



COUR EUROPÉENNE DES DROITS DE L'HOMME  
EUROPEAN COURT OF HUMAN RIGHTS

THIRD SECTION

**CASE OF MEHEMI v. FRANCE (No. 2)**

*(Application no. 53470/99)*

JUDGMENT

STRASBOURG

10 April 2003

**FINAL**

*10/07/2003*



**In the case of Mehemi v. France (no. 2),**

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Mr G. RESS, *President*,

Mr J.-P. COSTA,

Mr L. CAFLISCH,

Mr P. KÜRIS,

Mr J. HEDIGAN,

Mrs M. TSATSA-NIKOLOVSKA,

Mrs H.S. GREVE, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 23 January and 20 March 2003,

Delivers the following judgment, which was adopted on the last-mentioned date:

**PROCEDURE**

1. The case originated in an application (no. 53470/99) against the French Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Algerian national, Mr Ali Mehemi (“the applicant”), on 23 November 1999.

2. The applicant was represented by Mr J. Debray, a lawyer practising in Lyons. The French Government (“the Government”) were represented by their Agent, Mr R. Abraham, Director of Legal Affairs at the Ministry of Foreign Affairs.

3. The applicant alleged in particular that, contrary to Article 8 of the Convention, the French authorities had failed to put an end to the disproportionate interference with his right to a “normal” private and family life which the European Court of Human Rights had found in its judgment of 26 September 1997 (*Mehemi v. France (no. 1)*, *Reports of Judgments and Decisions* 1997-VI), by upholding the order for his exclusion from French territory and imposing conditions on his residence in France following his return at the beginning of 1998.

4. The application was allocated to the Third Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Third Section (Rule 52 § 1).

6. By a decision of 28 February 2002, that Chamber declared the application partly admissible. In that decision, it considered that the complaint relating to the applicant's personal and family life since 26 September 1997 needed to be examined also under Article 2 of Protocol No. 4 to the Convention.

7. The applicant and the Government each filed written observations on the merits of the case (Rule 59 § 1).

## THE FACTS

8. The applicant was born in Lyons in 1962 and lives in Villeurbanne.

9. The applicant lived in France from his birth until 28 February 1995 with all the members of his family, his father and mother and his four brothers and sisters.

10. On 14 May 1986 he married an Italian national who, according to him, now has French nationality, and three children of French nationality were born of the marriage.

11. Following his arrest for offences under drugs legislation (cannabis resin) in December 1989, the applicant was sentenced on 22 January 1991 to six years' imprisonment. On 4 July 1991 the Lyons Court of Appeal upheld the sentence and ordered the applicant's permanent exclusion from French territory.

12. After both the Lyons Court of Appeal and the Court of Cassation had dismissed his application for the exclusion order to be lifted, the applicant submitted an application (no. 25017/94) on 25 August 1994 to the European Commission of Human Rights ("the Commission") against France under former Article 25 of the Convention. The case was referred to the Court by the Commission on 4 July 1996, and by the Government on 17 September 1996.

13. The exclusion order was enforced on 28 February 1995.

14. In a judgment of 26 September 1997, the Court held that there had been a violation of Article 8 of the Convention (*Mehemi (no. 1)*, cited above). It found that the permanent exclusion order was disproportionate to the aims pursued. It found in particular that (pp. 1971-72, § 37)

"... in view of the applicant's lack of links with Algeria, the strength of his links with France and above all the fact that the order for his permanent exclusion from French territory separated him from his minor children and his wife ... the measure in question was disproportionate to the aims pursued".

### **A. Proceedings for the lifting of the order brought following the 26 September 1997 judgment**

15. On 21 October 1997 the applicant lodged an application for the exclusion order to be lifted with specific reference to the Court's judgment of 26 September 1997.

16. By a judgment of 24 March 1998, the Lyons Court of Appeal converted the permanent exclusion order into a ten-year exclusion order, on the ground that an exclusion order limited in time no longer constituted a disproportionate interference with the applicant's rights under Article 8 of the Convention.

17. The applicant appealed on points of law and applied for legal aid.

18. By a decision of 20 May 1998, the legal aid section of the Court of Cassation took a provisional decision to grant legal aid. However it then rejected the application on 10 June 1999, on the ground that there were no genuine grounds of appeal.

