



The applicant, banned from France after terrorism conviction, can be deported to Algeria without any risk of inhuman or degrading treatment

In today's **Chamber judgment**¹ in the case of **A.M. v. France** (application no. 12148/18) the European Court of Human Rights held, unanimously, that:

if the decision to deport the applicant to Algeria is enforced there would be no violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights.

The case concerns the applicant's planned deportation to Algeria after he was convicted in France in 2015 for participating in acts of terrorism and was permanently banned from French territory.

The Court found that the general situation in Algeria as regards the treatment of individuals linked to terrorism did not in itself preclude the applicant's deportation.

The Court agreed with the conclusion of the French courts. It found that their assessment had been appropriate and sufficiently substantiated by domestic data and information from other reliable and objective sources.

The Court took the view that there were no serious, proven grounds to believe that if he were returned to Algeria the applicant would run a real risk of being subjected to treatment in breach of Article 3 of the Convention and it found that his deportation would not entail a violation of that provision.

Principal facts

The applicant, A.M., is an Algerian national who was born in 1985. He is currently confined to a locality in France under a compulsory residence order (since September 2018).

He settled in France in 2008 and obtained a 10-year residence permit.

On 25 September 2015 he was sentenced by the Paris Criminal Court to a six-year prison term for his participation in a criminal conspiracy to commit an act of terrorism, together with an order of permanent exclusion from France. The judgment indicated that the applicant had been, at least in 2012, wanted by the Algerian authorities.

On 21 February 2018 an order was issued by the Prefect of the Loire indicating his destination country as Algeria. It was notified to him two days later.

On 5 March 2018 A.M. lodged an application for urgent proceedings with the Lyons Administrative Court to obtain the immediate suspension of his deportation to Algeria. The judge rejected his application on the ground that he had not produced any specific, recent or detailed evidence to show clearly that he would be exposed, in Algeria, to treatment prohibited by Article 3 of the Convention.

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.

On 12 March 2018 A.M. sought the indication of an interim measure by the European Court of Human Rights, under Rule 39, to have his deportation to Algeria suspended. On 13 March 2018 the Court granted his request and instructed the Government not to enforce the measure until the end of the proceedings before it.

On 19 March 2018, A.M., who was then being held in administrative detention, submitted an asylum application to obtain the status of refugee. The French Authority for the protection of refugees and stateless persons (OFPRA) rejected that application. On 4 July 2018 the National Asylum Court (CND) delivered a judgment rejecting an appeal by A.M. against the OFPRA's decision. The applicant appealed on points of law.

On 27 July 2018 the Lille Administrative Tribunal dismissed the appeal against the prefect's order indicating the destination country, on the ground that there was no evidence that A.M. would be exposed to treatment in breach of Article 3 of the Convention if deported to Algeria. A.M. appealed against that judgment.

On 10 September 2018 A.M.'s administrative detention ended and he was confined to a locality in France under a compulsory residence order.

Complaints, procedure and composition of the Court

The applicant alleged that his deportation to Algeria would entail a breach by France of its obligations under Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights.

The application was lodged with the European Court of Human Rights on 12 March 2018.

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

Angelika **Nußberger** (Germany), *President*,
Yonko **Grozev** (Bulgaria),
André **Potocki** (France),
Síofra **O'Leary** (Ireland),
Mārtiņš **Mits** (Latvia),
Gabriele **Kucsko-Stadlmayer** (Austria),
Lado **Chanturia** (Georgia),

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

Decision of the Court

Article 3

The Court observed that since 2015 there had been many institutional and legislative developments in Algeria. It took note in particular of the revision of the Algerian Constitution in 2016 and the better safeguarding of a certain number of fundamental rights and freedoms. That same year the Intelligence and Security Department (DRS) was disbanded. It had been designated in 2008 by the United Nations Committee against Torture as potentially being responsible for many cases of cruel, inhuman or degrading treatment. The Court further observed that, since 2016, the Directorate General of National Security (DGSN) had regularly organised human rights training for police officers.

