



Extradition of ethnic Uzbeks to Kyrgyzstan would not breach their human rights

In today's **Grand Chamber** judgment¹ in the case of [Khasanov and Rakhmanov v. Russia](#) (application nos. 28492/15 and 49975/15) the European Court of Human Rights held, unanimously, that there would be:

no violation of Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights if the applicants were extradited to Kyrgyzstan.

The case concerned the applicants' allegation that they risked ill-treatment if extradited to Kyrgyzstan because they belonged to the Uzbek ethnic minority, who have been persecuted by the authorities since inter-ethnic clashes in 2010.

The Court, noting recent reports by UN human-rights bodies and international, regional and national NGOs, concluded that the general situation in Kyrgyzstan did not call for a total ban on extraditions and that ethnic Uzbeks did not currently constitute a group which was systematically exposed to ill-treatment in the country.

Furthermore, neither applicant had reliably demonstrated that they were at real risk of ill-treatment in the individual circumstances of their cases or that an ulterior political or ethnic motive had been behind their prosecution in Kyrgyzstan. The Russian courts, on the other hand, had carefully and appropriately examined the individual risks alleged by the applicants.

The Court noted that its assessment of the general situation in a particular country is amenable to revision in the light of changing circumstances and that nothing precludes such a re-examination from being carried out by a Chamber in a judgment dealing with an individual case.

A legal summary of this case will be available in the Court's database HUDOC ([link](#)).

Principal facts

The applicants, Turdyvay Urunbayevich Khasanov and Shavkatbek Salyzhanovich Rakhmanov, are Kyrgyz nationals. They were born in 1957 and 1986 and live in Verkhneye Mukhanovo (Oryol Region, Russia) and Elektrogorsk (Moscow Region) respectively.

Mr Khasanov arrived in Russia in 2010, while Mr Rakhmanov arrived in 2011. They were apprehended, respectively, in 2013 and 2014 because they were wanted in Kyrgyzstan on charges of aggravated misappropriation (Mr Khasanov) and several counts of aggravated robbery, destruction of property and murder (Mr Rakhmanov).

In the ensuing proceedings concerning the applicants' extradition and their requests for refugee status, they alleged that they were at risk of persecution and ill-treatment in Kyrgyzstan because they belonged to a vulnerable ethnic group. The courts, prosecution and migration authorities assessed those claims but dismissed them.

In particular, in final decisions in 2015 the courts found that the general human-rights situation in Kyrgyzstan did not as such preclude extradition. Furthermore, they found that both applicants had

1. Grand Chamber judgments are final (Article 44 of the Convention).

All final judgments are transmitted to the Committee of Ministers of the Council of Europe for supervision of their execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

been charged with common crimes which were unrelated to ethnic or political issues. Moreover, Mr Khasanov had been accused of a financial crime committed prior to the 2010 clashes, and Mr Rakhmanov had travelled from Russia to Kyrgyzstan between 2011 and 2014 without problem.

The applicants' extradition was, however, stayed in June and October 2015, respectively, on the basis of an interim measure granted by the European Court of Human Rights under Rule 39 of its Rules of Court, which indicated to the Russian Government that they should not be removed for the duration of the proceedings before it.

The applicants were released from detention in 2014 and 2015.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 15 June 2015 and 11 October 2015, respectively.

Relying on Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, the applicants complained that their removal to Kyrgyzstan would put them at real risk of ill-treatment, alleging in particular that Uzbeks continued to be targeted in the country and that the charges had been brought against them because of their ethnicity. They also maintained that the Kyrgyz authorities' assurances were unreliable.

In its Chamber [judgment](#) of 19 November 2019, the Court held, by five votes to two, that there would be no violation of Article 3 of the European Convention on Human Rights if the applicants were extradited to Kyrgyzstan.

The Chamber further decided, by six votes to one, to continue to indicate to the Russian Government not to extradite or otherwise involuntarily remove the applicants to Kyrgyzstan until the Chamber judgment had become final or until further order.

On 15 April 2020 the Grand Chamber Panel accepted the applicants' request that the case be referred to the Grand Chamber².

On 15 October 2020 the Court granted the applicants' request to lift the anonymity previously applied in the case.