19. The Court of Cassation dismissed the appeal by a ruling of 26 May 1999.

### **B. Approaches to the authorities following the 26 September 1997 judgment**

20. On 21 October 1997 the applicant lodged an application for a pardon which was rejected on 19 July 1999.

21. On 11 October 1997 the applicant's lawyer wrote to the Minister for Foreign Affairs asking what measures he intended to take following the Court's judgment of 26 September 1997 and under what conditions his client would be able to return to France. On 22 October 1997 Mr Dobelle, Deputy Director of Legal Affairs at the Ministry for Foreign Affairs, informed him that he had consulted the Minister of Justice, who had jurisdiction over the lifting of the exclusion order, and the Minister of the Interior, who had jurisdiction over the issuing of residence permits, and that he would shortly be replying.

22. On 17 November 1997 Mr Dobelle sent the applicant's lawyer a letter which included the following:

"Although the principle of *res judicata* precludes the authorities from issuing a residence permit to Mr Mehemi prior to the lifting of the order or the grant of the pardon, the French government wishes to put an early end to the interference with your client's family life as found by the European Court of Human Rights. Accordingly it is willing to permit Mr Mehemi to return immediately to France, where he will remain subject to a compulsory residence order until either the exclusion order is lifted or he is pardoned.

The French consular services in Algiers will be instructed to issue Mr Mehemi with a visa as soon as he requests one."

23. The applicant's lawyer wrote to Mr Dobelle on 5, 16 and 24 December 1997 to ask whether there had been any developments. In his last letter, he noted that the applicant had been to the French embassy in Algiers several times but had been told that he could not be issued with a visa unless the appropriate instructions had been received. He also asked what steps needed to be taken to make sure that the visa was issued, lamenting the fact that the applicant had still not been able to return to France and observing that, on the basis of what the applicant had found out from the French embassy in Algiers, the officials concerned seemed to be "passing the parcel" from one service to another.

24. No visa having been issued by the beginning of February 1998, the applicant's lawyer, after a number of letters and telephone calls, sent a fax on 3 February 1998 to the Algerian Visa Section of the Office for French Nationals Abroad and Foreigners in France of the Ministry of Foreign Affairs. By a letter dated 4 February 1998, that Office informed him that the applicant's particular circumstances required a special visa to be issued which needed the Minister of the Interior's prior consent, and that had not been forthcoming. On 10 February 1998 the Office sent the lawyer a fax worded as follows:

"Reference: situation of Mr Ali Mehemi

I refer to your fax of 3 February 1998, my fax of 4 February 1998, and your fax of 9 February 1998.

As soon as you were kind enough to send me a copy of your client's passport, the Algerian Visa Section referred the matter to the appropriate services of the Ministry of the Interior.

For the name of the person dealing with this file, I suggest that you contact the Office of Public Freedoms and Legal Affairs of the Ministry of the Interior who will be able to give you the necessary information."

25. On 20 February 1998 the Algerian Visa Section informed the lawyer that it had just received the Minister of the Interior's consent and that instructions had accordingly been given to the consulate in Algiers.

26. Having obtained a special visa on 25 February 1998, the applicant returned to France a few days later. On 6 March 1998 Mr Dobelle sent the applicant's lawyer a letter worded as follows:

"As you are no doubt aware, our Consulate General in Algiers issued a visa to Mr Mehemi on 25 February. Mr Mehemi will be subject to a compulsory residence order in France until the exclusion order against him is lifted or he is pardoned.

Mr Mehemi's return to France thus brings this matter to a satisfactory conclusion, in accordance with the judgment of the European Court of Human Rights."

27. Meanwhile, on 20 February 1998, the Minister of the Interior had issued an order requiring the applicant to reside in the Rhône *département*, in a place to be determined by the prefect. It included the following passage:

“Whereas Mr Ali Mehemi Ali was permanently excluded from French territory by a judgment of the Fourth Division of the Lyons Court of Appeal on 4 July 1991 ...

Section 1: Until such time as he is able to comply with the order permanently excluding him from France, the above-mentioned person shall reside where required to by the prefect of the Rhône *département*.

