

ECtHR - F.G. v Sweden, Application No. 43611/11

Country of Applicant:

Iran

Date of Decision:

16-01-2014

Citation:

43611/11

Court Name:

European Court of Human Rights - Fifth Section

Keywords:[Country of origin information](#) [1][Credibility assessment](#) [2][Individual threat](#) [3][Relevant Documentation](#) [4][Refugee sur place](#) [5][Persecution Grounds/Reasons](#) [6][Political Opinion](#) [7][Religion](#) [8]**Relevant Legislative Provisions:**Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [9] > [Article 2](#) [10]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [9] > [Article 3](#) [11]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [9] > [Article 6](#) [12]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [9] > [Article 14](#) [13]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [9] > [Article 41](#) [14]**Headnote:**

Asylum seeker's return to Iran would not violate Article 2 or 3 because the risk of political persecution was unsubstantiated and peripheral and his conversion to Christianity was likely

unknown to the authorities.

Facts:

The Applicant, an Iranian national, sought asylum in Sweden in 2009 on the basis of his past publication while in Iran of web pages critical of the government and his subsequent conversion to Christianity once in Sweden. He alleged a real risk of persecution based on political opinion and religious belief respectively, if returned to Iran. His application was supported by a summons he received to the Revolutionary Court in Iran.

The Swedish authorities, at first instance and on appeal, rejected his application and ordered his expulsion due to the lack of seriousness of the summons and the low-level nature of his political activities. Regarding his Christianity, the Migration Court of Appeal noted that the Applicant had not initially relied on this in his claim to the Migration Board, nor during his oral hearing before the Migration Court, preferring to keep it a private matter. The issue could therefore not now be raised on appeal.

The Applicant complained to the ECtHR that if expelled to Iran he would be at a risk of being punished or sentenced to death, relying on Articles 2 (right to life) and 3 (prohibition of degrading or inhuman treatment).

Decision & Reasoning:

The Court was divided by 4 to 3. The majority found no risk of violation of Articles 2 or 3. On political persecution, the majority noted that (1) the Applicant's alleged activity - publishing anti-government web pages - was 'peripheral', 'vague and lacking in detail' and not substantiated by evidence, (2) the Applicant had continued to publish critical web pages for two years after being initially questioned by authorities, (3) he had not been summoned again before the Revolutionary Court for over 4 years, (4) his family in Iran had not been persecuted, and (5) he had stopped political activities since arriving in Sweden.

On religious persecution, the majority agreed with the Swedish authorities' handling of the matter and relied on the fact that the Applicant 'has kept his faith a private matter', adding that, in any event, 'there is nothing to indicate that the Iranian authorities are aware of his conversion' [41].

The three dissenting judges, while accepting the majority's reservations on the risk of political persecution, took the view that the majority and the Swedish authorities had failed to properly assess the risk to the Applicant of religious persecution. The procedural reasons for rejecting the Applicant's claim were regarded by the minority as inadequate. In addition, by relying on the 'private' nature of the Applicant's Christianity, the majority wrongly implied that 'any such risk, if it exists, could be avoided by the Applicant's concealment of his religious conversion'. The minority drew attention to COI regarding the persecution of Christians in Iran as well as the decision of the CJEU in *Bundesrepublik Deutschland v. Y (C-71/11)* and *Z (C-99/11)*, which holds that the possibility of concealing religious belief cannot be relied on to dismiss the persecution risk and refuse protection.

Outcome:

No violation (by majority 4-3) of Article 3 if returned to Iran.

Observations/Comments:

On 2 June 2014 the case was referred to the Grand Chamber.

The Court will be holding a hearing in this case on 03 December 2014.

Case Law Cited:

ECtHR - Z.N.S. v Turkey, Application No. 21896/08

[Deutschland - Bundesverwaltungsgericht, 31. Januar 2013, 10 C 15.12](#) [15]

ECtHR - Kaboulov v. Ukraine, Application No. 41015/04

ECtHR - N. v Sweden, 20 July 2010, no. 23505/09

[ECtHR - NA v UK, Application No. 25904/07](#) [16]

ECtHR - Collins and Akaziebe v Sweden (Application no. 23944/05)

ECtHR - Hilal v United Kingdom, Application no. 45276/99

ECtHR - Mamatkulov Askarov v Turkey, Applications nos. 46827/99 and 46951/99

[CJEU - C-71/11 and C-99/11 Germany v Y and Z](#) [17]

[ECtHR - Maaouia v France, Application no. 39652/98](#) [18]

[ECtHR - Saadi v Italy, Application no. 37201/06](#) [19]

Attachment(s):



[CASE OF F.G. v. SWEDEN.pdf](#)[20]

Other sources cited:

International Campaign for Human Rights in Iran, The Cost of Faith: Persecution of Christian Protestants and Converts in Iran (16 January 2013);

[www.iranhumanrights.org/press-releases/page 2;](http://www.iranhumanrights.org/press-releases/page-2)

Chahal v. the United Kingdom, 15 November 1996, § 96, Reports of Judgments and Decisions 1996-V.

Authentic Language:

English

State Party:

Sweden

National / Other Legislative Provisions:

Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 4 Section 1

Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 4 Section 2

Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 5 Section 1

Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 5 Section 6
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 12 Section 1
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 12 Section 2
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 12 Section 18
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 12 Section 19
Sweden - Utlänningslagen (Aliens Act) (2005:716) - Chapter 14

Links:

- [1] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A23
- [2] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A24
- [3] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A205
- [4] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A67
- [5] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A65
- [6] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A55
- [7] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A201
- [8] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A198
- [9] <http://www.asylumlawdatabase.eu/en/content/en-european-convention-protection-human-rights-and-fundamental-freedoms-echr>
- [10] https://www.asylumlawdatabase.eu/node/195#toc_4
- [11] https://www.asylumlawdatabase.eu/node/195#toc_12
- [12] https://www.asylumlawdatabase.eu/node/195#toc_34
- [13] https://www.asylumlawdatabase.eu/node/195#toc_62
- [14] https://www.asylumlawdatabase.eu/node/195#toc_165
- [15] <https://www.asylumlawdatabase.eu/en/node/5410>
- [16] <https://www.asylumlawdatabase.eu/en/content/ecthr-na-v-uk-application-no-2590407>
- [17] <https://www.asylumlawdatabase.eu/en/content/cjeu-c-7111-and-c-9911-germany-v-y-and-z>
- [18] <https://www.asylumlawdatabase.eu/en/content/ecthr-maaouia-v-france-application-no-3965298>
- [19] <https://www.asylumlawdatabase.eu/en/content/ecthr-saadi-v-italy-application-no-3720106>
- [20] <https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/CASE%20OF%20F.G.%20v.%20SWEDEN.p>