The following two non-governmental organisations were granted leave to intervene in the written proceedings as third parties: European Council on Refugees and Exiles (EC) and the International Commission of Jurists (ICJ).

A Grand Chamber hearing was held in public in the Human Rights Building, Strasbourg, on 20 January 2021.

Judgment was given by the Grand Chamber of 17 judges, composed as follows:

Robert Spano (Iceland), *President*,
Jon Fridrik Kjølbro (Denmark),
Síofra O'Leary (Ireland),
Yonko Grozev (Bulgaria),
Ksenija Turković (Croatia),
Ganna Yudkivska (Ukraine),

² Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

Aleš Pejchal (the Czech Republic),
Faris Vehabović (Bosnia and Herzegovina),
Dmitry Dedov (Russia),
Carlo Ranzoni (Liechtenstein),
Pauliine Koskelo (Finland),
Tim Eicke (the United Kingdom),
Lətif Hüseynov (Azerbaijan),
Lado Chanturia (Georgia),
Raffaele Sabato (Italy),
Anja Seibert-Fohr (Germany),
Ana Maria Guerra Martins (Portugal),

and also Johan Callewaert, *Deputy Grand Chamber Registrar*.

Decision of the Court

The Court reiterated that in extradition cases a Contracting State was obliged not only to cooperate in international criminal matters but also to respect the absolute nature of the prohibition of torture and of inhuman or degrading treatment under Article 3 of the Convention.

Firstly, it noted that it had to assess any risk of ill-treatment for the applicants at the time of its consideration of their case, pointing out that the final domestic judgments in their cases had been handed down almost six years ago.

The starting point for the Court's examination was the general situation in Kyrgyzstan. Recent reports by UN human-rights bodies and international, regional and national NGOs continued to voice concerns over incidents of torture and ill-treatment, lack of effective investigations and impunity. However, the same reports did not find that the general situation had deteriorated or reached a level calling for a total ban on extraditions. Indeed, the Court, even in its previous assessments, had never concluded that the general situation had been such as to preclude all removals to the country.

The Court then turned to the issue of whether the applicants – ethnic Uzbeks – belonged to a vulnerable group which was systematically exposed to ill-treatment in Kyrgyzstan. It concluded that the above reports did not contain any such indication. There had been evidence showing a heightened risk for ethnic Uzbeks in the aftermath of the ethnic clashes of June 2010, but the recent reports no longer identified any specific risks in that regard.

The Court lastly examined the applicants' individual circumstances, noting their submissions that there was an ethnic motive to the charges against them.

Mr Khasanov argued that the criminal proceedings had not been initiated against him until after the inter-ethnic clashes in 2010 and that the charges against him had been vague and unsupported by the evidence. He alleged that the proceedings had in fact been a pretext to force ethnic Uzbeks to extort money and property from them. The Court observed, however, that the charges had been detailed, mentioning both the victims and the sums allegedly misappropriated from them. The Court considered that the applicant's assertions amounted to not much more than speculation.

Similarly, Mr Rakhmanov had failed to substantiate his allegation that the case against him had been fabricated. The fact that he had been accused of hate crimes against ethnic Kyrgyz did not automatically mean that he was himself a victim of ethnic persecution. Nor had he reasonably accounted for how he had been able to repeatedly travel to and from Kyrgyzstan after June 2010, or the fact that he had obtained a new Kyrgyz passport several months after arriving in Russia.

The Court therefore found that neither applicant had reliably demonstrated a real individual risk of ill-treatment. Moreover, they had failed to show that there had been an ulterior political or ethnic

motive behind their prosecution in Kyrgyzstan or further distinguishing features which would expose them to a risk of ill-treatment.

The Russian courts had carefully and appropriately examined the alleged individual risks which might preclude the applicants' extradition.

Given those findings, the Court did not consider it necessary to rule on the relevance of the Kyrgyz authorities' assurances, including the Russian diplomatic service's monitoring visits in Kyrgyzstan.

Accordingly, the Court held that there would be no violation of the Convention if the applicants were extradited from Russia to Kyrgyzstan.

Rule 39 (interim measures)

As this judgment is final, the interim measures previously applied in the applicants' case now come to an end.

The judgment is available in English and French.

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