



COUR EUROPÉENNE DES DROITS DE L'HOMME  
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 17341/03  
by F. against the United Kingdom

The European Court of Human Rights (Fourth Section), sitting on 22 June 2004 as a Chamber composed of:

Mr M. PELLONPÄÄ, *President*,

Sir Nicolas BRATZA,

Mrs V. STRÁŽNICKÁ,

Mr R. MARUSTE,

Mr S. PAVLOVSCHI,

Mr L. GARLICKI,

Mr J. BORREGO BORREGO, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having regard to the above application lodged on 28 May 2003,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

The applicant, an Iranian citizen born in 1973, is currently resident in Glasgow. He was represented before the Court by Mr S. Winter, a solicitor practising in Glasgow.

#### **A. The circumstances of the case**

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicant entered the United Kingdom illegally on or about 17 April 2001 and on 4 May 2001 claimed asylum on the basis that he feared persecution as a homosexual. He stated that security forces had come to his house because of a satellite television and had become suspicious of the double beds, which he used with his homosexual partner, along with his cousin and his partner. According to his account, all four were arrested for having a satellite dish and detained for four days and beaten. His partner confessed to being homosexual and they were remanded in custody. After being held in prison for three months and four days, he was released on the payment of bribes by his family who feared that he would face the death sentence as a homosexual. He left Iran on 3 April 2001.

By letter dated 15 June 2001, the Secretary of State rejected the asylum application. He found it lacking in credibility that the authorities had kept him so long in custody if they intended to execute him and noted that the applicant had not claimed asylum on arrival in Turkey. However, the ground of rejection was that he was not satisfied that the applicant was in fact Iranian. The applicant appealed to the Adjudicator raising complaints under Articles 3 and 8 of the Convention.

On 18 February 2002, the Adjudicator rejected the applicant's appeal. He examined the extent of risk to homosexuals in Iran. It appeared that in theory homosexuality in Iran was punished harshly but that in practice the strict regulations, requiring four eye witnesses to the act of homosexual penetration or four confessions from each active partner, rendered convictions hard to achieve. One source was quoted as not having come across any case that went to trial and another that it was so hard to prosecute a case of homosexuality that it almost never happened. Another sociologist and researcher stated that homosexuality was a common phenomenon in Iran and was tolerated as long as it did not disturb public order and remained in private. The Adjudicator concluded that it was extremely unlikely that homosexual activity conducted in private would result in ill-treatment or harassment. Insofar therefore as the applicant alleged that he had been detained on ground of his homosexuality and brought before a court, he observed that there was no question of there being four eyewitnesses to any sexual act. He considered it most unlikely that the security forces acted as the applicant alleged, that the account of his escape was implausible and that the applicant had not been telling the truth about

what happened. As the applicant had not expressed any prospect of continuing a relationship with his partner and was not at risk of punishment for acts conducted in private, he found no issue arising under Article 8, notwithstanding the criminal prohibition in Iran was in likely breach of this provision.

The applicant applied for leave to appeal in the Immigration Appeal Tribunal. His grounds relied on Article 8 of the Convention and the existence of a law in Iran prohibiting adult consensual activity which would breach that provision.

On 10 April 2002, the Immigration Appeal Tribunal rejected the applicant's application for leave to appeal, finding no error of law and that the Adjudicator had quite properly found that there would be no breach of the applicant's human rights if removed to Iran.

The applicant's application for legal aid to bring judicial proceedings was refused by the Scottish Legal Aid Board on 25 September 2002. His request for review of the refusal was refused on 7 November 2002.

The applicant may be expelled at any time but directions for his removal have not yet been issued.

## **B. Relevant domestic and international materials**

### *The United Kingdom Country Information and Policy Unit Assessment on Iran*

This report dated October 2003 stated in respect of homosexuals:

“6.167 Although homosexuality is never spoken about and thus a hidden issue, in practice it is not difficult to encounter homosexuals in Iran. There are special parks in Tehran, known as homosexual meeting places ... A different sexual orientation may, however create problems. Still, homosexuality is practised every day and as long as this happens behind closed doors within your own four walls, and as long as people do not intend to proselytise ‘transvestitism’ or homosexuality, they will most likely remain unharmed.