Within the territory of this *département*, he shall periodically report to the police or the gendarmerie.

Section 2: The prefect of the Rhône *département* shall be responsible for serving and enforcing this order.”

28. The order was served on the applicant in person on 18 March 1998 at 8.30 a.m. The notice accompanying the order listed the possibilities of appeal. Further to that order, the prefect of the Rhône *département* issued an order dated 25 March 1998 requiring the applicant to reside in the precise area of the Lyons city district (*arrondissement*) and to report twice a month to the police station at Villeurbanne where he was then living.

29. The applicant was subsequently issued with a provisional residence permit for six months dated 21 April 1998 and expiring on 20 October 1998. The permit stated that he was authorised to pursue an occupation and was required to reside in the Rhône *département* by ministerial order of 20 February 1998 and prefectural order of 25 March 1998. The provisional residence permit was then systematically renewed when it was about to expire, on 13 October 1999 until 12 April 2000, on 7 April 2000 until 6 October 2000, and on 30 March 2001 until 29 September 2001. It was last extended on 28 September 2001.

30. On 27 July 2001 the applicant’s lawyer asked the prefect of the Rhône *département* to issue the applicant with a ten-year residence permit, on the ground that the exclusion order had expired (see paragraph 31 below). Not having received a reply, he sent another letter to the prefect on 28 November 2001 in which he construed the lack of response as an implied refusal and asked the prefect to state his reasons.

31. On 31 October 2001 the Minister of the Interior issued an order revoking the ministerial residence order of 20 February 1998 against the applicant. The revocation order stated among other things that “the permanent exclusion order made initially by the Lyons Court of Appeal on 4 July 1991, which was reduced to ten years by a judgment of 24 March 1998, is deemed to have expired on 10 July 2001”.

32. On the same day, the minister sent a certified copy of the revocation order to the prefect for the Rhône-Alpes region, the prefect of the Rhône *département*, requesting him to serve it on the applicant with a “very formal

warning”. He also requested the prefect to issue the applicant with a residence permit valid for one year endorsed with the mention “salaried”. The minister enclosed a letter addressed to the applicant, which included the following passage:

“Following a fresh examination of your file, I have decided by order of today’s date to revoke the order for your compulsory residence in the Rhône *département* made on 20 February 1998, so that you may live peacefully on French territory.

I wish however to warn you formally that if you again fail to abide by our laws and regulations, that will indicate that you are still a threat to public order. I would then ask the prefect for the Rhône-Alpes region, the prefect of the Rhône *département*, to make the necessary arrangements to bring expulsion proceedings against you.”

33. By a letter of 13 December 2001, the prefect informed the applicant’s lawyer of both the revocation of the ministerial order and the proposed ministerial warning. The police served the 31 October 2001 revocation order on the applicant on 4 January 2002, and he was also invited to go to the prefecture in order to formalise his administrative status.

34. The applicant went to the prefecture on 8 January 2002. His application for a one-year residence permit endorsed with the mention “salaried” was registered and he was issued with a receipt for the application.

35. In reply to the letter of 28 November 2001, the prefect reminded the applicant’s lawyer of the decisions served on the applicant on 4 January 2002. He added:

“Mr Mehemi went to the prefecture on 8 January 2002 in order to apply for a one-year residence permit endorsed with the mention ‘salaried’.

Pending the issue of his renewed passport, he has been given a receipt valid for three months endorsed with a work permit.

On presentation of that document, I shall issue him with the above-mentioned residence permit.”

36. On 2 April 2002 the applicant was issued with a new receipt for a residence permit application valid until 1 July 2002. On 1 July 2002, a new receipt valid until 2 October 2002 was issued.

37. On 2 October 2002 the applicant went to the prefecture again, still without his passport, which had not yet been renewed by the consular services in Algeria. His residence permit was extended until 31 December 2002.



## THE LAW

### I. THE GOVERNMENT'S PRELIMINARY OBJECTION

38. In their observations sent to the Court after the adoption of the admissibility decision of 28 February 2002, the Government invited the Court to re-examine, in the light of new arguments, the objection that the application was inadmissible which it had already examined and dismissed in the above-mentioned decision, again submitting that the applicant could not claim to be the victim of a violation of the Convention.

