2017 the Istanbul First Administrative Court dismissed the applicant's appeal against the deportation order. It held that, regardless of whether there existed specific evidence demonstrating that the applicant posed a threat to public order or security, the fact that an entry ban had been issued against him constituted sufficient grounds for the administrative authorities to order his removal.

23. On 14 May 2018 the applicant was released following the expiry of the statutory maximum period during which he could be detained under domestic law pending his deportation.

24. On 12 June 2018 the Constitutional Court initiated the pilot decision procedure for another case, namely that of *Y.T.* (no. 2016/22418, 1 November 2016). The applicant's case was then joined to those proceedings. In its judgment of 30 May 2019, it found that the legislative amendment which had introduced exceptions removing the automatic suspensive effect of appeals against deportation orders issued on certain grounds had created a systemic problem, resulting in a violation of the constitutional right to an effective remedy. Finding that determination alone insufficient to eliminate the risk of imminent removal for the applicants in the case before it, the Constitutional Court suspended the examination of the joined applications, including the applicant's case, for a period of one year. The aim of that suspension was to allow the relevant administrative authorities to amend or re-examine the existing deportation orders.

25. On 27 January 2021 the Constitutional Court ultimately declared the applicant's case inadmissible as manifestly ill-founded, ruling that he had failed to adequately substantiate his allegations or to put forward an arguable claim. It reiterated that, while public authorities had an obligation to assess of their own motion the conditions in the country of intended removal, that did not relieve the applicant of the burden of providing relevant information regarding his individual circumstances. Indeed, the Constitutional Court had previously assessed the applicant's requests for interim measures and found that he had failed to substantiate his alleged fear of persecution in his individual circumstances, and the applicant had not subsequently submitted any new information or evidence that would warrant a different outcome in the proceedings.

### *3. Third deportation order*

26. On 2 August 2018 the applicant was arrested at his place of residence during a security operation targeting persons allegedly connected to the Islamic State of Iraq and al-Sham ("ISIS" or "IS" – also known as Islamic State of Iraq and the Levant ("ISIL")).

27. On 7 August 2018 the Istanbul governor's office issued a third deportation order against the applicant pursuant to section 54(1)(d) of Law no. 6458, again on the grounds that he constituted a threat to public order and security. It also ordered the applicant's administrative detention pending deportation.

28. On 7 September 2018 the applicant instituted proceedings in the Istanbul Administrative Court, seeking to have the deportation order set aside.

29. On 24 October 2018 the Kırklareli Magistrates' Court ruled that the applicant's administrative detention was unlawful. It found that, despite having been requested to do so, the relevant administrative authorities had failed to justify the applicant's placement in administrative detention or provide any documentation in that connection. It therefore ordered the applicant's release.

30. On 27 February 2019 the Istanbul First Administrative Court set aside the deportation order of 7 August 2018. It found that the case file did not contain any evidence to support the claim that the applicant, who had resided in Türkiye with his family since 2013, posed a threat to public order or security. That finding was based primarily on the absence of any criminal record and the decision by the prosecution authorities not to pursue charges against him in connection with the security operation referred to in paragraph 26 above.

31. According to the latest information in the case file, the applicant remains at liberty and resides in Istanbul.

## B. Relevant legal framework and practice

### *1. Domestic law and practice*

#### (a) Foreigners and International Protection Act (Law no. 6458)

32. A description of the domestic legal framework and practice applicable at the material time can be found in *G.B. and Others v. Turkey* (no. 4633/15, §§ 44-45, 17 October 2019), *M.N. and Others v. Turkey* (no. 40462/16, §§ 18-19, 21 June 2022), and *J.A. and A.A. v. Türkiye* (no. 80206/17, § 21, 6 February 2024). The relevant provisions of Law no. 6458 read as follows:

**Deportation decision**
**Section 53**

"(1) A deportation decision shall be issued upon the instructions of the Directorate General or ... by a governor's office.

...

(3) A foreigner or his or her legal representative or lawyer may appeal to an administrative court against the deportation decision within fifteen days of the date of notification. ... The foreigner shall not be deported before the expiry of the time-limit for lodging an appeal or, where an appeal has been lodged, until the finalisation of the proceedings, without prejudice to his or her right to request [the contrary]."