6.168 Technically, homosexual behaviour is sharply condemned by Islam and the Islamic code of law (Sharia law) ... Sodomy is punishable by death if both parties are considered to be adults of sound mind and free will. It must be proven by either four confessions from the accused, the testimony of four righteous men who witnessed the act or through the knowledge of a Sharia judge ‘derived through customary methods’. If the accused repents before the witnesses testify, the penalty ‘will be quashed’. ...

6.170 So far, no cases of execution only on grounds of homosexual relations have been identified. In fact, the burden of proof is quite high and it would be difficult to prove homosexual liaisons or intercourse. According to some local newspapers there have been instances of execution of homosexuals. It is not confirmed whether the homosexual act alone led to the execution or whether the person was accused on other charges too.

6.171. Last year there were reports that a man accused of sodomising and then murdering his nephew was to be thrown over a cliff in a sack. This was given widespread publicity by the Iranian opposition in the UK and was taken up by the other wires, but we have heard no reports that the sentence was ever carried out.

6.172. However, jurisprudence, burden of proof notwithstanding, certainly has used accusations of homosexuality. Furthermore, it does happen that homosexuality is mentioned as one of the accusations amongst other offences held against the defendant. For instance, accusations of homosexuality have been used in unfair trials, such as the case of a Sunni leader in Shiraz in 1996/97 who was clearly prosecuted for political reasons. There have also been other political cases, although not in the recent past.

6.173. According to the Ta'azirat of November 1983 valid to June 1996 sentences of imprisonment for between 1 and 10 years and up to 74 lashes are possible. The death penalty may also be incurred if the act is deemed 'Act against God and corruption on earth'. Since June 1996 the revised Ta'azirat omits direct threat of lashes or the death penalty. The penalties of lashing and of death are, however, still judicial options, even though they are not mentioned in the revised Ta'azirat. Reports suggest that since 1996 they have been rarely used. The most recent report of execution [which] is of the death by stoning of a man dates from 1995, on charges of repeated acts of 'adultery and sodomy'. Reports of use of the death penalty in cases where the only offence is sodomy are extremely difficult to substantiate, and are held to be an unlikely sentence. More usually lashing is the punishment.

6.174. However, strict though the legal position is, expert opinion consulted by the Canadian IRB [Immigration and Refugee Board] states '... in practice (homosexuality) is presently, and has been in the past, for the most part tolerantly treated and frequently occurring ... In practice it is only public transgression of Islamic morals that is condemned and therefore Islamic law stresses the role of eye-witnesses to an offence'.

6.175. The same source stated that the police are not empowered nor do they actively pursue homosexual activity of any kind that is performed behind the 'veil of decency' of closed doors.

6.176. Sources indicate that there are held to be many differing levels of homosexual activity within Iranian society. In rural areas, even 'lavat'— sexual behaviour between men - can be considered socially to be compensatory sexual behaviour for heterosexual sexual intercourse, and the practitioners held not to be homosexuals. The key offensive practice is sodomy, or more particularly to be sodomised, as an unnatural inversion of God's creation, and some experts hold that 'homosexuals' are understood in Iran to be willing passive partners."

*The Canadian Immigration and Refugee Board report on the treatment of homosexuals in Iran dated 11 February 1998 and update dated 20 January 2003*

This report, cited in the CIPU above and in the Adjudicator's decision in this case stated *inter alia*:

“Theoretically, homosexual behaviour is sharply condemned by Islam, but in practice it is present, and has been in the past, for the most part tolerantly treated and frequently occurring in countries where Islam predominates ... In practice it is only public transgression of Islamic morals that is condemned, and therefore Islamic law stresses the role of eye-witnesses to an offense. The police are not allowed to go in search of possible sinners, who can only be caught red-handed, and not behind the “veil of decency” of their closed doors ... The generally tolerant attitude toward homosexual practice can partly be explained by the fact that it will usually take place discreetly. Moreover it does not have serious personal consequences such as for example, heterosexual adultery would have. ...

According to the representative of the Swedish Amnesty Group for Gay and Lesbian Concerns ... who is also an activist working with the International Gay and Lesbian Association ... none of the few known executions of homosexuals and lesbians in Iran were carried out on the sole basis of homosexuality. ...

