

**COUNCIL OF EUROPE**

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**EUROPEAN COMMISSION  
OF HUMAN RIGHTS**

**APPLICATION No. 5961/72**

**AMEKRANE**

against

**THE UNITED KINGDOM**

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**REPORT OF THE COMMISSION**

(Adopted on 19 July 1974)

**STRASBOURG**

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### INTRODUCTION

This Report relates to application (No. 5961/72) introduced against the United Kingdom by Malika AMEKRANE, née Rosemarie Höll, on her own behalf and on behalf of her husband, Mohamed, and their children, Raschid and Yasmina AMEKRANE, on 16 December 1972 under Art. 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The European Commission of Human Rights declared this application admissible on 11 October 1973. Subsequently, the Commission proceeded to fulfil its functions under Art. 28 of the Convention which provides that:

"In the event of the Commission accepting a petition referred to it:

- (a) it shall, with a view to ascertaining the facts, undertake together with the representatives of the parties, an examination of the petition and, if need be, an investigation, for the effective conduct of which the States concerned shall furnish all necessary facilities, after an exchange of views with the Commission;
- (b) it shall place itself at the disposal of the parties concerned with a view to securing a friendly settlement of the matter on the basis of respect for Human Rights as defined in this Convention."

Having found that a friendly settlement of the case had been effected, the Commission met on 19 July 1974, and adopted this Report, which, in accordance with Art. 30 of the Convention is confined to a brief statement of the facts and of the settlement reached. The following members were present when the Report was adopted:

MM. G. SPERDUTI, Acting President (Rule 9 of the Rules of Procedure)

J. E. S. FAWCETT  
F. ERMACORA  
F. WELTER  
B. DAVER  
T. OPSAHL  
K. MANGAN  
C. NØRGAARD  
C. POLAK  
J. A. FROWEIN

Mr. A. B. McNULTY, Secretary to the Commission

PART ISTATEMENT OF THE FACTS

1. Malika Amekrane, née Rosemarie Höll, who was born on 12 August 1939 and married Mohamed Amekrane in 1963, is a German national. After residing in Morocco with her family, Mrs. Amekrane left the country with her children on 17 August 1972. Since then she has been living in the Federal Republic of Germany. The children of the marriage, Raschid, born in 1964, and Yasmina, born in 1965, have Moroccan nationality and live with their mother.

The applicants instructed Mr. Klaus Seelig, a lawyer related to Mrs. Amekrane, and Mr. Rodolphe Burger, a Strasbourg barrister, to represent them before the Commission.

At the time the application was introduced (16 December 1972), Mohamed Amekrane, a Lieutenant Colonel in the Moroccan Air Force, was imprisoned in an unknown place in Morocco. He was condemned to death by a Moroccan court and executed by a firing squad on 13 January 1973.

2. Mohamed Amekrane was involved in an attempted putsch aimed at overthrowing the Moroccan Government and deposing the King. When the putsch failed on 16 August 1972, Mohamed Amekrane went to Gibraltar where he requested the British authorities to grant him political asylum. In Gibraltar, he was placed in custody and sent back to Morocco on 17 August 1972.

3. Having effected a friendly settlement of the case the Commission was not called upon to establish the facts. These are disputed on numerous points and the version submitted by each party appears in the decision on admissibility, of 11 October 1973, to which reference is made (Collection of Decisions, 44, page 101).

4. Before the Commission the applicants submitted that, by extraditing Mohamed Amekrane to Morocco in the way it did, the United Kingdom Government deprived him of the right to take proceedings before a court challenging his detention in Gibraltar prior to his illegal extradition (Art. 5 (4) of the Convention); further, that it subjected him, and surrendered him, to inhuman treatment (Art. 3 of the Convention) and also that it destroyed his family life (Art. 8 of the Convention).

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5. The application was registered on 18 December 1972. On the same day, the Commission decided that it should be given precedence (Rule 38 (1) in fine, of the Commission's Rules of Procedure).

On 20 December 1972, the application was examined by a group of three members of the Commission (Rule 45, former para. 1 of the Rules of Procedure), and on that day, the Commission decided to ask the respondent Government to submit its observations on the admissibility (Rule 45, former para. 3 (b), of the Rules of Procedure).

On 30 January 1973, the respondent Government submitted its observations. The applicants replied to them on 21 February 1973. On 24 May 1973, the application was once more submitted to a group of three members of the Commission, and the Commission itself resumed its examination of the application on 29 May and 1 June 1973. It then decided to invite the respondent Government to submit further comments. On 11 July 1973, the Commission decided to invite both parties to a hearing (Rule 46, former para. 1 in fine of the Rules of Procedure), which took place on 10 October 1973. The Commission had granted the applicants legal aid. On 11 October 1973, the application was declared admissible (see Collection of Decisions, 44, p. 101).

Finally, a settlement of the case was reached, as described in Part II below.

PART IISOLUTION REACHED

After declaring the application admissible, the Commission placed itself at the disposal of the parties with a view to securing a friendly settlement of the matter, in accordance with Art. 28 (b) of the Convention.

On 28 May 1974, there was a meeting between two Delegates, accompanied by the Secretary to the Commission, and Mr. Paul Fifoot, Agent for the respondent Government.

A further meeting took place on 31 May 1974 between the Secretary to the Commission, representing the latter, and Mr. Seelig and Mr. Burger, representing the applicants.

After further discussions between the Secretary to the Commission and the representatives of each of the parties, the latter met on 4 July 1974 in the presence of the Secretary to the Commission. Following their discussions, they made the following declarations.

Declaration by the Government of the United Kingdom dated 8 July 1974:

"I understand that following the consideration of this matter by the European Commission of Human Rights the applicants in application No. 5961/72 would be prepared to settle the proceedings before the Commission in consideration of an ex gratia payment of the equivalent in Deutsch Marks of the sum of 37,500 (thirty seven thousand five hundred) pounds sterling, at the official buying rate for Deutsch Marks of 4 July 1974.

The purpose of this letter is to convey to the applicants through yourself the offer of the Government of the United Kingdom of an ex gratia payment of 37,500 pounds sterling as stated above in full and final settlement of the complaint to the Commission. It is a term of this settlement that the applicants should withdraw their application to the Commission and undertake not to make any further application to the Commission or to institute any other proceedings or claims whatsoever against the Government of the United Kingdom, the Government of Gibraltar, or the servants or agents of either Government, in respect of, or arising out of, the matters to which the present application relates.

This settlement does not imply any admission that the Government of the United Kingdom have violated the rights under the Convention of any of the applicants including Lieutenant-Colonel Amekrane."

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Declaration by the applicants dated 17 July 1974.

"We refer to the letter of 8 July 1974, addressed to you by the United Kingdom Government, and confirm that the applicants accept the settlement of their application No. 5961/72 against the Government of the United Kingdom to the European Commission of Human Rights on the terms set out in that letter.

Accordingly, we wish to inform the Commission of our clients' withdrawal of their application."

The Commission, at its session on 19 July 1974 found that the above-mentioned declarations showed that the parties had come to an agreement regarding the terms of a settlement. The Commission further found, having regard to Art. 28 (b) of the Convention, that a friendly settlement of the matter had been secured on the basis of respect for human rights as defined in the Convention. For the above reasons, the Commission adopted this Report.

Secretary to the Commission      Acting President of the Commission

(A. B. McNULTY)

(G. SPERDUTI)