**Individuals in respect of whom deportation decisions may be issued**
**Section 54**

"(1) A deportation decision may be issued in respect of foreigners

...

(b) who are leaders, members or supporters of terrorist organisations or of criminal organisations that engage in activities for financial or material gain;

...

(d) who constitute a threat to public order, public security or public health;

...

(k) who are deemed to be associated with terrorist organisations as defined by relevant international institutions and organisations."

**(b) Emergency Legislative Decree no. 676**

33. As from 29 October 2016, Emergency Legislative Decree no. 676 amended section 53(3) of Law no. 6458 by introducing an exception that permitted the deportation of foreign nationals subject to deportation orders issued under section 54(1)(b), (d) or (k), even during the examination of any appeals that they might have lodged.

**(c) Case law of the Constitutional Court**

34. On 30 May 2019 the Constitutional Court, sitting in plenary session, delivered a pilot decision in the case of *Y.T.* (see paragraph 24 above) addressing the exceptions to Law no. 6458 introduced by Emergency Legislative Decree no. 676 by which appeals against deportation orders issued on certain grounds were deprived of their automatic suspensive effect (as detailed in paragraph 33 above). Noting the significant volume of similar and repetitive applications before it, and reiterating the Court's well-established case-law on the matter, the Constitutional Court identified a systemic problem arising from the above-mentioned legislative amendment, which had resulted in a violation of the constitutional right to an effective remedy. The Constitutional Court held that, by virtue of the State's obligation to protect foreigners within its jurisdiction from ill-treatment in the country of destination, a remedy against a deportation order would only be considered "effective" if it involved a rigorous assessment of the alleged risks involved in removal and if the execution of the deportation order was automatically stayed pending that assessment.

35. The Constitutional Court emphasised that, while the relevant legal provisions remained in force, the violation in question could not be remedied through the reopening of judicial proceedings in the administrative courts. It held that in order to eliminate the structural problem in question and to prevent similar future applications, the legislative authority, while retaining

discretion in determining the appropriate solution, was required to review and amend the legal provisions giving rise to that violation.

36. Finding that that determination alone was insufficient to eliminate the risk of imminent removal in respect of the applicants in the case before it, the Constitutional Court decided to suspend the examination of the joined applications for a period of one year. The suspension was intended to allow the relevant administrative authorities to amend or re-examine the existing deportation orders. A copy of that decision was transmitted to the Ministry of Justice, the Ministry of the Interior, and the Directorate General of Migration Management.

#### (d) Law no. 7196 on amendments to certain laws

37. Section 75 of Law no. 7196, which entered into force on 24 December 2019 with a view to executing the Constitutional Court's pilot judgment in *Y.T.*, restored the automatic suspensive effect of proceedings in the administrative courts in relation to all appeals brought against deportation orders pursuant to section 53(3) of Law no. 6458, irrespective of the reason underlying the order.

### *2. Information on the situation in Uzbekistan*

38. The relevant information on the situation in Uzbekistan can be found in *A.K. and Others v. Russia* ([Committee], nos. 38042/18 and 2 others, §§ 19-20, 18 May 2021); *I.U. and Z.K. v. Russia* ([Committee], no. 12767/20, §§ 8-10, 11 October 2022); and most recently in *I.M. and Others v. Russia* ([Committee], nos. 340/18 and 4 others, §§ 13-14, 10 July 2025).

## COMPLAINTS

39. The applicant complained about his threatened deportation to Uzbekistan. He argued that his deportation, without a proper assessment of the risk of ill-treatment or persecution to which he would be exposed by reason of his religious beliefs and political stance, would amount to a violation of his rights under Article 3 of the Convention. He further complained under Article 13, in conjunction with Article 3 of the Convention, contending that the absence of automatic suspensive effect under domestic law deprived him of an effective remedy to challenge the above-mentioned complaint and to ensure meaningful judicial scrutiny of the risks associated with his threatened removal. Lastly, relying on Article 8, he complained that his removal would amount to a violation of his right to respect for the private and family life he had established in Türkiye.

