



Deportation of an Algerian convicted of murder to his country of origin would not violate his fundamental rights

In its decision in the case of [M.K. v. France](#) (application no. 76100/13) the European Court of Human Rights has by a majority declared the application inadmissible. The decision is final.

The case concerns the applicant's deportation to Algeria, where he alleges that he would risk being subjected to treatment contrary to Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

After being sentenced to nine years' imprisonment for murder, the applicant, who is an Algerian national, was made the subject of a deportation order to Algeria on the grounds that he represented a serious risk to French public order. Fearing reprisals on the part of the family of the person he had murdered, who was from the same neighbourhood as himself in Algiers, the applicant lodged a number of appeals against the deportation order and unsuccessfully applied for asylum.

The Court found that no proof had been produced that the applicant risked reprisals and considered that, even supposing such a risk were to be made out, the Algerian authorities were capable of providing M.K. with appropriate protection especially if he settled in another part of the country, at a distance from his victim's family.

Principal facts

The applicant, M.K., is an Algerian national who was born in 1985 and lives in Aix-en-Provence (France).

M.K. arrived in France in 2003. In January 2007 he fled to Belgium after committing a murder on French territory. He was sent back to France pursuant to an arrest warrant. On 31 March 2009 the Assize Court sentenced him to nine years' imprisonment.

While he was serving his sentence the Bouches-du-Rhône prefect issued a deportation order against him on the grounds that his presence on French territory represented a serious threat to public order. M.K. challenged that order, but his application was dismissed by the President of the Administrative Court. The Administrative Court of Appeal remitted the case to the lower court, which again dismissed his application.

In the meantime M.K. lodged an application for asylum on the grounds that he feared reprisals from the family of the person he had murdered, who came from the same neighbourhood as himself in Algiers, and that his family and friends in Algeria had received threats. The French Authority for the Protection of Refugees and Stateless Persons (OFPRA) rejected his application on the grounds that there were serious reasons for believing that the applicant's presence on French territory represented a serious threat to public order. M.K. appealed against that decision to the National Court of Asylum (CNDA) and produced several signed statements from his family and friends indicating that they had been threatened.

On his release from prison in November 2013 M.K. was issued with an order placing him in administrative detention and another one ordering his deportation to Algeria. The Administrative Court dismissed his appeals against those measures on the grounds that the risks alleged by M.K. were based purely on statements made by members of his family or friends.

On 4 December 2013 M.K. applied to the Court requesting an interim measure under Rule 39 of its Rules of Court. The Court decided to indicate to the Government, on the basis of Rule 39, not to deport M.K. to Algeria for the duration of the proceedings before it.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 4 December 2013.

Relying on Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights, the applicant alleged that he risked being subjected to treatment contrary to that Article if he were sent back to Algeria.

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

Josep **Casadevall** (Andorra), *President*,
Ganna **Yudkivska** (Ukraine),
Vincent A. **de Gaetano** (Malta),
André **Potocki** (France),
Helena **Jäderblom** (Sweden),
Aleš **Pejchal** (the Czech Republic),
Síofra **O’Leary** (Ireland), *Judges*,

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

Decision of the Court

Article 3 (prohibition of inhuman or degrading treatment)

Reiterating that the domestic courts were best placed to assess the evidence adduced before them, the Court observed that in the present case those courts differed in their view of the probative value to be attached to the statements certifying that threats of vengeance had been received from the victim’s family.

Whilst acknowledging that it was difficult to obtain other types of evidence for this type of threat, the Court could not, however, disregard the fact that all the statements came from people who were close to M.K., be they members of his family or his friends.

In any event, even supposing that an intention on the part of the victim’s family to take reprisals against M.K. were made out, the Court was not convinced that the Algerian authorities were incapable of providing M.K. with appropriate protection, especially if he were to move to another part of the country. Moreover, the Court had, in the past, found that there had been no violation of Article 3 in the event of deportation to a country where a risk arose as a result of a generally unsafe situation, and relocation to another part of the country was possible^[1]. The risk alleged here by M.K. was on account of reprisals by private individuals and related to a restricted area: La Glacière neighbourhood in Algiers.

The Court noted, however, that M.K. had not shown that he would be unable to relocate to an area at a distance from his victim’s family, including if necessary in another part of the country. As an adult aged 29 and single, he was in a position to take up residence in an area where he had no close relatives, his lack of ties not being an obstacle to his settling in a place outside the alleged risk area.

^[1] With regard to Afghanistan, [Husseini v. Sweden](#), no. 10611/09, 13 October 2011; Irak, [D.N.M. v. Sweden](#), no. 28379/11, 27 June 2013; the Democratic Republic of Congo, [Ndabarishye Rugira v. the Netherlands](#), no. 10260/13, 17 February 2015.

Accordingly, the Court concluded that there were no substantial grounds for believing that deportation would expose M.K. to a real risk of being subjected to inhuman or degrading treatment within the meaning of Article 3 of the Convention. Consequently, the Court dismissed the application as manifestly ill-founded. The measure indicated pursuant to Rule 39 of the Rules of Court thus came to an end

The decision 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.