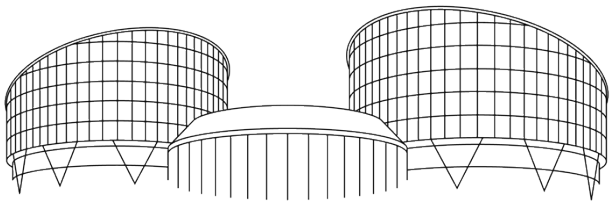

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIRST SECTION

CASE OF KHODZHAMBERDIYEV v. RUSSIA

(Application no. 64809/10)

JUDGMENT

STRASBOURG

5 June 2012

FINAL

05/09/2012

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Khodzhamberdiyev v. Russia,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Nina Vajić, *President,*
Anatoly Kovler,
Khanlar Hajiyev,
Mirjana Lazarova Trajkovska,
Julia Laffranque,
Linos-Alexandre Sicilianos,
Erik Møse, *judges,*

and Søren Nielsen, *Section Registrar,*

Having deliberated in private on 15 May 2012,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 64809/10) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by an Uzbek national, Mr Davronbek Odilzhanovich Khodzhamberdiyev ("the applicant"), on 8 November 2010.

2. The applicant was represented by Ms Y. Ryabinina and Ms E. Davidyan, a lawyer practising in Moscow. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. On 9 November 2010 the Court granted priority treatment to the case under Rule 41 of the Rules of Court and indicated to the Russian Government, under Rule 39 of the Rules of Court, that the applicant should not be extradited to Uzbekistan until further notice.

4. On 5 January 2011 the application was communicated to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1 of the Convention).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1971 and lives in Saratov.

A. The applicant's arrival and residence in Russia

6. In the 1990s the applicant lived in Uzbekistan and was involved in the activities of Hizb-ut-Tahrir ("HT"), a pan-Islamic organisation banned in Russia. In May 2000 he moved to Russia, leaving behind his wife and two children, born in 1995 and 1997, in Andizhan.

7. On 14 June 2001 the applicant was arrested in Russia on drug-related charges (Article 228-4 of the Russian Criminal Code ("the RCC")). His Uzbek passport was confiscated upon arrest. On 15 June 2002 the Perovo District Court of Moscow sentenced him to imprisonment. After his release on 27 August 2004, the applicant arrived in Saratov, where he started a relationship with a Belarusian national. It appears that she was residing in Russia unlawfully at the material time. They have two minor children born in 2006 and 2008.

B. Extradition on criminal charges to Uzbekistan

8. On 29 March 2006 the Andizhan Office of the National Security Service of Uzbekistan charged the applicant, *in absentia*, with attempting to overthrow the existing regime under Article 159-3 (a and b) of the Uzbek Criminal Code ("the UCC").

9. On the same day the Andizhan regional prosecutor ordered the applicant's placement in custody and put his name on a search list.

10. On 4 June 2007 the applicant was additionally charged with setting up a criminal group (Article 242-1 of the UCC), producing and disseminating documents containing a threat to national security and public order (Article 244(1)-3 (a and c) of the UCC), and setting up, managing and participating in extremist, separatist, fundamentalist and other banned organisations (Article 244(2)-1 of the UCC).

11. On an unspecified date his name was put on the international wanted list.

12. On 26 February 2010 the applicant was arrested by the police in Saratov as a person wanted by the Uzbek authorities. On 8 March 2010 the Uzbek Prosecutor General's Office submitted a formal request asking its Russian counterpart to extradite the applicant on criminal charges under Articles 159-3 (a and b), 242-1, 244(1)-3 (a and c) and 244(2)-1 of the UCC. Relying on Article 66 of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters ("the Minsk Convention"), the Uzbek authorities provided assurances that the applicant would not be extradited to a third country without the consent of the Russian Federation, that he would not be prosecuted, tried or punished for an offence which was not the subject of the extradition request and that he would be able to freely leave Uzbekistan, once the court proceedings had

terminated and the sentence served. On 11 March 2010 the Russian Prosecutor General's Office received the extradition request.

13. Thereafter, the Russian Prosecutor General's Office carried out a preliminary check of the extradition request ("an extradition check") (see paragraph 65 below). It can be seen from the information collected between March and June 2010 by the Federal Migration Service ("the FMS"), the Federal Security Service ("the FSB") and the Ministry of Foreign Affairs, that the applicant was an Uzbek national who had not applied for Russian citizenship or temporary asylum or registered his residence in Russia. The said authorities saw no obstacle to his extradition to Uzbekistan. Moreover, on 22 June 2010 the FSB submitted that the applicant was "certainly a functionary" of HT and recommended that he be extradited.

14. On 9 August 2010 the deputy Prosecutor General granted the extradition request and issued an extradition order in respect of the applicant. He referred to the charges brought against the applicant, according to which he had been a founding manager and financial supporter of HT, had created a number of sub-groups of the said organisation in Uzbekistan and actively participated in the dissemination of its subversive materials, characterised as extremist, separatist and fundamentalist. The prosecutor decided to extradite the applicant on charges of setting up a criminal group and participating therein (Article 210-1 and 2 of the RCC) and attempting to overthrow the existing regime and constitutional order (Article 278 of the RCC). He noted that the statute of limitations for those offences had not expired either in Russia or in Uzbekistan. The prosecutor further pointed out that, in line with the Minsk Convention and the Russian Code of Criminal Procedure ("the CCrP"), differences in the legal classification of the offences and their elements under Russian and Uzbek criminal law were not sufficient grounds for refusing extradition. Lastly, the prosecutor referred to the information provided by the FMS that the applicant was an Uzbek national who had not applied for Russian citizenship. The prosecutor concluded that there were no obstacles to his extradition to Uzbekistan.

15. On 18 August 2010 the extradition order was served on the applicant.

16. On 19 August 2010 the applicant sought judicial review of the extradition order, referring, *inter alia*, to a fear of torture and inhuman and degrading treatment, in particular, on account of his connections with HT. The applicant's appeal was supported with his lawyer's claims of 23 August and 16 September 2010 that torture remained a widespread practice in Uzbekistan, according to reports of numerous international organisations and recent media publications.

