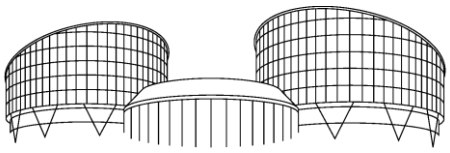

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF I v. SWEDEN

(Application no. 61204/09)

JUDGMENT

STRASBOURG

5 September 2013

FINAL

20/01/2014

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of I v. Sweden,

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

Mark Villiger, *President,*
Angelika Nußberger,
Boštjan M. Zupančič,
Ann Power-Forde,
Ganna Yudkivska,
Helena Jäderblom,
Aleš Pejchal, *judges,*
and Claudia Westerdiek, *Section Registrar,*

Having deliberated in private on 9 July 2013,

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

PROCEDURE

1. The case originated in an application (no. 61204/09) against the Kingdom of Sweden lodged with the Court on 16 November 2009 under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by three Russian nationals of Chechen origin, Mr I and his wife, Ms I (the first and the second applicant), and their child. The President of the Section acceded to the applicants' request not to have their names disclosed (Rule 47 § 3 of the Rules of Court).

2. The applicants were represented before the Court by Mr Christian Shumkov, a lawyer practising in Umeå. The Swedish Government ("the Government") were represented by their Agent, Ms Charlotte Hellner.

3. The applicants alleged that an implementation of the deportation order to return them to Russia would be in violation of Articles 2 and 3 of the Convention,

4. On 20 December 2009 the Court decided to apply Rule 39 of the Rules of Court, indicating to the Government that the applicants should not be deported to Russia until further notice.

5. On 15 December 2009 the application was communicated to the responding Government.

6. On 14 May 2013 the application was declared admissible by the Court. The Court found it more appropriate to deal with the complaint under Article 2 in the context of its examination of the related complaint under Article 3 and proceeded on that basis.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. The proceedings before the national authorities

7. The applicants were born in 1965, 1978 and 1999 respectively. They live in Vilhelmina.

8. The applicants requested asylum in Sweden on 28 December 2007. They stated that they had lost all their identity papers in the 1994 war. They had left Russia by lorry on 14 December 2007 because they were under threat from "Kadyrov's group" [Ramzan Kardyrov], which had arrested and tortured the first applicant. They arrived in Sweden on 23 December 2007.

9. On 7 March 2008 legal counsel was appointed to the applicants, who made the following two written submissions before the Migration Board (*Migrationsverket*).

10. In the first submission of 9 April 2008 the applicants stated the following: The first applicant was of Chechen origin and a Muslim. The second applicant was partly of Ukrainian and partly of Chechen origin, and a Russian Orthodox. Between 1983 and 1985, the first applicant performed military service, following which he had worked as a carpenter and then as an apprentice at a periodical until 1992. In the beginning of 1995 he had worked at a hospital, helping wounded people. On 25 February 1995 he had been injured as a result of an explosion outside the hospital. In 1995 he had met a man called H, who accompanied the first and the second applicant to a mountain village. They had stayed there for twelve years until 6 October 2007. H had given the first applicant a camera in order to document the executions of villagers committed by the Russian federal troops. The first applicant had taken photographs and written reports concerning several such executions. The "Kardyrov group" had been behind all those executions. The material had been sent to different television broadcasting companies, including the BBC. In return he had been provided with food. On 6 October 2007 the first applicant had received news that his wife and child had been kidnapped by the Federal Security Service of the Russian Federation ("the FSB"). The second applicant had been tortured and raped for several days. On 11 October 2007 she had heard a male voice asking her and the child to be quiet and follow him. They had gone through a gate where another man was waiting for them and then hidden in a house in a village. On 31 October 2007 they had gone to another village where they stayed until 13 December 2007 when she was taken to the first applicant, with whom she and their child were reunited the following day. In the meantime, on 9 October 2007, while searching for his family, the first applicant contacted a military guard, who arrested him. The first applicant was wanted as a key figure and an

agent had informed the FSB about him. There was a price on his head of 10.000 dollars. The first applicant had been detained in a cellar and forced under torture to provide information about the rebels, their hiding places and various radio signals. The torture included having a cross burned into his chest with cigarettes. After some time, he had been taken to a forest to be shot. He had been told to run, whereupon the FSB had fired at and hit him three times. He had lost consciousness. By chance he had survived and woke up on 11 October 2007 at a camp where he had been taken by rebels and where he had been operated on by a doctor. The latter told him that two rebels had been near to the place of his planned execution, had fired at the FSB officers and thereby prevented his execution. H came to see him on 14 October 2007 and informed him that he would be killed either by the FSB or by the rebels, who considered him as a traitor because he had revealed information about the rebel group under torture. H had therefore encouraged the first applicant to commit suicide. On 15 November 2007 he had confirmation that his wife and child were alive. Immediately after they were reunited on 14 December 2007, the family had left Russia.

11. In a second written submission of 13 May 2008 the applicants added, *inter alia*, that the first applicant had previously worked with Amnesty International. Through this work he had come into contact with the journalist Anna Politkovskaja. His first contact with her had been in the year 2000. He had met her several times after that and provided her with information. The first applicant suspected that the reason why he was wanted was related to Anna Politkovskaja's archives becoming available to opposing interests in connection with her death.

12. On 16 September 2008 the Migration Board held a meeting which lasted approximately three and a half hours and included interviews with the applicants in the presence of an interpreter and their legal counsel. The first applicant stated, amongst other things, that before the war he had worked as correspondent for a small newspaper. After having met H in 1994 the first and second applicant had moved to the mountain village and joined the rebels. He met Anna Politkovskaja only once, in February 2002. After that he had begun to forward copies of his work to her and to H. He had spoken with her on the telephone and she had planned to write a book about him. Her assistant had photographed them on the day they met. He had documented an estimated total of over a thousand crimes between 1995 and 2007. It was R, a man he worked together with as a journalist, who had told him that he was wanted by the occupying authorities. Having been subjected to torture and an execution attempt, he had learned in October 2007 that his wife and child were alive and they were reunited on 13 December 2007. The second applicant added that she had been physically and verbally abused by her kidnappers because she was not a "pure" Chechen. Before the Migration Board the applicants submitted three letters dated August 2008 from private persons of Swedish nationality, and a medical certificate dated 17 April

2008 which stated that the first applicant had wounds on his body which had "a good relation" with his explanation both of the timing and the extent of the torture to which he had allegedly been subjected.

