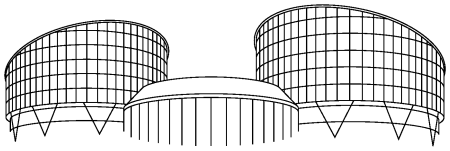

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF K.I. v. RUSSIA

(Application no. 58182/14)

JUDGMENT

STRASBOURG

7 November 2017

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of K.I. v. Russia,

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

Helena Jäderblom, *President,*
Luis López Guerra,
Helen Keller,
Dmitry Dedov,
Alena Poláčková,
Georgios A. Serghides,
Jolien Schukking, *judges,*

and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 17 October 2017,

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

PROCEDURE

1. The case originated in an application (no. 58182/14) 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 a Tajik national, K.I. ("the applicant"), on 2 August 2014.

2. The applicant was represented by Mr I.G. Vasilyev, a lawyer practising in Moscow. The Russian Government ("the Government") were represented initially by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

3. The applicant alleged, in particular, that he would risk being subjected to ill-treatment if removed to Tajikistan, and that his detention pending expulsion had been unlawful and had involved procedural defects.

4. On 17 October 2014 the Court indicated to the respondent Government, under Rule 39 of the Rules of Court, that the applicant should not be removed to Tajikistan until further notice. It was also decided to grant this case priority under Rule 41 of the Rules of Court.

5. On 7 January 2015 the application was communicated to the Government.

6. The Court also decided to grant the applicant anonymity and case-file confidentiality under Rules 33 and 47 § 4 of the Rules of Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1980. He arrived in Russia in 2003. He travelled to Tajikistan on a number of occasions to visit his parents for short periods of time.

8. On 3 May 2011 the applicant was charged *in absentia* in Tajikistan with participating in an extremist religious movement, the Islamic Movement of Uzbekistan, and an international search and arrest warrant was issued in his name. On 6 May 2011 the Tajik authorities ordered his pre-trial detention.

9. On 3 November 2013 the applicant was arrested in Moscow and detained. On 4 November 2013 the Meshchanskiy District Court of Moscow ("the District Court") ordered his detention pending extradition.

A. Extradition proceedings

10. On 4 December 2013 the Tajik prosecution authorities requested the applicant's extradition on the basis of the above charges. The request included assurances regarding his proper treatment, which were formulated in standard terms.

11. On 12 December 2013 the District Court extended the applicant's detention until 3 May 2014.

12. An appeal by the applicant of 16 December 2013 was dismissed by the Moscow City Court ("the City Court") on 3 February 2014.

13. On 29 April 2014 the District Court again extended the applicant's detention until 3 August 2014.

14. An appeal by the applicant of 5 May 2014 was dismissed by the City Court on 23 July 2014.

15. On 9 October 2014 the applicant's extradition was refused by the Deputy Prosecutor General of the Russian Federation, owing to the absence of culpable actions under Russian criminal law.

On 13 October 2014 the applicant was released from detention.

B. Expulsion proceedings

16. On 13 October 2014, immediately after his release, the applicant was rearrested for violating migration regulations.

17. On 14 October 2014 the District Court found the applicant guilty of violating migration regulations, fined him and ordered his administrative removal. Allegations by the applicant regarding a real risk of ill-treatment were dismissed, and he was detained pending expulsion. The District Court

assessing the risks stated that "[t]he claims of the representative ... are of a speculative nature and not confirmed by the case materials"

18. The above judgment was upheld on appeal by the City Court on 24 October 2014. Claims by the applicant under Article 3 of the Convention were dismissed with reference to the District Court's assessment of the case, which took into consideration "...the nature of the administrative offence, the character of the accused [who was criminally convicted in Russia]... the length of his stay in Russia and other circumstances of the case".

19. According to the latest submissions of his representative in 2015, the applicant was still in detention.

C. Other relevant proceedings

20. On 18 December 2013 the applicant lodged a request for refugee status, referring to persecution in Tajikistan and a real risk of ill-treatment.