In its 1996 report the Embassy of Sweden states that:

The strict regulations for submission of evidence, four male witnesses to the homosexual penetration, alternatively four confessions from each of the active partners, renders a sentence for homosexuality almost impossible in practice. The police and justice administration do not take active measures to investigate the existence of homosexuality, nor do they actively hunt homosexuals. All in all, the situation in practice in Iran is drastically different from the impression conveyed by the Shari’a inspired penal code. According to the information from usually very reliable sources, no homosexuals have been executed in Iran for the last few years. In order to risk policiary sanctions – maltreatment or a short time in custody/jail, regardless of the fact that the penalty according to the law is death or whipping - a homosexual couple must behave with great indiscretion, almost provocatively, in a public place.

According to a sociologist specializing on Iran and chargée de conferences at the Sorbonne-Nouvelle (Paris-III), the law stipulates that people engaging in sexual relations with a person of the same sex ... would only be put on trial if the prosecution can produce four righteous men who witnessed the sexual act, or one of the partners admits to having sexual relations with another man ... If there are fewer than four men to testify to the homosexuality of a person, the accusation of homosexual activities cannot be proven. The sociologist stated that it would be suicidal to ‘admit one’s homosexuality’ and added that such an admission is implausible. In practice, the burden of proof lies so heavily on the prosecution that ... a homosexual will very rarely be tried or sentenced. The sociologist has never come across any case that went to trial and stated there are many more stonings for heterosexual relations prior to marriage and for adultery than for homosexuality.

Another sociologist ... at the Université de Paris stated ... that legislative repression is not directed against ‘homosexuals’ but against heterosexual relations outside marriage. Repressing ‘homosexual activities’ is rare for the security forces because of the difficulty of identifying who is ‘homosexual’ and who is not since Iranian men have very close physical contact (holding hands and kissing) which is socially acceptable behaviour in Iran. It is very rare that a person would be arrested for ‘homosexuality’ but if a person were arrested and convicted as a homosexual the punishment would be harsh.

According to another sociologist and a researcher on Iran with the CNRS, although Muslim and Iranian laws punish 'homosexuality' by death, in practice, it rarely happens, except in the cases of pedophilia ... 'Homosexuality' is a common phenomenon and is tolerated as long as it does not disturb public order and remains a private activity. It would be repressed only when made public and asserted, an implausible occurrence in Iran.

A 2 February 1998 letter from the Director of the Iran Desk at the Alien Appeals Board of Sweden in Stockholm states that:

Furthermore it is not known that Iranian authorities are actively taking legal actions against homosexuals. It is most unlikely that the authorities would take proceedings against a homosexual as long as he does not manifest his disposition in an open and public manner. As far as the Alien Appeals Board knows not anyone has been prosecuted on homosexuality charges alone in Iran for the past seven to eight years.

There are many indications that there is a significant difference between the legal texts and the practice of the security forces.

As far as the behaviour of homosexual persons can be taken as a relevant indication about the degree of oppression of homosexuals, the impression is rather that the situation in Iran is relatively tolerant, since homosexuality is by no means unusual in Iran. Certain 'health clubs' in Tehran are for example known to be frequented by homosexuals. Furthermore, it is by no means unusual to meet openly homosexual persons –under otherwise heterosexual private circumstances like social events.

... There is a park in central Teheran called Daneshju (student) that is famous and well-known as a place where men who are looking for sexual relationships with other men meet. The sociologist added that the public and the security forces are aware of the park's reputation ...”

*Special report dated 16 January 2002 of the Danish Immigration Service*

A Danish fact-finding mission to Iran in September 2000 reported:

“5.5 Homosexuals

During their visit to Teheran, the delegation had an opportunity to discuss the situation for homosexuals in Iran with several of their contacts.

... A Western embassy said that it had never heard of cases relating solely to homosexuality. According to the same source, however, a man who had been charged with 15 counts of indecent behaviour had been executed the week before ... He had also been found guilty of raping a 12 year old boy in his shop.

According to a Western source familiar with the homosexual scene in Tehran, it had never heard of cases being brought against homosexuals. The source thought that the homosexual community would be aware of any cases being brought against persons solely on the grounds of their homosexuality.

