



The Court confirms the French courts' decision: the applicant's removal to Morocco would not entail a violation of Article 8 of the Convention

In its decision in the case of [Alami v. France](#) (application no. 43084/19) the European Court of Human Rights has unanimously declared the application **inadmissible**, on the grounds that the complaint alleging a violation of Article 8 of the Convention was manifestly unfounded.

The case concerned a Moroccan applicant who is subject to a deportation order from France. He had submitted that his removal would interfere excessively with his right to respect for his private and family life; he emphasised, in particular, his ties with his children, who are resident in France.

The Court noted firstly that the domestic courts before which the applicant had lodged an appeal to have the deportation order annulled had specifically reviewed the proportionality of the infringement of the applicant's right to respect for his private and family life. It further noted that, in the balancing exercise carried out by them, these courts had taken into consideration both the arguments presented by the applicant and the seriousness of his criminal convictions.

After noting that the applicant's children were adults and that he did not allege an absence of social and cultural ties with his country of origin, in which he had lived until the age of 24, the Court concluded that, having regard to the considerable discretion ("wide margin of appreciation") enjoyed by the domestic courts and to the fair balance struck by them between the various interests at stake, there were no serious grounds for departing from the conclusions reached by these courts, to the effect that enforcement of the applicant's deportation to Morocco would not interfere disproportionately with his right to respect for his private and family life, as guaranteed by Article 8 of the Convention.

The decision is final.

Principal facts

The applicant, Mr Karim Alami, is a Moroccan national who was born in 1974 and lives in Rognonas (France). He arrived in France in 1998, at the age of 24.

In 2000 Mr Alami was sentenced to two years' imprisonment, suspended, and two years' exclusion from French territory for offences of robbery, committed in 1999. He was returned to Morocco. In March 2000 he married a French woman. The couple had two children, born in 2001 and 2003 respectively.

On 24 March 2003 Mr Alami was sentenced to 12 years' imprisonment for the rape of three women, in 1999 and 2000, including the rape of a minor under 15 years of age. On 18 November 2008 he was granted parole by the Nîmes Court of Appeal.

On 12 June 2009 the prefect of the *département* of Bouches-du-Rhône issued a deportation order against Mr Alami, on the grounds that he represented a serious threat to public safety on account of his general behaviour.

In September 2009 Mr Alami and his wife separated, and their divorce was pronounced in 2014. After the couple's separation, Mr Alami was convicted of domestic violence and telephone harassment of his former wife in the period between October 2009 and April 2010.

On 28 November 2014 Mr Alami asked the prefect to state the reasons for his implied refusal to rescind the order, in the context of the five-year review. On 12 December 2014 the prefect

confirmed his refusal in writing, on the basis that the applicant still represented a serious threat to public order, given the seriousness of the offences he had committed and the absence of any evidence of social and professional reintegration.

On 13 March 2017 the administrative court dismissed the applicant's appeal against the decision of 12 December 2014.

On 26 June 2018 the Marseilles Administrative Court of Appeal dismissed an appeal by the applicant, and on 12 February 2019 the president of the Judicial Division of the *Conseil d'Etat* refused, with final effect, his request for legal aid in order to appeal on points of law, holding that no arguable ground of appeal on points of law could be made out against the Administrative Court of Appeal's judgment.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 8 August 2019.

Relying on Article 8, the applicant alleged that his removal from France would interfere with his private and family life, particularly with regard to his children.

The decision was given by a Committee of three judges, composed as follows:

Ganna Yudkivska (Ukraine), *President*,
Arntfinn Bårdsen (Norway),
Mattias Guyomar (France),

and also Martina Keller, *Deputy Registrar*.

Decision of the Court

The requirement for 'European supervision' did not mean that it was necessarily the Court's task to conduct the Article 8 proportionality assessment afresh. On the contrary, under this provision, the Court considered in general that it followed from the States' discretion ("margin of appreciation") that, where independent and impartial domestic courts had carefully examined the facts of the case, applying the relevant human rights standards consistently with the European Convention and its case-law, and adequately balanced the applicant's personal interests against the more general public interest, it was not for the Court to substitute its own assessment for that of the competent national authorities.

The Court noted, firstly, that the administrative court and the administrative court of appeal, before which the applicant had lodged appeals seeking to have the deportation order annulled, had specifically reviewed the proportionality of the infringement of the applicant's right to respect for his private and family life.

The Court further noted that the domestic courts had taken into consideration both the arguments presented by the applicant and the seriousness of his criminal convictions in 2000 and 2003, and then in 2009 following his release on parole, as well as the issuing of the deportation order against him. In the balancing exercise conducted by them, these courts had also noted that the applicant enjoyed visiting rights in respect of his children, who lived with their mother, that he had remained unlawfully in France since 2009 in spite of the fact that a deportation order had been issued against him, and that he was neither integrated in terms of employment nor able to provide evidence of social rehabilitation.

In addition, the applicant's children lived in France, he had been divorced since 2014, and the children had in the meantime become adults. The applicant did not allege that he was dependent on them, that he provided for them or that they would be unable to visit him in Morocco. Lastly, the

applicant did not argue that he had no social or cultural ties with his country of origin, in which he had lived until the age of 24.

Given the considerable discretion (“wide margin of appreciation”) enjoyed by the domestic courts and having regard to the fair balance struck by these courts between the various interests at stake, the Court considered that there were no serious grounds for departing from their conclusions, to the effect that enforcement of the applicant’s deportation to Morocco would not interfere disproportionately with his right to respect for his private and family life as guaranteed by Article 8 of the Convention.

The complaint was manifestly ill-founded and had to be rejected.

The decision 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.