13. By decision of 25 October 2008 the Migration Board refused to grant the applicants asylum. It observed that the applicants had no documents to prove their identity. However, it found it established that they originated from Chechnya. It did not find that the situation there or the general situation for Chechens in the Russian Federation alone could justify the granting of asylum. It went on to assess the applicants' situation individually and found, notably, that the first applicant's story had been incoherent and in part clearly inconsistent in that:

i) on 9 April, 13 May and 16 September 2008 he had given divergent explanations about when and how many times he had met Anna Politkovskaja; the first time he did not mention her at all, the second time he said he had met her as from 2000 and several times, and most recently he said he had met her only once in 2002;

ii) the first applicant had not been able to show or point to any of the pieces of documentary work that he had allegedly produced over twelve years during the period from 1995 to 2007, nor had he substantiated having worked as a journalist anywhere. It also noted, as to the first applicant's suspicion that he was wanted due to the journalistic information furnished by him and found in Anna Politkovskaja's archives, that the latter had died on 6 October 2006 and that the applicants had had no problems for a whole year thereafter;

iii) the first applicant had provided divergent information about when he had been told that his wife and child were alive, in that originally he gave the date of 15 November 2007 and later changed this to October 2007;

iv) apparently he had been able to stay at the camp until he was reunited with his family in December 2007, despite having been advised to commit suicide in October 2007 by H. Finally, the Migration Board did not find that the first applicant's injuries were sufficient to substantiate his motive for asylum. The Migration Board concluded that the applicants had not substantiated their request for asylum, which was consequently refused.

14. In a separate decision concerning the second applicant, the Migration Board noted her statement that she had been ill-treated by her kidnappers because she was not a "pure" Chechen. The Board found this statement to be remarkable if the kidnappers were indeed representatives of the FSB. The Board also noted that she had not been able to identify her kidnappers and considered that her statements about how she had been able to leave the building where she had been detained did not appear credible. In view of this, and the fact that the second applicant had not claimed to be personally threatened by the FSB or anyone else before or after this incident, the Board did not find that she had made probable that she was in need of protection.

Accordingly, she could not be regarded as a refugee or as an alien otherwise in need of protection within the meaning of the Aliens Act.

15. On appeal to the Migration Court (*Migrationsdomstolen*), the applicants were heard on 17 June 2009 in the presence of an interpreter and their legal counsel. The first applicant had stated that he had heard about Anna Politkovskaja in 2000 and that they had met in 2002 in Chechnya, where he had contacted her. He had not been in touch with her prior to that, and his subsequent contacts with her were through a contact person who gave him tapes to use in his work. He had sent all his material to this person in secret. The family were living in hiding when his wife and daughter were kidnapped. He had known that he was wanted at this time because people who had seen flyers in Grozny had told him so. No one in the mountain village had informed against him. The second applicant stated that she had received protection from H after she had escaped from her kidnappers. The applicants submitted a medical certificate of 13 November 2008 concerning the first applicant stating, *inter alia*, that he showed signs of post-traumatic stress disorder.

16. By judgment of 15 July 2009, the majority of the Migration Court, (two members including the judicial judge) upheld the decision of the Migration Board. It agreed with the conclusion that the general situation in the Russian Federation was no ground for asylum as such and that an individual assessment should be made. It also found that the first applicant's injuries had probably been caused by ill-treatment resembling torture. However, even though the evidence supported his statements, and taking into account that victims of torture cannot be expected to provide completely coherent and consistent statements, the Migration Court did not consider that the first applicant had made probable why he had been subjected to abuse and by whom. In assessing the first applicant's credibility, the Migration Court noted that he had changed his statements several times on central points. Regarding his alleged contacts with Anna Politkovskaja, the Migration Court noted, in addition to the discrepancies pointed out by the Migration Board, that in the request for appeal, it was stated that the first applicant had been in telephone contact with Anna Politkovskaja on several occasions, starting in 2000. During the oral hearing, on the other hand, he had stated that he had only met her once in 2002 and had had no contact with her before or after that, except through a contact person. Furthermore, the Migration Court noted that it was unclear how he had established contact with Anna Politkovskaja in the first place. According to his submission of 13 May 2008, he had met her when he worked for Amnesty International. However, during the oral hearing before the Migration Court he had stated that he had sought contact with her through contact persons who worked in the same field as he did. As to the first applicant's alleged journalistic work, the Migration Court noted that the description of his activities had been remarkably vague, and that although

he claimed that he had collected material for several years he had not been able to provide any concrete examples of what he had done. Nor had he been able to provide any form of evidence of his work. Thus the Migration Court found reason to question the credibility of the applicants' statements. Two members of the Migration Court dissented and found that the divergences in the applicants' explanation concerned insignificant issues and that the applicants could not substantiate their story more than they already had done.

17. Leave to appeal to the Migration Appeal Court (*Migrationsöverdomstolen*) was refused on 16 October 2009.

B. Subsequent events and proceedings before the Court

18. On 16 November 2009 the applicants lodged a complaint with the European Court of Human Rights and requested the application of an interim measure pursuant to Rule 39 of the Rules of Court. On 20 November 2009, the Court applied such an interim measure and requested the Swedish Government to stay the applicants' expulsion to the Russian Federation until further notice.

19. On 15 December 2009 the application was communicated to the Government and at the same time, the applicants were requested to furnish information about whether, before joining the rebel group in 1995, the first applicant had had any journalistic or photographic training and whether he had ever worked officially as a journalist or photographer. In the affirmative, he was requested to submit documentation in this respect or point to work he had produced. Moreover, he was requested to submit documentation or evidence of work, such as articles, tapes, photographs and so on that he allegedly produced during the period from 1995 to 2007 or, if this was impossible, to explain why, and as an absolute minimum, to provide a detailed description of the documentary material which he allegedly produced. In addition, he was requested to furnish detailed information about which documentary material produced by him was used by whom, be it persons, journalists, institutions, NGOs and so on.

