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

FIFTH SECTION

DECISION

Application no. 44528/22
C.W.
against Portugal

The European Court of Human Rights (Fifth Section), sitting on 30 January 2025 as a Committee composed of:

Stéphanie Mourou-Vikström*, President*,
Gilberto Felici,
Kateřina Šimáčková*, judges*,

and Sophie Piquet, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 12 September 2022,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr C.W., is an Austrian and Brazilian national, who was born in 1978 and lives in an unknown location. The President granted the applicant's request for his identity not to be disclosed to the public (Rule 47 § 4). He was represented before the Court by Ms V. Costa Ramos and Ms M. Bulhosa, lawyers practising in Lisbon.

2. The Portuguese Government ("the Government") were represented by their Agent, Mr. R. Bragança de Matos, Public Prosecutor.

3. The case concerns a request for the applicant's extradition made by the Government of the United States of America to the Portuguese authorities.

4. On 24 November 2021 the applicant was detained in Portugal pursuant to an arrest warrant issued against him by the US authorities. On 25 November 2021 he was heard by the Coimbra Court of Appeal and was remanded in pre-trial detention pending extradition. On 23 December 2021 the US authorities lodged a formal request for his extradition, which was granted by the Portuguese Minister for Justice on 4 January 2022.

5. On 25 January 2022 the applicant submitted written pleadings against his extradition. He alleged that if he were extradited to the US, his life would be put at risk owing to a medical condition which he had. He also claimed

that he would risk inhuman and degrading treatment because of the conditions of detention in the requesting State.

6. On 15 March 2022 the Coimbra Court of Appeal rejected the argument as to the risk of ill-treatment, ordered the applicant's extradition, and determined that he should be placed under house arrest.

7. The applicant appealed against that decision to the Supreme Court, which dismissed the appeal on 12 May 2022. On 27 July 2022 the Constitutional Court dismissed a further appeal lodged by the applicant.

8. On 2 September 2022 the Coimbra Court of Appeal ordered that the measure of house arrest be lifted.

9. On 12 April 2023 the Coimbra Court of Appeal ordered the discontinuance of the extradition proceedings since the applicant's whereabouts were unknown.

COMPLAINTS

10. Relying on Articles 2 and 3 of the Convention, the applicant alleges that his transfer by air to the United States of America would put his life and physical health in serious danger in view of the risk of rupture of two cerebral aneurysms.

11. Under the same Articles of the Convention, the applicant alleges that his extradition would give rise to a serious risk to his life and mental health due to his psychiatric health issues, namely his major depressive disorder, panic/anxiety syndrome and attention deficit hyperactivity and bipolar disorders, with risk of suicide, and the lack of appropriate psychiatric medical assistance he would receive while in detention in the United States of America.

12. Relying on Article 8, the applicant also complains that extradition would breach his right to private and family life, as he would be deprived of the treatment he requires and of the needed and essential support of his family.

13. Under Article 13 of the Convention, in conjunction with Articles 2 and 3, the applicant alleges that national authorities, by rejecting his allegations without any substantive analysis or close scrutiny thereof, have deprived him of an effective remedy for violations of the Convention.

THE LAW

14. The Court notes that on 12 April 2023 the Coimbra Court of Appeal ordered the discontinuance of the extradition proceedings initiated against the applicant because the Portuguese authorities were unable to locate him and were thus prevented from carrying out his extradition to the US (see paragraph 9 above).

15. In these circumstances, the Court finds that it is no longer justified to continue to examine the application, within the meaning of Article 37 § 1 (c) of the Convention as it is clear from the information available that the applicant no longer faces any risk, at the moment and for the foreseeable future, of being extradited and subjected to treatment possibly contrary to Articles 3 and 8 of the Convention (see, *mutatis mutandis*, *Khan v. Germany* (striking out) [GC], no. 38030/12, § 34, 21 September 2016, and the references cited therein).

16. The above findings do not prevent the applicant from lodging a new application with the Court and making use of the available procedures, including that under Rule 39 of the Rules of Court, in respect of any new circumstances, in compliance with the requirements of Articles 34 and 35 of the Convention (see *Dobrov v. Ukraine* (dec.), no. 42409/09, 14 June 2011, and *J.B. and Others v. Belgium*, no. 43539/21, §15, 4 July 2024).

17. The Court would also reiterate that after it has struck an application out of its list of cases it can at any time decide to restore it to the list if it considers that the circumstances justify such a course, in accordance with Article 37 § 2 of the Convention and Article 43 § 5 of the Rules of Court (see, *Khan,* cited above, § 41).

18. In the light of the foregoing, and in the absence of any special circumstances regarding respect for the rights guaranteed by the Convention or its Protocols, the Court, in accordance with Article 37 § 1 (c) of the Convention, considers that it is no longer justified to continue the examination of the application.

19. In view of the above, it is appropriate to strike the case out of the list.

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 27 February 2025.

Sophie Piquet
Acting Deputy Registrar

Stéphanie Mourou-Vikström
President