



## Deportation from Russia of Uzbek man suspected of membership of illegal religious organisation exposed him to risk of ill-treatment in his home country

In today's Chamber judgment in the case of [Zokhidov v. Russia](#) (application no. 67286/10), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 3 (prohibition of torture and of inhuman or degrading treatment)** of the European Convention on Human Rights;

**violations of Article 5 §§ 1, 2 and 4 (right to liberty and security);** and,

**a violation of Article 34 (right of individual petition).**

The case concerned the extradition of an Uzbek national from Russia to Uzbekistan, where he was wanted in connection with his presumed membership of the illegal religious organisation Hizb ut-Tahrir.

The Court found that Mr Zokhidov had been at real risk of ill-treatment in Uzbekistan. His removal there, in contravention of an interim measure indicated by the Court, had moreover removed him from Convention protection, making it impossible for this judgment to be effectively enforced.

### Principal facts

The applicant, Rustam Zokhidov, is an Uzbek national who was born in 1972 and is currently serving a term of imprisonment in Uzbekistan. He lived in Russia between 2005 and December 2011.

In May 2010, criminal proceedings were brought against Mr Zokhidov in Uzbekistan on suspicion of having participated, between 2001 and 2005, in activities of Hizb ut-Tahrir, a religious organisation banned in Uzbekistan. He was charged with public appeals to overthrow the constitutional order in connection with his presumed membership of the organisation and his name was placed on an international wanted list. In July 2010, he was arrested in St. Petersburg and detained on 15 July with a view to his extradition to Uzbekistan. His detention was again ordered by the prosecutor on 24 August 2010, and it was subsequently extended until his release in April 2011.

In the meantime, a request from the Uzbek authorities for Mr Zokhidov's extradition to Uzbekistan, received by the Russian authorities on 16 August 2010, was approved by the Russian deputy Prosecutor General in September 2010, the decision stating that Mr Zokhidov was charged with offences which were prescribed by Russian criminal law.

<sup>1</sup> Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution)

Informed of the extradition order in October 2010, Mr Zokhidov appealed, arguing that he ran a real risk of being exposed to ill-treatment if extradited. On 19 November 2010, the European Court of Human Rights granted Mr Zokhidov's request for an interim measure and indicated to the Russian Government that he should not be extradited to Uzbekistan until further notice. The St Petersburg city court initially dismissed Mr Zokhidov's appeal against the extradition order, noting in particular that the Uzbek authorities had given assurances to the effect that he would not be subjected to treatment in breach of Article 3. The decision having been quashed by the Supreme Court, the city court set aside the extradition order in April 2011, finding that the legal classification of the charges against Mr Zokhidov under Russian law was incorrect and that his criminal prosecution had become time-barred, and ordered his release.

In parallel, Mr Zokhidov brought asylum proceedings in October 2010, stating that he was persecuted in Uzbekistan on account of his religious beliefs. His request for refugee status was dismissed. The migration authorities referred in particular to the fact that he had applied for asylum only more than two months after his arrest with a view to his extradition and that he had breached the residence regulations by submitting false information. His complaint against that decision was rejected by the district court in November 2011.

On 21 December 2011, Mr Zokhidov was deported to Uzbekistan. According to his submissions, a group of police officers and officials of the migration service burst into the flat where he lived with his family on the pretext of an identity check. They subsequently took him to the airport, where he was put on a plane to Uzbekistan, despite the fact that he had informed the officers of the interim measure indicated by the European Court of Human Rights and had shown them a copy of the Court's letter as proof. According to the Russian Government, there had not been any legal grounds for Mr Zokhidov's stay in Russia, given the refusal to grant him asylum. In Uzbekistan, he was convicted as charged and sentenced to eight years' imprisonment in April 2012.

## Complaints, procedure and composition of the Court

Mr Zokhidov complained that his removal to Uzbekistan had been in violation of Article 3, in particular since, as a person accused of participating in a banned religious organisation considered extremist by the Uzbek authorities, he ran a real risk of ill-treatment. He further complained that he did not have any effective remedies in respect of that complaint, in breach of Article 13 (right to an effective remedy). Also relying in particular on Article 5 §§ 1, 2 and 4 (right to liberty and security), he complained that his detention in Russia from July to September 2010 had been unlawful, that he had not been informed promptly, in a language he understood, of the reasons for his arrest and the charges against him, and that he did not have the possibility to effectively challenge the detention orders. Finally, he complained that Russia failed to comply with its obligations under Article 34 (right of individual petition) by disregarding the interim measure indicated by the European Court of Human Rights to the effect that he should not be extradited to Uzbekistan.

The application was lodged with the European Court of Human Rights on 19 November 2010.

Judgment was given by a Chamber of seven judges, composed as follows:

Isabelle **Berro-Lefèvre** (Monaco), *President*,  
Mirjana **Lazarova Trajkovska** ("The former Yugoslav Republic of Macedonia"),  
Julia **Laffranque** (Estonia),  
Linos-Alexandre **Sicilianos** (Greece),  
Erik **Møse** (Norway),

Ksenija **Turković** (Croatia),  
Dmitry **Dedov** (Russia),

and also André **Wampach**, *Deputy Section Registrar*.