21. On 15 September 2014 his request was refused by a final administrative decision of the migration authorities. The applicant challenged that decision in the courts, referring, *inter alia*, to the risk of ill-treatment.

22. On 12 November 2015 his appeals were dismissed by a final decision of the City Court.

II. RELEVANT DOMESTIC LAW AND PRACTICE

23. The relevant domestic and international law is summarised in the Court's judgments on removals from Russia to Tajikistan and Uzbekistan (see *Savriddin Dzhurayev v. Russia*, no. 71386/10, §§ 70-101, ECHR 2013 (extracts), and *Akram Karimov v. Russia*, no. 62892/12, §§ 69-105, 28 May 2014).

24. Reports on the situation in Tajikistan were previously summarised in *Khodzhayev v. Russia* (no. 52466/08, §§ 72-74, 12 May 2010); *Gaforov v. Russia* (no. 25404/09, §§ 93-100, 21 October 2010); and *Savriddin Dzhurayev* (cited above, §§ 104-07).

25. According to the more recent reports of independent international sources, the situation in Tajikistan did not significantly improve since then. The reputed international NGOs characterize the situation as tainted by the persecution of political opposition and religious groups and the use of oppressive methods (including torture) (see, for example, Tajikistan 2016/2017 and Tajikistan: A year of secrecy, growing fears and deepening injustice by Amnesty International; Nations in Transit 2017: The False Promise of Populism by Freedom House; and World Report 2017 by Human Rights Watch). In the relevant parts they stated the following:

Amnesty International, Tajikistan 2016/2017

"... Members of the banned opposition Islamic Renaissance Party of Tajikistan (IRPT) were sentenced to life and long-term imprisonment on terrorism charges in blatantly unfair secret trials. Allegations that they were tortured to obtain confessions were not effectively and impartially investigated. Lawyers representing IRPT members faced harassment, arbitrary detention, prosecution and long prison terms on politically motivated charges.

In May, legal safeguards against torture and other ill-treatment of detainees were strengthened. These included: reducing the maximum length of time a person can be held in detention without charge to three days; defining detention as starting from the moment of *de facto* deprivation of liberty; giving detainees the right to confidential access to a lawyer from the moment of deprivation of liberty; and making medical examinations of suspects obligatory prior to placing them in temporary detention.

There were still no independent mechanisms for the investigation of torture or other ill-treatment. The NGO Coalition against Torture registered 60 complaints of torture but believed the real figure to be much higher.

In September, the UN Human Rights Council adopted the outcomes of the Universal Periodic Review (UPR) of Tajikistan. The government rejected recommendations to ratify the Optional Protocol to the Convention against Torture and set up a National Preventive Mechanism. It did, however, accept recommendations to ratify the Second Optional Protocol to the ICCPR and to fully abolish the death penalty..."

Amnesty International,
Tajikistan:A year of secrecy, growing fears and deepening injustice

"...The arrest and criminal prosecution of 14 [Islamic Renaissance Party of Tajikistan] leaders has involved numerous violations of their right to fair trial, prompted concern that they were subjected to torture and other ill-treatment and strong suspicion that the charges were politically motivated. These were reinforced after independent lawyers representing IRPT members were not granted full access to their clients in detention, and particularly after criminal proceedings were opened against at least three of these lawyers themselves. Relatives of arrested IRPT members too, have been threatened and harassed by the law enforcement authorities.

...Allegations of torture and other ill-treatment, used to obtain "confessions", have been repeatedly voiced by human rights defenders in exile and relatives of the arrested IRPT members. These have not been effectively investigated, similarly to allegations of torture of detainees by members of security forces in the past."

Freedom House, Nations in Transit 2017: The False Promise of Populism

"Tajikistan employs a confession-based investigative and policing system, and despite an official denial by the Supreme Court, law enforcement bodies often use torture to extract confessions...

