

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

FIFTH SECTION

CASE OF FAL v. SPAIN

(Application no. 25828/23)

JUDGMENT

Art 8 • Expulsion • Private and family life • Justified administrative expulsion of a lawfully resident Moroccan national with a ten-year entry ban on grounds of involvement in jihadist activities contrary to national security • Adequate procedural safeguards • Adversarial judicial review • No ground warranting departure from domestic authorities' proportionality assessment

Prepared by the Registry. Does not bind the Court.

STRASBOURG

12 May 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Fal v. Spain,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Kateřina Šimáčková*, President*,
María Elósegui,
Gilberto Felici,
Andreas Zünd,
Diana Sârcu,
Mykola Gnatovskyy,
Sébastien Biancheri*, judges*,
and Victor Soloveytchik, *Section Registrar,*

Having regard to:

the application (no. 25828/23) against the Kingdom of Spain lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Moroccan national, Mr Najib Fal ("the applicant"), on 21 June 2023;

the decision to give notice to the Spanish Government ("the Government") of the complaints concerning the proceedings leading to the applicant's expulsion and to declare inadmissible the remainder of the application;

the parties' observations;

Having deliberated in private on 5 May 2026,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The case concerns the applicant's expulsion from Spain with a ten-year entry ban on grounds of his involvement in jihadist activities contrary to national security. It raises principally issues under Article 8 of the Convention.

THE FACTS

2. The applicant was born in 1975 and currently lives in Casablanca. He was represented by José L. Laso D'lom, a lawyer practising in Madrid.

3. The Government were represented by José A. Jurado Ripoll, Co-Agent.

4. The facts of the case may be summarised as follows.

I. THE APPLICANT'S RESIDENCE AND FAMILY SITUATION

5. At the material time the applicant was lawfully resident in Spain where he had lived since 2006.

6. In 2010 the applicant married a Moroccan national in Morocco, who moved to Spain with him. The couple had two daughters, born in Spain in 2013 and 2017.

II. THE ADMINISTRATIVE EXPULSION PROCEEDINGS

7. On 28 March 2019 the Provincial Brigade of Immigration and Borders of the National Police arrested the applicant and issued a decision initiating priority administrative expulsion proceedings (*procedimiento administrativo de expulsión con tramitación preferente*) against him for a very serious offence under Article 54(1)(a) of the Foreigners Act, namely participation in activities contrary to national security. The factual basis for the proceedings rested on a report from the General Information Commissioner's Office (*Comisaría General de Información*), which had been monitoring individuals suspected of promoting Islamist terrorism.

8. The report stated that the applicant had been under investigation for terrorism-related activities in the framework of two sets of criminal preliminary proceedings (*diligencias previas*) before Central Investigating Court no. 5 of the Audiencia Nacional, nos. 24/2013 and 103/2014. In the framework of proceedings no. 24/2013, a police operation resulted in the dismantling of a structure established in Madrid, self-styled "Brigada Al Andalús", which carried out activities of recruitment, radicalisation and the subsequent dispatch of *mujahideen* to conflict zones to join the ranks of DAESH (Islamic State). The applicant was identified as having formed part of the active nucleus of a group which had sent several young people from Madrid to Syria and Iraq to enrol in jihadist terrorist groups. The report further stated that the applicant had maintained contact with the principal suspects and that, following the arrest of members of the Brigada Al Andalús cell in June 2015, investigations continued in respect of remaining members of the structure within the framework of proceedings no. 103/2014. That investigation centred on the applicant's alleged membership of an established structure for the recruitment of individuals for jihadist terrorist organisations through an organised network of imams distributed across various Muslim Centres in Madrid, where sermons were used as the initial basis for the dissemination of extremist ideology. It was alleged that the applicant acted as the person responsible for recruitment and indoctrination for the terrorist organisation DAESH. According to the police, he had been at the head of the investigated organised group, exercising leadership functions under the legal cover provided by the affected Muslim Centres and, on several occasions, even in the face of opposition from some of their directors.

