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

FOURTH SECTION

DECISION

Application no. 48013/21
Mohammad Umad Taha AL FAKIH
against the Netherlands

The European Court of Human Rights (Fourth Section), sitting on 8 September 2022 as a Committee composed of:

Armen Harutyunyan, *President,*
Jolien Schukking,
Ana Maria Guerra Martins, *judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 2 September 2021,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Mr Mohammad Umad Taha Al Fakih, is a Sudanese national, who was born in 1983 and lives in Groningen. He was represented before the Court by Ms N.B. Swart, a lawyer practising in Groningen.

The Dutch Government ("the Government") were represented by their Agent, Ms B. Koopman, and Deputy Agent, Ms K. Adhin, both from the Ministry of Foreign Affairs.

The applicant complained under Article 8 of the Convention about the consequences for his private life in the Netherlands because of the decision of 20 December 2017 of the Deputy Minister of Justice and Security to revoke his residence permit.

After the Government had been given notice of the application, they informed the Court that the Deputy Minister had decided to withdraw the aforementioned decision and that the applicant's legal residence in the Netherlands would be reinstated with retroactive effect.

On 25 May 2022 the applicant informed the Court that he wanted to maintain his application, as in his view the matter had not yet been resolved. In this context, he raised other consequences of the decision of 20 December 2017, including mainly a loss of income, in respect of which he claimed just satisfaction under Article 41 of the Convention.

On 23 June 2022 the Government informed the Court that they remained of the view that the matter had been resolved and that the applicant could bring a civil claim for damages before the domestic courts.

THE LAW

The Court observes that the decision to withdraw the applicant's residence permit contained a duty for him to leave the Netherlands, which, if not complied with, could be followed by a forced expulsion of the applicant. It was this expulsion which would result in the rupture of ties between the applicant and the Netherlands. The applicant's complaint under Article 8 should therefore be seen as aimed at the consequences to be expected from his expulsion from the Netherlands.

The Court observes that according to its established case-law, once an applicant under threat of expulsion has been granted a residence permit and no longer risks being expelled, it considers the matter to have been resolved within the meaning of Article 37 § 1 (b) of the Convention and it will strike the application out of its list of cases, even without the applicant's agreement (see *Khan v. Germany* (striking out) [GC], no. 38030/12, § 33, 21 September 2016, with further references).

In the light of the above, the Court considers that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention and that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the application under Article 37 § 1 *in fine*.

Accordingly, the case should be struck out of the list.

As to the applicant's claim for just satisfaction, the Court reiterates that Article 41 of the Convention allows it to award just satisfaction to the "injured party" only if it has previously "[found] that there has been a violation of the Convention or the Protocols thereto", which it has not in this case. Since no such finding has been made and the Court has considered that the matter was resolved for the reasons above, it will not entertain the request for compensation of non-pecuniary damage.

For these reasons, the Court, unanimously,

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

Done in English and notified in writing on 29 September 2022.

Viktoriya Maradudina Acting Deputy Registrar	Armen Harutyunyan President