17. On 16 September 2010 the Saratov Regional Court upheld the extradition order, relying on the assurances issued by the Uzbek Prosecutor General's Office that the applicant would be treated in strict compliance

with internal procedural norms. It also referred to the dismissal of the applicant's request for refugee status by the FMS on 14 September 2010 (see paragraph 37 below).

18. On 21 and 23 September 2010 the applicant and his lawyer appealed. On 17 November 2010 the Supreme Court of Russia set aside the judgment of 16 September 2010 and ordered a new judicial review by the first-instance court.

19. On 28 December 2010 the Regional Court re-examined the case and annulled the extradition order of 9 August 2010, mainly because of inconsistencies and mistakes made in the comparative assessment of the relevant criminal offences under Uzbek and Russian law. In addition, the court made the following findings:

> "... The allegation of a risk of ill-treatment should be dismissed because the case file contains written assurances made by the deputy Prosecutor General of Uzbekistan who affirmed that prosecution of the applicant would be in strict conformity with the Uzbek Code of Criminal Procedure ... The court has no reason to distrust these guarantees ...
>
> Article 464 of the Russian CCrP prohibits the extradition of a person who has been granted asylum in Russia on account of persecution in the requesting State because of his race, religion, citizenship, ethnic or social origin or political beliefs.
>
> Prior to the date of the extradition order, [the applicant] had applied for refugee status and had subsequently sought judicial review of the refusal of such status in Russia. Such review proceedings have not been completed. Taking into account paragraph 1 and 4 of section 10 of the Refugees Act, a person cannot be extradited before a court decision has been taken on judicial review of a refusal of refugee status. Thus, the extradition order was premature, in breach of the Refugees Act ..."

The applicant was released in the courtroom.

20. The regional prosecutor's office appealed. On 4 March 2011 the Supreme Court upheld the judgment of 28 December 2010.

21. In view of the above findings, the extradition case against the applicant was not pursued and his removal from Russia to Uzbekistan on that account became impossible.

C. The applicant's arrest and detention with a view to extradition

22. From 26 February to 28 December 2010 the applicant was detained with a view to extradition.

23. On 26 February 2010 the applicant was arrested by the police in Saratov as a person wanted by the Uzbek authorities. He was placed in remand centre no. 64/1. According to the Government, the applicant made no allegation of a risk of ill-treatment in the event of his extradition to Uzbekistan.

24. On the same day, referring to Article 466 of the CCrP the deputy district prosecutor lodged an application asking the Kirovskiy District Court

of Saratov to authorise the applicant's detention. Relying on Article 108 of the CCrP, the district court granted this request and ordered the applicant's detention until 6 April 2010 with a view to his extradition to Uzbekistan. The court observed that the applicant had been charged with offences punishable under Articles 278, 210-1, 280-1, 282(1)-1 and 282(2)-1 of the RCC; that the statute of limitations for the said offences had not expired either in Russia or in Uzbekistan; that the applicant, an Uzbek national, had not registered his residence in Russia and had absconded there; and that, given the state of the applicant's health, he was fit for detention. The applicant and his lawyer did not appeal against the detention order of 26 February 2010. It became final on 1 March 2010.

25. After receipt of the Uzbek extradition request and before the expiry of the time-limit set in the detention order of 26 February 2010, the deputy district prosecutor lodged an application asking the district court to extend the applicant's detention. On 1 April 2010 the district court extended the applicant's detention until 25 August 2010. The court dismissed the applicant's argument that his detention would put his underage children in a difficult financial situation and that he had lodged an application for refugee status. The court concluded as follows:

> "Under Article 110 of the CCrP a preventive measure may be varied if it is no longer necessary or if the grounds justifying it (see Articles 97 and 99 of the Code) have changed. The available material does not disclose that any such grounds have changed in the present case ..."

26. The applicant and his lawyer appealed on 2 and 5 April 2010. On 14 April 2010 the Saratov Regional Court dismissed the appeals.

27. On 23 August 2010 the district court examined a new extension request from the prosecutor and extended the applicant's detention until 25 November 2010. The court held as follows:

> "[The applicant] sought judicial review of the extradition decision against him ... Articles 109 and 110 of the CCrP provide that a preventive measure may be varied if it is no longer necessary or if the grounds justifying it (see Articles 97 and 99 of the Code) have changed.
>
> Extension of detention beyond six months may be allowed only in respect of persons charged with serious and particularly serious criminal offences and only on account of the exceptional complexity of the case ... The available material discloses that the extradition order could not be enforced, where the previous detention order was in force, because the applicant had applied for judicial review of the extradition order. These are objective circumstances disclosing the particular complexity of the case. Thus, the extension term mentioned in the request is reasonable ..."

28. On 24 and 26 August 2010 the applicant and his lawyer appealed, seeking house arrest instead of detention in a remand centre. On 31 August 2010 the Regional Court upheld the detention order of 23 August 2010.

29. On 17 November 2010 the Supreme Court ordered the applicant's detention until 17 December 2010, pending the re-examination of the extradition case by the Regional Court.

30. On 22 November 2010 the District Court examined an extension request by the district prosecutor and issued a new detention order extending the applicant's detention to 25 February 2011 pending judicial review of the extradition order. The court noted that Article 109 of the CCrP allowed the extension of detention up to twelve months in relation to serious and particularly serious charges and on account of the particular complexity of the case. The court was satisfied that the above conditions had been complied with in respect of the applicant. On 2 December 2010 the Regional Court upheld the detention order of 22 November 2010.

31. On 28 December 2010 the applicant was released from detention.

D. Proceedings concerning the applicant's requests for refugee status and temporary asylum

32. On 17 or 24 March 2010 the applicant lodged a request for refugee status with the FMS Office of the Saratov Region ("the regional FMS").

33. On 29 March 2010 he submitted an additional request, whereby he expressed a fear of being subjected to persecution and torture owing to his previous membership of Hizb-ut-Tahrir. He referred to a number of international reports in support of his allegations.

