



## Compensation claim for a prisoner's placement far from his family: domestic remedies had not been exhausted

In its decision in the case of [Agamemnon v. France](#) (application no. 13483/14) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerns a request by the applicant to be transferred to a prison close to his family.

The Court observed that the request had been granted, since on 25 March 2014 the applicant had been transferred to the Port detention facility on Réunion Island. The purpose of the application could only be to seek acknowledgment and reparation for the alleged violation. He had submitted a request for legal aid to the relevant office of the *Conseil d'Etat*, in order to appeal on points of law against the judgment of the Administrative Court of Appeal of 4 July 2017 which had dismissed his action for compensation. His request for legal aid was denied and he did not appeal against the 4 July 2017 judgment. Nor did he appeal against the refusal to grant him legal aid to the President of the Judicial Division of the *Conseil d'Etat*. The Court found that the application had to be rejected for failure to exhaust domestic remedies.

### Principal facts

The applicant, Mr Casanova Agamemnon, is a French national who was born in 1950. He is currently held in a prison on Réunion Island.

In October 1970 the Assize Court of Réunion Island sentenced Mr Agamemnon to life imprisonment for the murder of his employer. In May 1985 he was released on licence. In February 1986 he killed his brother. His release on licence was revoked, thus restoring his sentence of life imprisonment. In November 1988 he was transferred to Fresnes Prison and subsequently served his sentence in various prisons in mainland France: Lannemezan, Saint-Maur and Val-de-Reuil.

From 2003 onwards Mr Agamemnon requested on several occasions to be relocated to Réunion Island. His requests were denied. On 23 July 2013, relying on Article 8 of the Convention, he lodged a compensation claim with the Minister of Justice, seeking 100,000 euros (EUR) for the damage that he claimed to have sustained as a result of the prison service's refusal to transfer him to Réunion Island.

After his dangerousness had been assessed and his request for release on licence denied, the prison service was again in a position to examine his transfer application.

On 11 October 2013, following the recommendations of the national assessment centre in Fresnes, the prison service took the decision to transfer Mr Agamemnon to Port prison on Réunion Island. He lodged a compensation claim with the Administrative Court seeking EUR 100,000 from the State, arguing that the authorities had breached his right to be held in a prison which allowed him to maintain his family ties, to be rehabilitated and to have his dignity respected. On 25 March 2014 Mr Agamemnon was thus transferred to Port. The Administrative Court rejected his claim on the grounds, in particular, that he was single, with no dependants, and that he had not proved he had maintained a private and family life on Réunion Island. On 4 July 2017 the Administrative Court of Appeal upheld that judgment.

## Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 30 January 2014.

Relying on Article 8 (right to respect for private and family life), the applicant complained about the prison service's refusal to transfer him to a prison on Réunion Island.

The decision was given by a Committee of three judges, composed as follows:

Mārtiņš **Mits** (Latvia), *President*,  
André **Potocki** (France),  
Lado **Chanturia** (Georgia),

and also Milan **Blaško**, *Deputy Registrar*.

## Decision of the Court

### Article 8

The Government argued that Mr Agamemnon, who had been transferred to Port detention facility on Réunion Island, had maintained his application purely to obtain compensation for the damage that he claimed to have sustained on account of his geographical distance from his family. The Government pointed out that Mr Agamemnon had not, however, pursued that compensatory remedy until the completion of the proceedings.

The Court noted that Mr Agamemnon had brought an action for judicial review of administrative action, namely the decision refusing his transfer to a prison on Réunion Island, and that he had taken that action as far as the *Conseil d'Etat*. It observed that the violation had ceased on 11 October 2013, with the prison service's decision to transfer him, that decision having been implemented on 25 March 2014. The applicant's wish having been granted in terms of his detention conditions, he could seek acknowledgment and reparation for the alleged violation.

The Court took the view that the compensatory remedy was available and observed that it had been used by Mr Agamemnon. The very fact that he had, with a lawyer's assistance, brought an action for compensation in the administrative courts showed that he himself considered that he had an effective remedy, contrary to his allegations. It had thus been incumbent on the applicant to pursue the proceedings until their completion.

Following the judgment of the Administrative Court of Appeal on 4 July 2017, dismissing his compensation claim, Mr Agamemnon submitted a request for legal aid to the relevant office of the *Conseil d'Etat* in order to appeal on points of law against that judgment. His request was denied and he did not pursue his appeal. The Court further observed that he had not appealed against the refusal to grant him legal aid to the President of the Judicial Division of the *Conseil d'Etat*, as he could have done, in accordance with the Court's case-law.

The Court therefore found that the application had to be rejected for failure to exhaust domestic remedies.

*The decision is available only in French.*

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