



## France not to deport person suspected of collaboration with Darfur rebels to Chad

In today's Chamber judgment in the case of [Mo.M. v. France](#) (application no. 18372/10), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously, that there would be:

**a violation of Article 3** of the European Convention on Human Rights if Mo.M., who had been denied asylum, were to be sent back to Chad.

The case concerned the complaint of a Chadian national that deporting him to his country of origin would expose him to the risk of ill-treatment by the police there to punish him for allegedly siding with the rebels in Darfur.

After noting that in spite of an improvement in relations between Chad and Sudan, threats to people's safety persisted in Chad, the Court found that the applicant had produced sufficient evidence that in view of his personal situation he would be exposed to a real risk of inhuman and degrading treatment if sent back to Chad.

### Principal facts

The applicant, Mo.M., is a Chadian national who was born in 1977 and lives in Montauban (France). In 1996 he became a shopkeeper and as such travelled regularly between Abeshe, where he lived in Chad, and El Geneina, the capital of West Darfur (Sudan).

Somebody reported that the applicant was spying for the rebel cause, and he was picked up by the Chadian police on 16 December 2006. He was taken into custody and held for five days, during which he was interrogated and subjected to various forms of torture. His shop was destroyed, his possessions confiscated and his family threatened.

The applicant managed to escape and arrived in Europe in March 2007. In France he campaigned for the *Rassemblement national démocratique populaire* (RNDP), an opposition party based in eastern Chad, on the Sudanese border.

Mo.M. applied for asylum to the French Agency for the Protection of Refugees and Stateless Persons (OFPRA) but on 22 June 2007 his application was rejected, as was his subsequent appeal to the National Court of Asylum (CNDA), on 3 March 2009. Faced with the threat of expulsion, Mo.M. applied to the Strasbourg Court, which asked the French authorities, under Rule 39 of its Rules of Court (interim measures), to refrain from deporting him to Chad while his case was pending before the Court.

<sup>1</sup> 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](http://www.coe.int/t/dghl/monitoring/execution)

## Complaints, procedure and composition of the Court

Mo.M. submitted that sending him back to Chad would be contrary to Article 3 (prohibition of inhuman and degrading treatment) because it would expose him to a real risk of ill-treatment and death at the hands of the police there.

The application was lodged with the European Court of Human Rights on 1 April 2010.

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

Mark **Villiger** (Liechtenstein), *President*,  
 Angelika **Nußberger** (Germany),  
 Ann **Power-Forde** (Ireland),  
 André **Potocki** (France),  
 Paul **Lemmens** (Belgium),  
 Helena **Jäderblom** (Sweden),  
 Aleš **Pejchal** (the Czech Republic),

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

## Decision of the Court

### Article 3

The Court reiterated that expulsion by a Contracting State might give rise to an issue under Article 3 but that it was up to Mo.M. to prove it and to the Court to examine the likely consequences of his expulsion to Chad, bearing in mind the situation in that country and the applicant's personal situation.

As regards the situation in Chad, the Court considered that although relations between Chad and Sudan had improved somewhat since the peace agreement was signed in January 2010 (see *B.A v. France*, no. 14951/09), the situation continued to give cause for concern, particularly for people suspected of having collaborated with the rebels.

As to the applicant's personal situation, the Court considered that the medical certificates produced by Mo.M. were sufficient proof of the alleged torture.

And regarding the risk of ill-treatment in the event of the applicant's return, the Court noted that he had produced a warrant issued against him by the Chadian authorities in 2009 the authenticity of which the Government did not seriously dispute. It also noted that it could not rely on the French courts' assessment of the risk, considering the very succinct reasoning they had given and the fact that the OFPRA and the CNDA had not been able to examine some of the evidence produced by the applicant.

The Court found, in view of the applicant's profile, the medical certificates produced and the past and present situation in Chad, that there was a real risk that he would be subjected to treatment contrary to Article 3 of the Convention by the Chadian authorities were he to be sent back to Chad.

### Rule 39 of the Rules of Court

The Court decided unanimously to maintain the interim measure indicating to the French Government under Rule 39 of the Rules of Court that the applicant should not be deported until the Court's judgment had become final or the Court had decided otherwise.

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.