A source connected with a Western news agency thought that any cases brought against homosexuals would not be brought to public attention. In view of that fact, the source could not rule out the possibility that there might be cases where the charge relates to homosexuality. In that connection the source referred to a case in a military prison where a prisoner let slip to a warder about a homosexual relationship he had had. The prisoner was subsequently sentenced to 100 lashes.

According to a government source, homosexuals do not experience any problems in Iranian society; in other words, few cases relating to homosexuality have been brought before the courts.

However, according to a source with good knowledge of the Iranian judicial system, many cases concerning homosexuality have been brought before the Iranian courts. The source was unable to provide further details of the cases in question. With regard to sentences passed in such cases, the source could say only that the death penalty had been pronounced in several. The source added that if a case was not fully substantiated, it was for the judge to decide on the punishment.

When the delegation asked why such cases were brought, the source replied that this was because one of the parties involved in the homosexual relationship had contacted the courts.

According to a government source, a person cannot accuse himself. With regard to homosexuality, this means that – in his opinion – if an Iranian citizen reveals himself as a homosexual in a Danish newspaper, nothing will happen to that person when he returns to Iran.

Several Western sources, including one embassy, said independently that homosexuals do not face problems in Iran today. There are places where homosexuals meet ...”

*Decision of the United Nations Committee Against Torture dated 26 May 2003 (Communication No. 190/2001)*

In this case, the Committee rejected the complaints of the complainant who complained that the Netherlands were proposing to expel him to Iran where as a homosexual he claimed that he had previously been detained and tortured for his homosexuality and would face further risk of torture. It noted the contradictions and inconsistencies in his account and also “from different and reliable sources that there is currently no active policy of prosecution of charges of homosexuality in Iran”. It accordingly found that it had not been given enough evidence to conclude that the complainant would run a personal, present and foreseeable risk of being tortured if returned to his country of origin.

## COMPLAINTS

The applicant complained under Article 2 that he would be at risk of extra-judicial killing if expelled to Iran, under Article 3 that he faced a real risk of torture and ill-treatment, under Article 5 that he risked arbitrary detention, under Article 6 that he would not receive a fair trial in the Iranian judicial system and under Article 8 that his “physical and moral integrity” aspect of his right to respect for private life would be infringed. He claimed that he would come to the immediate notice of the authorities on arrival in Iran due to his violation of visa regulations.

## THE LAW

1. The applicant complains that if expelled to Iran he would face the risk of extra-judicial execution and torture and ill-treatment as a homosexual. He invokes Articles 2 and 3 of the Convention which provide, as relevant:

Article 2 of the Convention:

“1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.”

Article 3 of the Convention:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

### **The parties’ submissions**

The Government pointed out that the applicant had not relied upon Article 2 of the Convention in the domestic proceedings, nor had he raised his Article 3 complaint on appeal to the Immigration Appeal Tribunal. As regarded the substance of his complaints, they submitted that the applicant had to show not just that the general situation in relation to human rights in Iran was less than satisfactory but that he was personally at risk of being seriously ill-treated if returned. The Adjudicator, having considered the available materials, found that though in theory homosexuality was punished harshly in practice homosexuals were unlikely to encounter serious problems, in particular no person had been executed for homosexuality alone over the last 13 years. At the highest, the evidence produced by the applicant suggested that he might be at risk of ill-treatment if a future sexual partner decided to contact the courts and confess, implicating the applicant, which was implausible and the risk of this happening was too remote and speculative to give rise to substantial grounds for believing that the applicant would face a “real risk” of Article 3



treatment. The Government also relied upon the Adjudicator's finding that the applicant was not a credible witness and did not believe his account of previous ill-treatment in Iran.