34. On 6 April 2010, in an interview with a regional FMS officer conducted in the presence of his lawyer, the applicant submitted that he had left Uzbekistan for work-related reasons.

35. On 1 July 2010 the regional FMS rejected the applicant's request for refugee status. The authority noted that the applicant had left Uzbekistan in 2000 for economic reasons whereas criminal proceedings against him had not been brought until 2006 in his country of origin. He had been prosecuted for having set up a criminal group, which was not a political crime under the UCC. Furthermore, the applicant had not lodged his application for refugee status until 2010. The FMS established that he faced no risk of persecution on account of his origin, religion, nationality or belonging to a particular social group. It concluded that the applicant did not wish to return to Uzbekistan so as to avoid prosecution for the crime with which he had been charged.

36. On 5 July 2010 the applicant was informed of the above-mentioned decision and lodged a hierarchical appeal on 28 July 2010.

37. On 14 September 2010 the FMS Central Office dismissed his appeal. The FMS referred to the decision of the Russian Supreme Court of 14 February 2003 to declare HT a terrorist organisation and ban its activity in Russia. The FMS emphasised the applicant's involvement in HT in 1999-2000 as a manager and financial supporter. It pointed out that in 2006 at the

latest the applicant had learnt from his brother that the Uzbekistan authorities had begun prosecuting HT members. However, it was not until 2010 that the applicant had submitted his request for refugee status. Hence, the FMS concluded that the applicant's fear of persecution was unsubstantiated.

38. On 16 October 2010 the applicant appealed against the refusal to grant him refugee status to the Basmannyy District Court of Moscow. He reiterated his fear of being subjected to torture in the event of extradition to Uzbekistan and stated that the risk of ill-treatment had not been assessed by the FMS.

39. On 24 December 2010 the District Court upheld the decision of 14 September 2010 on judicial review. Noting that the applicant had confirmed his involvement in HT's activities between 1997 and 2000, the court also observed that after his arrest in February 2010 the applicant had made no official statement to Uzbek or Russian authorities distancing himself from HT teachings or his previous participation in its activities. The court held as follows:

> "After his arrival in Russia the applicant did not apply for refugee status. He first alleged a risk of persecution in Uzbekistan and raised his wish to remain in Russia as a refugee after having been arrested following the request from the Uzbek authorities.
>
> Neither following his arrival in Russia in 2000 nor during criminal proceedings in 2002 did he distance himself from HT teachings or state his refusal to participate in its activities. He did not apply for refugee status when he learnt in 2005-2006 from his younger brother that his fellow HT supporters were being looked for and tortured by the Uzbek authorities ...
>
> Had the applicant's fears of persecution in Uzbekistan been truly justified, he would have immediately sought asylum in the country of his destination.
>
> The UN Handbook on Procedures and Criteria for Determining Refugee Status indicates that persecution must be distinguished from punishment for a common law offence. Persons fleeing from prosecution or punishment for such an offence are not normally refugees. It should be borne in mind that a refugee is a victim – or potential victim – of injustice, not a fugitive from justice (paragraph 56) ...
>
> The applicant has not adduced convincing arguments concerning religious or political persecution ..."

40. On 28 December 2010 the applicant applied for temporary asylum. It was refused on 25 March 2011.

41. On 18 May 2011 the Moscow City Court upheld the judgment of 24 December 2010, refusing the applicant refugee status. Endorsing the reasoning of the first-instance court, the appeal court added the following:

> "The Uzbek Ministry of Foreign Affairs affirms its attachment to their obligations in relation to protecting human rights. The Uzbek legislation provides that every citizen has freedom of religion. Article 18 of the Uzbek Constitution protects equality of

citizens before the law irrespective of gender, race, national language, religion, faith or social origin ...

The court dismisses as unconvincing the arguments relating to the individualised status of the applicant on account of criminal prosecution in Uzbekistan. Neither during his residence in Belarus nor immediately after his arrival in Russia did the applicant seek asylum. He first expressed his fears of persecution in Uzbekistan after his arrest because his name had been added to the international wanted list ...

Taking into account the UN Handbook on Procedures and Criteria for Determining Refugee Status (paragraph 66), in order to be considered a refugee, a person must show well-founded fear of persecution. Discrimination may turn into persecution when it becomes impossible to carry out work in specific areas, to receive education or if other freedoms protected in democratic societies are limited ... The applicant has not substantiated any facts concerning unlawful persecution ..."

42. By a letter of 5 July 2011, the Moscow Office of the United Nations High Commissioner for Refugees (UNHCR) Representation informed the applicant's lawyer that the UNHCR had determined that the applicant met the criteria set out in its Statute in connection with Article 1 A of the 1951 Convention relating to the Status of Refugees. It had been ascertained that the applicant was outside his country of nationality owing to well-founded fear of being persecuted by the authorities of his country for reasons of his religion and imputed political opinion and, owing to such fear, was unable to return to Uzbekistan, where he might be exposed to torture and other inhuman or degrading treatment or punishment. Therefore, the UNHCR considered that the applicant was eligible for international protection under its mandate.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Constitution of the Russian Federation of 1993

43. Everyone has a right to liberty and security (Article 22 § 1). Detention is permissible only on the basis of a court order. The length of time for which a person may be detained prior to obtaining such an order must not exceed forty-eight hours (Article 22 § 2).

B. Code of Criminal Procedure

44. The term "court" is defined by the Russian Code of Criminal Procedure ("the CCrP") of 2002 as "any court of general jurisdiction which examines a criminal case on the merits and delivers decisions provided for by this Code" (Article 5 § 48). The term "judge" is defined by the CCrP as "an official empowered to administer justice" (Article 5 § 54).

45. A district court has the power to examine all criminal cases except for those falling within the respective jurisdictions of a justice of the peace, a regional court or the Supreme Court of Russia (Article 31 § 2).