20. In reply to the first question, the applicants stated that the first applicant had commenced as an apprentice in 1985 at a local newspaper and there learned about the work of a photographic journalist. After two years he had started to work part time as assistant to the photographic journalist at the paper until 1992 when the printing house was closed. Subsequently, besides having other jobs, he had prepared himself for entrance exams at the university's Faculty of Journalism, but had never entered due to economic sanctions in 1993 and the war in 1994. The material from his photographing and reporting of the execution of villagers were sent to television broadcasting companies. It was probably more accurate to say that the first applicant had worked in journalism rather than that he was a journalist.

21. As to the Court's request for documentation or evidence of the first applicant's work, the Court received a compilation of work allegedly produced by the first applicant during the period from 1995 to 2007. He contended that he was not in possession of any articles where his name was mentioned. He did not develop on the link between his work and the compilation of incidents. In addition, the first applicant submitted one example of an article, translated from Russian, entitled "March 1996, 'human shield' in Samashki" which was allegedly based on his work. It could be found on a named internet site.

22. The Government noted in that respect that the compilation merely contained a description in brief and general terms of different incidents in Chechnya, which were already available through open sources, including the internet, and that there was no explanation as to how these incidents were related to the first applicant's work, if at all. In any event, the Government doubted that it would have been possible for the first applicant to move around so frequently and carry out all those alleged journalistic activities in so many different places, as implied by the submitted compilation, considering that since 1994 he had not been in possession of any identity papers. Finally, the example of the article allegedly based on the first applicant's reports did not contain a single reference to him, although the English translation on the internet, in most of its footnotes, carried a reference to the source, or to the person who had recorded a certain statement, and information about where the incident took place and when.

II. RELEVANT DOMESTIC LAW

23. The provisions concerning the right of aliens to enter and to remain in Sweden are laid down in the Aliens Act (*Utlänningslagen*, 2005:716 - hereafter referred to as "the Aliens Act") as amended on 1 January 2010. The following refers to the Aliens Act in force at the relevant time.

24. Under the Aliens Act matters concerning the right of aliens to enter and remain in Sweden are dealt with by three instances, the Migration Board, the Migration Court and the Migration Court of Appeal. Thus, appeal against a decision or an order for expulsion issued by the Migration Board, which carries out the initial examination of the case, lies to the Migration Court. Appeal against a judgment or decision of the Migration Court lies to the Migration Court of Appeal. This instance will, however, only deal with the merits of the case after having granted leave to appeal.

25. Chapter 5, Section 1, of the Aliens Act stipulates that an alien who is considered to be a refugee or otherwise in need of protection is, with certain exceptions, entitled to a residence permit in Sweden. According to Chapter 4, Section 1, of the Aliens Act, the term "refugee" refers to an alien who is outside the country of his or her nationality owing to a well-founded

fear of being persecuted on grounds of race, nationality, religious or political beliefs, or on grounds of gender, sexual orientation or other membership of a particular social group and who is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country. This applies irrespective of whether the persecution is at the hands of the authorities of the country or if those authorities cannot be expected to offer protection against persecution by private individuals. By "an alien otherwise in need of protection" is meant, *inter alia*, a person who has left the country of his or her nationality because of a well-founded fear of being sentenced to death or receiving corporal punishment, or of being subjected to torture or other inhuman or degrading treatment or punishment (Chapter 4, Section 2, of the Aliens Act).

26. Under certain conditions, an alien may be granted a residence permit even if a deportation or expulsion order has gained legal force. This applies, under Chapter 12, Section 18, of the Aliens Act, where new circumstances have emerged that mean there are reasonable grounds for believing, *inter alia*, that an enforcement would put the alien in danger of being subjected to capital or corporal punishment, torture or other inhuman or degrading treatment or punishment or there are medical or other special reasons why the order should not be enforced. If a residence permit cannot be granted under this provision, the Migration Board may instead decide to re-examine the matter. Such a re-examination shall be carried out where it may be assumed, on the basis of new circumstances invoked by the alien, that there are lasting impediments to enforcement of the nature referred to in Chapter 12, Sections 1 and 2, of the Aliens Act, and these circumstances could not have been invoked previously or the alien shows that he or she has a valid excuse for not doing so. Should the applicable conditions not have been met, the Migration Board shall decide not to grant a re-examination (Chapter 12, Section 19, of the Aliens Act).

III. RELEVANT INFORMATION ON CHECHNYA

A. Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe following his visit to the Russian Federation from 12 to 21 May 2011, dated 6 September 2011

27. The main aim of the visit of the Council of Europe Commissioner for Human Rights was to review the human rights situation in the North Caucasus in the context of the regular field visits that Commissioner Hammarberg, like his predecessor, conducted. The report noted that since the Commissioner's previous visit in 2009, there had been an increased emphasis on the socio-economic development of the North Caucasus Federal District, and the implementation of a strategy aiming to improve the investment climate, fight corruption and address unemployment was

on-going. Despite these positive steps to improve the quality of life of the people living in the region, the situation in the North Caucasus continued to present major challenges for the protection of human rights. The Commissioner defined some of the most serious problems in terms of the protection of human rights in the republics visited as being the issues of counter-terrorism measures, of abductions, disappearances and ill-treatment, of combating impunity and of the situation of human rights defenders. The report included the Commissioner's observations and recommendations in relation to those topics.

28. With regard to counter-terrorism measures, the report concluded that the continuing challenges to security in the North Caucasus amounted to a major on-going crisis, with consequences which extend beyond the region. While state authorities had a clear duty to protect the public from terrorism and the actions of illegal armed groups, counter-terrorism measures should be carried out in full compliance with human rights norms (see paragraph 33 of the report).

29. The Commissioner was further deeply concerned by the persistence of allegations and other information relating to abductions, disappearances and ill-treatment of people deprived of their liberty in the North Caucasus. While the number of abductions and disappearances in Chechnya might have decreased recently compared to 2009, the situation remained far from normal. Referring to the far-reaching effects of disappearances on a society as a whole, he supported the proposal of the Presidential Council for Civil Society Institutions and Human Rights to create an interdepartmental federal commission to determine the fate of persons who had gone missing during the entire period of counter-terrorism operations in the North Caucasus. The Commissioner further emphasised the importance of the systematic application in practice of rules against the wearing of masks or non-standard uniforms without badges as well as against the use of unmarked vehicles in the course of investigative activities. He also encouraged wide dissemination of all reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment among all stakeholders.

