



Removal of a Coptic Christian to Egypt would expose him to a risk of torture and inhuman or degrading treatment

In today's Chamber judgment in the case of **M.E. v. France** (application no. 50094/10), which is not final¹, the European Court of Human Rights held, unanimously, that there would be:

a violation of Article 3 (prohibition of torture and inhuman or degrading treatment) of the European Convention on Human Rights if the order deporting the applicant to Egypt were enforced; and,

that there had been:

no violation of Article 13 (right to an effective remedy) taken in conjunction with Article 3

The case concerned a Coptic Christian from Egypt who had fled religious persecution in his home country. As he delayed in applying for asylum in France, his request was registered under the fast-track procedure while he was in a detention centre. The Court observed that when the administrative removal order was issued against him, the applicant was able to lodge an appeal – with suspensive effect – with the Administrative Court and an asylum application – also with suspensive effect – with the French Agency for the Protection of Refugees and Stateless Persons (OFPRA).

Principal facts

The applicant, Mr M.E., is an Egyptian national who was born in 1973 and lives in Metz Queuleu (France). He is a Coptic Christian who was baptised when he was very young and brought up in the Coptic Christian community of Assiout in Egypt. As a devout and fervently practising Christian, he quickly became an active member of the Christian community.

From May 2007, while they were living in Egypt, he and his family suffered a number of attacks on account of their religious beliefs. When their landlord evicted them M.E. attempted to report the attacks but the police refused to register his complaint. In May and June 2007 he was verbally and physically attacked, followed in the street on his way to church, insulted and violently beaten. The first time he reported the assault to the police, but his complaint was not dealt with. The second time he was taken into hospital with severe concussion. The perpetrators accused him of converting two young Muslims. A complaint was lodged, and was again not followed up. He then received death threats. His attackers, who were members of the family of the two young men who had converted to Christianity, lodged a complaint against him for proselytism.

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

In August 2007 he received a summons from the court accusing him of proselytizing in a manner offensive to Islam and Muslims. On 20 August 2007 he was summoned to the Assiout police station and taken into custody. He was released on bail after a Coptic lawyer had intervened. He was put on trial, but did not attend court and left Egypt by plane. The criminal proceedings against him ended with his being sentenced *in absentia* to three years' imprisonment for proselytism.

After arriving in France in September 2007, he did not take any administrative steps with regard to the French authorities because he was allegedly unaware that an asylum procedure existed. When he was arrested in August 2010 by the German police while visiting a friend, he was handed over to the French authorities. An administrative removal order was issued against him and he was placed in administrative detention in Metz, where an association informed him of the steps he should take to request asylum in France. He lodged an asylum application, which was processed under the fast-track procedure, and unsuccessfully challenged the administrative removal order in the Strasbourg Administrative Court.

The record drawn up by the French Agency for the Protection of Refugees and Stateless Persons (OFPRA) stated that it had been established that the applicant belonged to the Coptic community but that his statements were unclear and that the documents annexed to his request had not been translated. The OFPRA rejected his application.

On 31 August 2010 M.E. applied to the Court for an interim measure against his removal, which was granted him for the duration of the proceedings before the Court.

In March 2011 the Nancy Court of Appeal dismissed an application by the applicant to have the administrative order set aside on the grounds that he had not adduced evidence establishing the risks he incurred in returning to his country and that his asylum application had been rejected by the OFPRA. He applied to the National Asylum Tribunal, which upheld the OFPRA's decision. He did not appeal on points of law against either of those two decisions, considering that an appeal would be ineffective.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of torture and inhuman or degrading treatment), the applicant complained that he would be subjected to treatment contrary to Article 3 if he was deported to Egypt. Relying on Article 13 (right to an effective remedy) taken in conjunction with Article 3 of the Convention, he also complained that he had not had an effective remedy because his application had been dealt with under the fast-track procedure.

The application was lodged with the European Court of Human Rights on 31 August 2010.

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

Mark **Villiger** (Liechtenstein), *President*,
Ann **Power-Forde** (Ireland),
Ganna **Yudkivska** (Ukraine),
André **Potocki** (France),
Paul **Lemmens** (Belgium),
Helena **Jäderblom** (Sweden),
Aleš **Pejchal** (the Czech Republic),

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

Decision of the Court

Article 3

The Court found that the existence of a risk of ill-treatment had to be examined in the light of the general situation in the country of destination and the circumstances specific to the applicant's case. It observed that the reports consulted regarding the general situation of Coptic Christians in Egypt in 2010 and 2011 condemned numerous instances of violence and persecution suffered by Coptic Christians and reluctance on the part of the Egyptian authorities to prosecute the perpetrators. There was no evidence that the situation of Coptic Christians had improved in the meantime.

The applicant referred to the persecution he had suffered in Egypt and submitted that he ran the risk of suffering further persecution on account of his conviction *in absentia* for proselytism. To that end he produced two summons whose authenticity was not disputed by the Government, one before the court and the other issued by the Assiout police, which showed that he was still being actively looked for by the authorities today. There was strong evidence that the applicant was a potential prime target for persecution and violence as a known convicted proselytizer, be he free or imprisoned.

The lack of any reaction on the part of the police authorities to the complaints lodged by Coptic Christians, which had been condemned in international reports, cast serious doubt on the applicant's ability to receive adequate protection from the Egyptian authorities.

The Court held, in the light of M.E.'s background and the situation of Coptic Christians in Egypt, that the decision to deport the applicant to his country of origin, namely, Egypt, would amount to a violation of Article 3 of the Convention if it were enforced.

Articles 3 and 13

The Court observed that it had already examined the compatibility of the "fast-track" asylum procedure with an application to an administrative court challenging an administrative removal order (see [I.M. v. France](#)). The Court noted that the applicant was a first-time asylum-seeker and that on account of his application being considered under the fast-track procedure he had had reduced and therefore very tight deadlines in which to prepare, while in detention, a full and documented asylum application in French that had to comply with identical requirements to those pertaining to applications lodged outside detention in accordance with the normal procedure.

However, the applicant had been particularly late in lodging his application, which, moreover, had justified registering it under the fast-track procedure. He arrived in France in September 2007 but did not seek asylum until August 2010. He had had three years in which to lodge his application, which would then have been fully examined under the normal procedure. The Court was not satisfied that the delay was due to the fact that the applicant was unaware of the existence of a procedure for seeking asylum in France.

When the removal order was issued against the applicant, he was able to lodge an appeal – with suspensive effect – to an administrative court and an asylum request – also with suspensive effect – with the OFPRA. Those remedies were subject to very short time-limits (48 hours and 5 days respectively), but having regard to the very substantial delay in lodging his asylum request the applicant could not validly argue that the accessibility of the remedies available had been affected by those short time-limits. The Court concluded that there had been no violation of Article 3 taken in conjunction with Article 13.

Just satisfaction (Article 41)

The Court held that France was to pay the applicant 700 euros (EUR) in respect of costs and expenses.

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.