

ECtHR - Amuur v. France, Application no 19776/92, 25 June 1996

Country of Applicant:

Somalia

Date of Decision:

25-06-1996

Citation:

Amuur v. France, Application no 19776/92, 25 June 1996

Court Name:

European Court of Human Rights

Keywords:[Detention](#) [1][Refugee Status](#) [2]

Relevant Legislative Provisions:

International Law

International Law > [1951 Refugee Convention](#) [3]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 3](#) [5]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 5](#) [6] > Art 5.1Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 6](#) [7]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 13](#) [8]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 25](#) [9]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 32](#) [10]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 43](#) [11]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 47](#) [12]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 50](#) [13]

Headnote:

The Court found that the French authorities had violated Article 5 para 1 of the Convention by holding four Somali nationals in the international zone of the Paris-Orly airport.

Facts:

The applicants, four Somali nationals, arrived in France by airplane after fleeing Somalia due to fear for their lives there. They applied for asylum before the OFPRA after being granted legal aid. The Minister of Interior refused them the right to enter and therefore the applicants were sent back to Syria, while the other eighteen Somali nationals who travelled with them, were granted refugee status. The applicants appealed unsuccessfully to the Refugee Appeals Board against that decision.

The applicants complained that holding asylum-seekers in the international zone of an airport was in violation of article 5 para 1 of the Convention.

Decision & Reasoning:

The Court took note of the fact that holding third country nationals in international zones involved restrictions upon liberty. Nonetheless, it acknowledged that such confinement was acceptable if it was accompanied by the appropriate safeguards for the person concerned, in order to enable States to prevent unlawful immigration while respecting their international obligations. What is more, it added that such restriction could not be prolonged excessively [43].

Turning to the case at hand, the Court observed that the applicants, while held in the airport's transit zone, were under strict police surveillance without access to legal or social assistance [45].

Furthermore, the Court held that the fact that an asylum-seeker can leave voluntarily the country where he/she wishes to take refuge cannot exclude a restriction on liberty [48]. In addition, the right to leave any country-including one's own- as guaranteed by Protocol No. 4 of the Convention, can become theoretical if no other country offers protection similar to the one they were expecting to find in the country they sought asylum [48]. The Court concluded that holding the applicants in the transit zone of the airport resulted in a deprivation of liberty [49].

It further examined whether this deprivation of liberty was compatible with paragraph 1 of Article 5 of the Convention.

In this respect, the Court noted that by holding the applicants in the international airport of Paris, they became subject to French law [52].

It further emphasized that the domestic law did not provide for legal, humanitarian and social assistance, nor did they lay down procedures and time-limits [53]. Therefore, the Court found a violation of Article 5 para 1 [54].

Outcome:

Violation of Article 5 para 1.

Case Law Cited:

ECtHR - Kemmache v. France, Application no. 17621/91

ECtHR- Malone v. the United Kingdom, Application no. 8691/79

ECtHR - Lüdi v. Switzerland, Application No. 12433/86

ECtHR - Kolompar v. Belgium, Application No. 11613/85

ECtHR - Guzzardi v. Italy, Application No. 7367/76

Attachment(s):



[CASE OF AMUUR v. FRANCE.pdf](#)[14]

Other sources cited:

The Parliamentary Assembly's report of 12 September 1991 on the arrival of asylum-seekers at European airports

Recommendation No. R (94) 5 of the Committee of Ministers on guidelines to inspire practices of the member States of the Council of Europe concerning the arrival of asylum-seekers at airports, of 21 June 1994

Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 4 June 1992

Authentic Language:

French

State Party:

France

National / Other Legislative Provisions:

France - Decree no. 82-442 of 27 May 1982 as amended implementing s.5 of Ordinance of 2 November 1945 as amended in respect of leave to enter French territory

France - Ordinance no. 45-2658 of 2 November 1945

France - Law no. 89-548 of 2 August 1989

France - Article 35 bis of the Ordinance of 2 November 1945

France - Law of 6 September 1991 amending the Ordinance of 2 November 1945 on aliens? conditions of entry into France and residence

France - The Law no. 92-625 of 6 July 1992

France - Decree no. 92-1333 of 15 December 1992

France - Decree no. 95-507 of 2 May 1995

France - Decision 92-307 DC of 25 February 1992

Links:

[1] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A27

[2] https://www.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A192

[3] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention>

[4] <http://www.asylumlawdatabase.eu/en/content/en-european-convention-protection-human-rights-and-fundamental-freedoms-echr>

[5] https://www.asylumlawdatabase.eu/node/195#toc_12

[6] https://www.asylumlawdatabase.eu/node/195#toc_22

[7] https://www.asylumlawdatabase.eu/node/195#toc_34

[8] https://www.asylumlawdatabase.eu/node/195#toc_60

[9] https://www.asylumlawdatabase.eu/node/195#toc_93

[10] https://www.asylumlawdatabase.eu/node/195#toc_127

[11] https://www.asylumlawdatabase.eu/node/195#toc_169

[12] https://www.asylumlawdatabase.eu/node/195#toc_189

[13] https://www.asylumlawdatabase.eu/node/195#toc_199

[14]

<https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/CASE%20OF%20AMUUR%20v.%20FRANC>