39. However the Court cannot discern any new information to warrant the re-examination of that objection (see, *mutatis mutandis*, *Ciobanu v. Romania*, no. 29053/95, § 32, 16 July 2002), and therefore dismisses it.

### II. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

40. The applicant complained of his personal and family situation since 26 September 1997, the date of the judgment in which the Court had found that there had been a disproportionate interference with his right to private and family life as a result of both the permanent exclusion order made against him on 4 July 1991 and enforced on 28 February 1995 and the dismissal of his subsequent application to have it lifted. He expressly relied on Article 8 of the Convention, which provides:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

41. The applicant submitted that by maintaining the exclusion order against him, the Lyons Court of Appeal had not put an end to the disproportionate interference with his right to a “normal” private and family life which the Court had condemned in its judgment of 26 September 1997. Although he had been able to return to France at the beginning of 1998 and to remain there on the basis of six-month residence permits, his situation had remained very insecure because of the residence order confining him to the Rhône *département*, which he was prohibited from leaving. While subject to a residence order he was not able to move about freely, which

made it difficult for him to pursue to certain types of occupation. Moreover, the temporary nature of the residence permits deprived him of a number of social rights, such as the right to the minimum welfare benefit (*revenu minimum d'insertion*), and was seen as an obstacle by potential employers.

42. The Government noted that the applicant had been resident in France for over five years and had been given a renewable residence permit endorsed with a work permit. Moreover, the compulsory residence order had deprived the territorial exclusion order of all legal effect. They further noted that, on 17 November 1997, a letter had been sent to the applicant's counsel to warn him of the decision to authorise the applicant's return to France. However it took some time effectively to issue a residence permit, because the file needed to be processed by the various services concerned. The time taken had not exceeded the time it normally took to deal with immigration files and was due to a heavy administrative workload. The Government submitted that the applicant had not been placed in a more unfavourable position than that of other Algerian nationals applying for residence permits.

43. The Court observes that under Article 46 of the Convention the Contracting Parties undertake to abide by the final judgments of the Court in any case to which they are parties, execution being supervised by the Committee of Ministers. It follows, *inter alia*, that a judgment in which the Court finds a breach of the Convention or the Protocols thereto imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction, but also to choose, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in its domestic legal order to put an end to the violation found by the Court and to redress so far as possible the effects (see *Scozzari and Giunta v. Italy* [GC], nos. 39221/98 and 41963/98, § 249, ECHR 2000-VIII). The Court does not have jurisdiction to verify whether a Contracting Party has complied with the obligations imposed on it by one of the Court's judgments (see *Oberschlick v. Austria*, nos. 19255/92 and 21655/93, Commission decision of 16 May 1995, Decisions and Reports 81-A, p. 5). However, there is nothing to prevent the Court from examining a subsequent application raising a new issue undecided by the judgment (see the following judgments: *Pailot v. France*, 22 April 1998, Reports 1998-II, p. 802, § 57; *Leterme v. France*, 29 April 1998, Reports 1998-III; and *Rando v. Italy*, no. 38498/97, § 17, 15 February 2000). That was the applicant's position during the period following the above-mentioned 26 September 1997 judgment to which this application relates.

44. The Court observes that the applicant has successively found himself in three distinct situations since the above-mentioned judgment. First there was the time between the Court's judgment of 26 September 1997 and his return to France at the end of February 1998, then the period starting on his

return until the date when he was informed of the revocation of the residence order. Lastly there is the situation in which he still found himself on 2 October 2002.