The applicant submitted that even though Articles 2 and 3 were not expressly raised, it was apparent that in reaching its decision the IAT did not confine itself to Article 8 but gave consideration to the punishment aspects generally. As regarded the substances of his complaints, the Adjudicator's findings as to his credibility were patently flawed. The country materials showed that there was a possibility of under-reporting of executions and floggings and that there was not much detailed reporting of cases in the media. It appeared however that in 1990 at least three gay men and two lesbian women were beheaded, in 1992 there was an execution for offences including sodomy, in 1995 a man was stoned for repeated adultery and the act of sodomy and in 1998 a man was hanged for having gay sex, as well as having committed adultery and drugs offences. Evidence also suggested that activity short of actual sodomy could attract severe penalties, such as flogging and for such lesser acts four witnesses were not necessary. Though details were not available, there was at least one source who reported that many cases involving homosexuality were brought before the courts. Obtaining of confession through torture and finding witnesses when expedient were methods used by the Islamic regime to obtain convictions in any event. Furthermore, homosexuals held in detention were liable to be severely ill-treated apart from any possible punishment.

### **The Court's assessment**

The Court notes that the Government have raised non-exhaustion, pointing out that the applicant did not expressly invoke Article 2 before the Adjudicator or Article 3 on appeal to the Immigration Appeal Tribunal. Leaving aside whether these complaints were nonetheless in issue in substance in the domestic proceedings sufficiently for the purpose of Article 35 § 1 of the Convention, the Court finds as follows.

The Court recalls that Contracting States have the right to control the entry, residence and expulsion of aliens. The right to asylum is not protected in either the Convention or its Protocols. However, expulsion by a Contracting State of an alien may give rise to an issue under Article 3 of the Convention, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person in question, if expelled, would face a real risk of being subjected to torture or to inhuman or degrading treatment or punishment in the receiving country. In these circumstances, Article 3 implies the obligation not to expel the person in question to that country (see, among other

authorities, *Chahal v. the United Kingdom*, judgment of 15 November 1996, *Reports of Judgments and Decisions* 1996-I, p. 1853, §§ 73-74). Moreover, the Court does not exclude that analogous considerations might apply to Article 2 of the Convention where the return of an alien puts his or her life in danger, as a result of the imposition of the death penalty or otherwise (see *e.g.*, *Bahaddar v. the Netherlands*, judgment of 19 February 1998, *Reports* 1998-I, opinion of the Commission, pp. 270-71, §§ 75-78; *Sinnarajah v. Switzerland* (dec.), no. 45187/99, 11 May 1999, unpublished; and *Razaghi v. Sweden*, (dec.) no. 64599/01, 11 March 2003).

The Court will therefore examine together the applicant's complaints under Articles 2 and 3 of the Convention.

In the present case, the applicant has alleged that he will be at risk of execution or torture and ill-treatment (*e.g.* beating or flogging) due to the fact that he is a homosexual. He stated that he would come to the attention of the authorities on his return due to visa irregularities.

The Court observes however that the materials examined by the domestic authorities and submitted by the applicant do not disclose a situation of active prosecution by the authorities of adults involved in consensual and private homosexual relationships. There are no recent, substantiated instances of trials solely on the basis of such relationships (concrete examples relate to rape of minors or political activists). This is at least partly accounted for by the high burden of proof for such offences (*e.g.* four eye-witnesses) while it also asserted that the Islamic law is more concerned with public immorality and not what goes on in the privacy of the home. The majority of sources refer to a certain toleration in practice, with known meeting places for homosexuals in Tehran. The few sources which refer to trials or execution for homosexual offences occurring in recent times appear vague and unspecific and the Court would agree with the comment, in the Danish report, that the homosexual community would be expected to know of incidents of trials for homosexual offences alone.

While the applicant refers to a possibility of under-reporting of prosecutions and trials and points out that, as with his arrest in connection with the satellite dish, that he might, if implicated as a homosexual, experience problems with the police and that prosecution for lesser offences attracting flogging do not face the some evidential hurdles as sodomy, this provides only a tenuous and hypothetical basis on which to assess the likelihood of Article 3 treatment occurring.

Although it is not disputed in theory therefore that very draconian punishment can be imposed on homosexual acts, the Court is not persuaded that the applicant has shown that he is at a real risk of falling foul of the authorities on that ground. While he claimed that he had been arrested after a visit by the security forces to his house and held in detention, subject to beatings and under threat of execution, for some months, the Court recalls that the Adjudicator found that this aspect of the applicant's account was

lacking in credibility and untruthful. It must give a certain weight in this respect to the findings of the domestic authorities reached on the basis of the witness evidence before them and their general experience (e.g. *Cruz Varas v. Sweden*, judgment of 20 March 1991, Series A no. 201, § 81). Although it must be acknowledged that the general situation in Iran does not foster the protection of human rights and that homosexuals may be vulnerable to abuse, the applicant has not established in his case that there are substantial grounds for believing that he will be exposed to a real risk of being subjected to treatment contrary to those Articles.

