

TRANSLATION

THE LAW

The applicant, concerning whom an expulsion order was issued by the Ministry of the Interior on 16 April 1985, submits that if this measure is carried out, he is liable on return to Sri Lanka to be subjected to treatment prohibited by Article 3 of the Convention.

This provision states :

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment ”

The Commission notes its constant case-law that the Convention does not guarantee any right of residence or right of asylum in a State of which one is not a national (cf. No. 1802/62, Dec. 26.3.63, Yearbook 3 pp. 463, 479). Expulsion is not, as such, included in the matters covered by the Convention (No. 7256/75, Dec. 10.12.76, D.R. 8 p. 161 and No. 11933/86, Dec. 14.4.86, D.R. 46 p. 257). It follows that an expulsion measure is not in itself contrary to the Convention.

The Commission nevertheless recalls its constant case-law that the expulsion of a person could, in exceptional circumstances, raise an issue under Article 3 of the Convention, where there is serious reason to believe that the individual would be subjected to treatment prohibited by this provision in the country to which he was expelled (No. 8581/79, Dec. 6.3.80, D.R. 29 pp. 48, 52).

However, the Commission is not required to express an opinion as to whether such exceptional circumstances exist in the present case and whether there is reason to believe that the applicant would be subjected to treatment prohibited by Article 3 of the Convention, because under Article 26 of the Convention, “the Commission may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law”.

In this case the applicant has not proved that he produced before the domestic courts the documents he submitted to the Commission, including an arrest warrant issued by the judicial authorities of Mallakam, which is intended to establish that his fears of persecution in the event of his deportation to Sri Lanka are well-founded.

The applicant cannot, therefore, be regarded as having exhausted the domestic remedies. Furthermore, an examination of the case as it has been submitted has disclosed no special circumstance which might, according to the generally recognised rules of international law, have absolved the applicant from exhausting the domestic remedies.

The Commission does not consider it necessary to express an opinion on the question of whether there were also other remedies that the applicant should have exhausted in order to comply with the requirement set forth in Article 26 of the Convention.

It follows that the applicant has not complied with the condition of the exhaustion of domestic remedies and that his application must be rejected under Article 27 para. 3 of the Convention.

For these reasons, the Commission

DECLARES THE APPLICATION INADMISSIBLE.