9. The decision to initiate expulsion proceedings set out the facts underlying the report, identified the offence allegedly committed, specified the potential sanction of expulsion with an entry ban of up to ten years and informed the applicant of his right to submit observations and documents within forty-eight hours. The applicant was notified of the initiation of the proceedings in person, in the presence of a duty lawyer (*abogado de oficio*). According to the notification record, the applicant refused to sign.

10. On 29 March 2019 counsel for the applicant submitted written observations (*alegaciones*) to the Provincial Brigade of Immigration and Borders. He contended that there was no evidence or conviction to support the applicant's involvement in activities related to Islamist terrorism. He further submitted that expulsion would be disproportionate in the circumstances, as it would separate the applicant from his family and his source of income, causing harm that would be impossible or difficult to repair. He also complained that the decision to initiate the proceedings lacked adequate reasoning, as it merely reproduced the relevant statutory provisions. He emphasised the applicant's long-standing residence in Spain and his ties with his wife and two minor children. He attached supporting documentation, including a marriage certificate, birth certificates, the Spanish family book (*libro de familia*), residence permits, and a certificate of municipal registration (*volante de inscripción padronal*).

11. The investigating officer addressed those submissions in an administrative report of 2 April 2019. Relying on Article 8 criteria drawn from the Court's case-law, the report assessed the nature and gravity of the applicant's alleged conduct, the duration of his stay in Spain and his family circumstances. It stated that expulsion would not affect the administrative status of the applicant's wife and daughters. If, however, the family chose to accompany him, the daughters' ages would permit easy adaptation and the wife would be returning to her country of origin. As regards the applicant, he had spent the first thirty-one years of his life in his country of origin and could readapt. The report further stated that extended lawful residence was not synonymous with integration, noting that a person who did not respect fundamental values such as respect for life, health and the security of others could not be regarded as integrated. It concluded that the nature and gravity of the acts under investigation demonstrated a tendency to continue such conduct, constituting a real, current and sufficiently serious threat to the fundamental interests of society and justifying expulsion on imperative grounds of public security. It considered that the interference with the applicant's right to respect for family life was proportionate to the legitimate aim of preventing terrorist attacks.

12. On 3 May 2019 the Secretary of State for Security adopted a reasoned decision ordering the applicant's expulsion from Spanish territory with a ten-year entry ban. The decision referred to national law, EU law and Article 8 of the Convention, and stated that the measure was proportionate to the legitimate aim of protecting national security. The applicant was informed of the available administrative and judicial remedies. On 18 June 2019 the decision was enforced and the applicant was expelled to Morocco.

III. JUDICIAL REVIEW OF THE EXPULSION ORDER

13. On 7 February 2020 the applicant's lawyer lodged a contentious-administrative appeal before the Administrative Division of the *Audiencia Nacional*. He alleged breaches of the applicant's right to effective judicial protection, the presumption of innocence and the right to respect for his private and family life, contending that the accusations were imprecise and that the applicant had not been investigated or charged in any criminal proceedings. He submitted documentary evidence, including residence permits, civil registry records, school enrolment certificates for his daughters, a certificate of his wife's enrolment in a Spanish language course and his employment history report (*informe de vida laboral*). The employment history report indicated that, over a fourteen-year period, the applicant had worked for only approximately seven years, receiving unemployment benefits or being on leave during the remainder.

14. On 13 January 2021 the *Audiencia Nacional* dismissed the appeal and upheld the expulsion decision. It held that, in view of the distinct procedures and aims of criminal law and administrative sanctioning law, the applicant's conduct could be regarded as established for the purposes of an administrative sanction even where no criminal investigation had been pursued. The court emphasised that the legal interest protected by the relevant administrative provision was national security, irrespective of whether the same conduct might also constitute an offence under the Criminal Code or whether criminal proceedings had been instituted. It further addressed the objection concerning the lack of concrete details of the investigation carried out, holding that it was not necessary for the sanctioning decision to detail or specify the investigative steps taken, provided that the outcome was reflected in the decision and that the infringing conduct was clearly identified. It considered that this requirement had been met in the present case, given the concrete and express references to the applicant's alleged involvement, in particular in the recruitment and indoctrination of individuals in Spain for the terrorist organisation DAESH.

