

Deportation from Sweden to Libya would not be in breach of the European Convention

The case [A.A. v. Sweden](#) (application no. 4677/20) concerned the refusal of the applicant's 2015 asylum claim and the order to deport him to Libya.

In today's **Chamber** judgment¹ in the case the European Court of Human Rights held, unanimously, that:

the applicant's removal would not be in violation of either Article 2 (right to life) and/or Article 3 (prohibition of inhuman or degrading treatment) of the European Convention on Human Rights.

The Court concluded that the applicant had failed to substantiate that he would be at risk of being killed or subjected to ill-treatment upon returning to Libya, either because of the general security situation or because he had personally been at risk for his alleged affiliation with the Gaddafi regime. It noted in particular that a ceasefire agreement had been signed in Libya in 2020, while the applicant's statements as to his personal situation had been inconsistent and lacked credibility.

Principal facts

The applicant, Mr A.A., is a Libyan national who was born in 1988 and lives in Gothenburg (Sweden).

He arrived in Sweden, via Spain, in 2012 and applied for asylum, claiming that he was at risk from the Libyan mafia. The migration authorities rejected his request, but could not enforce their decision to return him to Spain as he had absconded.

In 2015 he reapplied for asylum in Sweden, this time claiming that he was on a wanted list in Libya and would be at risk of ill-treatment if returned because he had worked for the Gaddafi regime.

His request was heard by two bodies, the Migration Agency in 2017 and the Migration Court in 2019, and rejected. Those bodies concluded that there was an internal armed conflict in Libya but that it was not so serious that all Libyan nationals seeking asylum needed international protection. They also found that the applicant's oral statements as to his personal situation were not credible as they were vague and inconsistent, and not backed up by any written evidence, except for a handwritten passport and various copies, of a rudimentary nature, of arrest warrants. They therefore found that he had failed to substantiate his alleged affiliation with the Gaddafi regime, the warrant for his arrest in Libya and his need for international protection.

The Migration Court of Appeal denied the applicant leave to appeal in January 2020. His deportation was, however, subsequently stayed pending the proceedings before the European Court and its application of an urgent [interim measure](#) (Rule 39 of its Rules of Court).

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.

Complaints, procedure and composition of the Court

The applicant complained that his removal to Libya would be in breach of Articles 2 (right to life) and 3 (prohibition of inhuman or degrading treatment) because of the general security situation there and the fact that he personally was at risk of prosecution and ill-treatment as he had worked for the Gaddafi regime.

The application was lodged with the European Court of Human Rights on 21 January 2020.

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

Marko **Bošnjak** (Slovenia), *President*,
Alena **Poláčková** (Slovakia),
Krzysztof **Wojtyczek** (Poland),
Ivana **Jelić** (Montenegro),
Gilberto **Felici** (San Marino),
Erik **Wennerström** (Sweden),
Raffaele **Sabato** (Italy),

and also Liv **Tigerstedt**, *Deputy Section Registrar*.

Decision of the Court

Articles 2 and 3

The Court noted that the applicant has not yet been deported and that it would therefore examine the security situation in Libya as it stood at present.

There had been general improvements regarding security since October 2020 when a ceasefire agreement had been signed in Libya. The agreement, still in place, had resulted in a dramatic reduction in civilian casualties and displaced Libyans being able to return to their areas of origin. Therefore, while recognising that the situation in Libya remained fragile, the Court found no reason to question the Swedish authorities' and courts' conclusion that the situation in Libya was not so serious that all Libyan nationals seeking asylum needed international protection.

Nor did the Court have reason to doubt or to depart from the authorities' conclusions with regard to the applicant's personal circumstances, which had been reached following a thorough examination containing rational grounds. In particular, they had highlighted the inconsistency in the reasons for his two asylum claims: he had originally applied due to threats from the Libyan mafia; then because he and his father had worked for the Gaddafi regime.

The Court thus concluded that the applicant had failed to substantiate that he would be at risk of being killed or subjected to ill-treatment upon returning to Libya. Accordingly, his removal would not be in violation of Article 2 and/or 3 of the Convention.

Rule 39 (interim measure)

The Court decided to continue to indicate to the Government under Rule 39 of the Rules of Court not to expel the applicant until such time as the present judgment became final.

The judgment is available only in English.

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Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.