



Swedish authorities must assess the consequences of an Iranian national's conversion to Christianity before deciding on his removal to Iran

The case [F.G. v. Sweden](#) (application no. 43611/11) concerned the refusal of asylum to an Iranian national converted to Christianity in Sweden. The applicant, F.G., notably alleged that, if expelled to Iran, he would be at a real risk of being persecuted and punished or sentenced to death owing to his political past in the country and his conversion from Islam to Christianity.

In today's **Grand Chamber** judgment¹ in the case the European Court of Human Rights held, unanimously:

that there **would be no violation of Article 2 (right to life) and Article 3 (prohibition of torture and of inhuman or degrading treatment)** of the European Convention on Human Rights, on account of F.G.'s political past in Iran, if he were deported to his country of origin, and

that there **would be a violation of Articles 2 and 3** of the Convention if F.G. were to be returned to Iran without a fresh and up-to-date assessment being made by the Swedish authorities of the consequences of his religious conversion.

The Court pointed out that the case involved important issues concerning the duties to be observed by the parties in asylum proceedings.

The Court considered that there was no evidence to support the allegation that the national authorities, in their decisions refusing asylum, had been wrong to come to the conclusion that F.G. had been a low-profile activist or political opponent and was not therefore in need of protection in Sweden. Indeed, they had taken into account F.G.'s political activities against the Iranian regime, as well as the fact that he had been arrested on a number of occasions and summoned before the Iranian courts. Nor could the Court conclude that the asylum proceedings had in any way been inadequate as concerned its assessment of F.G.'s political activities.

However, as concerned F.G.'s conversion to Christianity, the Swedish authorities had so far never made an assessment of the risks that F.G. could encounter upon returning to Iran. Regardless of F.G.'s conduct (namely, the fact that he declined to invoke his conversion as an asylum ground in the original proceedings), the Court considered that the Swedish authorities would now be under an obligation – given the absolute nature of Articles 2 and 3 of the Convention – to make a fresh assessment, of their own motion, of all the information brought to their attention before taking a decision on his removal.

Principal facts

The applicant, F.G., is an Iranian national who was born in 1962 and is currently living in Sweden.

F.G. arrived in Sweden in November 2009 claiming asylum. In his initial request for asylum he submitted that he had been politically active against the Iranian regime, claiming that he had mainly worked with the student movement since 2007, helping them to create and publish web pages which were critical of the system. He had been arrested in April 2007, June 2009 and again in

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.

September 2009 and finally fled the country on being summoned to appear before the Revolutionary Court in November 2009. He also mentioned that he had converted to Christianity after coming to Sweden but didn't wish to rely on it as an asylum ground, either before the Migration Board or, on appeal, before the Migration Court, since he considered it a personal matter.

The Migration Board rejected F.G.'s request in a decision eventually upheld by the migration courts in June 2011. The authorities notably found that he had exaggerated his political activities, which they considered to have taken place at a low level, and that he was not therefore in need of protection in Sweden. The low-profile nature of his activities was moreover supported by the fact that F.G. had not received any new summonses since 2009 and that his remaining family in Iran had not been targeted by the Iranian authorities. In their decisions the authorities did not, however, carry out a thorough examination of F.G.'s conversion to the Christian faith, due to the fact that he had declined to invoke this factor as a ground for requesting asylum.

Having thus been refused asylum on political grounds, F.G. requested a stay on his deportation order, relying on his conversion to Christianity as a new circumstance to be taken into consideration. His request was refused by the authorities in a decision which was eventually upheld in November 2011, on the ground that his conversion was not a "new circumstance" which could justify a re-examination of the proceedings.

F.G.'s expulsion was, however, then stayed on the basis of an interim measure granted in October 2011 by the European Court of Human Rights under Rule 39 of its Rules of Court, which indicated to the Swedish Government that the applicant should not be expelled to Iran whilst the Court was considering his case.

Complaints, procedure and composition of the Court

Relying on Article 2 (right to life) and Article 3 (prohibition of torture and of inhuman or degrading treatment) of the European Convention on Human Rights, F.G. complained that if expelled to Iran he would be at a real risk of being persecuted and punished or sentenced to death, owing to his political past in the country and his conversion from Islam to Christianity in Sweden.

The application was lodged with the European Court of Human Rights on 12 July 2011.

In its Chamber [judgment](#) of 16 January 2014 the Court held, by four votes to three, that F.G. had failed to substantiate that, if returned to Iran, he would face a real and concrete risk of being subjected to treatment contrary to Article 2 or 3 of the Convention. Consequently, it found that the implementation by Sweden of the expulsion order against the applicant would not give rise to a violation of these provisions. The Court also decided to continue to indicate to the Swedish Government, under Rule 39 (interim measures) of the Rules of Court, not to expel F.G. until the Court's judgment became final or pending any further order.

On 16 April 2014 the applicant requested that the case be referred to the Grand Chamber under Article 43 (referral to the Grand Chamber) and on 2 June 2014 the panel of the Grand Chamber [accepted](#) that request.

Third-party comments were received from the European Centre for Law and Justice, the Alliance Defending Freedom assisted by Jubilee Campaign, the Advice on Individual Rights in Europe ("the AIRE Centre"), the European Council on Refugees and Exiles ("ECRE"), the International Commission of Jurists, and the Office of the United Nations High Commissioner for Refugees ("UNHCR"), which had been granted leave to intervene in the written procedure (under Article 36 § 2 of the Convention and Rule 44 § 3).

A Grand Chamber hearing on the case was held in public in Strasbourg on 3 December 2014.

