

Extradition to Ukraine has been deemed incompatible with the European Convention on Human Rights

In an opinion under the Extradition Act, the Supreme Court has concluded that extradition to Ukraine – in view of the current war situation and its effects on prison conditions – would be incompatible with Article 3 of the European Convention on Human Rights.

Ukraine requested the extradition of a person for the purpose of prosecuting him for two offences (violence against a public official and violent resistance). The requested person did not consent to his extradition. The Supreme Court has now examined whether there are impediments to extradition.

The Supreme Court has come to the conclusion that the act corresponding to violent resistance is statute-barred under Swedish law and that there is therefore an impediment to extradition in that respect.

In addition, the Court has concluded that, in view of the current war situation and its effects on prison conditions, extradition to Ukraine would, for the time being, be incompatible with Article 3 of the European Convention on Human Rights. Article 3 prohibits torture or inhuman or degrading treatment or punishment. Extradition is in violation of the article if there are strong reasons to believe that there is a real risk that the extradited person may be subjected to treatment in violation of the article, and this applies regardless of whether the risk for the person stems from the state of Ukraine or from someone else.

- We have made the assessment that right now—taking into account, among other things, the ongoing war and the impact it has on people who are deprived of their liberty—extradition of the requested person to Ukraine cannot be granted. It's basically a decision that relates to the risks that the person would be exposed to in the event of extradition, says Petter Asp, one of the justices who participated in the decision.

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