

## Schizophrenic detained in the UK should not be extradited to the USA

In today's Chamber judgment in the case of [Aswat v. the United Kingdom](#) (application no. 17299/12), which is not final<sup>1</sup>, the European Court of Human Rights held, unanimously:

That there would be **a violation of Article 3 (prohibition of inhuman or degrading treatment)** of the European Convention on Human Rights if Mr Aswat was extradited to the United States.

The Court further decided to continue to indicate to the Government of the United Kingdom under Rule 39 of its Rules of Court (interim measures) not to extradite Mr Aswat until the judgment became final or until further order.

The case concerned the complaint by Mr Aswat, who is detained in the United Kingdom, that his extradition to the United States of America would amount to ill-treatment, in particular because the detention conditions (a potentially long period of pre-trial detention and his possible placement in a "supermax" prison) were likely to exacerbate his condition of paranoid schizophrenia.

While the Court held that Mr Aswat's extradition to the USA would be in violation of Article 3 (prohibition of inhuman and degrading treatment), it was solely on account of the current severity of his mental illness and not as a result of the length of his possible detention there.

### Principal facts

The applicant, Haroon Aswat, of unknown nationality, was born in 1974 and is currently detained in Broadmoor High Security Psychiatric Hospital in the United Kingdom. He has been indicted in the United States as a co-conspirator in respect of a conspiracy to establish a jihad training camp in Oregon. In 2005 he was arrested in the United Kingdom following a request for his arrest and extradition by the US authorities. Mr Aswat contested the order for his extradition without success, his request for leave to appeal to the House of Lords ultimately being rejected in 2007.

Mr Aswat suffers from paranoid schizophrenia and was therefore transferred from prison to the psychiatric hospital in 2008. The last forensic psychiatrist reports in his case, in 2011 and 2012, indicated that while his condition was well-controlled on anti-psychotic medication and that participation in occupational and vocational activities in the psychiatric hospital had helped prevent any significant deterioration in his mood, his detention in hospital was required for his medical treatment and such treatment was necessary for his health and safety.

<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

Mr Aswat complained that his extradition to the USA would not be compatible with Article 3. He alleged in particular: that his detention in Broadmoor Hospital in the United Kingdom was essential for his personal safety and treatment; that, if extradited, he could remain in pre-trial detention for a number of years and there was no information as to the conditions of that detention; and that it was likely that if convicted in the USA he would be detained in ADX Florence (a "supermax" prison), where he could be placed alone in a cell and the conditions of isolation were likely to exacerbate his mental illness.

The application was lodged with the European Court of Human Rights on 10 June 2007. On 12 June 2007 the Court applied an interim measure under Rule 39 of its Rules of Court and indicated to the Government of the United Kingdom not to extradite Mr Aswat until further notice.

The proceedings in his case were originally conducted together with the case of *Babar Ahmad and Others v. the United Kingdom* (application nos. 24027/07, 11949/08, 36742/08, 66911/09 and 67354/09) which concerned similar complaints. The Court adjourned its examination of Mr Aswat's application as it required further submissions from the parties on the severity of his mental health condition and the treatment he was likely to receive in the USA if extradited. In its [judgment of 10 April 2012 in the case of \*Babar Ahmad and Others v. the United Kingdom\*](#), the Court found that there would be no violation of Article 3 if the five applicants in that case were extradited to the USA.

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

David Thór **Björgvinsson** (Iceland), *President*,  
Nicolas **Bratza** (United Kingdom),  
Päivi **Hirvelä** (Finland),  
George **Nicolaou** (Cyprus),  
Ledi **Bianku** (Albania),  
Zdravka **Kalaydjieva** (Bulgaria),  
Nebojša **Vučinić** (Montenegro),

and also Lawrence **Early**, *Deputy Grand Chamber Registrar*.

## Decision of the Court

In light of the medical evidence before it, the Court found that there was a real risk that Mr Aswat's extradition to the USA, a country to which he had no ties, and to a different, potentially more hostile prison environment, would result in a significant deterioration in his mental and physical health. Such deterioration would be capable of amounting to treatment in breach of Article 3.

While in the case of *Babar Ahmad* the Court had not accepted that the conditions in ADX Florence would amount to treatment in breach of Article 3, Mr Aswat's case was to be distinguished from that case on account of the severity of his mental health condition.

The Court gave full consideration to the submissions of the US Department of Justice made in the proceedings before the Court, and observed, in particular, that it could not be determined with certainty in which detention facility or facilities Mr Aswat would be placed if extradited to the USA, either before or after trial. It was also unclear how long he might expect to remain on remand pending trial. As for his detention following a possible conviction, the Court observed that although Mr Aswat would have access to mental health services regardless of which prison he was to be detained in, his extradition to a country where he had no ties and where he would face an uncertain future in an as

yet undetermined institution, and possibly be subjected to the highly restrictive regime in ADX Florence, would violate Article 3 of the Convention.

While all these factors contributed to the Court's conclusion that Mr Aswat's extradition to the USA would be in violation of Article 3, the extradition would not give rise to a real risk of treatment contrary to Article 3 as a result of the length of his possible detention there.

#### Just satisfaction (Article 41)

Mr Aswat did not submit a claim for just satisfaction.

*The judgment is available only in English.*

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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.