Those detained on politically motivated charges are particularly susceptible to mistreatment. Opposition activists report that in the summer of 2016 two detained IRPT members, Kurbon Mannonov and Nozimjon Tashripov, died in prison. According to his family, Tashripov's body showed visible signs of torture. The authorities have also reportedly denied medical care to Hikmatullo Saifullozoda, a vocal critic of the government and former chief editor of IRPT's newspaper. IRPT

deputy chairman Mahmadali Hait legs were reportedly broken, although his wife denied the allegations when visiting him on August 20. The security services nonetheless detained Hait's wife and son two days later."

Human Rights Watch, World Report 2017

"Tajikistan's human rights situation deteriorated sharply in 2016, as authorities sentenced the leadership of the country's main opposition party to lengthy prison terms, imprisoned human rights lawyers and other perceived government critics...

Authorities organized and led numerous acts of retaliation, including incidents of mob violence, against relatives of government critics abroad. Activists reported cases of torture and deaths in custody of persons imprisoned on politically motivated charges...

The trial [op opposition leaders]... was closed to observers and according to their lawyers marked by serious violations of due process. Sources told Human Rights Watch that several defendants were subjected to torture or ill-treatment in pretrial detention."

26. The reports of the Human Rights Commissioner of Tajikistan for 2015 and 2106, while not reflecting the same level of concern as the international reports above and focusing rather on the prevention efforts, still maintain that "there are certain difficulties in this sphere [torture and ill-treatment] and that "the instances of beatings and bad treatment of detainees occur" (Human Rights Commissioner of Tajikistan, Annual Reports in 2015 and 2016).

27. Within the framework of the Universal Periodic Review in 2016 by the Human Rights Council of the United Nations Organisation the report of the working group on Tajikistan maintained that the use of torture in criminal justice system persisted, despite certain positive developments (Human Rights Council, Report of the Working Group on the Universal Periodic Review, A/HRC/33/11, 2016).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

28. The applicant complained under Article 3 of the Convention that the national authorities had failed to consider his claim that he could be at risk of ill-treatment if removed to Tajikistan. Article 3 of the Convention reads:

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

29. The Government contested that argument.

A. Admissibility

30. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. General principles

31. The relevant general principles concerning the application of Article 3 have been summarised recently by the Court in the judgment in *F.G. v. Sweden* ([GC], no. 43611/11, § 111-27, ECHR 2016) and in the context of removals from Russia to Central Asian states in *Mamazhonov v. Russia* (no.17239/13, §§ 127-35, 23 October 2014).

2. Application of those principles to the present case

(a) Existence of substantial grounds for believing that the applicant faces a real risk of ill-treatment, and the assessment of those grounds by the national authorities

32. At the outset, the Court notes that for more than a decade reputable international governmental and non-governmental agencies and organisations (see paragraph 24 above) have been issuing alarming reports concerning the dire situation of the criminal justice system in Tajikistan, the use of torture and ill-treatment techniques by law-enforcement agencies, severe conditions in detention facilities, the systemic persecution of the political opposition, and the harsh treatment of certain religious groups.

33. The Court has previously been confronted with other cases concerning removals from the Russian Federation to Tajikistan of those accused by the Tajik authorities of criminal, religious and political activities (see, among other authorities, *Gaforov*, cited above; *Savriddin Dzhurayev*, cited above; and *Nizomkhon Dzhurayev v. Russia*, no. 31890/11, 3 October 2013). In these and other similar cases, the Court has systematically found that the removal of applicants to Tajikistan in the face of their prosecution for extremism would run contrary to Article 3 of the Convention by exposing them to a risk of ill-treatment at the hands of the law-enforcement agencies.

34. In an analogous context, the Court previously established that individuals whose extradition was sought by the Uzbek authorities on the basis of charges of religiously or politically motivated crimes constituted a vulnerable group who would face a real risk of treatment contrary to Article 3 of the Convention if removed (see *Mamazhonov*, cited above, § 141).

