



A dissident Iranian family should not be deported to Iran where they risk ill-treatment

In today's Chamber judgment in the case [S.F. and Others v. Sweden](#) (application no. 52077/10), which is not final¹, the European Court of Human Rights held, unanimously, that there would be:

a violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights if the applicants were expelled from Sweden.

The case concerned a complaint by an Iranian family - who fled Iran in fear of persecution because of their involvement with a Kurdish-rights political party - that they would be tortured or otherwise ill-treated if deported to Iran.

The Court found that the applicants were justified in fearing that they might be subjected to torture or inhuman or degrading treatment if deported to Iran, in particular given their political activities in Sweden, which included the reporting of human rights violations in their country of origin; deporting them, therefore, would breach their human rights.

Principal facts

The applicants, S.F., N.S. and A.F., are Iranian nationals who were born respectively in 1977, 1979 and 2009 and currently live in Sweden. The first two applicants are married and are the parents of the third applicant, who was born in Sweden.

S.F. and N.S. arrived in Sweden in September 2007 having left Iran, according to them, out of fear for their life and safety. They claimed that S.F. had been politically active in Iran in favour of the Kurdish cause, and had spent a month in prison because of his activities. After he witnessed the arrest of a colleague outside their workplace, both he and his wife fled Iran, crossing the border into Turkey and then continuing through Europe by truck.

Upon arrival in Sweden, they applied for asylum claiming that, because of their activities in Iran and subsequently in Sweden, their lives would be in danger if they were returned to Iran. In particular, they submitted that following their arrival in Sweden both of them had been politically active, attending meetings of the Democratic Party of Iranian Kurdistan, for example, and featuring in news programmes broadcast on satellite channels banned in Iran. Also, N.S. had started working regularly for a Kurdish TV channel known to be critical of the Iranian regime.

Their asylum requests were rejected by the migration board and courts alike, which found that while their story sounded credible, it was unlikely that the Iranian authorities would persecute them, given their low ranking as Kurdish-rights activists. The applicants

¹ 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

argued that their political activity in Sweden had been substantial and the Iranian authorities knew about it. Despite their submissions, the migration court of appeal refused to examine their request.

Complaints, procedure and composition of the Court

Relying on Article 3, the applicants complained that they would run a real risk of being ill-treated if returned to Iran, in view of the general situation there and their particular circumstances, namely their high profile as dissidents who had left the country illegally.

The application was lodged with the European Court of Human Rights on 10 September 2010.

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

Dean **Spielmann** (Luxembourg), *President*,
Elisabet **Fura** (Sweden),
Boštjan M. **Zupančič** (Slovenia),
Ann **Power-Forde** (Ireland),
Ganna **Yudkivska** (Ukraine),
Angelika **Nußberger** (Germany) and
André **Potocki** (France),

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

Risk of Ill-treatment (Article 3)

The Court recalled that States party to the Convention had the right to control the entry, residence and expulsion of aliens, unless people were exposed to a real and serious risk of being tortured or otherwise ill-treated in the receiving country if expelled.

With regard to the human rights situation in Iran, the Court observed that it gave rise to grave concern as it appeared to have been deteriorating since the Swedish authorities determined the case. Information available on Iran from a number of international sources showed that the Iranian authorities frequently detained and ill-treated people who peacefully participated in opposition or human rights activities. Those people included not only leaders of political organisations or other high-profile individuals who were detained, but anyone who opposed the current regime. However, taken on its own, the situation in Iran could not justify the finding by the Court of a violation if the applicants were expelled to Iran.

Notwithstanding the above, the Court examined the applicants' personal situation and noted that their story was credible overall. It found that the applicants' activities in Iran were not, on their own, sufficient to conclude that a real and immediate risk existed of them being ill-treated if returned to Iran. On the other hand, the Court found that their activities in Sweden had intensified and grown in importance since 2008. Furthermore, the information available on Iran showed that the Iranian authorities effectively monitored internet communications as well as those critical of the regime, even outside Iran. In addition, given the applicants' activities and incidents in Iran before moving to Sweden, the Court concluded that the Iranian authorities would easily identify them. That conclusion was also supported by the fact that the applicants did not have valid identity documents and had allegedly left Iran illegally.

With regard to all the above, the Court held that a real risk existed of the applicants being ill-treated if returned to Iran. There would, therefore, be a violation of Article 3 if Sweden deported them to Iran.

Interim measure (Rule 39 of the Rules of Court)

The Court held that the applicants were not to be deported until this judgment became final or until the Court took a further decision on the question.

Just satisfaction (Article 41)

The Court held that Sweden was to pay the applicants 1,240 euros (EUR) in respect of costs and expenses.

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.