



Reasoned refusal of authorities to reinstate applicant as French national did not violate Convention

The case [Boudelal v. France](#) (application no. 14894/14) concerned the authorities' refusal to reinstate the applicant as a French national. In its decision in the case the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The Court observed that French law did not guarantee aliens an unconditional right to obtain French nationality. On the contrary, it subjected the obtaining of French nationality to the loyalty of candidates, as assessed by the authorities. It also provided safeguards against arbitrariness by obliging the authorities to give reasons for their refusals and allowing rejected candidates the possibility of appealing to the administrative courts.

Principal facts

The applicant, Chérif Boudelal, is an Algerian national who was born in 1945 and lives in Avignon. Mr Boudelal has lived lawfully in France since 1967.

In 2009 he applied for French nationality by reinstatement. The Ministry for immigration, integration, national identity and supportive development rejected his application on the ground, in particular, that he had links with "a movement responsible for violent actions and advocating a radical practice of Islam: the *Paix comme Palestine* collective", of which he was Chair, being the local branch of an organisation "close to the ideology of Hamas (Palestinian Muslim Brotherhood)".

Mr Boudelal appealed to the Ministry for immigration, integration, national identity and supportive development. The Minister's deputy decided to confirm the refusal.

Mr Boudelal and his wife, who had met with a similar refusal, applied to the Nantes Administrative Court for the annulment of the decision. On 22 February 2012 the court dismissed their applications. The Nantes Administrative Court of Appeal upheld the judgment on 31 May 2013. It observed that it was first and foremost the responsibility of the minister for naturalisations to give an assessment of the interest in granting naturalisation or reinstatement of French nationality to a foreigner who applied for it, and that in the context of the "examination of appropriateness" the Minister was also entitled "to take into account any unfavourable information received as to the applicant's conduct". The application for legal aid filed by Mr Boudelal for the cassation proceedings was rejected on the ground that no serious ground of appeal on points of law could be raised against the judgment of the court below.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 15 February 2014.

Relying on Articles 10 (freedom of expression), 11 (freedom of assembly and association), and 9 (freedom of thought, conscience and religion), Mr Boudelal complained that the domestic authorities had taken their decision on the basis that he was a campaigner for Palestinian and immigrant causes. He alleged that he had been "denied nationality for committing a thought-crime".

The decision was given by a Chamber of seven, composed as follows:

Angelika **Nußberger** (Germany), *President*,
Erik **Møse** (Norway),

Nona Tsotsoria (Georgia),
André Potocki (France),
Síofra O’Leary (Ireland),
Mārtiņš Mits (Latvia),
Gabriele Kucsko-Stadlmayer (Austria), *Judges,*

and also Milan Blaško, *Deputy Section Registrar.*

Decision of the Court

Articles 9, 10 and 11

The Court noted that Mr Boudelal had been denied nationality on the ground that there was some doubt about his loyalty to France.

The Court observed that, like the applicant in the case of [Petropavlovskis v. Latvia](#) (no. 44230/06), Mr Boudelal was able, both after and before the refusal of his application for reinstatement as a French national, to freely express his opinions, take part in demonstrations and join any associations of his choosing.

Mr Boudelal complained that the refusal had had a chilling effect on his ability to exercise his rights under Articles 9, 10 and 11 of the Convention, but he failed to substantiate his allegation. Moreover, there was no evidence in the file that he had given up his work for associations or had renounced his opinions following the refusal to reinstate him as a national.

In addition, the refusal was not punitive in nature. The decision merely stated that one of the criteria under domestic law for reinstatement of French nationality was not satisfied. The Court observed that, like Latvian law in the above-cited *Petropavlovskis* case, French law did not guarantee aliens an unconditional right to obtain French nationality. On the contrary, it subjected the obtaining of French nationality to the condition of loyalty of would-be nationals, as assessed by the authorities, while providing safeguards against arbitrariness by obliging the authorities to give reasons for their refusals and allowing rejected candidates the possibility of appealing to the administrative courts. It was clear from the file that there had been effective safeguards in Mr Boudelal’s case.

As in the *Petropavlovskis* case, the Court did not see how the applicant had been prevented from expressing his opinions or from taking part in any gathering or movement. It concluded that Articles 9, 10 and 11 of the Convention were not applicable in the circumstances of the case.

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.