## Decision of the Court

### Article 3

The Court found that the Russian authorities had not carried out a thorough examination of Mr Zokhidov's allegations concerning the risk of his ill-treatment in Uzbekistan. In particular, the Russian courts' decision to set aside the order for his extradition was mainly based on technical reasons, namely the fact that his prosecution had become time-barred. The migration authorities, in their decisions to refuse his asylum request, had mainly referred to the fact that he had waited too long before applying for refugee status and had breached the residence regulations, but they had not specifically addressed his detailed submissions concerning the risk of being subjected to ill-treatment in case of his removal.

In previous judgments concerning potential removals to Uzbekistan, including in recent cases, the Court had found, with reference to reliable international sources, that the practice of torture against those in police custody was systematically used there. At the same time, the Court emphasised that it was insufficient to simply refer to a general problem concerning human rights observance in a particular country to bar extradition. With regard to Mr Zokhidov's personal situation it noted that, having been wanted on charges of a number of offences in connection with his alleged membership of Hizb ut-Tahrir, he belonged to a group in respect of which reliable sources confirmed a continuing pattern of ill-treatment and torture by the authorities. The criminal proceedings against him had been instituted in the aftermath of terrorist attacks of 2009, which had been followed by a wave of arbitrary arrests and ill-treatment of people suspected of their involvement with Hizb ut-Tahrir. The Court thus considered that there were substantial grounds to believe that Mr Zokhidov had faced a real risk of treatment in breach of Article 3. The assurances given by the Uzbek authorities that he would not be ill-treated had been couched in general terms and there was no evidence that they were supported by any monitoring mechanism. Mr Zokhidov's removal to Uzbekistan had therefore violated Article 3.

The Court did not consider it necessary to examine Mr Zokhidov's complaint separately under Article 13, as it essentially contained the same arguments as those examined under Article 3.

### Article 5

The Court found that there had been a violation of **Article 5 § 1** on account of Mr Zokhidov's detention in Russia from 14 July to 15 September 2010. Neither the prosecutor in his decision to order the detention nor the Russian Government had referred to any provision under Russian law that would have authorised his placement in custody between 14 July and 16 August 2010, when the prosecutor had received the extradition request. After that date, Mr Zokhidov's detention had been covered by the relevant provision of the Code of Criminal Procedure. However, that provision lacked clear rules on the procedures to be followed when ordering the detention of a person whose extradition was sought and it did not set any time-limits for detention pending extradition.

Furthermore, there had been a violation of **Article 5 § 2**, as Mr Zokhidov had not been promptly provided with sufficient information concerning his arrest and the charges brought against him. While his arrest and interview records contained a reference to the

fact that he was wanted by the Uzbek authorities, those documents did not mention the reasons why those authorities were searching for him.

Finally, there had been a violation of **Article 5 § 4** on account of Mr Zokhidov's inability to obtain a review of the detention orders of 15 July and 24 August 2010. The Russian Government had referred to legal provisions which provided individuals detained with a view to extradition with the possibility of bringing a judicial complaint. However, the Court was not convinced that those legal provisions - in particular Article 125 of the Code of Criminal Procedure, as interpreted by the Russian Supreme Court - explicitly gave the court the competence to release a detainee in Mr Zokhidov's situation. Moreover, the Government acknowledged that Mr Zokhidov had been provided with the detention orders of 15 July and 24 August 2010 after the domestic courts had already authorised his ensuing detention, which made appeals against them devoid of purpose.

#### Article 34 (right of individual petition)

While the Russian Government acknowledged that Mr Zokhidov's removal to Uzbekistan had been in breach of the interim measure indicated by the Court and that this was contrary to Article 34 of the Convention, they asserted that the migration authorities which carried out the deportation order had not been aware of the interim measure and that it had not been their intention to act in non-compliance with Article 34. The Court was not convinced by this argument. In particular, according to Mr Zokhidov's submissions, uncontested by the Government, he had informed the migration officials of the Court's interim measure. He had moreover asserted, and those submissions were also uncontested by the Government, that he had been prevented from contacting his lawyer after having been taken away from his flat.

The Court pointed out that Mr Zokhidov's removal to Uzbekistan had removed him from Convention protection and had frustrated the purpose of the interim measure, which was to maintain the status quo pending the Court's examination of the application and to allow its final judgment to be effectively enforced. There had accordingly been a violation of Article 34.

#### Just satisfaction (Article 41)

The Court held that Russia was to pay Mr Zokhidov 30,000 euros (EUR) in respect of non-pecuniary damage and EUR 11,000 in respect of costs and expenses.

*The judgment is available only in English.*

---

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on [www.echr.coe.int](http://www.echr.coe.int). To receive the Court's press releases, please subscribe here: [www.echr.coe.int/RSS/en](http://www.echr.coe.int/RSS/en).

#### Press contacts

[echrpres@echr.coe.int](mailto:echrpres@echr.coe.int) | tel: +33 3 90 21 42 08

**Nina Salomon (tel: + 33 3 90 21 49 79)**

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Denis Lambert (tel: + 33 3 90 21 41 09)

**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.