



Temporary camp of asylum-seekers in France: no violation of the Convention

In today's **Chamber** judgment¹ in the case of [B.G. and Others v. France](#) (application no. 63141/13) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

The case concerned the accommodation of asylum-seekers for several months in a tent camp set up on a carpark in Metz and the question whether they had received the material and financial support provided for by domestic law.

Applicants 1 to 12 had not maintained contact with their lawyer and had not provided any indication of their whereabouts or how they could be reached. In those circumstances the Court found that they had lost interest in the proceedings and no longer wished to pursue their application.

As regards applicants 13 to 17, the Court found that there was no specific material in the file allowing it to make a concrete assessment of their living conditions in a tent camp on a carpark located on Avenue de Blida in Metz, where they had lived from 29 June 2013 to 9 October 2013. The Court further observed that the French authorities had taken measures which had brought about a rapid improvement in their material living conditions, in particular ensuring medical care and schooling for the children.

Principal facts

The seventeen applicants, asylum-seekers, are members of four Albanian, Bosnian and Kosovar² families, including minor children. They complained that they had been accommodated for several months in a tent camp set up on a carpark in Metz, directly on the concrete ground, and that they had not been provided with the material and financial support to which they were entitled under domestic law.

In March 2013 a camp for around forty-five asylum-seekers was set up near the asylum-seekers' reception platform in Metz. The camp was later dismantled by decision of the Moselle prefect. Due to the saturation of accommodation facilities in the Moselle *département*, the prefect opened a camp on 19 June 2013 on a former car park located on Avenue de Blida in Metz. According to the applicants they lived there in tents placed on the concrete ground. The camp was dismantled and closed on 15 November 2013.

Applicants 1 to 12 (see details in appendix to the judgment) are three families accompanied by their children, who were aged between one and a half and nine years at the time. They are Albanian, Bosnian and Kosovar nationals who entered France between 24 April and 29 June 2013 to apply for asylum. The prefect refused to grant leave to remain to applicants 5 to 7, who were from Bosnia, as their country was deemed to be safe, and registered the other asylum applications under the priority

1. 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.

² All references to Kosovo, whether the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

procedure. The applicants filed urgent applications for the protection of a fundamental freedom with the Administrative Court of Strasbourg. Those applications were rejected on the grounds that the precarity of which they complained was to be remedied promptly (applicants 1 to 4), that having received a repatriation grant in July 2008 they had placed themselves in the impugned difficulties (applicants 5 to 7), or that they had been summoned to the Moselle prefecture on 9 October 2013 for an examination of their situation (applicants 8 to 12).

The applicants lodged an appeal with the *Conseil d'État* (highest administrative court). The urgent proceedings judge of that court dismissed their appeal on the grounds that their specific situation had been examined when they had been received at the prefecture and that initial steps had been taken in that regard.

Applicants 13 to 17 (see details in appendix) are a couple of Kosovar nationality and their three children, aged 2, 9 and 11 at the time. On arrival in France on 29 June 2013 they reported to the prefecture, which issued them with a summons for 10 September 2013 to submit their asylum application files. Pending a permanent accommodation solution, they were placed on 29 June 2013 in the Avenue de Blida camp. On 3 September 2013 they filed an urgent application for the protection of a fundamental freedom before the Administrative Court, requesting that the authorities be ordered to provide them with accommodation, in accordance with national law. The urgent proceedings judge dismissed the application for lack of urgency as their particular situation had been examined when they had been received at the prefecture on 10 September 2013 and preliminary measures had been taken for them. The urgent proceedings judge of the *Conseil d'État*, rejected their appeal for the same reasons. On 21 November 2013 Mr Z. was granted a temporary waiting allowance. His wife was granted this allowance from 12 November 2013. They both received the allowance until they entered an Asylum-Seekers' Reception Centre (CADA) on 29 January 2014. In February 2014 the French Office for the Protection of Refugees and Stateless Persons (OFPRA) rejected the asylum-seekers' applications, and the rejection was confirmed by the National Asylum Court. Mr Z. applied for and obtained a residence permit on grounds of illness, valid from 7 September 2018 to 8 August 2019. His wife was provided with a residence permit receipt allowing her to work, valid from 11 October 2018 to 10 April 2019, and she has been working part-time. Their three children attend school.