35. Similarly, having regard to the above-mentioned international reports and its case-law, the Court was established that individuals whose extradition is sought by the Tajik authorities on the basis of charges of religiously or politically motivated crimes constitute a vulnerable group who would run a real risk of treatment contrary to Article 3 of the Convention if transferred to Tajikistan.

36. Turning to the present case, it is apparent that, in the course of the extradition, expulsion and refugee status proceedings, the applicant consistently and specifically argued that he was being prosecuted for extremism and faced a risk of ill-treatment. The international search and arrest warrant and extradition request submitted by the Tajik authorities were clear as to their basis, namely that he was accused of religiously and politically motivated crimes. The Tajik authorities thus directly linked him to groups whose members have previously been found to be at real risk of being subjected to proscribed treatment.

37. In such circumstances, the Court considers that the Russian authorities had at their disposal a sufficiently substantiated complaint pointing to a real risk of ill-treatment.

38. The Court is therefore satisfied that the applicant presented the Russian authorities with substantial grounds for believing that he faced a real risk of ill-treatment in Tajikistan.

(b) Duty to assess claims of a real risk of ill-treatment through reliance on sufficient relevant material

39. Having concluded that the applicant had advanced at national level a valid claim based on substantial grounds for believing that he faced a real risk of treatment contrary to Article 3 of the Convention, the Court must examine whether the authorities discharged their obligation to assess this claim adequately through reliance on sufficient relevant material.

40. Turning to the present case, the Court considers that, in the extradition, expulsion and refugee status proceedings, the domestic authorities did not carry out rigorous scrutiny of the applicant's claim that he faced a risk of ill-treatment in his home country. The Court reaches this conclusion having considered the cursory rejections by the migration authorities and the national courts of the applicant's claims as hypothetical and lacking specific indications as to the level of risk, rejections which lacked reference to evidentiary material.

41. The Court also notes that the Russian legal system – in theory, at least – offers several avenues whereby the applicant's removal to Tajikistan could be prevented, given the risk of ill-treatment he faces there. However, the facts of the present case demonstrate that the applicant's claims were not adequately considered in any relevant proceedings, despite being consistently raised.

42. The Court concludes that, although the applicant had sufficiently substantiated the claim that he would risk ill-treatment in Tajikistan, the Russian authorities failed to assess his claims adequately through reliance on sufficient relevant material. That failure opened the way for the applicant's removal to Tajikistan.

(c) Existence of a real risk of ill-treatment or danger to life

43. Given the failure of the domestic authorities to adequately assess the alleged real risk of ill-treatment through reliance on sufficient relevant material, the Court will examine independently whether or not the applicant would be exposed to such a risk if removed to Tajikistan.

44. The Court notes that nothing in the parties' submissions or the available relevant material from independent international sources (see paragraph 24 above) indicates that there has been any improvement in either the criminal justice system of Tajikistan in general or the specific treatment of those prosecuted for religiously and politically motivated crimes.

45. The Court is mindful that the applicant's extradition to Tajikistan was refused by the Russian prosecution authorities. However, that refusal did not eliminate the real risk of ill-treatment, since administrative removal from Russia is final and enforceable. If the applicant were expelled to Tajikistan then nothing would prevent the local authorities from pursuing their preferred charges of extremism.

46. The Court has given due consideration to the available material disclosing a real risk of ill-treatment to individuals accused of religiously and politically motivated crimes, like the applicant, and concludes that authorising his removal to Tajikistan exposed him to a real risk of treatment contrary to Article 3 of the Convention.

(d) Conclusion

47. The foregoing considerations are sufficient to enable the Court to conclude that there would be a violation of Article 3 of the Convention if the applicant were removed to Tajikistan.

II. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

48. The applicant complained under Article 13 of the Convention of a lack of effective domestic remedies in Russia in respect of his complaint under Article 3 of the Convention. Article 13 reads:

> "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."

49. The Government contested that argument.

50. In view of the findings made under Article 3 of the Convention, the Court declares the complaint admissible but does not consider it necessary to examine separately the complaint under Article 13 of the Convention.

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

51. The applicant further complained that his detention pending extradition between 12 December 2013 and 3 August 2014 had been unlawful and devoid of purpose. He relied on Article 5 § 1 of the Convention, the relevant parts of which read 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 against whom action is being taken with a view to deportation or extradition."

52. The Government contested that argument and argued that the detention had been lawful for the purposes of the applicant's extradition.

53. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

54. The Court reiterates that the exception in sub-paragraph (f) of Article 5 § 1 of the Convention requires only that "action is being taken with a view to deportation or extradition", without any further justification (see, among others, *Chahal v. the United Kingdom*, 15 November 1996, § 112, *Reports of Judgments and Decisions* 1996-V), and that deprivation of liberty will be justified as long as deportation or extradition proceedings are in progress (see *A. and Others v. the United Kingdom* [GC], no. 3455/05, § 164, ECHR 2009). To avoid being arbitrary, detention under Article 5 § 1 (f) must be carried out in good faith; it must be closely connected to the grounds of detention relied on by the Government, the place and conditions of detention must be appropriate, and the length of the detention must not exceed that reasonably required for the purpose pursued (see *Saadi v. the United Kingdom* [GC], no.13229/03, § 74, ECHR 2008, and *Rustamov v. Russia*, no.11209/10, § 150, 3 July 2012, with further references).

55. Turning to the present case, the Court observes that the applicant's detention lasted less than eight months, and during this period the authorities were taking genuine steps to decide on his extradition. The domestic authorities diligently pursued the relevant proceedings, there were no periods of inaction or unjustified delays, and the applicant was released

following the Deputy Prosecutor General's decision to refuse his extradition.

56. Accordingly, having regard to all of the material in its possession, the facts and arguments as presented by the parties, the above considerations as well as the principles firmly established in its case-law, the Court considers that there has been no violation of Article 5 § 1 of the Convention as regards the applicant's detention pending extradition between 12 December 2013 and 3 August 2014.

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

57. The applicant further complained that the appeal courts had not pronounced "speedily" on the lawfulness of his detention ordered by the District Court on 12 December 2013 and 29 April 2014. He relied on Article 5 § 4 of the Convention, which 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."

58. The Government contested that argument. They acknowledged that it had taken the City Court forty-nine and seventy-nine days respectively to pronounce on the relevant appeals. However, in their opinion, the duration of those proceedings was not attributable to the national courts, which had decided on the appeals speedily, but to a translation agency, T Ltd., which had taken thirty-five and seventy days respectively to translate the material into Tajik for the applicant. Further, they argued that, once the delays had been observed, the domestic courts had taken relevant steps to urge the above agency to complete the translations.

59. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

60. The Court reiterates that Article 5 § 4, in guaranteeing to arrested or detained persons a right to initiate proceedings to challenge the lawfulness of their detention, also proclaims their right, following the institution of such proceedings, to a speedy judicial decision concerning the lawfulness of such detention and ordering its termination if it proves unlawful. Although it does not compel the Contracting States to set up a second level of jurisdiction for the examination of the lawfulness of detention, a State which institutes such a system must in principle accord to the detainees the same guarantees on appeal as at first instance (see *Navarra v. France*, judgment of 23 November 1993, Series A no. 273‑B, § 28, and *Toth v. Austria*, judgment of 12 December 1991, Series A no. 224, § 84). The

requirement that a decision be given "speedily" is undeniably one such guarantee, and Article 5 § 4, concerning issues of liberty, requires particular expedition (see *Hutchison Reid v. the United Kingdom*, no.50272/99, § 79, ECHR 2003‑IV).

