



The accommodation arrangements for a family pending examination of their asylum application were compatible with the Convention

In today's **Chamber** judgment¹ in the case of **N.T.P. and Others v. France** (application no. 68862/13) the European Court of Human Rights held, unanimously, that there had been:

no violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights,

and declared **inadmissible** the complaint alleging a violation of Article 8 (right to respect for private and family life).

The case concerned the accommodation arrangements for a family – comprising a mother and her three young children – while they were waiting to submit their asylum application.

The Court found that the applicants had been provided with night-time accommodation in a hostel financed from public funds and that two of the children had attended nursery school. In addition, the applicants had also received publicly-funded medical care and had been assisted by non-governmental organisations. Lastly, there was a likelihood that their situation would improve.

The Court therefore held that the applicants had been able to attend to their most basic needs and that the French authorities had not been indifferent to their fate. The level of severity required for their situation to fall within Article 3 had not been reached.

Principal facts

The applicants, Ms N.T.P. and her children, are nationals of the Republic of Congo and were born in 1990, 2009, 2010 and 2011 respectively; they live in Plombières-lès-Dijon. The case concerned the reception arrangements for them before their asylum application was lodged.

The applicants arrived in France on 18 August 2013 and obtained a postal address from an association. On 21 August 2013 Ms N.T.P. went to the prefecture, where she was given a summons to appear on 26 November 2013 in order to obtain a ruling on whether she was to be granted leave to remain and so that she could lodge her application for asylum. In consequence, as Ms N.T.P. did not have asylum-seeker status, the applicants were ineligible for any material or financial assistance from the State.

On 7 October 2013 Ms N.T.P. lodged an urgent application with the Dijon Administrative Court, seeking an order that the authorities be instructed to examine her request for admission as an asylum-seeker, to give her provisional authorisation to remain and, lastly, to indicate to her a reception centre for asylum-seekers. The urgent-applications judge dismissed these requests. Ms N.T.P. lodged an appeal with the *Conseil d'État*, which also dismissed her application.

On 15 November 2013 the Court decided not to grant her request, under Rule 39 of its Rules of Court, that it direct the French authorities to allocate her satisfactory conditions of accommodation.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Following her appointment at the prefecture on 19 November 2013 (an earlier date than originally scheduled), Ms N.T.P. and her children were temporarily rehoused in a hotel, before succeeding in obtaining a place in a reception facility for asylum-seekers, where they currently live.

Complaints, procedure and composition of the Court

Relying essentially on Article 3 (prohibition of torture and inhuman or degrading treatment), the applicants alleged that their inability to obtain a place in a reception facility between 21 August 2013 and 20 November 2013 – on account of the French authorities' refusal to register their asylum appeals – had exposed them to inhuman and degrading treatment. They considered that the accommodation in which they had been obliged to live was basic and unsuitable for small children.

The application was lodged with the European Court of Human Rights on 31 October 2013.

Judgment was given by a Chamber of seven judges, composed as follows:

Angelika **Nußberger** (Germany), *President*,
Erik **Møse** (Norway),
André **Potocki** (France),
Síofra **O'Leary** (Ireland),
Mārtiņš **Mits** (Latvia),
Gabriele **Kucsko-Stadlmayer** (Austria),
Lado **Chanturia** (Georgia),

and also Claudia **Westerdiek**, *Section Registrar*.

Decision of the Court

[Article 3 \(prohibition of torture and inhuman or degrading treatment\)](#)

The Court pointed out that the applicants had been accommodated from 21 August to 21 November 2013 in a hostel that was run by an association and financed entirely by State funds, and that the accommodation included an evening meal and breakfast. The Court did not overlook the fact that this hostel offered only overnight accommodation and that Ms N.T.P. and her youngest daughter were not housed during the day. The Court noted, however, that the two other children had attended nursery school, eaten at the canteen and been able to participate in after-school activities organised by the City of Dijon. It also noted that the applicants had received assistance from other non-governmental organisations such as the *Restaurants du Cœur* and the Red Cross. They had also received publicly-funded medical care.

In view of those considerations, the French authorities could not be accused of having remained indifferent to the situation faced by the applicants, who had been able to attend to their most basic needs: food, hygiene and a place to live. The Court also considered that, in contrast to other cases, the applicants had had the likelihood that their situation would improve, since Ms N.T.P. had been given an appointment by the prefecture in order to obtain a ruling on whether she was to be granted leave to remain and so that she could lodge her application for asylum.

The Court held that the applicants had not been in a situation of material poverty which was likely to reach the level of severity required for it to fall within Article 3 of the Convention. It followed that there had been no violation of this Article.

Article 8 (right to respect for private and family life)

The Court noted that the applicants had not raised complaints related to their private and family life in the proceedings before the domestic administrative courts. By their own actions, they had thus failed to give the domestic courts an opportunity to redress the alleged violation of Article 8.

Allowing the objection raised by the Government, the Court declared inadmissible the complaint alleging a violation of the applicants' right to respect for private and family life, in accordance with Article 35 §§ 1 and 4 of the Convention.

The judgment is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.