All the applicants were found accommodation in council flats between 9 and 16 October 2013.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman or degrading treatment), and Article 8 (right to respect for private and family life), the applicants complained that their exclusion from the accommodation facilities provided for under domestic law, from 29 June 2013 to 9 October 2013, and their placement for over three months in a camp had exposed them to inhuman and degrading treatment. They emphasised that the living conditions during this period were particularly inappropriate for very young children.

The application was lodged with the European Court of Human Rights on 7 October 2013.

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

Síofra O'Leary (Ireland), *President*,
Gabriele Kucsko-Stadlmayer (Austria),
Ganna Yudkivska (Ukraine),
Mārtiņš Mits (Latvia),
Lado Chanturia (Georgia),
Anja Seibert-Fohr (Germany),
Mattias Guyomar (France),

and also Victor **Soloveytschik**, *Deputy Section Registrar*.

Decision of the Court

Applicants 1 to 12 had not maintained contact with their lawyer and had not provided any indication of their whereabouts or how they could be reached. In those circumstances the Court found that they had lost interest in the proceedings and no longer wished to pursue their application. It was no longer justified to continue examining the complaints in respect of those applicants.

Article 3

The Court noted that the *Conseil d'État*, before which the applicants had pleaded a breach of Article 3, had examined their complaint in substance, taking into account the requirements in terms of decent material conditions and respect for the right of asylum.

However, the parties' accounts differed as to the living conditions in the camp, in particular as regards hygiene and safety, and the facilities provided to the asylum-seekers.

The Court observed, first, that the applicants had merely indicated, in a general and unsubstantiated manner, that they had lived in a tent on concrete ground without providing any precise information enabling it to make a proper assessment of their living conditions with their children during the three months and eleven days they had stayed on the site, in particular as regards the possibilities for eating and washing. Secondly, the French authorities had not remained indifferent to the applicants' situation and their basic needs – housing, food and washing – had all been met.

Although the applicants had not received the waiting allowance until 12 and 21 November 2013, it was not in dispute that they had received food aid in the form of vouchers between 29 June and 9 October 2013, the date of their departure from the camp. The children had been under medical supervision and vaccinated and those who were then aged 9 and 11 had been able to attend school. Lastly, accommodation in a permanent structure had been offered three months and eleven days after their arrival in the camp, which was relatively quick.

In the light of all these factors, the Court found that the applicants' living conditions had improved rapidly and significantly. Moreover, during the period in question the applicants had not been left without any prospect of seeing their situation improve. They had been summoned to the prefecture on 10 September 2013 to file their asylum application. OFPRA had examined their application under the fast-track procedure and had decided on their asylum application on 3 February 2014.

While it was true that the camp on Avenue de Blida, where the applicants had lived from 29 June to 3 October 2013, had been overcrowded, that its sanitary conditions had been unsatisfactory and that it had become insalubrious over the weeks, the Court was not in a position to conclude that the applicants had found themselves, during the relevant period, in a situation of material deprivation that had reached the threshold of severity necessary to fall within the scope of Article 3.

There had thus been no violation of Article 3 of the Convention.

Article 8

The Court noted that the applicants had submitted a very general account of their living conditions in the camp on Avenue de Blida without giving details about their own conditions.

The Court found, moreover, that the authorities had provided them with an accommodation solution that was presented as temporary in the camp, before accommodating them on 9 October 2013 in a flat, three months and eleven days after they had arrived in the camp.

The applicants' complaint was thus manifestly ill-founded and had to be rejected.

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.