46. Chapter 13 of the CCrP governs the application of preventive measures. Detention is a preventive measure applied on the basis of a court decision to a person suspected of or charged with a criminal offence punishable by at least two years' imprisonment where it is impossible to apply a more lenient preventive measure (Article 108 § 1). A court request for detention is submitted by an investigator *(следователь)* with the support of the head of the investigative authority or by a police officer in charge of the inquiry *(дознаватель)* with the support of a prosecutor (Article 108 § 3). A request for detention should be examined by a judge of a district court or a military court of a corresponding level in the presence of the person concerned (Article 108 § 4). Second-instance courts should examine appeals lodged against judge's decisions on detention within three days (Article 108 § 11). The period of detention pending investigation of a criminal case must not exceed two months (Article 109 § 1) but may be extended up to six months by a judge of a district court or a military court of a corresponding level. Further extensions up to twelve months may be granted with regard to persons accused of serious or particularly serious criminal offences (Article 109 § 2). Extensions up to eighteen months may be granted as an exception with regard to persons accused of particular serious criminal offences (Article 109 § 3).

47. A measure of restraint can be applied with a view to ensuring a person's extradition in compliance with the procedure established under Article 466 of the CCrP (Article 97 § 2).

48. Chapter 54 of the CCrP (Articles 460-468) governs the procedure to be followed in the event of extradition.

49. A court is to review the lawfulness and validity of a decision to extradite within a month of receipt of a request for review. The decision should be taken in open court by a panel of three judges in the presence of a prosecutor, the person whose extradition is sought and the latter's legal counsel (Article 463 § 4).

50. Article 464 § 1 lists the conditions under which extradition cannot be authorised. Thus, the extradition of the following should be denied: a Russian citizen (Article 464 § 1-1) or a person who was granted asylum in Russia (Article 464 § 1-2); a person in respect of whom a conviction became effective or criminal proceedings were terminated in Russia in connection with the same act for which he or she has been prosecuted in the requesting State (Article 464 § 1-3); a person in respect of whom criminal proceedings cannot be launched and a conviction cannot become effective in view of the expiry of the statute of limitations or under another valid ground under Russian law (Article 464 § 1-4); or a person in respect of whom a Russian court established obstacles to extradition, in accordance

with the legislation and international treaties of the Russian Federation (Article 464 § 1-5). Finally, extradition should be denied if the act that gave grounds for the extradition request does not constitute a criminal offence under the RCC (Article 464 § 1-6).

51. In the event that a foreign national, whose extradition is being sought, is being prosecuted or is serving a penalty for another criminal offence in Russia, his extradition may be postponed until the prosecution is terminated, the penalty is lifted on any valid ground or the sentence is served (Article 465 § 1).

52. Upon receipt of a request for extradition not accompanied by an arrest warrant issued by a foreign court, the Prosecutor General or his deputy is to "take measures" in order to decide on the preventive measure in respect of the person whose extradition is being sought. The preventive measure is to be applied in accordance with the established procedure (Article 466 § 1).

53. Upon receipt of a request for extradition accompanied by an arrest warrant issued by a foreign judicial body, a prosecutor may place the person whose extradition is being sought under house arrest or in custodial detention without prior approval of his or her decision by a court of the Russian Federation (Article 466 § 2).

C. Decisions of the Russian Constitutional Court

1. Decision of 17 February 1998

54. Verifying the compatibility of section 31(2) of the Law on the Legal Status of Foreign Nationals in the USSR of 1981, the Constitutional Court ruled that a foreign national liable to be expelled from Russian territory could not be detained for more than forty-eight hours without a court order.

2. Decision no. 101-O of 4 April 2006

55. Assessing the compatibility of Article 466 § 1 of the CCrP with the Russian Constitution, the Constitutional Court reiterated its settled case-law to the effect that excessive or arbitrary detention, unlimited in time and without appropriate review, was incompatible with Article 22 of the Constitution and Article 14 § 3 of the International Covenant on Civil and Political Rights in all cases, including extradition proceedings.

56. In the Constitutional Court's view, the absence of specific regulation of detention matters in Article 466 § 1 did not create a legal lacuna incompatible with the Constitution. Article 8 § 1 of the 1993 Minsk Convention provided that, in executing a request for legal assistance, the requested party would apply its domestic law, that is the procedure laid down in the CCrP. That procedure comprised, in particular, Article 466 § 1

of the Code and the norms in its Chapter 13 ("Preventive measures"), which, by virtue of their general character and position in Part I of the Code ("General provisions"), applied to all stages and forms of criminal proceedings, including proceedings for the examination of extradition requests.

57. The Constitutional Court emphasised that the guarantees of the right to liberty and personal integrity set out in Article 22 and Chapter 2 of the Constitution were fully applicable to detention with a view to extradition. Accordingly, Article 466 of the CCrP did not allow the authorities to apply a custodial measure without complying with the procedure established in the CCrP or in excess of the time-limits fixed in the Code.

3. Decision no. 158-O of 11 July 2006 on the Prosecutor General's request for clarification

58. The Prosecutor General asked the Constitutional Court for official clarification of its decision no. 101-O of 4 April 2006 (see above), for the purpose, in particular, of elucidating the procedure for extending a person's detention with a view to extradition.

59. The Constitutional Court refused the request on the ground that it was not competent to indicate specific provisions of the criminal law governing the procedure and time-limits for holding a person in custody with a view to extradition. That matter was within the competence of the courts of general jurisdiction.

4. Decision no. 333-O-P of 1 March 2007

60. The Constitutional Court reiterated its settled case-law to the effect that the scope of the constitutional right to liberty and personal inviolability was the same for foreign nationals and stateless persons as for Russian nationals. A foreign national or stateless person may not be detained in Russia for more than forty-eight hours without a judicial decision. That constitutional requirement served as a guarantee against excessively long detention beyond forty-eight hours, and also against arbitrary detention as such, in that it required a court to examine whether the arrest was lawful and justified.

61. The Constitutional Court held that Article 466 § 1 of the CCrP, read in conjunction with the Minsk Convention, could not be construed as permitting the detention of an individual for more than forty-eight hours on the basis of a request for his or her extradition without a decision by a Russian court. A custodial measure could be applied only in accordance with the procedure established in the CCrP and within the time-limits fixed in the Code.