30. The Commissioner went on to state that the persistent patterns of impunity for serious human rights violations were among the most intractable problems of the North Caucasus and remained a source of major concern to him. There have certainly been a number of positive steps, such as the establishment of the Investigating Committee structures, increased support for victim participation in criminal proceedings, and the promulgation of various directives such as the Guidelines of the Supreme Court on victim participation and the instructions of the Prosecutor General and the Investigative Committee regarding the conduct of investigations. Despite these measures of a systemic, legislative and regulatory nature, the information gathered during the visit had led the Commissioner to conclude

that the situation remained essentially unchanged in practice since his previous visit in September 2009. He emphasised the importance of effective investigations of possible violations by State actors of the right to life and the prohibition of torture and ill-treatment and called on the Russian leadership to deliver the unequivocal message that impunity would no longer be tolerated, to help create the requisite determination on the part of the investigators concerned (see paragraphs 65 et seq. of the report).

31. As a conclusion to his fourth and last topic, the Commissioner stated that human rights activists continued to face serious obstacles in their work and could be exposed to significant risks. In settings which present considerable challenges to the protection of human rights, it was all the more important to ensure that those persons and organisations which engage in human rights monitoring activities were able to go about their work freely and without undue impediment (see paragraph 80 of the report).

B. 2010 Human Rights Report on Russia by the United States Department of State dated 8 April 2011

32. Under the heading "Use of excessive force and other abuses in internal conflicts", the Human Rights Report on Russia of the United States Department of State of 8 April 2011 stated that violence continued to spread in the North Caucasus republics, driven by separatism, inter-ethnic conflicts, jihadist movements, vendettas, criminality and excesses by security forces. However, Chechnya saw a decrease in violence from the previous year. Government personnel, rebels and criminal elements continued also to engage in abductions in the North Caucasus. Officials and observers disagreed on the number of victims. Human rights groups believed the number of abductions was under-reported due to the reluctance of victims' relatives to complain to the authorities for fear of reprisals. According to a report on the website Caucasian Knot, in 2010 approximately fifty people were kidnapped or unlawfully detained by armed parties in the North Caucasus, and only sixteen were freed. Allegedly, there was no accountability for government forces involved in abductions. There were continued reports that abductions were followed by beatings or torture to extract confessions and that abductions were conducted for political reasons. Security forces under the command of Chechen President Kadyrov allegedly played a significant role in abductions, either on their own initiative or in joint operations with federal forces. Human rights groups reported that these forces were frequently suspected of being responsible for disappearances and abductions, including those of family members of rebel commanders and fighters.

33. Armed forces and police units reportedly frequently abused and tortured people in holding facilities where federal authorities dealt with rebels and people suspected of aiding them. In Chechnya and Ingushetia

there continued to be reports of torture by government forces. There was also a report of a continued arson campaign. The Chechen arson campaign began in 2008, following explicit threats by Chechen President Kadyrov and Grozny's Mayor Muslim Khuchiyev to burn down houses belonging to families whose sons were suspected of joining the insurgency. Human rights activist Natalya Estemirova was working on a documentary on the arson campaign when she was killed in 2009.

C. Schweizerische Flüchtlingshilfe (Swiss Refugee Council): North Caucasus: Security and human rights, dated 12 September 2011

34. With regard to the overall security situation, the Swiss Refugee Council report of 12 September 2011 stated that general violence increased in 2010 in Chechnya, Dagestan and Ingushetia. Even though the number of people killed decreased, the number of civilians injured increased, which showed that civilians were affected more and more by the armed conflict between the security services and the rebels. The Russian President Medvedev was quoted as saying on 19 November 2010 that the situation in the North Caucasus had not, in practice, improved. The widespread impunity further encouraged the arbitrariness exercised by the security services (see page 5 of the report).

35. The main human rights violations happened by way of arbitrary detention to obtain confessions and information about rebels, torture and ill-treatment in secret detention centres, kidnappings and disappearances executed by members of federal and local security services and criminal groups for ransom, executions, the arson campaign targeting family members of alleged rebels, and lack of financial compensation, for example for burned houses and property. Those most at risk belonged to the following groups: NGO and human rights activists; victims, their lawyers, witnesses and their families; journalists; government opponents and returnees from abroad and their relatives. The report noted that returnees from abroad were generally immediately detained, questioned about their stay abroad and sometimes tortured. The questioning did not necessarily stop after their release from detention. Returnees and their relatives had to expect arbitrary detention at any time. In individual cases, criminal suspicions were invented so that returners could be ill-treated as a form of punishment for leaving Chechnya in the first place (see pages 10 to 17 of the report).

D. Chechens in the Russian Federation: Report from the Danish Immigration Service's fact-finding mission to Moscow and St. Petersburg from 12 to 29 June 2011, dated October 2011

36. Relying on statistical data provided by the NGO "Memorial", the report from the Danish Immigration Service of October 2011 showed that the year 2008 saw a return to the old tactics of abductions and disappearances, and the number of abducted people again increased in 2009 to ninety-three recorded cases. Furthermore, the number of punitive house burnings increased dramatically. Newer data was not available, since Memorial's work was severely hampered due to Natalya Estemirova's abduction and killing in 2009 and the subsequent suspension of the organisation's work for six months. However, Human Rights Watch reported fewer human rights violations in Chechnya in 2010 and early 2011. Both NGOs stated that after Estemirova's death it had become increasingly difficult to obtain reliable information about the security situation in Chechnya and that victims of beatings, threats and detention had become increasingly afraid to report those incidents to NGOs or official investigation authorities (see pages 52 to 54 of the report).

