

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

DECISION

Application no. 25304/10
A.A.
against the Netherlands

The European Court of Human Rights (Third Section), sitting on 3 July 2012 as a Committee composed of:
Luis López Guerra, *President,*
Egbert Myjer,
Kristina Pardalos, *judges,*
and Marialena Tsirli, *Deputy Section Registrar,*
Having regard to the above application lodged on 5 May 2010,
Having deliberated, decides as follows:

THE FACTS

The applicant, Mr A.A., is an Afghan national, who was born in 1978 and currently lives in Afghanistan. The President granted the applicant's request for his identity not to be disclosed to the public (Rule 47 § 3). He was represented before the Court by Mr F.-W. Verbaas, a lawyer practising in Alkmaar. The Dutch Government ("the Government") were represented by their Agent, Mr R.A.A. Böcker, and Deputy Agent Ms L. Egmond, of the Ministry of Foreign Affairs.

A. The circumstances of the case

The facts of the case, as submitted by the applicant, may be summarised as follows.

On 24 February 2004 the applicant applied for asylum in the Netherlands. He claimed inter alia that he and his family had lived in Iran since 1979 and that, as the Iranian authorities had decided that all Afghan nationals living in Iran had to return to Afghanistan, he had fled to the Netherlands as he feared to be killed in Afghanistan by a vindictive local tribal leader whose son the applicant's father had killed in 1979 over a land dispute. By decision of 14 July 2004 this application was refused. By judgment of 22 February 2006 the Regional Court (rechtbank) dismissed his appeal. Although the applicant could have filed a further and final appeal with the Administrative Jurisdiction Division (Afdeling Bestuursrechtspraak) of the Council of State (Raad van State), he did not do so.

On 5 October 2007 the applicant lodged a second asylum application. He based this second application on his conversion to Christianity. On 18 October 2007 the applicant withdrew this second asylum application.

The applicant lodged a third asylum application on 3 April 2008. Like his second one, he based this third application on his conversion to Christianity. By decision of 24 November 2008, this third asylum application was refused, as his conversion was found to lack credence. The final negative decision on this application was taken by the Administrative Jurisdiction Division on 4 May 2010.

B. Developments after the introduction of the application

On 6 May 2010, at the request of the applicant, the President of the Chamber decided to indicate to the Government of the Netherlands that it was desirable in the interests of the parties and the proper conduct of the proceedings before the Court not to expel the applicant to Afghanistan (Rule 39 of the Rules of Court) for the duration of the proceedings before the Court.

On 18 April 2012 the Government was invited to submit their observations on the admissibility and merits of the case. On 20 April 2012 the Government informed the Court that on 11 January 2012 the applicant had returned to Afghanistan of his own motion. This information was forwarded to the applicant, who was invited to submit comments.

On 21 May 2012 the applicant's representative informed the Court that he had tried to contact the applicant but that he was longer living at the address known to the representative. The representative stated that he did not doubt the statement of the Netherlands Government that the applicant had returned to Afghanistan voluntarily. He lastly stated that he assumed that the applicant wanted to withdraw the application since he had returned voluntarily.

COMPLAINT

The applicant complained that, if returned to Afghanistan, he would be subjected to treatment in breach of Article 3 of the Convention on account of his conversion from Islam to Christianity and his belonging to the vulnerable Hazara ethnic minority.

THE LAW

The applicant complained that a forced return to Afghanistan would violate his rights under Article 3 of the Convention. However, the Court notes that the applicant has now voluntarily returned to Afghanistan, and apparently without informing his representative in the proceedings before the Court.

The Court considers that, in these circumstances, and having regard to Article 37 § 1 (a) and (b) of the Convention, it is no longer justified to continue the examination of the application. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case.

In view of the above, it is appropriate to lift the interim measure indicated under Rule 39 of the Rules of Court and to strike the application out of the list of cases pending before the Court.

For these reasons, the Court unanimously

Decides to strike the application out of its list of cases.

Marialena Tsirli
Deputy Registrar

Luis López Guerra
President