15. As regards the applicant's complaint concerning his right to respect for his private and family life, the *Audiencia Nacional*, applying the criteria laid down in the Court's case-law in cases concerning the expulsion of a settled immigrant, noted that the applicant's submissions relating to his ties with Spain, including his family circumstances, had been taken into account and reviewed in detail by the investigating officer. It found that an acceptable balancing of the interests at stake had been carried out and that the expulsion measure was proportionate to the legitimate aims pursued, observing that integration was incompatible with conduct which failed to respect the values of the society in which one lived. Lastly, the *Audiencia Nacional* held that the expulsion order and the ten-year entry ban were sufficiently reasoned and complied with the principle of proportionality, reiterating that terrorism

constituted one of the gravest violations of the universal values of human dignity, liberty, equality, solidarity, human rights and fundamental freedoms on which the European Union was founded.

16. The applicant lodged an appeal on points of law (*recurso de casación*) with the Supreme Court. By decision (*providencia*) of 9 September 2021, the Supreme Court declared the appeal inadmissible on the grounds that the appellant merely disagreed with the assessment of the facts made by the court below, which was excluded from cassation review. On 22 February 2023 the Constitutional Court declared his subsequent *recurso de amparo* inadmissible for want of constitutional significance.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. DOMESTIC LEGAL FRAMEWORK

17. Institutional Law no. 4/2000 of 11 January 2000 on the Rights and Freedoms of Foreigners in Spain and their Social Integration ("the Foreigners Act") establishes the legal framework for administrative sanctions, including expulsion, applicable to non-nationals.

18. Participation in activities contrary to national security or that may endanger Spain's relations with other States, or involvement in activities against public order defined as very serious in the Public Security Act, constitutes a very serious infringement (*infracción muy grave*) punishable by expulsion (Article 54.1 (a)).

19. The competence to impose sanctions for such infringements lies with the Secretary of State for Security, following the procedure laid down by regulation (Article 55).

20. Expulsion of foreigners may be ordered, applying the principle of proportionality, in place of a fine, where the offender has committed a very serious or certain serious offences, through a reasoned administrative decision adopted after due procedure (Article 57).

21. Expulsion carries a prohibition on re-entry into Spanish territory for a period determined according to the circumstances of each case, not exceeding five years, or up to ten years when the foreigner constitutes a serious threat to public order, public security or national security (Article 58).

22. Where expulsion is sought for reasons of national security or public order, the procedure shall have preferential treatment (*procedimiento preferente*). The person concerned must be assisted by a lawyer and, where necessary, by an interpreter, both provided free of charge if lacking means. The decision initiating the proceedings must be reasoned and served in writing, granting forty-eight hours to submit observations (Article 63).

23. Administrative decisions imposing sanctions are appealable in accordance with general law, and the right to lodge both administrative and

judicial appeals is preserved even when the person concerned resides abroad, through diplomatic or consular representation (Article 65).

24. Royal Decree no. 557/2011 of 20 April 2011 approving the Regulation implementing the Foreigners Act (*Reglamento de la LeyOrgánica 4/2000*) specifies the procedural guarantees in expulsion proceedings. Articles 234 to 237 regulate the *procedimiento preferente*, confirming the right of the foreigner to be heard, to submit evidence and to receive legal and linguistic assistance.

25. Institutional Law no. 1/1992 of 21 February 1992 on the Protection of Public Security ("the Public Security Act") defines activities contrary to public order that are classified as very serious infringements for the purposes of Article 54.1 (a) of the Foreigners Act (Article 23 et seq.).

26. Law no. 36/2015 of 28 September 2015 on National Security defines national security as State action aimed at protecting the freedom, rights and welfare of citizens, guaranteeing the defence of Spain and its constitutional principles and values, and contributing, together with allies, to international security (Article 3). It provides that national security policy shall be guided by principles of unity of action, anticipation, prevention and coordination (Article 4) and identifies as fundamental components national defence, public security and foreign action, supported by intelligence services responsible for detecting and neutralising risks and threats (Article 9).

