



Deportation of two Sudanese nationals living in France to their country of origin would entail a violation of the Convention

In its two **Chamber** judgments¹, in the cases of [A.A. v. France](#) (application no. 18039/11) and [A.F. v. France](#) (application no. 80086/13), the European Court of Human Rights held, unanimously, that there would be

a violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights if the applicants were deported to Sudan.

The cases concerned proceedings to deport to Sudan two Sudanese nationals – A.A., from a non-Arab tribe in Darfur, and A.F., from South Darfur and of Tunjur ethnicity – who had arrived in France in 2010.

With regard to the general context, the Court had recently observed that the human-rights situation in Sudan was alarming, in particular where political opponents were concerned, and that merely belonging to a non-Arab ethnic group in Darfur gave rise to a risk of persecution. The Court noted that the situation had deteriorated further since the beginning of 2014.

The Court found in both cases that were the orders to deport the applicants to Sudan to be enforced, the applicants would, on account of their individual circumstances, run a serious risk of incurring treatment contrary to Article 3 of the Convention.

Principal facts

These two cases concerned proceedings to deport both applicants to Sudan.

The applicant A.A. is a Sudanese national who was born in 1979 and lives in Calais (France). Originally from Muhajiriya in the South Darfur region, he is a member of the “Birqid” tribe, a non-Arab tribe from Darfur. He stated that one of his brothers had joined the Justice and Equality Movement (JEM), and that he himself shared that Movement’s ideas but had always refused to become involved in their armed activities. A.A. left Sudan, travelling through Egypt, Turkey, Greece and Italy before arriving in France in October 2010.

A.A. was arrested by the French authorities in Calais on 28 October 2010. He was issued with a removal order and placed in administrative detention, then released. He was subsequently arrested on dozens of occasions and placed in police custody. On 21 March 2011 he applied to the European Court of Human Rights for an interim measure, which was granted for the duration of the proceedings before the Court.

On 6 June 2011 A.A. lodged an application for asylum, which was dismissed by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) on the ground that his account of events was unreliable. An appeal lodged by him with the National Asylum Tribunal (CNDA) was dismissed as being out of time.

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.

The applicant A.F. is a Sudanese national who was born in 1986 and lives in Mulhouse (France). Originally from South Dafur, and of Tunjur ethnicity, A.F. started at Al-Jazeera University in Khartoum at the height of the armed conflict in Sudan in 2006. He stated that he had taken part in discussion groups on Darfur and the violence perpetrated by the regime with the help of Janjaweed militias, and that on several occasions he had been arrested, detained and beaten by members of the Sudanese security services.

A.F. left Sudan on 10 March 2010. On arriving in France he applied for asylum, but his application was rejected by the OFPRA on 21 June 2011. He lodged an appeal with the CNDA, in support of which he submitted, among other evidence, a letter from the JEM, a movement rebelling against the regime, confirming that he had been subjected to repeated persecution and arrests by the Government forces. The CNDA upheld the OFPRA's decision to reject his application.

On 31 July 2013 A.F. was served with an order to leave French territory, which he challenged unsuccessfully before the Strasbourg Administrative Court. Having attempted to lodge a second asylum claim under a false identity, A.F. was arrested and placed in administrative detention. On 19 December 2013 A.F. applied to the Court for an interim measure on the basis of Rule 39 of the Rules of Court. An interim measure was granted for the duration of the proceedings before the Court.

Complaints, procedure and composition of the Court

Relying in particular on Article 3 (prohibition of torture and inhuman or degrading treatment), both applicants alleged that deportation to Sudan would expose them to inhuman or degrading treatment.

The application was lodged with the European Court of Human Rights on 21 March 2011.

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

Mark **Villiger** (Liechtenstein), *President*,
Angelika **Nußberger** (Germany),
Ganna **Yudkivska** (Ukraine),
Vincent A. **de Gaetano** (Malta),
André **Potocki** (France),
Helena **Jäderblom** (Sweden),
Aleš **Pejchal** (the Czech Republic),

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

Decision of the Court

Article 3

With regard to the first case, the Court considered that it was in principle for the applicant to provide evidence capable of proving that he would be exposed to a risk of treatment contrary to Article 3 if he were deported. Regarding the inconsistencies in A.A.'s account, the Court found that they were not such as to render his allegations entirely unreliable. The Court noted that the applicant's description of events in Sudan had remained consistent both before it and before the OFPRA, and that only the chronology differed. A mere discrepancy in the chronology of events did not amount to a major inconsistency.

With regard to the general context, the Court had recently observed that the human-rights situation in Sudan was alarming, particularly where political opponents were concerned. The Court noted that

the situation had deteriorated further since the beginning of 2014. Merely belonging to a non-Arab ethnic group in Darfur gave rise to a risk of persecution.

A.A. alleged that the Sudanese authorities had interrogated and tortured him several times in order to extract information from him about the JEM. Although brief, the medical certificate produced by him gave credibility to his allegations of ill-treatment. While A.A.'s allegations were not supported by any other document, he had however stated that he had been given a prison sentence for providing support to the opposition forces. The Court was of the view that the sentence imposed on A.A. reflected the fact that the Sudanese authorities were convinced that he was involved in a rebel movement despite his assertions to the contrary.

The Court considered that if the deportation order against A.A. were to be enforced, he ran a serious risk of incurring treatment contrary to Article 3 of the Convention.

With regard to the second case, the applicant A.F. submitted that he risked incurring ill-treatment if deported to Sudan on account of his Tunjur ethnic origins and his supposed links with the JEM. The OFPRA and the CNDA had considered that A.F.'s statements had remained evasive and confused both regarding his ethnic origins and his region of origin, but the Court noted that they had failed to state the grounds for their suspicions. A.F.'s account of the ill-treatment he had allegedly suffered on account of his supposed links with the JEM was particularly detailed and compatible with the international reports available. The medical certificate recording the presence of a number of scars on A.F.'s body lent credence to the allegations of torture and the suspicions by the Sudanese authorities of links between A.F. and the JEM. The Court considered that the inconsistencies in A.F.'s account did not suffice to cast doubt on the facts alleged by him.

The Court did not consider that the asylum application submitted under a false identity discredited all A.F.'s statements before the Court. It noted that whilst A.F.'s account in that asylum application differed from his initial account, the alleged risks of persecution were the same.

Given the suspicions of the Sudanese authorities towards Darfuris who had travelled abroad, the Court considered it likely that A.F., on his arrival at Karthoum Airport, would attract the unfavourable attention of the authorities on account of the few years he had spent abroad.

Accordingly, the Court held that, having regard to A.F.'s profile and the generalised acts of violence perpetrated against members of Darfur ethnic groups, his deportation to Sudan would expose him to a risk of ill-treatment under Article 3 of the Convention.

The judgment is available only in French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHRpress](https://twitter.com/ECHRpress).

Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

Denis Lambert (tel: + 33 3 90 21 41 09)

Tracey Turner-Tretz (tel: + 33 3 88 41 35 30)

Céline Menu-Lange (tel: + 33 3 90 21 58 77)

Nina Salomon (tel: + 33 3 90 21 49 79)

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.