5. Decision no. 383-O-O of 19 March 2009

62. The Constitutional Court dismissed as inadmissible a request for a review of the constitutionality of Article 466 § 2 of the CCrP, stating that this provision "does not establish time-limits for custodial detention and does not establish the reasons and procedure for choosing a preventive measure, it merely confirms a prosecutor's power to execute a decision already delivered by a competent judicial body of a foreign state to detain an accused. Therefore the disputed norm cannot be considered to violate constitutional rights of [the claimant] ..."

D. Ruling no. 22 of 29 October 2009 by the Russian Supreme Court

63. In Ruling no. 22, adopted by the Plenary Session of the Supreme Court of the Russian Federation on 29 October 2009 ("the Ruling of 29 October 2009"), it was stated that, pursuant to Article 466 § 1 of the CCrP, only a court could order the placement in custody of a person in respect of whom an extradition check was pending and where the authorities of the country requesting extradition had not submitted a court decision remanding him or her in custody. The judicial authorisation of placement in custody in that situation was to be carried out in accordance with Article 108 of the CCrP and following a prosecutor's request for that person to be placed in custody (paragraph 34 of the Ruling). In deciding to remand a person in custody a court was to examine if there were factual and legal grounds for the application of that preventive measure. If the extradition request was accompanied by a detention order of a foreign court, a prosecutor was entitled to remand the person in custody without a Russian court's authorisation (Article 466 § 2 of the CCrP) for a period not exceeding two months, and the prosecutor's decision could be challenged in the courts under Article 125 of the CCrP.

64. In extending a person's detention with a view to extradition a court was to apply Article 109 of the CCrP.

E. Other relevant material

65. On 18 October 2008 the Russian Prosecutor General's Office issued Direction no. 212/35 concerning the "extradition check" procedure for dealing with requests for extradition. According to the Direction, district and town prosecutors should interview a person who has been detained with a view to extradition, submit the interview record to the Prosecutor General's Office within twenty-four hours and take measures to ensure this person's placement in custody for forty-eight hours. Having received confirmation from the requesting State of their intention to seek extradition, these officials should take measures for authorising the person's detention,

in compliance with Russia's international treaties and the applicable national legislation. These public officials should also interview the detainee in order to ascertain the purpose of his arrival in Russia, his residence, nationality and intention to seek asylum in Russia; to verify the authenticity of the documents relating to his identity and nationality; and to verify the existence and veracity of information relating to the possible refusal or postponement of extradition. The information and documents collected during the extradition check should be submitted, within three days of the person's arrest, to the regional prosecutor.

III. RELEVANT INTERNATIONAL TREATIES AND DOCUMENTS

66. The Russian Federation is a party to the Convention relating to the Status of Refugees, adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950. Article 33 of this Convention reads as follows:

> "1. No Contracting State shall expel or return ("*refouler*") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
>
> 2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country."

67. In 2007 the Office of the United Nations High Commissioner for Refugees issued an Advisory Opinion on the Extraterritorial Application of *Non-Refoulement* Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol; it provides the following clarification [internal footnotes are omitted]:

> "7. The prohibition of *refoulement* to a danger of persecution under international refugee law is applicable to any form of forcible removal, including deportation, expulsion, extradition, informal transfer or "renditions", and non-admission at the border in the circumstances described below. This is evident from the wording of Article 33(1) of the 1951 Convention, which refers to expulsion or return (*refoulement*) "in any manner whatsoever". It applies not only in respect of return to the country of origin or, in the case of a stateless person, the country of former habitual residence, but also to any other place where a person has reason to fear threats to his or her life or freedom related to one or more of the grounds set out in the 1951 Convention, or from where he or she risks being sent to such a risk.
>
> 8. The principle of *non-refoulement* as provided for in Article 33(1) of the 1951 Convention does not, as such, entail a right of the individual to be granted asylum in a particular State. It does mean, however, that where States are not prepared to grant asylum to persons who are seeking international protection on their territory, they must adopt a course that does not result in their removal, directly or indirectly, to a

place where their lives or freedom would be in danger on account of their race, religion, nationality, membership of a particular social group or political opinion. As a general rule, in order to give effect to their obligations under the 1951 Convention and/or 1967 Protocol, States will be required to grant individuals seeking international protection access to the territory and to fair and efficient asylum procedures."

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLES 3 AND 13 OF THE CONVENTION

68. The applicant complained that his extradition to Uzbekistan would subject him to the risk of ill-treatment, in breach of Article 3 of the Convention, and that he had no effective remedies in respect of that grievance. Articles 3 and 13 of the Convention read as follows:

Article 3 (prohibition of torture)

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

Article 13 (right to an effective remedy)

"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

69. The Government argued that the applicant's allegation of a risk of ill-treatment had been thoroughly examined by the Russian authorities, including courts, in the extradition proceedings, as well as in relation to his applications for refugee status and temporary asylum. Having regard to the assurances provided by the Uzbek authorities, the Uzbek legislation and other available material, there had been no substantial grounds to believe that the applicant would be subjected to proscribed treatment if extradited to Uzbekistan.

70. The applicant argued that although the extradition order had been cancelled it remained possible for Russian authorities to remove him from Russia by way of administrative removal or deportation. Thus, he continued to be at risk of ill-treatment, if removed from Russia to Uzbekistan. The

applicant maintained that there was still an issue to be determined by the Court "under the procedural aspect of Article 3 of the Convention".

B. The Court's assessment

1. Article 3 of the Convention

71. The Court observes that the Russian migration authorities refused to provide the applicant with refugee status in Russia. The main reason for this refusal was the fact that the applicant had not made an application in this respect between 2000 and early 2010 and that he had not made any official statement to Uzbek or Russian authorities distancing himself from HT teachings or his previous participation in its activities. It was concluded that the applicant had not adduced convincing arguments concerning religious or political persecution, while the Uzbek legislation showed commitment to the protection of human rights. Thus, the Russian authorities did not and do not consider that the applicant faced or faces a real risk of ill-treatment if removed from Russia to Uzbekistan.