# THE LAW

40. The relevant provisions of the Convention read as follows:

**Article 3**

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

**Article 8**

"1. Everyone has the right to respect for his private and family life, his home and his correspondence.

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."

**Article 13**

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

## A. The parties' submissions

### *1. The Government*

41. The Government argued that the applicant had failed to exhaust the available domestic remedies. In that regard, they asserted that the applicant first lodged his complaints with the Constitutional Court and only then brought an action in the administrative courts. Moreover, despite the Constitutional Court's express request for information during the proceedings in respect of the request for interim measures, the applicant had not sufficiently substantiated his allegations regarding the alleged real risk of ill-treatment he would face in Uzbekistan. Furthermore, with regard to the applicant's complaint under Article 8 of the Convention, the Government submitted that that particular complaint had not been raised before the Constitutional Court, or before the domestic courts at first instance.

42. The Government also contended that the application should be declared manifestly ill-founded. They argued that the domestic courts had carried out a comprehensive examination of the applicant's fear of ill-treatment should he be deported to Uzbekistan or to a safe third country in line with the principle of *non-refoulement* and that there was no reason to disregard those courts' conclusions. They emphasised that, in accordance with the *Y.T.* judgment (see paragraphs 24 and 33-36 above), the examination of over 1,600 similar applications, including that of the applicant, then pending before the Constitutional Court, had been suspended for one year.

The Government further reiterated their objection that the application was manifestly ill-founded, pointing out that lists of the applications concerned had subsequently been transmitted to the relevant Ministries and the Directorate General of Migration Management for implementation of the measures set out in the pilot judgment; nevertheless, the applicant had not provided any update or information concerning his case, despite having been requested to do so.

43. Concerning the applicant's Article 13 complaint, the Government maintained that, following the *Y.T.* judgment, over 1,000 pending deportation orders had been reviewed by the domestic authorities, with a significant number being either revoked or re-examined in accordance with the principles established by the Constitutional Court. In that regard, the Migration Authority's electronic database had been updated, and a dedicated information tab had been created to enable the identification of foreign nationals affected by the systemic issue identified in the *Y.T.* case. Lastly, the Government contended that the legislative amendment (see paragraph 37 above) had eliminated the structural problem, and that Law no. 6458 had been brought into conformity with the Court's case-law.

*2. The applicant*

44. Regarding the Government's plea of non-exhaustion, the applicant submitted that, on 11 September 2018, he had informed the Constitutional Court that the action brought by him seeking the setting aside of the deportation order had been dismissed by the Istanbul First Administrative Court by way of a final judgment (see paragraph 22 above). He explained that the reason he had lodged an individual application with the Constitutional Court prior to raising those arguments before the first-instance administrative court because, at the material time, lodging an appeal with the administrative courts did not have automatic suspensive effect in cases such as his.

45. The applicant further argued that he faced a real risk of torture or ill-treatment in Uzbekistan on account of his support for Rashad Kamolov, an influential Kyrgyz imam who had been imprisoned. He asserted that, as an advocate for religious freedom in Uzbekistan and a supporter of the "Rashad movement", he had been targeted by the Uzbek authorities, and that the public display of his name and posters in Uzbekistan evidenced a real threat to his safety (see paragraph 21 above). Regarding his previous claims of ill-treatment in Uzbekistan, the applicant stated that in 2006, after the death of Muhammad Rafik Kamolov (the father of Rashad Kamolov) during a joint Uzbek-Kyrgyz intelligence operation that had given rise to protests, he had been detained and subjected to torture. That included having cigarettes extinguished on his arm, being beaten with batons, and sustaining a fractured leg. He also alleged that he had been stabbed by Uzbek police officers. He submitted photographs which he claimed were evidence of his injuries. He added that he had been released from his initial detention on account of being

a minor at the time. The applicant further claimed that the Uzbek authorities had subsequently kept him under continuous surveillance, with weekly visits by intelligence officers to his place of residence. As a result, he had initially fled to Russia. However, after three years there, pressure to return to Uzbekistan stemming from the close cooperation between Russian and Uzbek intelligence agencies had ultimately compelled him to flee to Türkiye.