II. COUNCIL OF EUROPE MATERIAL

27. The Guidelines on Human Rights and the Fight against Terrorism, adopted by the Committee of Ministers of the Council of Europe at its 804th meeting on 11 July 2002 (H(2002)4), reaffirmed "the imperative duty of States to protect their populations against possible terrorist acts". Guideline I establishes that States are "under the obligation to take the measures needed to protect the fundamental rights of everyone within their jurisdiction against terrorist acts, especially the right to life", and that "this positive obligation fully justifies States' fight against terrorism in accordance with those Guidelines".

28. The Council of Europe Convention on the Prevention of Terrorism (CETS No. 196, Warsaw, 16 May 2005) identifies as its purpose the enhancement of parties' efforts in preventing terrorism and its negative effects on the full enjoyment of human rights, in particular the right to life, through measures taken at national level and through international co-operation (Article 2).

29. The Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism (CETS No. 217, Riga, 22 October 2015, entered into force 1 July 2017) supplements the 2005 Convention by criminalising a series of preparatory acts specific to the phenomenon of foreign terrorist fighters, including participation in an association or group for the purpose of terrorism,

receiving training for terrorism, travelling abroad for terrorist purposes, and organising or facilitating such travel (Articles 2-6). The Protocol was adopted in direct response to UN Security Council Resolution 2178 (2014) and to the security threat posed by individuals engaged in recruitment and the dispatch of foreign fighters to conflict zones, in particular to join the ranks of the Islamic State of Iraq and the Levant (DAESH). Spain was among the initial signatories of the Protocol.

30. The Parliamentary Assembly of the Council of Europe, in Resolution 1840 (2011) on human rights and the fight against terrorism, affirmed that terrorism has a direct impact on human rights, with consequences for the enjoyment of the right to life, liberty and physical integrity of individuals, and that States have a duty to protect the lives of their citizens and must be in a position to take appropriate measures to fight terrorism. In Resolution 2031 (2015), adopted in the aftermath of the January 2015 attacks in Paris, it further affirmed that democracies have the right, and the obligation, to defend themselves when attacked, that the fight against terrorism and jihadism must be reinforced while ensuring respect for human rights and the rule of law, and that member States must grant appropriate means to law-enforcement bodies and security and intelligence services to cope with the rising threats of terrorism, including the jihadist threat.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

31. The applicant complained under Article 8 of the Convention that the domestic authorities authorised his expulsion without an adequate assessment of his family circumstances. The relevant parts of this provision read as follows:

> "1. Everyone has the right to respect for his private and family life ...
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety ... for the prevention of ... crime ..."

A. Admissibility

32. The Court considers that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. Submissions by the parties

(a) The applicant

33. The applicant submitted that the expulsion order and the ten-year entry ban violated his right to respect for his private and family life under Article 8 of the Convention. He reiterated that he had been a permanent resident in Spain for over fourteen years, that he had been registered with the social security system and that his family lived in Spain. He argued that the authorities had failed to give due consideration to his personal and family circumstances, as the expulsion decision contained only formulaic references to his family situation and did not properly establish the relevant details of his family ties. He further claimed that the police report concerning his wife and daughters had been prepared at a much later stage, for the purposes of the proceedings before this Court, whereas no such report had existed at the time of the expulsion decision, demonstrating that his family situation had not been adequately examined.

34. The applicant maintained that the authorities had based the expulsion on police reports alleging his participation in the recruitment and indoctrination of individuals in Spain for the terrorist organisation DAESH, conduct which clearly amounted to criminal offences. However, if the investigating judge had considered that his behaviour did not warrant a criminal response, this was because the allegations were not established. He contended that an untested police report should not have been sufficient to justify a measure as severe as expulsion, particularly in respect of a person with a family in Spain and Spanish daughters. The fact that those investigative reports had not even resulted in his being questioned as a person of interest constituted clear evidence contradicting the assertions made therein.

(b) The Government

35. The Government submitted that, while the expulsion order and entry ban constituted an interference with the applicant's right to respect for his private and family life, that interference was prescribed by law, pursued the legitimate aims of protecting national security and public order and was necessary in a democratic society. They relied on the investigating officer's report of 2 April 2019, which had expressly examined the applicant's family situation, his marriage and the potential impact of expulsion on the family, including the possible difficulties the family might encounter in case of their return to Morocco. The report emphasised that extended lawful residence was not synonymous with integration and that a person who did not respect fundamental values such as respect for life, health and the security of others could not be regarded as integrated.

