

Press release issued by the Registrar

Chamber judgment¹

[Daoudi v. France](#) (application no. 19576/08)

**DEPORTATION TO ALGERIA OF A MAN CONVICTED OF TERRORIST ACTS WOULD
EXPOSE HIM TO INHUMAN OR DEGRADING TREATMENT**

*Violation of Article 3 (prohibition of inhuman or degrading treatment)
of the European Convention on Human Rights
if deportation order implemented*

(The judgment is available only in French)

Principal facts

The applicant, Kamel Daoudi, is an Algerian national who was born in 1974 and is currently subject to a compulsory residence order in the Creuse *département* (France). He arrived in France in 1979 with his parents. He went to school in France and later worked as a computer engineer. His parents also live in France, as do his brother and sisters, who are of French nationality. He acquired French nationality by naturalisation on 14 January 2001. Between 1999 and 2001 he allegedly developed close contacts with radical Islamist groups and, among other things, admitted having attended a paramilitary training course in Afghanistan in 2001.

On 25 September 2001 Mr Daoudi was arrested during an operation to dismantle a radical Islamist group affiliated to al-Qaeda and suspected of having prepared a suicide attack on the United States Embassy in Paris. On 2 October 2001 he was charged with conspiring to prepare an act of terrorism and with using a forged document (a forged passport). On 27 May 2002 he was stripped of his French nationality. On 15 March 2005 the Paris *tribunal de grande instance* found him guilty as charged, sentenced him to nine years' imprisonment and ordered his permanent exclusion from French territory. On 14 December 2005 the Paris Court of Appeal upheld the judgment, but reduced the sentence to six years' imprisonment.

On 7 April 2008 the applicant lodged an application to have the order permanently excluding him from French territory set aside. On 21 April 2008, the date of his release, he was taken to an administrative detention centre and immediately applied for asylum, lodged an

¹ Under Article 43 of the Convention, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

application for judicial review of the administrative decision stipulating Algeria as the country to which he was to be deported and requested suspension of the deportation order. On the same day Mr Daoudi lodged a request with the European Court of Human Rights under Rule 39 of the Rules of Court (interim measures). The Court indicated to the French Government that it would be advisable not to deport the applicant to Algeria pending the proceedings before the Court. Four days later he was made the subject of a compulsory residence order in the Creuse *département*. The applicant's applications and appeals were subsequently dismissed. Accordingly, on 30 April 2008 the Paris Administrative Court decided that it was no longer necessary to decide the application for suspension of the deportation order following the application of Rule 39 of the Rules of Court. On 3 June 2008 the French Office for the Protection of Refugees and Stateless Persons (OFPRA) dismissed the application for asylum. On 24 November 2008 the Paris Court of Appeal dismissed the application for the order excluding him from French territory to be lifted. Lastly, on 31 July 2009, the National Court of Asylum (CNDA) ruled on an appeal by the applicant against the decision refusing him asylum. It held that, in view of the nature and extent of his involvement in radical Islamist movements it was reasonable to believe that, given the interest which the Algerian Security Services might take in him, Mr Daoudi could be subjected to inhuman or degrading treatment on his arrival in Algeria. However, under the relevant domestic and international provisions, no protection was given to persons who gave serious cause for belief that they were guilty of acts contrary to the purposes and principles of the United Nations – which was the case with regard to Mr Daoudi. An appeal on points of law against that decision is pending before the *Conseil d'Etat*.

Complaints, procedure and composition of the Court

Mr Daoudi alleged that implementation of the order deporting him to Algeria would expose him to a risk of inhuman or degrading treatment prohibited by Article 3. He also alleged that as he had come to France when he was five years old and had no ties with Algeria, his deportation would be a disproportionate interference with his right to respect for his private and family life guaranteed by Article 8. The application was lodged with the European Court of Human Rights on 21 April 2008.

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

Peer **Lorenzen** (Denmark), **President**,
Renate **Jaeger** (Germany),
Jean-Paul **Costa** (France),
Rait **Maruste** (Estonia),
Mark **Villiger** (Liechtenstein),
Isabelle **Berro-Lefèvre** (Monaco),
Mirjana **Lazarova Trajkovska** (former Yugoslav Republic of Macedonia), **judges**,

and also Stephen **Phillips**, **Deputy Section Registrar**

Decision of the Court

Alleged violation of Article 3

The Court, aware of the danger posed to the community by terrorism and, accordingly, of the importance of the stakes involved in the fight against terrorism, considered that it was legitimate for States to show great firmness in dealing with those who took part in acts of terrorism, which it could not condone in any circumstances. Having regard to the absolute prohibition of torture and of inhuman or degrading treatment or punishment, the Court nonetheless had to assess the risk incurred by Mr Daoudi of exposure to such treatment if he were to be deported to Algeria.

In that connection the Court noted first of all that it was a known fact that the Algerian authorities knew of Mr Daoudi's identity and of the serious crimes of which he had been convicted. Admittedly, there was nothing to suggest that he was or could be the subject of criminal proceedings in Algeria for the offences at the origin of this case, but that was not decisive here. It was clear from many corroborative, reliable and recent sources (including reports of the United Nations Committee against Torture, a number of non-governmental organisations, the US Department of State and the UK Ministry of the Interior) that in Algeria persons involved in terrorist acts were arrested and detained by the Department for Information and Security (DRS) unpredictably and without a clearly established legal basis essentially for the purposes of being interrogated or obtaining information, and not with a purely judicial aim. According to those sources, such persons placed in detention without review by the judicial authorities and without any communication with the outside (lawyer, doctor or family), could be subjected to ill-treatment, including torture. The Government had not produced evidence to refute those assertions and, furthermore, the National Court of Asylum had also considered it reasonable to believe that, given the interest which the Algerian security services might take in him, Mr Daoudi might, on his arrival in Algeria, be subjected to inhuman or degrading treatment.

For those reasons, and having regard in particular to the applicant's background, who was not only suspected of having links with terrorism, but had been convicted of serious crimes in France of which the Algerian authorities were aware, the Court was of the opinion that it was likely that were he to be deported to Algeria the applicant would become a target for the DRS. It held, unanimously, that the decision to deport Mr Daoudi to Algeria would amount to a violation of Article 3 if it were implemented.

Alleged violation of Article 8

Having regard to its finding that the applicant's deportation to Algeria would amount to a violation of Article 3 and having no reason to doubt that the French Government would comply with the present judgment, the Court did not consider it necessary to settle the hypothetical question whether, if deported, Mr Daoudi's right to respect for his private and family life would be violated.

Application of Article 41 (just satisfaction)

The Court considered that its conclusion under Article 3 amounted to sufficient just satisfaction in respect of non-pecuniary damage. However, it awarded the applicant 4,500 euros for costs and expenses.

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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.