46. With respect to the nature of the charges against him in Uzbekistan and the question whether he was currently sought by the Uzbek authorities, the applicant submitted that he had been charged with offences against the constitutional order and that criminal proceedings had been initiated against him *in absentia*. To substantiate that assertion, the applicant resubmitted the document he had previously provided to the Court in connection with his request for an interim measure (see paragraph 21 above), this time with a sworn translation. That document, purportedly issued by the Surxondaryo Security Directorate, listed individuals sought for activities against the constitutional order and identified the applicant by name, surname and date of birth. He further stated that he had only become aware of those proceedings after his relatives had forwarded to him posters displayed in public spaces containing his name and photograph. Moreover, his relatives had informed him that the Uzbek authorities were of the view that he had transited through Türkiye with the aim of reaching Syria. Regarding the alleged risks faced by individuals affiliated with ISIS in Uzbekistan, the applicant submitted that mere adherence to the Islamic faith was sufficient to attract persecution in Uzbekistan but did not elaborate further on that point.

47. Lastly, in his further submissions dated 11 August 2021, the applicant's representative stated that a video uploaded to YouTube had falsely identified him as a terrorist and had indicated that he was wanted by the Uzbek authorities. The recording and upload dates of that video were not specified. The following statements were allegedly made in the video:

> "... most of the recent terrorist attacks in Uzbekistan have occurred because ... young people go to foreign countries and meet terrorists. ... Accordingly, the Surxondaryo Provincial Directorate of Anti-Terrorism has published a list of wanted people who threaten international peace for having participated in terrorist groups and attacks: ... [among other names] ... R.N. [the applicant] (date of birth: XX.XX.XXXX) ..."

## B. The Court's assessment

### 1. *Complaint under Article 3 in conjunction with Article 13 of the Convention*

#### (a) Preliminary considerations regarding the scope of the complaint

48. The Court observes at the outset that the envisaged removal of the applicant from Türkiye was based on three successive deportation orders, as detailed in paragraphs 5-31 above. However, given that the first and third deportation orders have been set aside by the domestic courts (see

paragraphs 12 and 30 above), the Court will limit its examination of the applicant's complaints to the second set of deportation proceedings, which are based on a final and enforceable removal order (see paragraphs 13-25 above).

**(b) General principles**

49. Under Article 35 § 1 of the Convention, the Court may only deal with a matter after all domestic remedies have been exhausted, the purpose being to afford the Contracting States the opportunity to prevent or put right the violations alleged against them before those allegations are submitted to it (see *Gäfgen v. Germany* [GC], no. 22978/05, § 142, ECHR 2010). While Article 35 § 1 of the Convention must be applied with some degree of flexibility and without excessive formalism, it normally requires that the complaints intended to be brought subsequently before the Court should have been made to the competent domestic courts, at least in substance (ibid.; see also *Association Les témoins de Jéhovah v. France* (dec.), no. 8916/05, 21 September 2010).

50. Applicants are only obliged to exhaust domestic remedies offering reasonable prospects of success (see *Scoppola v. Italy (no. 2)* [GC], no. 10249/03, § 71, 17 September 2009). However, a mere doubt on the part of the applicant as to the prospects of success of a particular remedy will not release him or her from the obligation to try it (see *Epözdemir v. Turkey* (dec.), no. 57039/00, 31 January 2002).

51. The relevant general principles concerning the application of Article 3 of the Convention within the context of removal proceedings have been summarised by the Court in *F.G. v. Sweden* ([GC], no. 43611/11, 23 March 2016, §§ 110-27), *J.K. and Others v. Sweden* ([GC], no. 59166/12, §§ 77-105, 23 August 2016), and *Khasanov and Rakhmanov v. Russia* ([GC], nos. 28492/15 and 49975/15, §§ 93-116, 29 April 2022).

