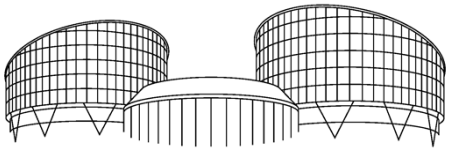

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF O.O. v. RUSSIA

(Application no. 36321/16)

JUDGMENT

STRASBOURG

21 May 2019

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 O.O. v. Russia,

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

Vincent A. De Gaetano, *President,*
Branko Lubarda,
Helen Keller,
Dmitry Dedov,
Georgios A. Serghides,
Jolien Schukking,
María Elósegui, *judges,*
and Stephen Phillips, *Section Registrar,*

Having deliberated in private on 30 April 2019,

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

PROCEDURE

1. The case originated in an application (no. 36321/16) 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 O.O. ("the applicant"), on 27 June 2016. The President of the Section acceded to the applicant's request not to have his name disclosed (Rule 47 § 4 of the Rules of Court).

2. The applicant was represented by Ms E. Davidyan and Ms D. Trenina, lawyers 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 subsequently by his successor in that office, Mr M. Galperin.

3. On 28 June 2016 the applicant's request for an interim measure preventing his removal from Russia to Uzbekistan was granted by the Court under Rule 39 of the Rules of Court. The application was further granted priority (Rule 47) and confidentiality (Rule 33).

4. On 6 July 2016 the Government were given notice of the application.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant, who is an Uzbek national, was born in 1989. On an unspecified date in June 2012 he arrived in Russia from Uzbekistan.

6. On 13 June 2013 the applicant was indicted for religious and politically motivated crimes in Uzbekistan, namely for the participation in an extremist religious organisation Islamic Movement of Turkistan. A search warrant in respect of him was issued and his pre-trial detention was ordered *in absentia*.

7. On 24 November 2014 the Moscow Regional Court convicted the applicant of participating in an extremist organisation, forging official documents, and attempting an illegal crossing of the State border. He was transferred to a penal colony to serve his sentence, and his release date was set for 30 June 2016.

A. Asylum proceedings

8. On 13 May 2016 the applicant lodged a request for refugee status, referring to a real risk of treatment contrary to Article 3 by the Uzbek authorities in the event of his transfer to Uzbekistan. On 27 May 2016 the migration authorities dismissed his request, referring to the fact that a crime had been committed in Russia. At the same time they informed him of the possibility to apply for temporary asylum. There is no information in the case file on whether the applicant lodged such a request or whether he appealed against the decision of 27 May 2016.

B. Deportation proceedings

9. On 2 October 2015, having regard to the applicant's conviction, the Ministry of Justice declared his presence in Russia undesirable. The applicant was notified of the decision on 13 November 2015.

10. On 16 May 2016 the migration authorities in the Arkhangelsk Region ordered the applicant's deportation, referring to the above decision on the undesirability of his stay in Russia. The applicant lodged an objection to a higher administrative authority, without success.

11. The applicant also challenged the decision of 16 May 2016 in court. In his submissions, he stated that he belonged to a vulnerable group and ran a real risk of treatment contrary to Article 3 by the Uzbek authorities and he also requested an interim measure that the removal be stayed.

12. On 21 June 2016 by the Oktyabrskiy District Court of Arkhangelsk denied the interim measure, stating that it would "disturb the balance of public and private interests".

13. On 4 July 2016 the Oktyabrskiy District Court of Arkhangelsk upheld the deportation decision. The court referred to: the applicant's conviction in Russia, negative character references from the penal colony, the charges against him in Uzbekistan, the international search warrant, the fact that the applicant had arrived in Russia in 2007 seeking employment, and the absence of any history of persecution or ill-treatment in Uzbekistan.

The court dismissed references to reports on Uzbekistan as general and lacking a connection to the applicant's situation. It concluded that the claims concerning the above risks were speculative.

14. On 13 October 2016 the above judgment was upheld on appeal by the Arkhangelsk Regional Court.

C. Request for an interim measure under Rule 39 of the Rules of Court and the applicant's deportation

15. On 28 June 2016 the applicant's request for an interim measure under Rule 39 of the Rules of Court was granted by the Court, and his removal was stayed for the duration of the proceedings before the Court. The Russian Government were immediately informed about the measure. They were also informed that failure by a Contracting State to comply with a measure indicated under Rule 39 might entail a breach of Article 34 of the Convention.