The Court found that most of the reports available on Algeria for 2017 and 2018 no longer mentioned any allegations that individuals linked to terrorism had been tortured. Human rights organisations had declared in 2017 to the British Embassy in Algiers that they had no evidence of treatment in breach of Article 3 of the Convention. The Court emphasised, on this point, that A.M.

did not seem to be able to establish that any third party in a situation comparable to his own had actually been subjected to inhuman or degrading treatment in 2017 or 2018.

The Court further observed that the French Government had provided it with a detailed list of deportations to Algeria that had been ordered and implemented against Algerian nationals on account of their links to terrorist or radical Islamist factions. None of those deportees had reported ill-treatment on the part of the Algerian authorities.

The Court also found noteworthy the fact that a number of domestic courts of Council of Europe member States, after an in-depth examination of the general situation in Algeria and the individual situations of those concerned, had recently concluded that there would be no violation of Article 3 of the Convention in the event of the return to that country of individuals linked to terrorism.

While certain features of Algerian criminal procedure could possibly raise doubts as to the guarantee in that country of the right to a fair trial, they did not in themselves show that there was a general risk of ill-treatment under Article 3 for any given category of individuals.

The Court concluded that the general situation as regards individuals linked to terrorism in Algeria did not, in itself, preclude the applicant's deportation.

As regards the allegation that the applicant might be wanted by the authorities as a result of his links with a jihadi cell in Annaba, the Court noted that the judgment of 25 September 2015 clearly established that this had been the case, at least for the year 2012. However, there was no evidence that the applicant was still wanted for the same offences, over seven years after they had been committed.

Moreover, the French Government had provided the Court with a *note verbale* from the Algerian authorities dated 28 November 2018 stating that A.M. did not face criminal proceedings in Algeria and showing that he had no criminal record. In any event, the Court found that the Annaba jihadi cell in question had been dismantled. Its members had been arrested, convicted and then released, without claiming to have been ill-treated, even though they had been operating within Algeria. Therefore there was no evidence to suggest that the Algerian authorities showed any particular interest in the applicant. Algeria had never sought his extradition from France or requested a copy of the judgment convicting him for terrorism offences. There was no hard evidence to substantiate the allegation that he was still wanted by the Algerian authorities. While it was still possible that A.M.'s terrorist background might justify his being placed under surveillance on his return to Algeria, or that his return might even entail criminal proceedings, such measures would not constitute prohibited treatment under Article 3 of the Convention.

The Court found, in conclusion, that A.M. had not provided any indications to show that, if he were returned to Algeria, he would be exposed to a real risk of treatment in breach of Article 3.

The Court thus agreed with the findings of the OFPRA, the CNDA and the Administrative Courts of Lyons and Lille. It found that their assessment had been appropriate and sufficiently substantiated by domestic data and information from other reliable and objective sources. Taking account of the general situation in Algeria, neither the applicant's past links with a jihadi cell in Annaba nor the fact that the authorities were aware of his conviction sufficed to persuade the Court that he ran a real risk of being exposed to treatment prohibited by Article 3 on his return to that country.

The Court explained that this conclusion was not undermined by the absence of diplomatic assurances from Algeria, such guarantees not being necessary. It had only been in the context of its examination of the applicant's request for an interim measure that the Court had asked the French Government to obtain precise assurances from Algeria that he would be not be subjected to treatment in breach of the Convention after his arrival there. At that stage, the Court had not yet been able to proceed with an in-depth examination of the situation in Algeria or A.M.'s individual situation.

The Court took the view that there were no series or proven grounds to believe that if he were returned to Algeria the applicant would run a real risk of being subjected to treatment in breach of Article 3 of the Convention. It thus found that his deportation would not entail a violation of Article 3 of the Convention.

The judgment is available only in French.

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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.