**A. The applicant's situation from the 26 September 1997 judgment until his return to France**

45. The mutual enjoyment of each other's company constitutes a fundamental element of family life (see *Olsson v. Sweden (no. 1)*, judgment of 24 March 1988, Series A no. 130, p. 29, § 59; *Johansen v. Norway*, judgment of 7 August 1996, *Reports* 1996-III, pp. 1001-02, § 52; *Bronda v. Italy*, judgment of 9 June 1998, *Reports* 1998-IV, p. 1489, § 51; and *Buscemi v. Italy*, no. 29569/95, § 53, ECHR 1999-VI), and domestic measures which prevent cohabitation constitute an interference with the right protected by Article 8 (see, among other authorities, *W. v the United Kingdom*, judgment of 8 July 1987, Series A no. 121, p. 27, § 59). Although the essential object of Article 8 is to protect the individual against arbitrary action by the public authorities, there may in addition be positive obligations inherent in an effective "respect" for family life. Thus, where the existence of a family tie has been established, the State must in principle act in a manner calculated to enable that tie to be developed and take measures that will enable the family to be reunited (see, among other authorities, *Olsson v. Sweden (no. 2)*, judgment of 27 November 1992, Series A no. 250, pp. 35-36, § 90, and *Ignaccolo-Zenide v. Romania*, no. 31679, § 94, ECHR 2000-I). The Court further notes that it is an interference of a very serious order to split up a family (*Olsson (no. 1)*, cited above, pp. 33-34, § 72).

46. In its judgment of 26 September 1997, the Court found that there was a family tie and noted that removing the applicant to a country with which he had no links other than his nationality constituted an unjustified interference with his private and family life (see paragraph 14 above). The Government have not mentioned any new information that might cast doubt on these findings. In these circumstances, "respect" for the applicant's "private and family life" required the State to enable him to return by taking measures to reunite the family in France. Moreover, special expedition was required in the circumstances (see, *mutatis mutandis*, *Johansen*, cited above, p. 1010, § 88; *Nuutinen v. Finland*, no. 32842/96, § 110, ECHR 2000-VIII; and *E.P. v. Italy*, no. 31127/96, § 53, 16 November 1999).

47. Accordingly the national authorities were under a duty to facilitate the applicant's return to France to be with his family. The Court must therefore determine whether they quickly took all the necessary steps which they ought reasonably to have taken in the circumstances. Thus the applicant's situation cannot be regarded as comparable with that of any other Algerian national seeking a residence permit.

48. The Court notes that the Government accepted the principle of the applicant's return on 17 November 1997 after consultations between the Ministries of Foreign Affairs, Justice and the Interior (see paragraphs 21 and 22 above). By a letter of 17 November 1997, the applicant's lawyer was advised that the consulate in Algiers would be instructed to issue a visa to the applicant on request. The applicant had paid several visits to the French consulate in Algiers at the end of 1997. In spite of several letters and telephone calls from the applicant's lawyer, it was only on 4 February 1998 that the Algerian Visa Section informed him that a special visa had to be issued in view of the applicant's particular circumstances. The visa required the Minister of the Interior's consent, which was sought only on 10 February 1998, once a copy of the applicant's passport had been sent. Assuming that receipt of a copy of the passport was a precondition for the issue of a visa, it would appear that the lawyer had been so advised only belatedly. The minister's consent was obtained on 20 February 1998, no doubt because early consultations about the applicant's situation had been held with the Ministry of the Interior at the end of October or the beginning of November 1997. Although the Court well appreciates that it takes some time to process and issue a valid residence permit, there were undoubtedly some delays attributable to the administrative services concerned during the period of three and a half months between 11 October 1997 and 4 February 1998.

49. The Court considers that special expedition was required in the circumstances, given the interests at stake and the fact that the applicant was at the time separated from his family and had been living for almost three years in a country with which he had no links (see, *mutatis mutandis*, *Scozzari and Giunta*, cited above, § 173). The Court also notes that the applicant and his counsel took a whole series of steps, both in Algeria and in France, to make the situation progress as rapidly as possible. Nonetheless, delays lasting for at most three and a half months cannot be considered so excessive as to interfere with the applicant's right to a private and family life, even in the particular circumstances of the case where considerations such as administrative difficulties (see paragraph 42 above) "cannot be allowed to play a more than a secondary role" (see *Olsson (no. 1)*, cited above, p. 37, § 82).

50. Accordingly the Court takes the view that the relevant authorities made reasonable efforts to facilitate the applicant's rapid return and therefore did not interfere with his right to private and family life.

51. There has consequently been no violation of Article 8 of the Convention in this respect.

## **B. The applicant's situation since his return to France**

52. On this point, the applicant complained more particularly that the permanent exclusion order had only partially been lifted, having been converted into a temporary ten-year exclusion by the judgment of the Lyons Court of Appeal of 24 March 1998. He submitted that it did not put an end to the disproportionate interference with his right to private and family life condemned in the Court's judgment of 26 September 1997.