36. The Government further submitted that the *Audiencia Nacional* had carried out judicial review in fully adversarial proceedings and, in its judgment of 13 January 2021, had found that the applicant's submissions concerning his ties with Spain, including his family circumstances, had been considered and examined in detail by the investigating officer. The court had concluded that an acceptable balancing of the interests at stake had been undertaken and that the expulsion measure was proportionate to the legitimate aims pursued, observing that integration was incompatible with conduct which failed to respect the values of the society in which one lived.

37. The Government emphasised that the domestic authorities contrasted the police information concerning the applicant's alleged involvement in activities linked to Islamist terrorism with the scant evidence of integration he had been able to put forward. Although he had obtained his first residence permit in 2006 at the age of thirty-one, he relied, in order to demonstrate his connection with Spain, on documents which largely related to third parties, namely his wife and daughters, rather than to himself. These consisted of his and his wife's residence permits, his daughters' civil registration documents, their school certificates covering one academic year each, a certificate of his wife's enrolment in a Spanish language course, and his employment history. The latter showed that, over a fourteen-year period, the applicant had worked for only approximately seven years, receiving unemployment benefits or being on leave for the remainder. It was considered particularly significant that, during the most recent period of his working life, from 2011 to 2019, which coincided with the period of his alleged radicalisation, he had been recorded as having worked for only approximately two and a half years.

2. The Court's assessment

(a) General principles

38. The Court reiterates that, as a matter of well-established international law and subject to their treaty obligations, States are entitled to control the entry and residence of aliens on their territories. The Convention does not guarantee a right for a foreign national to enter or to reside in a particular country and, in pursuance of their task of maintaining public order, Contracting States have the power to expel foreign nationals who have been convicted of criminal offences or pose a threat to national security (see, for example, *De Souza Ribeiro v. France* [GC], no. 22689/07, § 77, ECHR 2012, and *Kaushal and Others v. Bulgaria*, no. 1537/08, § 28, 2 September 2010).

39. In the context of expulsion measures, the Court has consistently examined complaints primarily under the "family life" limb of Article 8, understood as covering effective family life established in the territory of a Contracting State, normally confined to the core family. The expulsion of long-term residents may, however, also fall to be examined under the "private life" aspect, particular weight being attached to the degree of social

integration in the host State (see *Slivenko v. Latvia* [GC], no. 48321/99, §§ 94-95, ECHR 2003-X, with further references).

40. In so far as expulsion measures interfere with the right to respect for private and family life protected by Article 8, the Court examines whether a fair balance has been struck between the individual's rights and the interests of the community as a whole, regard being had to the State's margin of appreciation. In cases concerning the expulsion of settled migrants, the Court has identified a number of relevant criteria, including the nature and seriousness of the conduct relied upon, the duration of the applicant's residence in the host State, the time elapsed since the relevant events and the applicant's conduct during that period, the solidity of social, cultural and family ties with the host country and with the country of destination, and the situation of the applicant's family members (see *Üner v. the Netherlands* [GC], no. 46410/99, §§ 57-58, ECHR 2006-XII, and *Maslov v. Austria* [GC], no. 1638/03, § 68, ECHR 2008).

41. The Court further reiterates that the Convention must be read as a whole, and interpreted in such a way as to promote internal consistency and harmony between its various provisions (see, among many other authorities, *Marguš v. Croatia* [GC], no. 4455/10, § 128, ECHR 2014 (extracts), and *A and B v. Norway* [GC], nos. 24130/11 and 29758/11, § 133, 15 November 2016). In keeping with that principle of harmonious interpretation of the Convention, the Court has already held that, where a measure affects an alien's residence permit in a manner that may potentially lead to his or her expulsion, the procedural safeguards under Article 8 of the Convention must be interpreted in the light of those provided by Article 1 of Protocol No. 7, in so far as relevant (see *Mirzoyan v. the Czech Republic*, nos. 15117/21 and 15689/21, § 82, 16 May 2024). Furthermore, the Court has already applied the same approach in a case concerning the expulsion of a foreign national on national security grounds, accompanied by a bar on re-entry (see *Trapitsyna and Isaeva v. Hungary*, no. 5488/22, §§ 57-61 and 63-85, 19 September 2024).

