

**APPLICATION N° 27276/95**

**Rachid AZZOUZA v/BELGIUM**

**DECISION of 6 July 1995 (Striking out of the list of cases)**

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**Article 30, paragraph 1, (a) of the Convention:** *Algerian applicant, member of the Islamic Salvation Front, ordered to leave the country Striking out of the list Agreement between the Belgian Government and the applicant whereunder the applicant to be expelled to a country other than his country of origin. No reason to pursue examination of the application*

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**THE FACTS**

The applicant is an Algerian national, born in 1968. He was represented before the Commission by Mr G.H. Beauthier, a lawyer practising in Brussels.

The facts of the case, as submitted by the parties, may be summarised as follows:

In 1991, the applicant was granted a temporary residence permit to study in Belgium.

As a result of an investigation which revealed that he was not pursuing the course for which he had been granted a residence permit, on 13 January 1992 the applicant was served with an order to leave the country.

On 1 December 1993, the applicant applied to the Belgian authorities for political asylum. He claimed that he ran the risk of being persecuted in Algeria on the basis of his membership of a clandestine group including members of the "Islamic Salvation Front" ("Front Islamique du Salut" or "FIS").

In an interview with immigration officers, the applicant stated as follows

"In August 1993, me and three other members of the FIS formed a small underground group. The group helps the families of people in the armed resistance or who have been arrested, tortured, or put in prison. We do this by collecting clothes and money or food.

But about 14 9 93, my three other brothers from the group were arrested by the Algerian security services.

I was afraid, my family advised me to leave Algiers. First I went to Oran to some brothers. But the situation was tense there too and someone offered to get me into Morocco. From there I went to Spain and then to France. Since I could not request political asylum in either of those countries, I came to Belgium on 3 November 1993."

On 9 December 1993, the Minister for the Interior rejected the applicant's application on the ground that the supporting evidence supplied was not sufficient to establish that he was, or was at risk of being, persecuted in his country of origin. The Minister also served the applicant with an order to leave the country.

On 10 December 1993, the applicant appealed, using the emergency procedure, to the General Commissioner for Refugees and Stateless Persons (hereinafter the "General Commissioner"). When such an appeal is lodged, enforcement of the order to leave the country is suspended.

On 25 February 1994 the General Commissioner upheld the rejection of the application in the following terms:

"The applicant has not replied to the summons dated 25 January 1994 calling him to a hearing on 8 February 1994. The same applies to the summons sent to his lawyer.

I am obliged to note that the applicant's version of the facts is lacking in precision and detail.

In the absence of further elucidation, it is difficult to understand the nature of the risks he ran.

He mentions neither his political views, nor the circumstances in which his 'brothers' from the group were allegedly arrested, nor what his support group consisted of."

This decision was accompanied by an order expelling the applicant from Belgian territory which could be enforced immediately, regardless of any appeal, pursuant to Article 69 *bis* of the Law of 15 December 1980 on the entry, residence, settlement and expulsion of aliens.

After the General Commissioner accepted the applicant's plea that he had not received the summons to appear on 8 February 1994, he was accorded a hearing on 2 May 1994

On 6 May 1994 the Commissioner General made a fresh decision confirming his decision of 9 December 1994. This decision was also accompanied by an expulsion order which could be enforced immediately regardless of any appeal

The applicant remained on Belgian territory. On 10 March 1995, he was arrested by the police. Since he was on Belgian territory illegally, he could be expelled immediately. On the same day, the Minister of the Interior ordered that he be detained for the purposes of expulsion.

Since the applicant had no valid travel document, the Minister for the Interior requested the Algerian Consulate to issue such a document. On 26 April 1995 the Algerian Consulate informed the Minister for the Interior that they were willing to issue the applicant with a travel document.

## **COMPLAINT**

Before the Commission the applicant claimed that his life would be in danger if he returned to Algeria. In support of his case he produced a certificate of his membership of the FIS dated 5 December 1993

The applicant did not invoke any specific provision of the Convention.

## **PROCEEDINGS BEFORE THE COMMISSION**

The application was introduced on 5 May 1995 and registered the same day

In his letter of application dated 5 May 1995, the applicant requested that the respondent Government be requested, under Rule 36 of the Rules of Procedure, to suspend the enforcement of the repatriation order, which he claimed was due to take place on 7 May 1995.

On 5 May 1995, the acting President of the Commission decided to give notice of the application to the respondent Government and to invite them to submit written observations on its admissibility and merits. He also decided to indicate to the respondent Government, pursuant to Rule 36 of the Rules of Procedure, that it would be desirable in the interests of the parties and of the proper conduct of the proceedings to refrain from repatriating the applicant until 26 May 1995.

On 19 May 1995 the Government submitted their observations, which were forwarded to the applicant on 25 May 1995 with an invitation to submit his observations in reply on or before the 7 June 1995.

On 25 May 1995, the Commission decided to extend the Rule 36 indication until 7 July 1995

On 27 June 1995, the applicant wrote to the Commission to say that, following negotiations with the respondent Government, he had agreed to leave Belgium for a country other than Algeria and that steps had been taken to resolve his case as quickly as possible.

#### **REASONS FOR THE DECISION**

The Commission takes note of the applicant's letter of 27 June 1995 in which he indicates that, following negotiations with the respondent Government, steps have been taken by both parties in order to enable him to leave Belgium for a country other than Algeria

The Commission concludes from this that the applicant does not intend to pursue his application, within the meaning of Article 30 para. 1 (a) of the Convention.

The Commission considers that no particular circumstances affecting respect for human rights as defined in the Convention requires the further examination of the application pursuant to the last sentence of Article 30 para. 1 of the Convention.

For these reasons, the Commission, unanimously,

**DECIDES TO STRIKE THE APPLICATION OUT OF ITS LIST OF CASES**