52. Article 13 of the Convention guarantees the availability of a remedy at national level to enforce – and hence to allege non-compliance with – the substance of the Convention rights in whatever form they may happen to be secured in domestic law. In cases concerning expulsion or extradition it is a firmly embedded principle in the Court's case-law under Article 13, taken together with Article 3 of the Convention, that the notion of an effective remedy in such cases requires (i) independent and rigorous scrutiny of a claim that there exist substantial grounds for believing that there is a real risk of treatment contrary to Article 3, and (ii) a remedy with automatic suspensive effect (see *De Souza Ribeiro v. France* [GC], no. 22689/07, § 82, ECHR 2012, and *A.D. and Others v. Turkey*, no. 22681/09, § 95, 22 July 2014). The same applies when considering the question of the effectiveness of remedies for the purposes of Article 35 § 1 of the Convention in asylum cases (see *S.H. v. Malta*, no. 37241/21, §§ 52-54, 20 December 2022, and *A.M. v. the Netherlands*, no. 29094/09, § 66, 5 July 2016). However, the Court has

repeatedly held that Article 13 cannot reasonably be interpreted so as to require a remedy in domestic law in respect of any supposed grievance under the Convention that an individual may have, no matter how unmeritorious his or her complaint may be: the grievance must be an arguable one in terms of the Convention (see *Boyle and Rice v. the United Kingdom*, 27 April 1988, § 52, Series A no. 131).

**(c) Application of the principles in the present case**

53. In cases involving removal to another State, the Court has consistently held that applicants must provide the national authorities with specific and substantiated allegations that they would face a real risk of ill-treatment, including any individual risk factors.

54. In the present case, the applicant's submissions before the national authorities were limited to general concerns regarding the human rights situation in Uzbekistan and his adherence to the Muslim faith. He did not refer to any specific incidents or personal circumstances that would demonstrate an individualised risk of ill-treatment upon return. The Court has consistently emphasised that mere reference to a general problem or unstable situation in the destination country is normally insufficient to preclude removal (see *Müslim v. Turkey*, no. 53566/99, § 70, 26 April 2005, and *Kunshugarov v. Türkiye*, nos. 60811/15 and 54512/17, § 117, 14 January 2025).

55. The Court observes that none of the allegations pertaining to the applicant's alleged individual circumstances later raised before it (see paragraphs 45-47 above) – such as his alleged prior ill-treatment in Uzbekistan, his claimed association with the "Rashad movement", or the purported video identifying him as a terrorist – were ever brought to the attention of the national authorities.

56. The Court further notes that the applicant failed to raise, even summarily, the core elements of his Article 3 complaint before the domestic courts, including the Constitutional Court. The only piece of evidence submitted to the domestic courts that could potentially indicate an individualised risk to the applicant was the document issued by the Consulate General of Uzbekistan in Istanbul requesting information about the Uzbek nationals who had been involved in a security operation and subsequently detained (see paragraph 16 above). However, the Court observes that the date of that security operation – namely 10 August 2016, as specified in the document in question – pre-dates the commencement of the criminal investigation in respect of the applicant (see paragraph 14). In the absence of any substantiated argument from the applicant demonstrating that he was a target of the security operation of 10 August 2016 or that extradition proceedings were initiated against him in that connection, the Court is not persuaded that that evidence is of any relevance to the specific circumstances of the present case.

57. The Court reiterates that an applicant is required to bring to the attention of the national authorities all relevant aspects of their case before submitting their complaints to the Court. In the present case, the allegations raised by the applicant before the Court related to events that were already known during the course of the domestic proceedings, but not duly raised with the national authorities. Moreover, the applicant did not demonstrate that there had been any impediment preventing him from doing so (compare and contrast, *A.M.A. v. the Netherlands*, no. 23048/19, §§ 70-80, 24 October 2023, and *H.A. v. the United Kingdom*, no. 30919/20, §§ 58-66, 5 December 2023). Lastly, with regard to the link to the undated video footage submitted on 11 August 2021 in which the applicant is allegedly identified as a wanted terrorist by the Uzbek authorities (see paragraph 47 above), the Court notes that the link provided is not accessible. In view of the fact that the alleged video footage was also undated, the Court is not in a position to determine whether this evidence constituted new relevant information. Consequently, in the absence of substantiated evidence, the Court is not able to conduct an *ex nunc* assessment of the alleged risk in this regard (compare *Saadi v. Italy* [GC], no. 37201/06, § 133, ECHR 2008, and *Khasanov and Rakhmanov*, cited above, § 106).

