

Press release issued by the Registrar

Chamber judgment¹

[R. c. v. Sweden](#) (application no. 41827/07)

**DEPORTING AN IRANIAN DISSIDENT TO IRAN WOULD BE CONTRARY TO THE
CONVENTION**

***In case of the applicant's deportation to Iran: Violation of Article 3 (prohibition of
inhuman or degrading treatment)
of the European Convention on Human Rights***

Principal facts

The applicant, R.C., is an Iranian national, born in 1965. He arrived in Sweden in October 2003 and requested asylum. He submitted that he had taken part in a demonstration in July 2001 criticising the Iranian government following which he had been arrested and tortured and detained for almost two years before he managed to escape. He left the country illegally, hidden in a lorry. He had never been formally tried in court but every third month during his detention there had been a sort of religious trial where he had been put before a priest who had decided on his continued imprisonment.

During an investigation conducted into his asylum application by the Migration Board in June 2004, R.C. maintained his story and added some new elements. In particular he submitted that during one of the "religious trials" by a revolutionary court, during which there had been a lot of people, he managed to escape having changed into civilian clothes in the court's bathroom brought to him by his friends. Following his escape preceded by him hiding for two months in a friend's house, his father and wife had been questioned by the police about his whereabouts. R.C. also submitted that he had never been a member of a political party and never formally charged or convicted of any crime and that he was convinced he would be executed if he returned home. In addition, the applicant claimed that he suffered from headaches, sleeplessness, depression and panic attacks as a result of the torture he had been subjected to in the Iranian prison. He provided a medical certificate of February 2005 carrying the doctor's conclusion that the injuries found on his body could well originate from torture.

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

The national authorities doubted the credibility of his account of events, underlining that revolutionary courts were generally not open to the public, that the applicant had not substantiated his allegations and that there was no proof that he would be tortured or ill-treated if he returned to Iran. His asylum application was refused.

Following a request by the applicant, the Court indicated to the Swedish Government under Rule 39 (interim measures) of its Rules of Court that he should not be deported until further notice. In November 2007, the Migration Board stayed the enforcement of the deportation order against him until further notice.

Several organisations reporting on the situation in Iran noted an increase in human rights violations in Iran after the 2009 elections, including excessive police force, arbitrary arrests, killings, ill-treatment of detainees and the use of torture to obtain confessions. The Parliamentary Assembly of the Council of Europe adopted a resolution in 2009 in which it urged the Iranian authorities not to use violence during peaceful demonstrations and called upon governments of other countries not to expel Iranian citizens to Iran.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman and degrading treatment and torture) of the European Convention on Human Rights, the applicant alleged that, if deported to Iran, he would be at real risk of being arrested, ill-treated and tortured.

The application was lodged with the European Court of Human Rights on 23 September 2007 and declared admissible on 23 September 2008.

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

Josep **Casadevall** (Andorra), **President**,
Elisabet **Fura** (Sweden),
Boštjan M. **Zupančič** (Slovenia),
Alvina **Gyulumyan** (Armenia),
Ineta **Ziemele** (Latvia),
Luis **López Guerra** (Spain),
Ann **Power** (Ireland), **Judges**,

and also Stanley **Naismith**, **Deputy Section Registrar**.

Decision of the Court

The Court found that the applicant's basic story had been consistent throughout the proceedings. Although there had been uncertain aspects of it, such as his account as to how he had escaped from prison, its overall credibility had not been undermined.

The Court also accepted the general conclusions of the medical report that the marks of injuries found on R.C.'s body could have originated from torture. If the authorities had had any doubts in that respect they should have organised an expert report into the matter. The Court further noted that Iranian authorities detained not only political leaders or other high profile persons. Anyone who demonstrated or in any way opposed the regime also risked being detained and tortured in Iran.

In view of the above the Court found that the applicant had substantiated his claim that he had been detained and tortured by the Iranian authorities following a demonstration in July 2001. According to information available from independent international sources Iranians returning to their home country and not being able to prove that they had left the country

legally ran a particularly high risk of attracting the authorities' attention. The applicant had claimed to have left Iran illegally and that had not been disputed by the Government. Consequently, it was likely that his past be revealed if he returned to Iran and that he be detained and ill-treated.

Accordingly, the Court found by six votes to one that if the applicant were deported to Iran the Swedish authorities would be violating Article 3.

Under Article 41 (just satisfaction) of the Convention, the Court awarded the applicant 3,177 euros (EUR) for costs and expenses, less EUR 1,472 already received in legal aid from the Council of Europe, which left EUR 1,705 to be paid to the applicant by the Government.

Judge Fura expressed a separate opinion, which is annexed to the judgment.

The judgment is available only in English. This press release is a document produced by the Registry. It does not bind the Court. The judgments are available on its website (<http://www.echr.coe.int>).

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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.