72. While such reasoning appears to raise issues under Article 3 of the Convention, the following circumstances, which arose after notice of the application had been given to the respondent Government, should be taken into consideration in the present case.

73. By a judgment of 28 December 2010, upheld on 4 March 2011 by the Supreme Court of Russia, the regional court annulled the extradition order in respect of the applicant. This decision was justified with reference to the inconsistencies and mistakes made in the comparative assessment of the relevant criminal offences under Uzbek and Russian law. At the same time, the regional court expressly dismissed the allegation of a risk of ill-treatment, relying on the written assurances made by the deputy Prosecutor General of Uzbekistan who affirmed that prosecution of the applicant would be in strict conformity with the Uzbek Code of Criminal Procedure. This being so, the regional court considered that the extradition order was premature because the applicant's application for refugee status had, at the time, been subject to judicial review.

74. It appears that the above judgment remains in force at present, and that the applicant is no longer subject to an extradition order which could be executed. Thus, it should be concluded that the factual and legal circumstances which were at the heart of the applicant's grievance before the Court are no longer operative. Therefore, the Court considers that the applicant is no longer at risk of treatment in breach of Article 3 of the Convention, on account of the above circumstances.

75. It is also noted that by a letter of 5 July 2011, the Moscow Office of the United Nations High Commissioner for Refugees (UNHCR) Representation informed the applicant's lawyer that the UNHCR had

determined that the applicant met the criteria set out in its Statute in connection with Article 1 A of the 1951 Convention relating to the Status of Refugees. It had been ascertained that the applicant was outside his country of nationality owing to well-founded fear of being persecuted by the authorities of his country for reasons of his religion and imputed political opinion and, owing to such fear, was unable to return to Uzbekistan, where he might be exposed to torture and other inhuman or degrading treatment or punishment. Therefore, the UNHCR considered that the applicant was eligible for international protection under its mandate.

76. The above constitutes a clear and sufficient basis for considering that the applicant will not be removed to Uzbekistan.

77. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

78. In view of the above, the Court finds it appropriate to lift the indication made to the respondent Government under Rule 39 of the Rules of Court.

79. The above findings should not prevent the applicant from lodging a new application before the Court and from making use of the available procedures, including the one under Rule 39 of the Rules of Court, on account of new circumstances and in compliance with the requirements of Articles 34 and 35 of the Convention (see *Dobrov v. Ukraine* (dec.), no. 42409/09, 14 June 2011).

2. Article 13 of the Convention

80. The Court reiterates that, according to its constant case-law, Article 13 applies only where an individual has an "arguable claim" to be the victim of a violation of a Convention right (see *Boyle and Rice v. the United Kingdom*, 27 April 1988, § 52, Series A no. 131). In view of the Court's findings above, the Court does not consider that the applicant's grievance raises an arguable claim under Article 3 of the Convention. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 5 § 1 OF THE CONVENTION

81. The applicant argued that his detention with a view to extradition had been in breach of the requirement of lawfulness under Article 5 § 1 (f) of the Convention. The applicant also alleged that the authorities failed to display diligence in the conduct of the extradition proceedings between 22 June and 9 August 2010.

82. Article 5 § 1 of the Convention reads in the relevant part as follows:

"1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

...

(f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition ..."

A. The parties' submissions

83. The applicant argued that there had been insufficient reasons for his detention since he had had no intention to abscond, and that the courts should have considered less stringent preventive measures such as house arrest. He also argued that the provisions of the CCrP on detention in extradition cases were unclear and unforeseeable because they allowed arrest and detention without a detention order issued by a Russian court. Such provisions did not specify the circumstances in which detention could be replaced by house arrest, which remained an illusory option.

84. The Government submitted that the applicant's arrest had been lawful and effected on the basis of the relevant information at the disposal of the Russian authorities concerning the pending criminal proceedings against the applicant in Uzbekistan, the Uzbek decisions to impose on him a preventive measure (arrest and detention) and to add his name to the wanted list. The Government also specified that the applicant's subsequent detention had been authorised by a Russian court, which verified that the essential conditions for such detention were complied with: that the alleged criminal acts were punishable under both Russian and Uzbek criminal law; that they could entail a sentence equal to or exceeding one year of imprisonment (as required by the Minsk Convention) and that the relevant limitation periods for prosecuting the relevant offences had not expired. The initial detention order had contained a time-limit, which was in compliance with the requirements of Article 466 and Chapter 13 of the Russian CCrP. The applicant's detention had been extended by a court on several occasions, within the time-limits specified in Article 109 of the CCrP. The applicant had made use of legal assistance in the detention proceedings and the courts had assessed all the relevant factual and legal circumstances, dismissing the possibility of applying a less stringent preventive measure. The applicant had been able to foresee the maximum statutory period of his detention with a view to extradition, that is until a decision was taken by the Prosecutor's General Office on the extradition request or until expiry of the time-limits set in the detention orders. The applicant could have realised that the "final decision" concerning his extradition could not have been taken

before his application for refugee status, appeals against detention orders or against an extradition decision had been examined.

B. The Court's assessment

1. Admissibility

85. The Court notes that from 26 February to 28 December 2010 the applicant was detained with a view to extradition, within the meaning of Article 5 § 1 (f) of the Convention.

86. As regards the applicant's complaint relating to the length of the uninterrupted period of his detention during the extradition proceedings and the authorities' diligence in the conduct of these proceedings, such complaint relates, in substance, to the entire period of the applicant's detention from 26 February to 28 December 2010. The Court considers that this period of detention constitutes a continuing situation in so far as the issue of diligence under Article 5 § 1 (f) of the Convention is concerned. Therefore, the Court will assess this period of detention in its entirety (see, *mutatis mutandis*, *Polonskiy v. Russia*, no. 30033/05, § 132, 19 March 2009; *Gubkin v. Russia*, no. 36941/02, § 134, 23 April 2009; and *Solmaz v. Turkey*, no. 27561/02, §§ 34-37, 16 January 2007, in the context of Article 5 § 3 of the Convention). The Court considers that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

87. The Court also observes that the applicant raised several arguments relating to the legality of his detention from 26 February to 8 November 2010. This complaint was lodged before the Court on 8 November 2010. Thus, by operation of the six-month rule under Article 35 § 1 of the Convention, the Court does not have jurisdiction to delve into the lawfulness of the applicant's arrest and the initial period of detention under the detention order of 26 February 2010 (from 26 February to 1 April 2010) (see, in a similar context, *Solovyev v. Russia*, no. 2708/02, § 83, 24 May 2007; *Savenkova v. Russia*, no. 30930/02, § 62, 4 March 2010; and *Vladimir Krivonosov v. Russia*, no. 7772/04, § 109, 15 July 2010).

