



## Elderly Russian lady's expulsion from Finland would not be in breach of the Convention; no proof that she could not be cared for in Russia

The case [Senchishak v. Finland](#) (application no. 5049/12) concerned the threatened removal from Finland of a 72-year-old Russian national. She claimed that she would not have access to medical care in Russia, it being impossible for her to obtain a place in a nursing home there, and because she would be separated from her daughter, a Finnish national.

In today's **Chamber** judgment<sup>1</sup> in the case the European Court of Human Rights held, unanimously, that there would be **no violation of Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights if Ms Senchishak, the applicant, were to be expelled to Russia.

The Court found that neither the general situation in Russia nor Ms Senchishak's personal circumstances would put her at real risk of inhuman or degrading treatment if she were expelled. In particular, she had failed to provide evidence to prove her allegation that she had no access to medical treatment in Russia, there being both private and public care institutions there or the possibility of hiring external help. The Court was also assured that her state of health at the time of her removal would be taken into account and appropriate transportation – by ambulance for example – would be organised.

The Court also decided to continue to indicate to the Finnish Government – under Rule 39 of its Rules of Court – not to expel Ms Senchisak until such time as this judgment has become final or until further order.

### Principal facts

The applicant, Marina Senchishak, is a Russian national who was born in 1942 and lives in Espoo (Finland).

Ms Senchishak arrived in Finland in December 2008 on a tourist visa to stay with her daughter. Her daughter has been living in Finland since 1988 and has become a Finnish citizen. Soon after her arrival Ms Senchishak applied for a residence permit on the basis of family ties. She alleged before both the immigration authorities and administrative courts that, paralysed on her right side since 2006 after having suffered a stroke, it was impossible for her to obtain adequate medical care in Russia and that she was therefore dependent on her daughter in Finland, her husband having died in 2007 and her other daughter having been missing – presumed dead – since 2003.

The immigration authorities refused Ms Senchishak a residence permit and ordered her removal to Russia. Ms Senchishak's appeal against her removal was rejected by the Helsinki Administrative Court in September 2011, which found in particular that she could receive proper medical care in Russia and was not therefore completely dependent on her daughter in Finland. In any case, her daughter could help her financially and could easily visit her in Russia, their hometown – Vyborg –

1. 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).

being only a short distance from the Finnish border. The Supreme Administrative Court ultimately refused leave to appeal in June 2012; no stay on removal was ordered.

Ms Senchishak's removal was suspended on the basis of an interim measure granted by the European Court of Human Rights in January 2012 under Rule 39 of its Rules of Court, which indicated to the Finnish Government that she should not be removed until further notice.

## Complaints, procedure and composition of the Court

Ms Senchishak alleged that her removal would be in violation of Article 3 (prohibition of inhuman or degrading treatment) and Article 8 (right to respect for private and family life) because she did not have access to medical care in Russia, it being impossible for her to obtain a place in a nursing home there, and because she would be separated from her daughter, her closest living relative.

The application was lodged with the European Court of Human Rights on 17 January 2012.

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

Ineta **Ziemele** (Latvia), *President*,  
Päivi **Hirvelä** (Finland),  
Ledi **Bianku** (Albania),  
Nona **Tsotsoria** (Georgia),  
Zdravka **Kalaydjieva** (Bulgaria),  
Paul **Mahoney** (the United Kingdom),  
Faris **Vehabović** (Bosnia and Herzegovina),

and also Françoise **Elens-Passos**, *Section Registrar*.

## Decision of the Court

### [Article 3 \(inhuman or degrading treatment\)](#)

The Court examined whether Ms Senchishak was at risk of ill-treatment if she were expelled to Russia, bearing in mind the general situation in the country and her personal circumstances.

The general human rights situation in Russia was clearly not of such a nature that there would be a violation of the European Convention if Ms Senchishak were removed there.

Nor did the Court find that there were any personal circumstances which could prevent her deportation to Russia. The Court – like the Finnish Government – found that she had not provided any evidence to prove her allegation that she had no access to medical treatment in Russia, there being both private and public care institutions there or the possibility of hiring external help. As concerned her actual removal, the Court was assured that her state of health at the time of her removal would be taken into account and appropriate transportation – by ambulance for example – would be organised.

The Court therefore concluded that, in the current circumstances, there were no substantial grounds for believing that Ms Senchishak would be exposed to a real risk of being subjected to inhuman or degrading treatment if she were expelled to Russia.

### [Article 8 \(private and family life\)](#)

The Court reiterated that, under the Convention case-law concerning expulsion and extradition measures, the notion of “family life” was to be understood as limited to the core family. Notably, relationships between elderly parents – adults who do not belong to the core family – and adult

children do not fall within the scope of Article 8 unless it has been proven that the former are dependent on the members of their family.

In view of that case-law, the Court considered that there were no additional factors of dependence, other than normal ties of affection, between Ms Senchishak and her daughter. As noted above, there were both private and public care institutions in Russia and the possibility of hiring external help. Moreover, Ms Senchishak's daughter was able to support her financially and otherwise, given the short distance between the daughter's place of residence in Finland and their hometown in Russia.

Accordingly, the Court held, by a majority, that Article 8 was not applicable in Ms Senchisak's case and this part of her complaint was declared inadmissible.

### [Rule 39 \(interim measures\)](#)

The Court also decided, in the interests of the proper conduct of the proceedings before it, to continue to indicate to the Finnish Government under Rule 39 of its Rules of Court not to expel Ms Senchisak until such time as this judgment has become final or until further order.

### Separate opinions

Judges Bianku and Kalaydjieva expressed a joint dissenting opinion, which is annexed to the judgment.

*The judgment is available only in English.*

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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.