37. As particular groups at risk of being exposed to torture, disappearances, kidnappings and extrajudicial killings the report enumerated members of rebel groups and any person suspected of supporting or sympathising with these groups; relatives and friends of supporters or sympathisers of rebel groups; young, healthy men; young women; persons who lodge complaints with the Prosecutor's Office, NGOs or the European Court of Human Rights and returnees from abroad. With regard to the last-mentioned group, there were reports that people returning from abroad were stopped by law-enforcement officials who requested money or about kidnappings for ransom of returnees. They further risked being suspected of holding information about anti-Kadyrov elements of the Chechen diaspora in Western European countries and were often interrogated on their return to Chechnya. A returnee would need explicitly to unite with the government and Kadyrov's policies (see pages 56 et seq. of the report). On the other hand, the International Organisation for Migration ("the IOM") in Russia reported on voluntary returns to Chechnya which were considered a success. In 2010 the IOM assisted approximately 2,000 returns to the North Caucasus. The IOM conducted regular visits to Chechnya and met returnees there. The organisation conceded however that it was difficult to assess the situation in Chechnya on such short visits. It was also emphasised that the number of returnees in a particular IOM project might be too low to reflect fully the situation of returnees in general (see pages 62 et seq. of the report).

38. With regard to the risk to former members of the illegal armed groups, the report quoted an anonymous Western embassy source stating that active participants in the fighting against the Russian federal army in

1994 to 1996 who have not since been militarily active or in opposition to Kadyrov's regime were not at risk of being persecuted by the present Chechen authorities (see page 62 of the report).

E. Guidelines on the treatment of Chechen internally displaced persons, asylum seekers and refugees in Europe by the European Council on Refugees and Exiles (ECRE), updated in March 2011

39. With regard to Chechens returning from other countries, the ECRE Guidelines of March 2011 stated that upon their return they were often suspected of either being involved in illegal armed groups, or at the very least of having significant resources. They encountered suspicion, became victims of extortion and had criminal cases fabricated against them. Returnees were reportedly called to meetings with the Federal Security Services and the Ministry of the Interior, where they were questioned, often with threats and ill-treatment and demands for payment. Young men especially were made to collaborate with the security services. Those who spoke out about the regime were most at risk, for example applicants to the European Court of Human Rights, as well as those who appealed to national courts, federal authorities or NGOs (see pages 54 et seq. of the report).

THE LAW

I. INTERPRETATION AND APPLICATION OF ARTICLE 36 § 1 OF THE CONVENTION

40. Article 36 § 1 of the Convention reads as follows:

> "In all cases before a Chamber of the Grand Chamber, a High Contracting Party one of whose nationals is an applicant shall have the right to submit written comments and to take part in hearings."

41. Article 36 § 1 of the Convention, taken together with Rule 44 § 1 (a) and (b) of the Rules of Court, allows a Member State to intervene in a case lodged with the Court by one of its nationals against another Member State (see, for example, *Sisojeva and Others v. Latvia* (striking out) [GC], no. 60654/00, ECHR 2007-I (Russia); *Slivenko v. Latvia* [GC], no. 48321/99, § 6, ECHR 2003-X (Russia); *Somogyi v. Italy*, no. 67972/01, ECHR 2004-IV (Hungary); *Scozzari and Giunta v. Italy* [GC], nos. 39221/98 and 41963/98, ECHR 2000-VIII (Belgium); and *Demades v. Turkey*, no. 16219/90, 31 July 2003 (Cyprus)).

42. The provision reflects the right of diplomatic protection which gives a State an opportunity to protect its nationals in a situation where they suffer an injury as a result of a breach of public international law by another

Member State. The question arises whether in the light of the spirit of the Convention and the aim of Article 36 § 1, a right to intervene applies in cases such as this one, in which the applicants are refused asylum seekers and their reason for applying to the Court is their fear of ill-treatment if returned to their State of origin.

43. The preparatory works relating to Article 36 are silent on this point. The reason therefor is likely to be that the drafters of the Convention did not foresee that complaints about deportation of unsuccessful asylum seekers from one Member State to their country of origin, also being a Member State, could give rise to issues under Articles 2 and 3 of the Convention. This case-law has in fact developed since the Court's judgment in the case of *Soering v. the United Kingdom* (7 July 1989, Series A no. 161). There appears to be no specific case-law either which can contribute to the interpretation of Article 36 § 1 in these instances.

44. In the Court's view the right under Article 36 § 1 to intervene as a third party extends to offering a Member State the right to support those nationals whose rights and interests may have been injured by another Member State. However, where nationals make allegations which *prima facie* could give rise to a potential breach of Articles 2 and 3 in case of their return to a Member State, that State does not appear objectively in a position to support its nationals. Moreover, Article 36 § 1 does not encompass a Member State's right to defend itself before the Court unless the applicants in their application claim to be victims of a violation of their rights by that Member State as well (see, for example, *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, ECHR 2011 and *Catan and Others v. the Republic of Moldova and Russia* [GC], nos. 43370/04, 8252/05 and 18454/06, ECHR 2012 (extracts)).

45. The Court concludes that Article 36 § 1 does not apply in cases where the applicants' reason for applying to the Court is fear of being returned to the relevant Member State, which allegedly will subject them to a treatment contrary to Articles 2 and 3 of the Convention. Consequently, in such circumstances, applications are not transmitted to the applicants' State of origin inviting their Government to intervene.

46. Applying these considerations to the present case, the Russian Federation was not notified of the present application.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

47. The applicants complained that an implementation of the deportation order to return them to Russia would be in violation of Article 3 of the Convention, which in so far as relevant read as follows:

Article 3

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

A. Submissions by the parties

48. The applicants maintained that the general situation for persons of Chechen origin in Russia was so serious that for that reason alone, it would amount to a violation of the invoked articles to return the applicants.

49. Furthermore, the applicants individually faced a real and personal risk upon return, which the Swedish authorities had ignored when refusing to grant them asylum. The applicants' statements of the facts had been credible and reasonable, and had been supported by strong medical evidence that the first applicant had previously been subjected to torture.

50. The applicants referred firstly to the medical certificate of 17 April 2008 which stated that the first applicant had wounds on his body which could be consistent with his explanation both as to the timing and the extent of the torture to which he had been subjected, and secondly to the medical certificate of 13 November 2008, which added that the first applicant showed signs of post-traumatic stress disorder. In the applicants' view, the Swedish authorities had completely disregarded the latter information. Given that fact, the Swedish authorities should have been more lenient in their demand as to the extent of evidence to be submitted by the first applicant in order to be granted a permanent residence permit in Sweden.