58. Regarding the applicant's contention that the domestic remedies were ineffective as they did not have automatic suspensive effect, the Court observes, in the instant case, that the applicant was subject to a deportation order issued pursuant to section 54(1)(d) of Law no. 6458 on the basis that he constituted a threat to public order and security (see paragraph 15 above). It further notes that, by virtue of the amendments introduced to Law no. 6458, the lodging of an action for the setting aside of a deportation order issued under that provision did not have automatic suspensive effect at the material time, meaning that the execution of such an order was not automatically stayed pending its examination by the administrative courts (see paragraph 33 above). The Court notes that the Turkish Constitutional Court itself declared, by way of a pilot judgment that followed the case-law of the Court, that the lack of automatic suspensive effect in proceedings before the administrative courts at the material time constituted an infringement of the right to an effective remedy (see paragraph 34 above). Notwithstanding the Court's recognition that this systemic issue existed at the material time and its acknowledgment that for a remedy to be considered effective for exhaustion purposes in asylum cases, it must possess automatic suspensive effect, the Court reiterates that its role is not to assess the relevant domestic law and practice in the abstract. Instead, its examination, while considering the broader context, is confined to the specific issues arising from the specific case before it (see, *mutatis mutandis*, *Peck v. the United Kingdom*, no. 44647/98, § 102, ECHR 2003-I).

59. In the instant case, the Court observes that the Constitutional Court initially granted an interim measure staying the enforcement of the

applicant's removal, which was subsequently lifted on account of his failure to provide the information necessary to substantiate the alleged risk pertaining to his individual circumstances (see paragraph 17-18 above). More significantly, the Court notes that the structural deficiency arising from Emergency Legislative Decree no. 676 was effectively addressed by the Constitutional Court through its pilot judgment procedure in the *Y.T.* case (see paragraphs 35-36 above), which resulted in the suspension of the examination of a substantial number of applications, including that of the applicant, to allow the relevant administrative authorities to re-examine those cases in conformity with the principles established by the Constitutional Court. On that point, the Court acknowledges the special procedures and mechanisms set up and used by the domestic authorities, enabling the effective re-examination of the cases in question (see paragraph 43 above). However, the Court observes that the applicant has adduced no evidence to show that he adequately availed himself of those procedures, nor has he elaborated on his individual situation or substantiated his claims throughout that period, beyond merely informing the Constitutional Court that the deportation order against him remained in force (see paragraph 44 above). In the light of the foregoing considerations, and notwithstanding the absence of automatic suspensive effect at the time in question, the Court considers that the applicant was required, in the particular circumstances of the present case, to adequately raise his complaints and to elaborate upon his initial submissions before the domestic authorities, which had provided effective remedies for his grievances on an interim basis, pending the full restoration of the automatic suspensive effect by legislative action (see paragraph 37 above).

60. The Court therefore concludes that the applicant cannot be considered to have properly raised his complaints before the domestic courts, thereby failing to afford them the opportunity to redress the alleged breach in the first place (see, *mutatis mutandis*, *Kandarakis v. Greece*, nos. 48345/12 and 2 others, § 77, 11 June 2020). Accordingly, the Court upholds the Government's preliminary objection and rejects these complaints for non-exhaustion of domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

*2. Complaint under Article 8 of the Convention*

61. The applicant further submitted that, in the light of his long-standing and settled family life in Türkiye with his spouse and children, his removal would constitute a violation of his right to respect for private and family life, as enshrined in Article 8 of the Convention.

62. The Court observes that the applicant did not raise this complaint, expressly or in substance, before the Constitutional Court. It follows that this part of the application must also be rejected for non-exhaustion of domestic remedies in accordance with Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court, unanimously,

*Declares* the application inadmissible.

Done in English and notified in writing on 5 February 2026.

| | |
|---|---|
| Dorothee von Arnim<br>Deputy Registrar | Arnfinn Bårdsen<br>President |