16. On 30 June 2016, the day the applicant finished serving his sentence and was released from the penal colony in the Arkhangelsk Region, he was immediately arrested by the authorities without having had the chance to contact his lawyer, who was present outside the penal colony at that time. The applicant's representatives submit that they immediately verified with the Representative of the Russian Federation that the relevant authorities had been duly informed about the applied interim measure. The representatives also contacted the Prosecutor General's Office, the local police and the migration authorities, informing them about the above interim measure and requesting compliance with it.

17. On the same day the applicant was taken to Arkhangelsk Airport, and he arrived at Moscow Domodedovo Airport on the morning of 1 July 2016. Between 9.49 a.m. and 12.28 p.m. the applicant's representative sent faxes to the Prosecutor General's Office and the Domodedovo Airport police station, informing them of the events and the fact that the interim measure had been indicated by the Court.

18. According to the applicant's representatives, police officers at Domodedovo Airport informed them at 12.45 p.m. that they did not know where the applicant was or which flight he would be deported on.

19. At 1.54 p.m. on 1 July 2016 the applicant was deported to Uzbekistan.

20. On 13 July 2016, by letter, the Domodedovo Airport police station informed the applicant's representative of the deportation. The letter stated that the police officers had been unable to prevent it, since when "the police officers arrived at the parking position... the airplane was closed and was preparing for the take-off to the destination airport".

21. On 14 July 2016 the applicant's representative asked the Investigative Committee to institute a criminal inquiry against the

law-enforcement agents who had enforced the deportation order, as well as the agents who had failed to prevent it.

22. On 22 July and 7 October 2016 the Investigative Committee informed the applicant's representative that the request fell outside of its competence, and it was transferred to the Prosecutor General's Office.

23. On 26 July and 2 September 2016 the Prosecutor General's Office informed the applicant's representative that no extradition decision had been issued because the prosecution in respect of the charges in Uzbekistan was time-barred; and that they had been informed about the interim measure indicated by the Court only on 1 July 2016, after the deportation had taken place.

24. Complaints against the decisions of 22 July and 7 October 2016 of the Investigative Committee were dismissed by the Basmanniy District Court of Moscow several times in 2016-2017, but each time, the lower court's judgments were annulled by the Moscow City Court and it ordered that the complaints should be reconsidered. On 27 October 2017 the district court dismissed the complaints once again. The applicant's representative appealed on 7 November 2017. The Court has not been informed about the outcome of those proceedings.

D. The applicant's situation in Uzbekistan

25. Upon his arrival in Uzbekistan on 1 July 2016 the applicant was immediately arrested. On 7 January 2017 he was convicted and sentenced to seven years' imprisonment by the Qashqardarya Region Criminal Court. He is currently serving his sentence in penal colony 64/6 in Chirchiq.

26. On 5 September 2017 the Court asked the applicant's representatives to provide information on whether they were still in contact with him and whether he wished to maintain his application.

27. On 24 October 2017 the applicant's representative, Ms Trenina, informed the Court that she was still in contact with the applicant through his relatives and the lawyer representing him in Uzbekistan, and that he wished to maintain his application. In support of that assertion, she provided the following evidence:

(a) a handwritten note (in Uzbek with a Russian translation) from the applicant's mother dated 28 September 2017 and addressed to Ms Trenina, which stated that the applicant had expressed his wish to maintain the application during a meeting which he had had with her in the penal colony;

(b) a handwritten affidavit from the applicant dated 12 October 2017 and addressed to Ms Trenina, which stated that he wished to maintain his application, that he had been subjected to ill-treatment during the investigation in Uzbekistan, that he was being detained in inhuman conditions, that he had almost lost his eyesight, and that he had attempted to commit suicide while in detention;

(c) a handwritten affidavit from the applicant dated 12 October 2017 and addressed to Ms Trenina, which described his deportation from Russia and specifically mentioned that he had been in contact with his representatives via telephone throughout the deportation procedure on 30 June and 1 July 2016, and that the law-enforcement agents carrying out the deportation had been repeatedly informed of the indication of the interim measure by the Court, but had chosen to ignore this information;

(d) a report from Ms Rakhmatullayeva, the applicant's lawyer in Uzbekistan, dated 18 October 2017 and addressed to Ms Trenina, which stated that during a meeting in the penal colony – in the presence of an Uzbek law-enforcement agent – the applicant had confirmed both his wish to maintain his application, despite his apparent fear of reprisal from the Uzbek authorities, and the facts stated in the above-mentioned handwritten affidavits of 12 October 2017.