51. While the Government did not wish to underestimate the concern that could legitimately be expressed with respect to the human rights situation in Russia, especially in the Russian Caucasus region, the circumstances referred to in recent reports did not themselves suffice to establish that the forced return of the applicants to Russia would entail a violation of Articles 2 and 3 of the Convention.

52. Moreover, the applicants had failed to substantiate that individually they faced a real and personal risk upon return. In this respect the Government pointed out that the applicant's credibility was of vital importance and that the national authorities were in a very good position to evaluate evidence, assess the information submitted by individual asylum seekers and estimate their statements and claims. They pointed out that in the present case the applicants had been heard before the Migration Board and the Migration Court and that the two domestic instances made a thorough examination of the facts and documentation in the case. Referring to their findings, the Government pointed out that the only written evidence in the case was the medical certificates of 7 April and 12 November 2008. The Government could see no reason to question or depart from the assessment of this written evidence by the Migration Court, namely that although the certificates gave support to the first applicant's account, the

documents themselves could not substantiate his claims about why or by whom he had been subjected to abuse. Nor could they substantiate the other circumstances and claims in the case.

53. The Government found it striking that, despite having claimed to have worked as a journalist and a photographer for more than twelve years, from 1995 to 2007, the first applicant was not able to provide any concrete examples of when, where and how this work was carried out, although specifically asked about it both by the domestic authorities and the Court. Nor was he able to provide any evidence of these activities whatsoever, which seems remarkable considering his claim that he provided written and photographic material to, among others, Amnesty International, Human Rights Watch and Anna Politkovskaja, as well as to the BBC and other television broadcasting companies. This was even more remarkable in view of the fact that in the interview on 16 September 2008 with the Migration Board the first applicant had stated that he had documented an estimated number of more than a thousand crimes, which indicated that his alleged work was extensive in scope. No satisfactory explanation for this complete lack of evidence of his alleged work was ever presented in the domestic proceedings, as noted by both the Migration Board and the Migration Court. In addition, in several respects there were shortcomings and inconsistencies in the applicants' statements. The Government also found it unlikely, in view of the applicants' statement that they had not been in possession of any identity papers since 1994, that such a situation would not have caused the first applicant serious problems in his alleged journalistic work since he must regularly have faced police controls and road blocks. All in all, the Government contended, there were strong reasons to question the general credibility of the applicants' statements and claims before the Court.

B. The Court

1. General principles

54. The Contracting States have the right as a matter of international law and subject to their treaty obligations, including the Convention, to control the entry, residence and expulsion of aliens (see, amongst others, *NA. v. the United Kingdom*, cited above, § 109).

55. However, expulsion by a Contracting State may give rise to an issue under Article 3, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person concerned, if deported, faces a real risk of being subjected to treatment contrary to Article 3. In such a case, Article 3 implies an obligation not to deport the person in question to that country (*Saadi v. Italy* [GC], no. 37201/06, § 125, 28 February 2008).

56. In determining whether it has been shown that an applicant runs a real risk of suffering treatment proscribed by Article 3 the Court examines the foreseeable consequences of sending an applicant to the country of destination, bearing in mind the general situation there and his personal circumstances. It will do so by assessing the issue in the light of all material placed before it, or, if necessary, material obtained on its own initiative (see *H.L.R. v. France*, 29 April 1997, § 37, Reports 1997-III, and, more recently, *Hirsi Jamaa and Others v. Italy* [GC], no. 27765/09, § 116, 23 February 2012). The assessment of the existence of a real risk must necessarily be a rigorous one. It is in principle for the applicant to adduce evidence capable of proving that there are substantial grounds for believing that, if the measure complained of were to be implemented, he would be exposed to a real risk of being subjected to treatment contrary to Article 3 (see *Saadi*, cited above, §§ 128-129 and *NA. v. the United Kingdom*, cited above, § 111).

57. The Court must be satisfied that the assessment made by the authorities of the Contracting State is adequate and sufficiently supported by domestic materials as well as by materials originating from other reliable and objective sources such as, for instance, other Contracting or non-Contracting States, agencies of the United Nations and reputable non-governmental organisations (see, *NA. v. the United Kingdom*, cited above, § 119).

2. The general situation for Chechens returning to the Russian Federation

58. Having regard to its case-law concerning disappearances and ill-treatment in Chechnya (see, among many others, *Bazorkina v. Russia*, no. 69481/01, 27 July 2006; *Imakayeva v. Russia*, no. 7615/02, ECHR 2006-XIII (extracts); *Luluyev and Others v. Russia*, no. 69480/01, ECHR 2006-XIII (extracts); *Baysayeva v. Russia*, no. 74237/01, 5 April 2007; and *Akhmadova v. Russia*, no. 25548/07, 3 April 2012) and having regard to the recent information on the human rights and security situation in Chechnya, the Court is well aware of on-going disappearances, of arbitrary violence, of impunity and ill-treatment in detention facilities, notably with regard to certain categories of people, such as former rebels, their relatives, political adversaries of Ramsan Kadyrov, journalists, human rights activists and individuals who have lodged complaints with international organisations. The Court is also aware of the reported interrogations of returnees and of harassment and possible detention and ill-treatment by the Federal Security Service or local law-enforcement officials and also by criminal organisations. Nevertheless, the Court considers that the unsafe general situation there is not sufficiently serious to conclude that the return of the applicants to Russia would amount to a violation of Article 3 of the Convention (see, for example *Bajsultanov v. Austria*, no. 54131/10,

§§ 64-72, 12 June 2012 and *Jeltsujeva v. the Netherlands* (dec.), no. 39858/04, 1 June 2006).

3. The applicants' individual situation

59. Turning to the applicants' individual situation, they maintained that they had been ill-treated by the "Kardyrov group" and were at risk of being ill-treated anew upon return to the Russia, because the first applicant took photographs and wrote reports about numerous crimes committed by the State against Chechens between 1995 and 2007.