42. The domestic authorities must provide relevant and sufficient reasons, demonstrating that they have genuinely assessed and weighed the competing interests in the light of the Court's case-law. Where the domestic courts have carefully examined the facts, applied the relevant human rights standards consistently with the Convention and the Court's case-law, and have adequately weighed up the individual interests against the public interest in a case, the Court would require strong reasons to substitute its own view for that of the domestic courts (see *M.A. v. Denmark* [GC], no. 6697/18, § 149, 9 July 2021, with further references).

43. As regards the duration of a re-entry ban, the Court has previously found a ban to be disproportionate on account of its unlimited duration, whereas in other cases it has considered the limited duration of an exclusion order to be a factor weighing in favour of proportionality (see *Savran*

v. Denmark [GC], no. 57467/15, §§ 182 and 199, 7 December 2021, and the cases cited therein). One of the elements relied on in this connection has been whether the offence leading to the expulsion order was of such a nature that the person in question posed a serious threat to public order. In making that assessment, the Court has had regard to the gravity of the offences and the severity of the sentence imposed (see *Winther v. Denmark*, no. 9588/21, §§ 43-44, 12 November 2024, and the cases cited therein).

(b) Application of the general principles to the present case

44. In the specific context of terrorist violence, and in particular Islamist terrorism, the Court emphasises that terrorism constitutes one of the gravest threats to democracy and human rights, notably because it endangers the lives of those within the State's jurisdiction (see the Council of Europe material cited in paragraphs 27-30 above). In that sphere, taking proportionate preventive measures is not only legitimate, but may in certain circumstances also be viewed as forming part of the State's positive obligations under the Convention, *inter alia*, to protect life.

45. Turning to the present case, the Court notes that the applicant had been lawfully resident in Spain since 2006, having arrived as an adult, and that he had a wife and two children in Spain. The expulsion order, accompanied by a ten-year entry ban, constituted an interference with his right to respect for his private and family life.

46. The Court is satisfied that the interference was "in accordance with the law", being based on the relevant provisions of the Foreigners Act and its implementing regulations (see paragraphs 17-24 above), and that it pursued legitimate aims, namely the protection of national security.

47. The Court considers that the prevention of terrorism, and especially of Islamist terrorism, responds to a "pressing social need" in a democratic society. The adoption of proportionate measures designed to avert such a threat is therefore in principle not only compatible with the Convention, but may, depending on the circumstances, contribute to the fulfilment of the State's positive obligations to protect the lives and security of those within its jurisdiction (see paragraph 44 above). Where, as in the present case, the interference with private and family life is grounded on a reliable national security assessment relating to involvement in jihadist terrorism, a threat of utmost gravity acknowledged by the Council of Europe institutions (see paragraph 29 above), the margin of appreciation available to the respondent State is wide. In such circumstances, the Court will not disturb the assessment made by domestic authorities that have applied the Convention criteria and subjected their findings to adversarial judicial scrutiny, unless there are serious reasons for doing so.

48. Whilst Article 8 contains no explicit procedural requirements, the Court must nevertheless ascertain that the decision-making process leading to the impugned interference was fair and afforded due respect to the

applicant's interests (see *Liu v. Russia (no. 2)*, no. 29157/09, § 86, 26 July 2011, with further references). In the present case, the applicant was informed from the outset of expulsion proceedings, in sufficiently concrete terms, of the factual basis relied upon, including reference to specific criminal preliminary proceedings and a description of the nature of his alleged activities (contrast *Liu (no. 2)*, cited above, § 84; *Mirzoyan,* cited above, §§ 87-88; and *Trapitsyna and Isaeva*, cited above, §§ 73-75, in which the authorities provided no information or only a limited general description of the impugned conduct with no reference to specific acts). Furthermore, there is nothing to suggest that the administrative authorities were constrained by a risk assessment undertaken by the security services. They appear to have exercised their own judgment and weighed the applicant's personal circumstances against the national security considerations, which distinguishes the present case from situations in which the impugned measure followed automatically from a binding security assessment leaving no latitude for genuine balancing (see *Trapitsyna and Isaeva*, cited above, §§ 77-78 and 83).