II. RELEVANT DOMESTIC LAW

28. A summary of the domestic law concerning deportation was provided in the case of *Liu v. Russia* (no. 42086/05, §§ 35-36, 6 December 2007).

III. REPORTS ON UZBEKISTAN

29. References to relevant reports by UN agencies and international NGOs on the situation in Uzbekistan were cited in the cases of *Kholmurodov v. Russia* (no. 58923/14, §§ 46-50, 1 March 2016) and *T.M. and Others v. Russia* (no. 31189/15, § 28, 7 November 2017).

30. In respect of Uzbekistan 2019 World Report by Human Rights Watch indicated that there were certain promising steps to reform the country's human rights record; however, many reforms are yet to be implemented. It further stated that a limited number of persons imprisoned on politically motivated charges had been released in 2016-2018. Furthermore, isolated incidents of security agency officers sentenced for torture and death in custody were cited. Amnesty International Report 2017/2018 reflected similar trends, including judicial independence and effectiveness as the priorities set by the authorities for the systemic reform. At the same time the report stressed that the authorities continued to secure forcible returns, including through extradition proceedings, of Uzbekistani nationals identified as threats to the "constitutional order" or national security.

THE LAW

I. THE GOVERNMENT'S PRELIMINARY OBJECTION

31. In their submissions the Government, referring to Rules 47 §§ 5.1 and 6 (a) of the Rules of Court, raised an objection to the Court's examination of the case. They contended that the proceedings had not been properly instituted, given that: an improper format for the authority form had been used at the time of lodging the request for an interim measure, there were discrepancies in the dates when the authority forms had apparently been signed by the applicant and the representatives, the applicant's signatures had allegedly been forged, and there had been a delay in submitting the application form.

32. In accordance with Rule 45 § 3 of the Rules of Court, an applicant's representative should supply a duly completed and signed authority form at the moment of initiating proceedings with the Court. Rule 47 §§ 1-3 of the Rules of Court sets requirements relating to the contents of an individual application. Failure to comply with these requirements will, according to Rule 47 § 5.1 of the Rules of Court, result in the application not being examined by the Court, unless (a) the applicant has provided an adequate explanation for the failure to comply; (b) the application concerns a request for an interim measure; (c) the Court directs otherwise of its own motion or at the request of the applicant.

33. According to Rule 47 § 6(a) of the Rules of Court the date of introduction of the application for the purposes of Article 35 § 1 of the Convention shall be the date on which an application form satisfying the requirements of this Rule is sent to the Court.

34. The Court notes with attention the arguments presented by the Government in respect of this, however, it does not accept them. The authority forms submitted with the request for the interim measure and the application form were signed on 13 May 2016 by the applicant and on 17 June 2016 by his representatives. While it had taken the applicant and his lawyers over one month to complete the authority forms, the time lapse of slightly more than one month in itself does not cast any doubt on the authenticity of the forms.

35. As regards the Government's argument concerning falsification of the applicant's signatures, the Court notes that it is true the signatures of the applicant on several documents submitted by the Government, do not exactly look alike. However, the Government's argument that the signatures are thus falsified is not supported by any evidence such as for instance a forensic report, in the absence of which the Court is unable to accept the Government's argument. In respect of the claim that an improper format of the authority form was used at the time of lodging of the request for the interim measure, the Court accepts that the form submitted at that time is

normally used for appointing a representative after lodging of an application or changing a representative previously appointed by the applicant. However, this procedural irregularity is rather minor and it does not cast doubt on the authenticity or validity of a request of an interim measure, as long as the authority form contains all requisite data and signatures. Neither could any similar doubts be raised by a belated submission of an application form.