53. The Court, which had already noted in its 26 September 1997 judgment that it did not have jurisdiction to order France to issue the applicant with a ten-year residence permit, reiterates at the outset that it is for the respondent State to choose the measures to be adopted in its domestic legal order to comply with its obligations under Article 53 of the Convention (see *Marckx v. Belgium*, judgment of 13 June 1979, Series A no. 31, pp. 25-26, § 58) and for the Committee of Ministers alone to supervise execution (see paragraph 43 above).

54. The Court notes that the French ministerial and administrative authorities authorised the applicant to return to France by means of a special visa issued on 25 February 1998. The applicant has been in France since the end of February 1998. He is therefore no longer obliged to live in a country with which he has no links other than nationality and has been able to renew his ties with his family. The authorities then issued him with residence permits endorsed with work permits. During the period when the exclusion order was still in force, these permits were coupled with a compulsory residence order. The Court considers that these facts and, in particular, the compulsory residence order, deprived the ten-year exclusion order ultimately issued of all legal effect (see *Benamar v. France* (dec.), no. 42216/98, 14 November 2000). Thus the applicant ran no proximate or imminent risk, while he was still subject to an exclusion order, of being removed from the country for so long as the order remained in force (see, *mutatis mutandis*, *Vijayanathan and Pusparajah v. France*, judgment of 27 August 1992, Series A no. 241-B, p. 87, § 46). *A fortiori* he now runs no such risk.

55. Reiterating that the Court's case-law acknowledges that Contracting States have the undeniable right to control aliens' entry into and residence in their territory, provided always that they comply with the provisions of the Convention and particularly with Article 8 (see *Amuur v. France*, judgment of 25 June 1996, *Reports* 1996-III, pp. 847-48, § 41; *Boultif v. Switzerland*, no. 54273/00, § 46, ECHR 2001-IX; and *Sen v. the Netherlands*, no. 31465/96, § 36, 21 December 2001), the Court considers that the applicant is not entitled to claim special residence status in France. Moreover, the various residence permits issued to him since April 1998

allowed him to pursue an occupation (see *A.B. v. France*, no. 18211/91, Commission decision of 28 June 1993, unreported).

56. In conclusion, there has been no violation of Article 8 of the Convention since the applicant's return to France.

### III. ALLEGED VIOLATION OF ARTICLE 2 OF PROTOCOL No. 4 TO THE CONVENTION

57. In its decision of 28 February 2002 concerning the admissibility of the application, the Court further found that, in the light of the applicant's submissions, his complaint needed to be examined also under Article 2 of Protocol No. 4 to the Convention, which provides as follows:

“1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

...

3. No restrictions shall be placed on the exercise of these rights other than such as are in accordance with law and are necessary in a democratic society in the interests of national security or public safety, for the maintenance of ordre public, for the prevention of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

...”

58. The Government maintained that the applicant had not met the requirements of Article 35 § 1 of the Convention in that respect, since he had not asked the Minister of the Interior to reconsider his decision to make the residence order of 20 February 1998 or appealed against that order, and had applied to the Court only eighteen months after it was made. They further noted that paragraph 3 of Article 2 of Protocol No. 4 allowed for restrictions on freedom of movement, and submitted that the disputed residence order was justified for reasons of public security.

59. The Court finds that the minister revoked the residence order of his own motion (see paragraph 31 above) on the ground that the ten-year exclusion order ultimately issued was deemed to have expired on 10 July 2001. It also finds that the applicant did not appeal against the residence order of 20 February 1998. Lastly, it notes that French law allowed him to appeal to the administrative authorities and to the administrative courts against a possible refusal to revoke that order. In these circumstances, the Court considers that no separate issue arises under Article 2 of Protocol No. 4 to the Convention.

## FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Dismisses* the Government's preliminary objection;
2. *Holds* that there has been no violation of Article 8 of the Convention;
3. *Holds* that it is not necessary to consider the complaint under Article 2 of Protocol No. 4 to the Convention.

Done in French, and notified in writing on 10 April 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER  
Registrar

Georg RESS  
President