60. The Government have questioned the applicants' credibility and pointed to various inconsistencies in their stories. The Court accepts that, as a general principle, the national authorities are best placed to assess not just the facts but, more particularly, the credibility of witnesses since it is they who have had an opportunity to see, hear and assess the demeanour of the individuals concerned (see *R.C. v. Sweden*, no. 41827/07, § 52, 9 March 2010). But at the same time it acknowledges that owing to the special situation in which asylum seekers often find themselves, it is frequently necessary to give them the benefit of the doubt when it comes to assessing the credibility of their statements and the documents submitted in support thereof. However, when information is presented which gives strong reasons to question the veracity of an asylum seeker's submissions, the individual must provide a satisfactory explanation for the alleged discrepancies (see, among other authorities, *N. v. Sweden*, no. 23505/09, § 53, 20 July 2010).

61. In the present case the national authorities did not as such question that the first applicant had been subjected to torture. They stated, however, taking into account that victims of torture cannot be expected to provide completely coherent and consistent statements, that even though the evidence supported his statements that he had been subjected to torture, the first applicant had not established with sufficient certainty why he had been subjected to it and by whom. Notably, as to the first applicant's explanation that he was a key figure and wanted by the Russian authorities with a significant price on his head because he had carried out journalistic work to their detriment, the Migration Court pointed out that his statements had been remarkably vague and that although he claimed that he had collected material for twelve years, he had not been able to provide any concrete examples of what he had done or been able to provide any form of evidence of his work. Thus, the Migration Court found reason to question the credibility of the first applicant's statements.

62. This leads to the crucial question of whether the isolated fact that a person has been subjected to torture suffices to demonstrate that he or she, if deported to the country where the ill-treatment took place, will face a real risk of being subjected again to treatment contrary to Article 3. The Court is aware that in *R.C. v. Sweden* (quoted above, §§ 50 and 55), it found that

since the asylum seeker in that case had proven that he had been subjected to torture, the onus rested with the State to dispel any doubts about the risk of his being subjected again to treatment contrary to Article 3 in the event that the expulsion were carried out. However, leaving aside deportations to countries where the general situation is sufficiently serious to conclude that the return of any refused asylum seeker thereto would constitute a violation of Article 3 of the Convention, the Court acknowledges that in order for a State to dispel a doubt such as mentioned in *R.C. v. Sweden*, the State must at least be in a position to assess the asylum seeker's individual situation. However, this may be impossible, when there is no proof of the asylum seeker's identity and when the statement provided to substantiate the asylum request gives reason to question his or her credibility. Moreover, as stated above, the Court's established case-law is that in principle it is for the person to be expelled to adduce evidence capable of proving that there are substantial grounds for believing that, if the measure complained of were to be implemented, he or she would be exposed to a real risk of being subjected to treatment contrary to Article 3. Where such evidence is adduced, it is for the Government to dispel any doubts about it. Accordingly, the Court considers that where an asylum seeker, like the first applicant, invokes that he or she has previously been subjected to ill-treatment, whether undisputed or supported by evidence, it may nevertheless be expected that he or she indicates that there are substantial and concrete grounds for believing that upon return to the home country he or she would be exposed to a risk of such treatment again, for example because of the asylum seeker's political activities, membership of a group in respect of which reliable sources confirm a continuing pattern of ill-treatment on the part of the authorities, a pending arrest order, or other concrete difficulties with the authorities concerned (see, *inter alia*, *H.N. v. Sweden*, no. 30720/09, § 40, 15 May 2012; *Yakubov v. Russia*, no. 7265/10, §§ 68 and 83-94, 8 November 2011; *H.N. and Others v. Sweden* (dec.), no. 50043/09, 24 January 2012; *Panjeheighalehei v. Denmark* (dec.), 11230/07, 13 October 2009); *Jean M. V. Hakizimana v. Sweden* (dec.), 37913/05, 27 March 2008; and *Fazlul Karim v. Sweden* (dec.), no. 24171/05, 4 July 2006).

63. In the present case, the applicants' case was thoroughly examined by both the Migration Board and the Migration Court, before which the applicants were heard and represented by counsel. There are no indications that the proceedings before those domestic authorities lacked effective guarantees to protect the applicants against arbitrary refoulement or were otherwise flawed**.** Both instances found reason to question the credibility of the applicants' statements (see paragraph 11 as to the Migration Court's reasoning) and they thus concluded that the applicants had failed to establish that they should be regarded as refugees or aliens otherwise in need of protection within the meaning of the Aliens Act.

64. The Court finds, in agreement with the Swedish authorities, that there are credibility issues with regard to the applicants' statements, notably as to the first applicant's alleged twelve years of journalistic activities, which he claimed was the main reason for the ill-treatment of the applicants by the FSB and Kadyrov's group. As to the Court's request for documentation or evidence of the first applicant's work, the Court received a compilation of incidents allegedly documented by the first applicant during the period from 1995 to 2007. He did not develop on the link between his work and the compilation of incidents. Moreover, he submitted only one example of an article (see paragraph 20) allegedly based on his reports, but he contended that he was not in possession of any articles where his name was mentioned. The Court notes in addition that the first applicant did not submit any articles written by him either, whether unsigned or written under a pseudonym, nor did he point to one single photograph taken by him and published by one of the many well-known sources or media which he claimed had used his material. In these circumstances, the Court must conclude that the first applicant have failed to present any documents or information which would lead it to depart from the domestic authorities' conclusion that there are reasons to doubt the applicant's credibility.

65. Consequently, it agrees with the domestic authorities that the applicants failed to make it plausible that they would face a real risk of being subjected to ill-treatment upon return to the Russian Federation because of the first applicant's alleged journalistic activities.

66. As stated above, the Court is aware of the reported interrogation of returnees and of harassment and possible detention and ill-treatment by the Federal Security Service or local law-enforcement officials and also by criminal organisations. Nevertheless, it considers that the general situation is not sufficiently serious to conclude that the return of the applicants thereto would constitute a violation of Article 3 of the Convention. The Court emphasises that the assessment of whether there is a real risk for the person concerned must be made on the basis of all relevant factors which may increase the risk of ill-treatment. In its view, due regard should also be given to the possibility that a number of individual factors may not, when considered separately, constitute a real risk; but when taken cumulatively and when considered in a situation of general violence and heightened security the same factors may give rise to a real risk (see, for example, *NA. v. the United Kingdom*, cited above, § 130).