It follows that this part of the application is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

2. The applicant complains that on return to Iran he risks arbitrary detention and unfair trial, invoking Articles 5 and 6 of the Convention which provide, respectively, guarantees against the deprivation of liberty and protecting the procedural fairness of criminal proceedings.

The Government submitted that the applicant did not raise these complaints in the domestic proceedings. In any event, only in exceptional circumstances, which did not arise in this case, could these provisions be engaged by an expulsion decision. The applicant had failed to identify how any prosecution, conviction or sentence would infringe either Article.

The Court finds it unnecessary to rule on the Government's preliminary objection for the reasons set out below.

The Court's case-law does not exclude that an issue might exceptionally be raised under Article 6 by an expulsion decision in circumstances where the person being expelled has suffered or risks suffering a flagrant denial of a fair trial in the receiving country, particularly where there is the risk of execution (see, *mutatis mutandis*, *Soering v. the United Kingdom*, judgment of 7 July 1989, Series A no. 161, p. 45, § 113; *Öcalan v. Turkey*, no. 46221/99, judgment of 12 March 2003, §§ 199-213). Whether an issue could be raised by the prospect of arbitrary detention contrary to Article 5 is even less clear. However, the applicant's submissions do not disclose that he faces such a risk under either provision, as there is no concrete indication that the applicant would face arrest or trial on any particular charge. A possible future unspecified problem with the authorities is too remote and hypothetical basis for attracting the protection of the Convention in this regard.

It follows that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

3. Finally, the applicant invokes Article 8 of the Convention, which provides as relevant:

“1. Everyone has the right to respect for his private ... life...:

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

The Government submitted that the grounds relied upon by the applicant did not engage Article 8, which had never been applied in an expulsion case on grounds of failure in the receiving State to conform with that provision. Even if an issue could arise in principle, they considered that the evidence demonstrated that the applicant was unlikely to face difficulties from the Iranian authorities in respect of homosexual activity conducted in private.

The applicant submitted that sexual identity was the most intimate part of private life and that the existence of a criminal law criminalising adult consensual homosexual acts violated Article 8. Given the sweeping nature of the prohibition in Iran and that the law could be enforced at any time, the situation in Iran would unjustifiably interfere with his private life and removal to a State which denied the basic humanity of homosexuals could not be regarded as proportionate even having regard to immigration control considerations.

As regards the applicant’s right to physical and moral integrity, the Court recalls that it found above that the applicant had not shown that he was at real risk of ill-treatment by the authorities. Insofar as it is apparent that he would live under a ban against homosexual adult consensual relations, which would in Contracting States disclose a violation of Article 8 of the Convention (see *Dudgeon v. United Kingdom*, judgment of 24 February 1981, Series A no. 45), the Court observes that its case-law has found responsibility attaching to Contracting States in respect of expelling persons who are at risk of treatment contrary to Articles 2 and 3 of the Convention. This is based on the fundamental importance of these provisions, whose guarantees it is imperative to render effective in practice (see *e.g. Soering v. the United Kingdom*, cited above, § 88). Such compelling considerations do not automatically apply under the other provisions of the Convention. On a purely pragmatic basis, it cannot be required that an expelling Contracting State only return an alien to a country which is in full and effective enforcement of all the rights and freedoms set out in the Convention.

The Court finds in the circumstances of this case that it has not been established that the applicant’s moral integrity would be substantially affected to a degree falling within the scope of Article 8 of the Convention (see *mutatis mutandis, Bensaid v. the United Kingdom*, no. 44599/98, ECHR 2001-I, para. 48).

It follows that this complaint is incompatible *ratione materiae* with the provisions of the Convention within the meaning of Article 35 § 3 and must be rejected in accordance with Article 35 § 4.

For these reasons, the Court unanimously

*Declares* the application inadmissible.

Michael O'BOYLE  
Registrar

Matti PELLONPÄÄ  
President