88. As regards the period of detention from 1 April to 8 November 2010, the Court considers that the complaint concerning formal lawfulness is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. No other ground for declaring it inadmissible has been established. It must therefore be declared admissible.

2. Merits

(a) As regards the length of the applicant's detention with a view to extradition and the authorities' diligence in the conduct of the extradition case

89. The Court reiterates that, in contrast to the applicable national legislation, Article 5 § 1 (f) of the Convention does not require that the detention of a person against whom action is being taken with a view to deportation or extradition be reasonably considered necessary, for example to prevent his committing an offence or absconding. In this connection, Article 5 § 1 (f) provides a different level of protection from Article 5 § 1 (c): all that is required under sub-paragraph (f) is that "action is being taken with a view to deportation or extradition". It is therefore immaterial, for the purposes of Article 5 § 1 (f), whether the underlying decision to expel can be justified under national or Convention law. Deprivation of liberty under Article 5 § 1 (f) will be acceptable only for as long as extradition proceedings are in progress. If such proceedings are not conducted with due diligence, the detention will cease to be permissible under Article 5 § 1 (f). In other words, the length of the detention for this purpose should not exceed what is reasonably required (see *Saadi v. the United Kingdom* [GC], no. 13229/03, § 74, ECHR 2008).

90. The Court reiterates that the relevant period lasted some nine months. Indeed, it has not been substantiated that there were any significant unjustified delays or period of inaction attributable to the State. It appears that the extradition proceedings were "in progress" all this time, including between June and August 2010. On 28 December 2010 the regional court examined the extradition case and annulled the extradition order of 9 August 2010, also ordering the applicant's release from detention.

91. In view of the foregoing, the Court is satisfied that the requirement of diligence was complied with in the present case.

92. There has therefore been no violation of Article 5 § 1 of the Convention on this account.

(b) As regards lawfulness of the applicant's detention from 1 April to 8 November 2010

93. By contrast to some previous cases concerning Russia (see, among others, *Dzhurayev v. Russia*, no. 38124/07, § 68, 17 December 2009), the applicant's detention during this period of time was extended by a Russian court. The extension orders contained time-limits, in compliance with the requirements of Article 109 of the CCrP, which was applicable in the context of detention in extradition cases following the 2009 ruling of the Supreme Court of Russia (see paragraphs 63-64 above).

94. Before the domestic courts and this Court the applicant did not put forward any serious argument prompting the Court to consider that his

detention, which was with a view to extradition, was in breach of Article 5 § 1 of the Convention. It is in the first place for the national authorities, and notably the courts, to interpret domestic law, including rules of a procedural nature. The Court does not find that the domestic courts acted in bad faith, that they neglected to apply the relevant legislation correctly or that the applicant's detention during the relevant period of time was unlawful or arbitrary.

95. There has therefore been no violation of Article 5 § 1 of the Convention as regards the lawfulness of the applicant's detention from 1 April to 8 November 2010.

III. ALLEGED VIOLATION OF ARTICLE 5 § 4 OF THE CONVENTION

96. The applicant further complained that he had no effective procedure by which he could challenge his detention. Article 5 § 4 of the Convention reads as follows:

> "...
>
> 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful ..."

A. Admissibility

97. The Court considers that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. No other ground for declaring it inadmissible has been established. Thus, it must be declared admissible.

B. Merits

1. The parties' submissions

98. The applicant argued that he had had no opportunity to apply for release for long periods following the detention orders of 1 April and 23 August 2010, in particular on account of the alleged violation of the due diligence requirement for extradition proceedings.

99. Reiterating their arguments raised in relation to Article 5 § 1 of the Convention (see paragraph 84 above), the Government also submitted that the applicant's detention had been ordered and extended regularly, within the time-limits imposed by Article 109 of the CCrP, by a Russian court in adversarial proceedings. The applicant had used the opportunity to appeal

against detention orders to a higher court. Such appeals had been examined speedily and thoroughly.

2. The Court's assessment

(a) General principles

100. The Court reiterates that the Convention requirement for an act of deprivation of liberty to be amenable to independent judicial scrutiny is of fundamental importance in the context of the underlying purpose of Article 5 of the Convention to provide safeguards against arbitrariness (see *Varbanov v. Bulgaria*, no. 31365/96, § 58, ECHR 2000-X).

101. Article 5 § 4 of the Convention entitles detained persons to institute proceedings for a review of compliance with the procedural and substantive conditions which are essential for the "lawfulness" of their deprivation of liberty. The notion of "lawfulness" under paragraph 4 of Article 5 has the same meaning as in paragraph 1, so that a detained person is entitled to a review of the "lawfulness" of his detention in the light not only of the requirements of domestic law but also of the Convention, the general principles embodied therein and the aim of the restrictions permitted by Article 5 § 1 (see *A. and Others v. the United Kingdom* [GC], no. 3455/05, § 202, 19 February 2009, with further references).

102. Article 5 § 4 guarantees a remedy that must be accessible to the person concerned (see *Stanev v. Bulgaria* [GC], no. 36760/06, §§ 174-177, 17 January 2012; and *Sanchez-Reisse v. Switzerland*, 21 October 1986, § 45, Series A no. 107).