49. The ensuing expulsion decision was subject to judicial review before the *Audiencia Nacional* in adversarial proceedings in which the applicant was represented by counsel and was able to challenge both the evidential basis for the national security assessment and the proportionality of the measure. The reviewing court did not confine itself to a purely formal verification but examined whether the conduct attributed to the applicant had been sufficiently identified and whether the reasons for ordering expulsion notwithstanding his family circumstances were adequate (compare *Mirzoyan*, cited above, §§ 90-93, where the domestic court carried out a full substantive review of the findings of fact and law, and contrast *Trapitsyna and Isaeva*, cited above, § 80, where the reviewing court confined itself to a formal examination without meaningful scrutiny).

50. The applicant placed emphasis on the fact that the criminal preliminary proceedings in which he had featured as a suspect did not result in his being charged, still less convicted. The Court accepts that the absence of a criminal conviction is a relevant factor in the proportionality assessment. It is not, however, decisive where the impugned measure is an administrative expulsion grounded on national security considerations and adopted under a legal framework distinct from criminal proceedings. In that context, the domestic authorities are not required to establish criminal liability, but must have an adequate factual basis for concluding that the person concerned constitutes a sufficiently serious threat to the fundamental interests of society. Thus, the *Audiencia Nacional* found, on the basis of the material in the administrative file, that the conduct attributed to the applicant had been identified with sufficient clarity and that the police information was sufficient for the purposes of the administrative sanction (see paragraph 15 above). The applicant did not point to any element capable of undermining that

assessment, beyond relying on the absence of criminal charges. In these circumstances, and having regard to the subsidiary nature of its review, the Court finds no strong reason to substitute its own assessment of the evidential sufficiency for that of the domestic court.

51. The Court further observes that the applicant's personal situation and family circumstances were examined in the course of the administrative proceedings and in the ensuing judicial review: firstly, the investigating officer's report addressed the applicant's length of residence, his marital relationship and his parental ties and considered the likely impact of expulsion on each family member, and, secondly, the *Audiencia Nacional* reviewed that assessment and concluded that the interests at stake had been balanced in a manner compatible with the principle of proportionality.

52. As regards the applicant's family ties, the Court observes that the domestic authorities took into account that he arrived in Spain as an adult, having spent the first thirty-one years of his life in Morocco. They further noted that his wife, also of Moroccan origin, joined him in Spain and obtained long-term residence only in 2015 and that, if she chose to accompany him, she would in substance be returning to her country of origin. The couple's daughters, though born in Spain, were young at the material time, a circumstance which the domestic authorities reasonably considered consistent with adaptability to life in Morocco. The wife and daughters retained their own residence status in Spain and accordingly remained able, in principle, to maintain family life either by remaining in Spain and sustaining contact through travel and communication or by joining the applicant in Morocco. The Court reiterates that Article 8 cannot be considered to impose on a State an obligation to respect a married couple's choice of country for their residence and that the practical possibility of the family living together in the country of destination is a relevant consideration in assessing proportionality (see *M.A. v. Denmark*, cited above, § 132, and *Üner*, cited above, § 58). In the present case, nothing indicates that any family member would face any hardship in Morocco or that the applicant's family circumstances were not adequately weighed by the domestic authorities.

53. As regards the solidity of the applicant's social and cultural ties with Spain, the Court observes that, notwithstanding fourteen years of lawful residence, the material before the domestic authorities contained only limited indications of social and professional integration on his part. The documents relied upon in the domestic proceedings related predominantly to his wife and daughters rather than to the applicant's own social or civic ties (see paragraph 13 above). The domestic authorities found that he was in a state of social isolation and maladjustment to his sociocultural environment. His social ties appear to have been confined to his immediate family and his co-religionists at various mosques. His employment history indicated approximately seven years of recorded work over a fourteen-year period, with only approximately two and a half years of recorded work in the last eight

years; for the remainder of that period he was in receipt of unemployment benefits or on leave, and the material before the domestic authorities disclosed no indication that he had made any efforts to re-enter employment. The Court has recognised that the ability to support oneself without recourse to social benefits may be regarded as one aspect of social integration, and that reliance on welfare benefits may legitimately be taken into account in the Article 8 balancing exercise (see *Siles Cabrera v. Spain*, no. 5212/23, §§ 73 and 81, 17 July 2025). In the absence of further material demonstrating stable gainful employment, sustained community ties outside his family and religious circle or other elements of integration, the domestic authorities were entitled to attach weight to the limited evidence of integration when carrying out the proportionality assessment under Article 8.