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

Guido Raimondi (Italy), *President*,
Dean Spielmann (Luxembourg),
András Sajó (Hungary),
Josep Casadevall (Andorra),
Ineta Ziemele (Latvia),
Elisabeth Steiner (Austria),
George Nicolaou (Cyprus),
Ledi Bianku (Albania),
Vincent A. de Gaetano (Malta),
Julia Laffranque (Estonia),
Paulo Pinto de Albuquerque (Portugal),
Linos-Alexandre Sicilianos (Greece),
Helena Jäderblom (Sweden),
Aleš Pejchal (the Czech Republic),
Krzysztof Wojtyczek (Poland),
Dmitry Dedov (Russia),
Robert Spano (Iceland),

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

Decision of the Court

The Court dismissed, by 16 votes to one, the Government's request to strike the case out of its list of cases on the ground that the deportation order had expired in June 2015 and was therefore no longer enforceable. Even though it was not in doubt that F.G. might institute new and full proceedings for asylum in Sweden, the Court was not satisfied that he had completely lost his victim status. He is currently in limbo, not having been granted asylum or a residence permit in Sweden. In any case, the Court noted that there were important issues involved in the case, notably concerning the duties to be observed by the parties in asylum proceedings. The impact of the case going beyond just the particular situation of the applicant, the Court therefore found that there were special circumstances regarding respect for human rights which required the continued examination of the case.

[Articles 2 \(right to life\) and 3 \(prohibition of torture and of inhuman or degrading treatment\)](#)

F.G.'s political activities in Iran

First, the Court found that F.G., if returned to Iran, would not be at risk as a result of the general situation in the country.

As concerned the particular circumstances of F.G.'s situation, in their decisions refusing asylum the national authorities had taken into account F.G.'s political activities against the Iranian regime, as well as the fact that he had been arrested on a number of occasions and summoned before the Iranian courts. Making an overall assessment, the authorities concluded that he had not been a high-profile activist or political opponent and was not therefore in need of protection in Sweden. That conclusion was supported by the fact that since 2009 F.G. had not received any new summonses from the Revolutionary Court and that none of his family members remaining in Iran had been subjected to any reprisals by the Iranian authorities. The Court considered that there was no evidence to support the allegation that the authorities had been wrong to come to those conclusions or that the asylum proceedings had been in any way inadequate as concerned its assessment of F.G.'s political activities.

Nor was there any evidence in the case to indicate that the Swedish authorities had not duly taken the risk of detention at the airport into account when assessing globally the risk faced by the applicant if returned to Iraq.

Finally, as to the applicant's allegation before the Grand Chamber that the Iranian authorities could identify him from the judgments delivered by the European Court, the Court pointed out that the applicant had been granted anonymity in October 2011 and that, based on the material before the Court, there were no strong indications of an identification risk.

It followed that, if F.G. were to be expelled to Iran, Articles 2 and 3 of the Convention would not be violated on account of his political past in the country.

F.G.'s conversion to Christianity

The Court noted that F.G. had lived almost the whole of his life in Iran, spoke English well and was experienced with computers, web pages and the Internet. He was also a regime critic. It was thus difficult to accept that he would not have become aware of the risk for converts in Iran either by himself or via the church where he was baptised shortly after his arrival in Sweden. Nor was the Court convinced that F.G. had not been provided with sufficient legal advice and support to understand the risk associated with his conversion.

Turning to the Swedish authorities, the Court noted that the Migration Board and the Migration Court were aware that F.G. had converted in Sweden from Islam to Christianity and that he might therefore belong to a group of persons who could be at risk upon returning to Iran. However, due to the fact that the applicant had declined to invoke the conversion as an asylum ground, they had not carried out a thorough examination of his conversion, the seriousness of his beliefs, the way he manifested his Christian faith in Sweden, or how he intended to manifest it in Iran if the removal order were to be executed. Moreover, in the reopening proceedings the conversion was not considered a "new circumstance" which could justify a re-examination of his case. The Swedish authorities had therefore so far never made an assessment of the risk that F.G. could encounter, as a result of his conversion, upon returning to Iran. The Court considered that, regardless of the applicant's conduct, the national authorities would now be under an obligation – given the absolute nature of Articles 2 and 3 of the Convention – to make a fresh assessment, of their own motion, of all the information brought to their attention before taking a decision on his removal to Iran.

Moreover, before the Grand Chamber F.G. has submitted various documents which have not been presented to the national authorities, notably two written statements: the first dated 13 September 2014 concerning his conversion, the way he currently manifests his Christian faith in Sweden and how he intends to manifest it in Iran if the removal order is executed; and the second dated 15 September 2014 from a former pastor at the applicant's church. In light of this material in particular as well as material previously submitted to the national authorities, the Court concluded that F.G. had sufficiently shown that his claim for asylum on the basis of his conversion warranted an assessment by the national authorities. It was for the domestic authorities to take this material into account, as well as any further development regarding the general situation in Iran and the particular circumstances of F.G.'s situation.

It followed that there would be a violation of Articles 2 and 3 of the Convention if F.G. were to be returned to Iran without a fresh and up-to-date assessment being made by the Swedish authorities of the consequences of his conversion.

[Article 41 \(just satisfaction\)](#)

The Court held that Sweden was to pay the applicant 33,742 euros (EUR) for costs and expenses.

Separate opinions

Judge Bianku expressed a concurring opinion. Judge Jäderblom expressed a partly concurring, partly dissenting opinion, joined in respect of part 1 by Judge Spano. Judges Ziemele, De Gaetano, Pinto de Albuquerque and Wojtyczek expressed a joint separate opinion. Judge Sajó expressed a separate opinion. These opinions are annexed to the judgment.

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.