103. Where the decision depriving a person of his liberty is one taken by an administrative body, Article 5 § 4 obliges the Contracting States to make available to the person detained a right of recourse to a court. When the decision is made by a court at the close of judicial proceedings, the supervision required by Article 5 § 4 is incorporated in the decision; this is so, for example, where a sentence of imprisonment is pronounced after "conviction by a competent court" under Article 5 § 1 (a) of the Convention; or where detention of a vagrant, provided for in Article 5 § 1 (e), is ordered by a "court" within the meaning of paragraph 4 (see *De Wilde, Ooms and Versyp v. Belgium*, 18 June 1971, § 76, Series A no. 12).

104. In order to constitute such a "court" an authority must provide the fundamental guarantees of procedure applied in matters of deprivation of liberty. If the procedure of the competent authority does not provide them, the State cannot be dispensed from making available to the person concerned a second authority which does provide all the guarantees of judicial procedure. The intervention of one organ satisfies Article 5 § 4, but on condition that the procedure followed has a judicial character and gives

to the individual concerned guarantees appropriate to the kind of deprivation of liberty in question (ibid.).

105. Article 5 § 4 does not guarantee a right to judicial review of such a scope as to empower the court, on all aspects of the case including questions of pure expediency, to substitute its own discretion for that of the decision-making authority. The review should, however, be wide enough to bear on those conditions which are essential for the "lawful" detention of a person according to Article 5 § 1. The reviewing "court" must have the competence to "decide" the "lawfulness" of the detention and to order release if the detention is unlawful (see *A. and Others*, cited above, § 202).

106. The forms of judicial review satisfying the requirements of Article 5 § 4 may vary from one domain to another, and will depend on the type of deprivation of liberty in issue. It is not the Court's task to enquire into what would be the most appropriate system in the sphere under examination. It is not excluded that a system of automatic periodic review of the lawfulness of detention by a court may ensure compliance with the requirements of Article 5 § 4 (see *Megyeri v. Germany*, 12 May 1992, § 22, Series A no. 237-A).

107. In a number of cases under Article 5 § 1 (e) concerning "persons of unsound mind" the Court stated that a person detained for an indefinite or lengthy period is in principle entitled, at any rate where there is no automatic periodic review of a judicial character, to take proceedings "at reasonable intervals" before a court to put in issue the "lawfulness" – within the meaning of the Convention – of his detention (see *Stanev*, cited above, § 171, with further references). Long intervals in the context of automatic periodic review may give rise to a violation of Article 5 § 4 (see, among others, *Herczegfalvy v. Austria*, 24 September 1992, § 77, Series A no. 244).

(b) Application of the principles in the present case

108. The Court observes that unlike in some previous Russian cases concerning detention with a view to extradition (see, among many others, *Nasrulloyev v. Russia*, no. 656/06, §§ 87-89, 11 October 2007, and *Dzhurayev*, cited above, § 68), the applicant's detention was ordered by a Russian court rather than a foreign court or a non-judicial authority. There is no doubt that this court satisfied the requirement of a "court" mentioned in Article 5 § 4 of the Convention.

109. It is also observed that the initial detention order was issued at the request of a prosecutor's office and that the court set in the initial detention order a time-limit for the applicant's detention, which was amenable to extension. Unlike in previous cases concerning Russia (see, among others, *Muminov v. Russia*, no. 42502/06, § 114, 11 December 2008), before the expiry of the above-mentioned time-limit, the detention was subsequently subject to extension requests from a prosecutor's office, and was extended

on several occasions, including on 1 April and 23 August 2010, also for specific periods of time.

110. The Court considers that the above proceedings amounted to a form of periodic review of a judicial character (see *Stanev*, cited above, § 171). It appears that the first-instance court was able to assess the conditions which, according to paragraph 1 (f) of Article 5, are essential for "lawful detention" with a view to extradition (see paragraphs 25 and 27 above).

111. In addition, while Article 5 § 4 does not compel the Contracting States to set up a second level of jurisdiction for the examination of the lawfulness of detention (see *Lebedev v. Russia*, no. 4493/04, § 96, 25 October 2007), it was open to the applicant under Russian law to appeal against detention orders to a higher court, which could review them on various grounds. The Court observes in that connection that, for unspecified reasons, the applicant chose not to appeal against the initial detention order of 26 February 2010. However, he did appeal against the detention orders of 1 April and 23 August 2010. The appeals were examined on 14 April and 31 August 2010 respectively. The mere fact that the applicant's appeals were dismissed is not sufficient to conclude that the remedy was devoid of any prospect of success. As with the procedure before the first-instance court, it appears that the review court was such as to assess the lawfulness of detention with a view to extradition.

112. The applicant has not adduced any specific argument contesting the effectiveness of the available procedure or substantiating any unfairness in such proceedings. As previously mentioned by the Court, where detention is authorised by a court, subsequent proceedings are less concerned with arbitrariness, but provide guarantees aimed primarily at an evaluation of the appropriateness of continuing the detention. Therefore, the Court would not be concerned, to the same extent, with the proceedings before the court of appeal if the detention order under review had been imposed – like in the present case – by a court and on condition that the procedure followed by that court had a judicial character and afforded to the detainee the appropriate procedural guarantees (ibid.). The applicant could raise on appeal various arguments relating to his detention, including those relating to the requirement of diligence in the conduct of extradition proceedings and the length of the authorised period, when a court examined the prosecutor's renewed request for extension of detention or on appeal against the detention order.

113. In the Court's view, the applicant was thereby enabled to "take proceedings" by which the lawfulness of his detention could be effectively assessed by a court.

114. There has therefore been no violation of Article 5 § 4 of the Convention in the present case.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* admissible the complaints concerning the lawfulness of the applicant's detention from 1 April to 8 November 2010, and concerning the length and review of the applicant's detention with a view to extradition; and the remainder of the application inadmissible;

2. *Holds* that there has been no violation of Article 5 § 1 of the Convention;

3. *Holds* that there has been no violation of Article 5 § 4 of the Convention;

4. *Holds* that the indication made to the respondent Government under Rule 39 of the Rules of Court should be lifted.

Done in English, and notified in writing on 5 June 2012, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren Nielsen
Registrar

Nina Vajić
President