54. As to the duration of the re-entry ban, having regard to the gravity of the threat identified and the domestic authorities' finding that the applicant had acted in a leadership role within an established terrorist recruitment structure (see paragraphs 45-46 above), the Court notes that the *Audiencia Nacional* accepted that the statutory conditions for a ban of up to ten years were met and considered that the reasons given, read as a whole, were sufficient to justify the duration in light of that threat. In the absence of elements capable of casting doubt on that assessment, and noting that a time-limited ban is in itself a factor capable of weighing in favour of proportionality (see *Winther*, cited above, § 43), the Court is not persuaded that the length of the ban, viewed against that background, rendered the overall measure disproportionate.

55. In sum, having regard to all the elements set out above, the Court concludes that the interference with the applicant's private and family life was justified. The domestic authorities were confronted with allegations of conduct linked to recruitment and indoctrination for a terrorist organisation, assessed as posing a serious threat to national security. Islamist terrorism constitutes a particularly serious threat to democratic society and to the Convention rights of others, foremost the right to life, and States must be afforded a wide margin of appreciation in determining how best to counter such threats, provided that the measures adopted remain proportionate and accompanied by adequate safeguards. Having regard to the principle of subsidiarity, the weight that may be accorded to national security considerations in the present context and the reasons given domestically, the Court finds that the present case does not disclose strong reasons warranting a departure from the assessment made by the national authorities (see *Savran*, cited above, § 189, and the authorities cited therein).

56. There has accordingly been no violation of Article 8 of the Convention.

II. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

57. The applicant also complained that the expulsion decision was grounded on insufficiently detailed allegations and that it failed to identify concrete conduct attributable to him. In respect of this complaint, the Court put questions to the parties under Article 1 of Protocol No. 7.

58. The Government objected that the applicant had not raised a complaint under Article 1 of Protocol No. 7, whether explicitly or in substance, at any stage of the domestic proceedings. The applicant contested that objection, maintaining that his allegations of being left defenceless and unaware of the factual basis for the accusations against him amounted to invoking that provision.

59. The Court considers that it is not necessary to determine whether the applicant raised this complaint properly before the domestic authorities, since it is in any event inadmissible for the following reasons.

60. As regards the procedural guarantees in paragraph 1 of Article 1 of Protocol No. 7 which are afforded to aliens in the applicant's situation, the Court has already considered them in the context of the decision-making process under Article 8 (see paragraphs 46-48 above). It has found that, at the outset of the proceedings, the applicant was informed of the factual basis for the proposed measure, that he was represented by a lawyer and was able to submit observations and supporting documents, that his submissions were examined individually in the investigating officer's report and that the ensuing expulsion decision was subject to adversarial judicial review before the *Audiencia Nacional*. Those elements are equally relevant to the assessment of compliance with the procedural requirements of Article 1 § 1 of Protocol No. 7 and indicate that those requirements were met (compare and contrast *Ljatifi v. the former Yugoslav Republic of Macedonia*, no. 19017/16, §§ 33-35, 17 May 2018; *Muhammad and Muhammad v. Romania* [GC], no. 80982/12, §§ 203-06, 15 October 2020). As regards the fact that the expulsion was enforced before the applicant lodged his judicial challenge, the domestic authorities' assessment that the measure was required on grounds of national security (see paragraph 48 above) brought the matter within the exception provided for in paragraph 2 of this provision.

61. It follows that this part of the application must be rejected as manifestly ill-founded in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the complaint under Article 8 admissible and the remainder inadmissible;

2. *Holds* that there has been no violation of Article 8 of the Convention.

Done in English, and notified in writing on 12 May 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Victor Soloveytchik Registrar	Kateřina Šimáčková President