67. The Court notes that in their decisions of October 2008 and July 2009, the Migration Board and the Migration Court did not make a separate assessment of this specific risk in the applicants' case, notably that the first applicant has significant and visible scars on his body, including a cross burned into his chest. The medical certificates stated that his wounds could be consistent with his explanation both as to the timing (October 2007) and the extent of the torture to which he maintained he had been subjected, and

in their judgment of 15 July 2009 the Migration Court contended that the first applicant's injuries had probably been caused by ill-treatment resembling torture.

68. Thus, in case of a body search of the first applicant in connection with possible detention and interrogation by the Federal Security Service or local law-enforcement officials upon return, the latter will immediately see that the first applicant has been subjected to ill-treatment for whatever reason, and that those scars occurred in recent years, which could indicate that he took active part in the second war in Chechnya. His situation therefore differs significantly from, for example, the applicant in *Bajsultanov v. Austria* (cited above) or from returnees of Chechen origin who took active part in the first war in Chechnya only, and who are therefore not as such at risk of being persecuted by the present authorities (see paragraph 37 above).

69. Taking those factors into account cumulatively, in the special circumstances of the case the Court finds that that there are substantial grounds for believing that the applicants would be exposed to a real risk of being subjected to treatment contrary to Article 3 of the Convention if deported to the Russian Federation. Accordingly, the Court finds that the implementation of the deportation order against the applicants would give rise to a violation of Article 3 of the Convention.

III. RULE 39 OF THE RULES OF COURT

70. The Court points out 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 referral 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.

71. It considers that the indication made to the Government under Rule 39 of the Rules of Court (see above paragraphs 4 and 18) must continue in force until the present judgment becomes final or until the Court takes a further decision in this connection.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

72. 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."

73. Since the applicants made no claim in respect of pecuniary and non-pecuniary damage, or costs and expenses, there is no call for the Court to make any award under this head.

FOR THESE REASONS, THE COURT

1. *Holds* by five votes to two that the deportation of the applicants to the Russian Federation would give rise to a violation of Article 3 of the Convention.

2. *Decides* unanimously 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 deport the applicants until such time as the present judgment becomes final or until further order.

Done in English, and notified in writing on 5 September 2013, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Mark Villiger
President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judges Villiger and Yudkivska is annexed to this judgment.

M.V.
C.W.

JOINT DISSENTING OPINION OF JUDGES VILLIGER AND YUDKIVSKA

To our regret, we do not share the majority's view that the applicants' deportation to the Russian Federation would be in violation of Article 3 of the Convention, for the following reasons.

First of all, it is in principle for the applicant to adduce evidence capable of proving that there are substantial grounds for believing that, if the measure complained of were to be implemented, he or she would be exposed to a real risk of being subjected to treatment contrary to Article 3. Once such evidence has been adduced, it is for the Government to dispel any doubts about it (see *NA. v. the United Kingdom*, no. 25904/07, § 111, 17 July 2008). Furthermore, if information is presented which gives strong reasons to question the veracity of an asylum seeker's submissions, the individual must provide a satisfactory explanation for the alleged discrepancies (see, among many other authorities, *R.C. v. Sweden*, no. 41827/07, 9 March 2010).

Like the majority, we agree with the domestic authorities that in the present case "the applicants failed to make it plausible that they would face a real risk of ill-treatment upon return to the Russian Federation because of the first applicant's alleged journalistic activities" (see paragraph 65 of the judgment). In fact, they presented a story which gave rise to serious doubts about its credibility. Whilst they were given numerous opportunities – both by the domestic authorities and by this Court – to substantiate their claims and to explain the inconsistencies in their submissions, they failed to do so, providing instead "strikingly brief" and vague information in respect of both the first applicant's alleged journalistic activities and the alleged ill-treatment.

In our view, it cannot be said that "in the present case the national authorities did not as such question that the first applicant had been subjected to torture" (see paragraph 61). The Migration Court merely "found that the first applicant's injuries had *probably* been caused by ill-treatment *resembling* torture" (see paragraph 16). Further, it "did not consider that the first applicant had made probable why he had been subjected to abuse and by whom". Thus, in the absence of any clear and consistent information from the applicants, the domestic authorities conducted a thorough assessment of their submissions and came to the conclusion that these submissions were unfounded. We see no reason to reproach them for a failure "to make assessment of this specific risk in the applicants' case, notably that the first applicant has significant and visible scars on his body" (see paragraph 67) – it is precisely because their story as a whole, including the alleged ill-treatment, lacked credibility that the authorities concluded that there had been no real risk for the applicants in the event of deportation.

Furthermore, the applicants did not themselves claim that they ran a risk of ill-treatment as a result of the first applicant's bodily injuries; they connected this potential risk to the first applicant's alleged journalistic activity, a claim already found to be unsupported by any evidence. We find it a bit odd that the majority, whilst doubting – like the domestic authorities – the credibility of the applicants' story, nevertheless concluded that the Russian local authorities would be able to "see scars [that had] occurred in recent years *which would indicate that he took [an] active part in the second war in Chechnya*".

We fail to see how these bodily injuries – a burned cross and scars on the first applicant's body – could immediately indicate his "active" participation in the Second Chechen War. These injuries in themselves, unlike, for instance, gunshot wounds or other battle injuries, have no obvious and incontestable connection to military operations. Moreover, it is unclear how these injuries, which appeared in 2007 and were confirmed by medical examination in 2008, can still have the same implication six years later.

We consider that this conclusion, namely that any bodily injuries on a person who originates from Chechnya, regardless of uncertainty about the circumstances under which they were sustained, automatically indicate that he or she played an "active part" in the Second Chechen War and thus rule out expulsion, is too far-reaching.

Finally, the majority did not attach sufficient importance to the fact that the case concerns expulsion to a High Contracting Party to the Convention, which has undertaken to secure the fundamental rights guaranteed by it (see, as a recent authority with respect to Chechnya, *Bajsultanov v. Austria*, no. 54131/10, § 70, 12 June 2012).

In sum, we consider that in the present case there are no substantial grounds to believe that the applicants would be at risk of being subjected to treatment contrary to Article 3 of the Convention and we cannot depart from the conclusions reached by the Swedish authorities in this respect.