36. The Court further highlights that in a number of cases in which an applicant has not been in contact with the Court directly, the Court has held that it is essential for representatives to demonstrate that they have received specific and explicit instructions from the alleged victims within the meaning of Article 34 of the Convention on whose behalf they purport to act (see *V.M. and Others v. Belgium* (striking out) [GC], no. 60125/11, § 35, 17 November 2016; *Kaur v. the Netherlands* (dec.), no. 35864/11, § 14, 15 May 2012; *K.M. and Others v. Russia* (dec.), no. 46086/07, 29 April 2010; and *Çetin v. Turkey* (dec.), no. 10449/08, 13 September 2011).

37. The Court observes that the following factors provide sufficient and strong grounds for the conclusion that Ms Trenina and Ms Davidyan acted genuinely as the applicant's representatives at the time of lodging the request for an interim measure and submitting the application form: their conduct at the time of his request for an interim measure and at the time of his deportation, namely their active efforts to prevent the deportation; the efforts they made in maintaining contact with the applicant after his removal; and the clear and direct statements from the applicant himself (see paragraphs 15-27 above). Therefore, having regard to its case-law on the matter (see paragraph 36, above) and all of the available material, the Court dismisses the Government's objection.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

38. The applicant complained under Article 3 of the Convention that the national authorities had failed to consider his claims that he would face a real risk of being subjected to ill-treatment in the event of his deportation to Uzbekistan. Article 3 of the Convention reads:

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

39. The Government did not provide specific arguments in this regard.

A. Admissibility

40. The Court notes that the 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

41. The relevant general principles concerning the application of Article 3 have recently been summarised by the Court in the judgment in the case of *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

42. The Court has previously established that individuals prosecuted by the Uzbek authorities on charges of religiously or politically motivated crimes constitute a vulnerable group facing a real risk of being subjected to treatment contrary to Article 3 of the Convention in the event of their deportation to Uzbekistan (see *Mamazhonov*, cited above, §§ 139-41).

43. Turning to the present application, the Court observes that in the course of the asylum and deportation proceedings the applicant consistently and specifically argued that he had been prosecuted for religious extremism and would face a real risk of ill-treatment if returned to Uzbekistan. The Court further observes that documents from the Uzbek authorities, i.e. the bill of indictment and the detention order, were clear as to their basis – the applicant was accused of religiously and politically motivated crimes, namely for the participation in an extremist religious organisation Islamic Movement of Turkistan. Thus, they directly identified the applicant as being part of a group whose members had previously been found to be at real risk of being subjected to proscribed treatment.

44. 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.

45. The Court is therefore satisfied that the applicant presented the Russian authorities with substantial grounds for believing that he faced a real risk of being subjected to ill-treatment if returned to Uzbekistan.

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

46. Having concluded that the applicant advanced at national level a valid claim based on substantial grounds for believing that he, if returned, would face a real risk of being subjected to 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.

47. The Court considers that, in the deportation proceedings, the domestic authorities did not carry out a rigorous scrutiny of the applicant's claim. The Court reaches this conclusion having considered the national authorities' cursory rejections of the applicant's claim (see paragraphs 12-14 above).

48. The Court therefore concludes that the Russian authorities failed to assess the applicant's claim adequately through reliance on sufficient relevant material. That failure cleared the way for the applicant's deportation to his country of origin.

(c) Existence of a real risk of ill-treatment following an applicant's deportation to his country of origin

49. The Court notes at the outset that the applicant was deported to Uzbekistan on 1 July 2016.

50. Given the failure of the domestic authorities to adequately assess the applicant's claim, and in the light of the actual enforcement of the respective deportation order, the Court is compelled to independently examine whether or not the applicant was exposed to such a risk by his deportation to Uzbekistan.

51. The Court reiterates that previously it had consistently concluded that the removal of an applicant charged with religiously and politically motivated crimes in Uzbekistan exposes that applicant to a real risk of ill-treatment in the country of origin (see e.g. *Mamazhonov*, cited above; *Kholmurodov*, cited above; and *T.M. and Others v. Russia*, cited above). While the Court notes with attention the cautious indications of improvement included in the independent reports (see paragraphs 30-31 above), nothing in the parties' submissions in the present case provides at this moment a sufficient basis for a conclusion that persons prosecuted for religiously and politically motivated crimes no longer run such a risk.