61. At the same time, the Court highlights that, although the duration of relevant proceedings is obviously an important element, it is not necessarily in itself decisive for the question of whether a decision has been given with the requisite speed (see *Merie v. the Netherlands* (dec.), no. 664/05, 20 September 2007). What is to be taken into account is diligence shown by the authorities, any delay attributable to the applicant, and any factors causing delay for which the State cannot be held responsible (see *Jablonski v. Poland*, no.33492/96, §§ 91-94, 21 December 2000).

62. Turning to the present case, the Court acknowledges the Government's argument that the delay in the above appeal proceedings was not directly attributable to the national courts, which, save for the translation delays, took fifteen and nine days respectively to consider the applicant's appeals against the detention orders. Nothing in the material available to the Court runs counter this argument.

63. However, the Court cannot accept the Government's claim that the State cannot be held responsible for those delays. Beyond doubt it was the domestic courts which entrusted the agency T Ltd. with the translation of the relevant material for the applicant. The courts, in entering into a contractual relationship with T Ltd., should have taken appropriate care to ensure that the translation requests would be processed diligently and without unjustified delays. Even if the initial delay of thirty-five days caused by the agency during the first set of appeal proceedings could have been attributed to certain unavoidable circumstances, the second delay of seventy days caused by the same agency processing essentially a similar translation request demonstrates that the domestic courts failed to ensure the diligent and "speedy" conduct of the appeal proceedings.

64. Accordingly, the Court considers that, in the present case, there has been a violation of Article 5 § 4 of the Convention.

V. APPLICATION OF AN INTERIM MEASURE UNDER RULE 39 OF THE RULES OF COURT

65. The Court reiterates that, in accordance with Article 44 § 2 of the Convention, the present judgment will not become final until (a) the parties declare that they will not request that the case be referred to the Grand Chamber; or (b) three months after the date of the judgment, if reference of the case to the Grand Chamber has not been requested; or (c) the Panel of the Grand Chamber rejects any request to refer under Article 43 of the Convention.

66. It considers that the indication made to the Government under Rule 39 of the Rules of Court must continue in force until the present judgment becomes final or until the Court takes a further decision in this connection.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

67. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

68. The applicant left the amount of any award in respect of non-pecuniary damage to the discretion of the Court.

69. The Government argued that, if the Court concluded that the applicant's removal to Tajikistan would be contrary to Article 3 of the Convention, this finding would in itself constitute sufficient just satisfaction.

70. In the light of the nature of the established violation of Article 3 of the Convention and the specific facts of the present case, the Court considers that the finding that there would be a violation of Article 3 of the Convention if the applicant were removed to Tajikistan constitutes sufficient just satisfaction in respect of any non-pecuniary damage suffered (see, to similar effect, *J.K. and Others v. Sweden* [GC], no. 59166/12, § 127, ECHR 2016).

71. However, in respect of the violation of the applicant's rights under Article 5 § 4 of the Convention, the Court, acting on an equitable basis, awards the applicant 2,500 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

72. The applicant also claimed EUR 3,200 for costs and expenses incurred before the Court.

73. The Government contested the amount.

74. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the sum of EUR 1,500 to cover costs for the proceedings before the Court.

C. Default interest

75. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there would be a violation of Article 3 of the Convention if the applicant were to be removed to Tajikistan;

3. *Holds* that there is no need to examine separately the complaint under Article 13 of the Convention;

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

5. *Holds* that there has been a violation of Article 5 § 4 of the Convention;

6. *Decides* to continue to indicate to the Government under Rule 39 of the Rules of Court that it is desirable in the interests of the proper conduct of the proceedings not to remove the applicant to Tajikistan until such time as the present judgment becomes final or until further order;

7. *Holds*
   (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
      (i) EUR 2,500 (two thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

8. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 7 November 2017, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips Registrar	Helena Jäderblom President