



The Court has declared Mr Iquioussen's application inadmissible

In its decision in the case of [Iquioussen v. France](#) (application no. 37550/22) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The Court held that the alleged violations of Articles 3 (prohibition of torture and inhuman or degrading treatment) and 8 (right to respect for private and family life) of the European Convention on Human Rights on account of the applicant's removal to Morocco could not be attributed to the respondent State, given that he had voluntarily left France for Belgium and that it had been the Aliens Office of the Kingdom of Belgium which had ordered the applicant's removal to Morocco.

With regard to the complaints under Articles 9 (right to freedom of thought, conscience and religion) and 10 (freedom of expression) of the Convention, the Court reiterated that the applicant was required to have used the remedy consisting in judicial review of the ministerial order for his removal and withdrawal of his right to reside, and of the order indicating the destination country. Since this appeal on the merits was still pending before the Paris Administrative Court, the Court found that the applicant had not exhausted domestic remedies as required by Article 35 § 1 of the Convention.

The complaint under Article 8 of the Convention having been found incompatible with the provisions of the Convention, the Court held that the complaint under Article 13 taken together with Article 8 was also incompatible with the Convention's provisions under Article 35 § 3 (a). Lastly, the Court considered that the complaints under Article 6 of the Convention did not fall within the scope of that provision and for this reason were also incompatible with the provisions of Article 35 § 3 (a).

Principal facts

The applicant, Hassan Iquioussen, is a Moroccan national who was born in 1964 and had been lawfully residing in France since birth. He held a residence permit from 1982 until his most recent permit expired on 2 June 2022. He was an imam and also gave lectures, in particular on YouTube. He was married to a Moroccan national, also residing lawfully in France, with whom he had five children and 16 grandchildren, all French nationals.

On 29 July 2022 the Minister of the Interior issued an order for his removal and for withdrawal of his right to reside, and another order indicating Morocco as the destination country.

On 4 August 2022 the applicant applied to the Paris Administrative Court for judicial review, seeking to have the ministerial orders of 29 July 2022 set aside.

Also on 4 August 2022, the European Court decided not to grant a request for an interim measure submitted by the applicant seeking the suspension of his removal to Morocco by the French authorities.

On 25 August 2022 the applicant travelled to Belgium.

On 15 November 2022 the Aliens Office of the Kingdom of Belgium directed the applicant to leave the country.

On 16 December 2022 the Aliens Office ordered the applicant's removal to Morocco, and on 13 January 2023 this order was executed by the Belgian authorities.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 29 September 2022.

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment) of the Convention, the applicant alleged that his removal to Morocco had exposed him to a risk of treatment that would be contrary to that provision. He also raised complaints under Articles 6 (right to a fair hearing), 8 (right to respect for private and family life), 9 (right to freedom of thought, conscience and religion), 10 (right to freedom of expression) and 13 (right to an effective remedy) of the Convention.

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

Stéphanie **Mourou-Vikström** (Monaco), *President*,
Lado **Chanturia** (Georgia),
Mattias **Guyomar** (France),

and also Martina **Keller**, *Deputy Registrar*.

Decision of the Court

Articles 3 and 8

In the first place, the Court pointed out that the French authorities had not taken any decision ordering the applicant's removal to the Kingdom of Belgium. It was only after he had voluntarily left France for Belgium that the Aliens Office of the Kingdom of Belgium had ordered the applicant's removal to Morocco.

Secondly, it was the settled case-law of the Court that the decision by a Contracting State to remove a person – and, a fortiori, the actual removal itself – could give rise to an issue under Article 3, and hence engage the responsibility of that State under the Convention. The liability under the Convention thus incurred was that liability incurred by the sending Contracting State by reason of its having taken action which had as a direct consequence the exposure of an individual to proscribed ill-treatment or to other violations of the Convention.

For these reasons, the Court considered that the alleged violations of Articles 3 and 8 of the Convention on account of the applicant's removal to Morocco could not be attributed to the respondent State. It followed that the complaints under Articles 3 and 8 were incompatible with the provisions of the Convention within the meaning of Article 35 § 3 (a).

Articles 9 and 10

The Court reiterated that the applicant was required to have used the remedy consisting in judicial review of the ministerial order for his removal and withdrawal of his right to reside, and of the order indicating the destination country. Since this appeal on the merits was still pending before the Paris Administrative Court, the Court found that the applicant had not exhausted domestic remedies as required by Article 35 § 1 of the Convention.

Article 13 taken together with Article 8

Article 13 applied only where an applicant had an "arguable claim" to have been the victim of a violation of another right set forth in the Convention. In the present case, the Court had found that the complaint under Article 8 of the Convention was incompatible with the provisions of the Convention. It followed that the complaint under Article 13 taken together with Article 8 was also incompatible with the provisions of the Convention within the meaning of Article 35 § 3 (a).

Other complaints

The Court held that the applicant's complaints under Article 6 of the Convention did not fall within the scope of that provision; it followed that they were incompatible with the provisions of the Convention within the meaning of Article 35 § 3 (a).

The decision is available only in French.

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Press contacts

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

We would encourage journalists to send their enquiries via email.

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

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

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.