52. By enforcing the deportation order the Russian authorities thus exposed the applicant to a real risk of being subjected to treatment contrary to Article 3 of the Convention.

(d) Conclusion

53. The foregoing considerations are sufficient to enable the Court to conclude that there has been a violation of Article 3 of the Convention on account of the applicant's deportation to Uzbekistan.

III. ALLEGED INTERFERENCE WITH THE RIGHT TO INDIVIDUAL APPLICATION UNDER ARTICLE 34 OF THE CONVENTION

54. The applicant complained that his deportation had been in breach of the interim measures indicated by the Court under Rule 39 of the Rules of Court. This claim, substantively focusing on a violation of the right to individual application, falls to be examined under Article 34 of the Convention, which reads as follows:

> "The Court may receive applications from any person, non-governmental organisation or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the Protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right."

55. Rule 39 of the Rules of Court provides:

> "1. The Chamber or, where appropriate, the President of the Section or a duty judge appointed pursuant to paragraph 4 of this Rule may, at the request of a party or of any other person concerned, or of their own motion, indicate to the parties any interim measure which they consider should be adopted in the interests of the parties or of the proper conduct of the proceedings.
>
> 2. Where it is considered appropriate, immediate notice of the measure adopted in a particular case may be given to the Committee of Ministers.
>
> 3. The Chamber or, where appropriate, the President of the Section or a duty judge appointed pursuant to paragraph 4 of this Rule may request information from the parties on any matter connected with the implementation of any interim measure indicated..."

56. The Court reiterates that, by virtue of Article 34 of the Convention, Contracting States undertake to refrain from any act or omission that may hinder the effective exercise of the right of individual application, and this has been consistently reaffirmed as a cornerstone of the Convention system. According to the Court's established case-law, a respondent State's failure to comply with an interim measure entails a violation of that right (see *Mamatkulov and Askarov v. Turkey* [GC], nos. 46827/99 and 46951/99, §§ 102 and 125, ECHR 2005-I; and, recently, *M.A. v. France*, no. 9373/15, §§ 64-65, 1 February 2018; and *A.S. v. France*, no. 46240/15, §§ 72-75, 19 April 2018). The Court does not find it necessary to elaborate once again on the importance of interim measures in the Convention system and their exceptional nature calling for maximal cooperation of the State, since these principles are distinctly well-established.

57. The Government, in their submissions, stated that upon receiving the Court's letter of 28 June 2018 indicating the interim measure under Rule 39 of the Rules of Court, the Representative of the Russian Federation to the European Court of Human Rights had notified the competent authorities of that measure on the same day. The letters notifying the authorities of the interim measure had been sent via the State Courier Service to the central

competent authorities, which had been responsible for notifying their respective local offices. The Government further stated that any irregularities in implementing the interim measure indicated by the Court had been caused by the unexplained failure of the applicant's representatives to request that measure promptly. In their opinion, the request should have been submitted to the Court as early as 16 May 2016 – the day when the deportation decision had been issued – or at least on 21 June 2016 – the day when the time-limit for considering the request for the domestic interim measure had expired.

58. The applicant contested the Government's arguments and maintained that the Russian authorities had had sufficient time to implement the interim measure, given the period of several days between the measure being indicated and the deportation order being enforced. In his opinion, nothing had objectively impeded compliance with the measure indicated by the Court, and subsequently the authorities had failed in their obligation to effectively investigate the events leading to the breach of that measure.

59. It is not disputed by the parties that the applicant's deportation occurred on 1 July 2016, several days after the indication on 28 June 2016 of an interim measure under Rule 39 of the Rules of Court staying the removal for the duration of the proceedings before the Court. It is further accepted by both parties that following the Court's indication of the measure, the Office of the Representative of the Russian Federation to the European Court of Human Rights was duly notified of it and relayed that information to the competent authorities through the usual channels of communication.

60. No uncertainty exists regarding the manner of the applicant's transfer to Uzbekistan, since it occurred in the course of routine actions aimed at enforcing a deportation order issued on 16 May 2016. In this regard, the present case is distinctly different from a number of previously decided cases where a failure to comply with an interim measure took place in the context of: an applicant's disappearance (see *Mamazhonov*, cited above, §§ 173-209, 214-19), an illegal forcible transfer by unidentified persons with the passive or active involvement of State agents (see *Savriddin Dzhurayev v. Russia*, no. 71386/10, §§ 177-85, 197-204, 214-19, ECHR 2013 (extracts)), or an action otherwise outside of the normal functioning of the law-enforcement authorities (see *Ermakov v. Russia*, no. 43165/10, §§ 212-217, 7 November 2013 or *Mukhitdinov v. Russia*, no. 20999/14, §§ 69-72, 21 May 2015).

61. Issues concerning inter-agency communication between the Russian authorities, the functioning of the State Courier Service, and the central competent authorities' responsibility to promptly notify their respective local offices of information appear to be relevant to the analysis of the State's compliance with an indication of an interim measure. However, the Court does not find it necessary to consider these matters in the present case

or examine whether the applicant's representatives unjustifiably delayed requesting an interim measure.

62. It must be acknowledged that the practicalities of various agencies sharing information may present certain difficulties for an immediate implementation of an interim measure indicated by the Court. However, the forty-eight-hour period over two working days, by itself and also when considered in the context of available modern technologies, appears to be amply sufficient for all competent and relevant authorities to have been notified that the applicant's removal to Uzbekistan had been stayed by the Court.

63. The above considerations allow the Court to conclude that nothing objectively impeded compliance with the measure indicated by the Court under Rule 39 of the Rules of Court, and that by disregarding that measure the Russian authorities failed to comply with their obligations under Article 34 of the Convention.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

64. As regards the applicant's remaining complaints under Articles 13 and 46 of the Convention, the Court, having regard to the facts of the case and the findings under Articles 3 and 34 of the Convention, considers that it has examined the main legal questions raised in the present application and that there is no need to give a separate ruling on the admissibility and merits of the remaining complaints (see *Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* [GC], no. 47848/08, § 156, ECHR 2014, with further references).

V. RULE 39 OF THE RULES OF COURT

65. Having regard to the circumstances of the present case, specifically the applicant's deportation to Uzbekistan in breach of the interim measure (see paragraphs 19 and 63 above), the Court considers it appropriate to discontinue the indication of the above interim measure to the Russian Government.

VI. APPLICATION OF ARTICLE 41 OF THE CONVENTION

66. 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

67. The applicant claimed 30,000 euros (EUR) in respect of non-pecuniary damage.

68. The Government stated that any award under Article 41 of the Convention should be made in compliance with the Court's well-established case-law.

69. The Court, having regard to the above findings under Articles 3 and 34 of the Convention and its case-law on the matter, awards the applicant EUR 20,000 in non-pecuniary damage.

B. Costs and expenses

70. The applicant also claimed EUR 8,040 for costs and expenses incurred before the domestic courts and the Court.

71. The Government stated that the sums claimed were not based on supporting documents and seemed unjustified.

72. 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 5,000 covering costs under all heads to Ms E. Davidyan and Ms D. Trenina jointly. It considers it appropriate that the above sum should be payable directly to the applicant's representatives.

C. Default interest

73. 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. *Dismisses* the Government's objection to the Court's dealing with the case;

2. *Declares* the applicant's complaint under Article 3 of the Convention admissible;

3. *Holds* that there has been a violation of Article 3 of the Convention on account of the authorities deporting the applicant to Uzbekistan;

4. *Holds* that the respondent State has disregarded the interim measure indicated by the Court under Rule 39 of the Rules of Court and therefore failed to comply with its obligations under Article 34 of the Convention;

5. *Holds* that it is not necessary to examine the admissibility and merits of the applicant's complaints under Articles 13 and 46 of the Convention;

6. *Decides* to discontinue the indication made to the Government under Rule 39 of the Rules of Court in respect of the interim measure;

7. *Holds*

(a) that the respondent State is to pay, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:

(i) EUR 20,000 (twenty thousand euros), plus any tax that may be chargeable, to the applicant in respect of non-pecuniary damage;

(ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable to the applicant's representatives, Ms E. Davidyan and Ms D. Trenina, jointly and directly;

(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 21 May 2019, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stephen Phillips
Registrar

Vincent A. De Gaetano
President