

Opinion No. 19/2008 (United Kingdom of Great Britain and Northern Ireland)

Communication addressed to the Government on 14 January 2008

Concerning Mr. Michel Moungar

The State is a party to the International Covenant on Civil and Political Rights.

1. (Same text as paragraph 1 of Opinion No. 17/2008.)
2. The Working Group conveys its appreciation to the Government for having provided the requested information.
3. (Same text as paragraph 3 of Opinion No. 17/2008.)
4. The case summarized below was reported to the Working Group as follows: Mr. Michel Moungar, born 22 October 1973 in Chad, and a former member of the Movement for Democracy and Justice in Chad (MDJC), entered the United Kingdom on 2 January 2003 and applied for asylum. He was granted refugee status in the United Kingdom on 6 October 2005 in accordance with the 1951 United Nations Convention Relating to the Status of Refugees.
5. Mr. Moungar was arrested on 3 November 2006 and charged with deception. He was sentenced to one year of imprisonment and finished his term on 7 May 2007. Since then he has been detained at the Lindholme Immigration Removal Centre in Doncaster to effect his deportation from the United Kingdom. At the same time the authorities are seeking to revoke his refugee status.
6. His application for release from administrative detention on bail, dated 17 May 2007, was refused on 1 June 2007. On 3 July 2007 Mr. Moungar challenged the decision to deport him, which was dismissed on 16 July 2007.

7. Since Mr. Moungar fears that he would be detained and possibly killed should he be returned to Chad for reasons of his known political activities against the ruling Government of Chad, the Home Office of the United Kingdom decided to remove him to Cameroon, although he is not a Cameroonian national.
8. The source alleges that the prolonged administrative detention of Mr. Moungar of more than eight months is arbitrary, because it is not necessary under all circumstances.
9. In its reply the Government reported that Michel Moungar is not this person's true name. On 10 April 2007, the Cameroonian authorities confirmed his true identity as Mr. Adabert Blaise Emani, who was born on 22 October 1968 (and not on 22 October 1973) and who is a citizen of Cameroon.
10. Mr Moungar/Emani claimed to have arrived in the United Kingdom on 2 January 2003, by air, accompanied by a paid facilitator. There was no evidence for this. He claimed asylum on 21 February 2003 in the identity of Michel Moungar. His application was refused on 9 May 2005 and, on 11 May 2005, he was notified of his status and liability to removal from the United Kingdom as an illegal entrant.
11. On 2 June 2005, Michel Moungar/Adabert Emani appealed against the refusal of his asylum application. On 22 September 2005 his appeal was allowed and on 6 October 2005 he was recognized as a refugee under the terms of the 1951 United Nations Convention relating to the Status of Refugees. On 7 November 2005, he was issued with a titre de voyage.
12. On 3 November 2006, the person calling himself Michel Moungar was arrested by officers of the Department of Works and Pensions on suspicion of possession and use of a forged French passport. The Government adds that when his home was searched, a significant number of forged documents in the Michel Moungar identity were seized. Also seized was a genuine passport issued by the Republic of Cameroon in the name of Adabert Blaise Emani, born on 22 October 1968, and a genuine Cameroonian driving licence in the same name. Also found was a Halifax Bank card in the name of Mr. A. B. Emani.
13. According to the Government, Mr. Adabert Blaise Emani first attempted to seek asylum in the United Kingdom on 4 July 2001, when he was refused entry to this country at Coquelles, having presented a forged French passport in the name of Nayl Richard. The genuine Cameroonian passport found after his arrest on 3 November 2006 bore a French "Schengen" visa issued at Douala, Cameroon, on 16 June 2001. There were endorsements showing that Mr. Emani had embarked at Douala airport on 26 June 2001 and had entered France at Roissy-Charles de Gaulle Airport the following day, a week before he was refused entry to the United Kingdom. On 4 July 2001, Mr. Emani was arrested by the French police, who took his photograph and fingerprints. This photograph and fingerprints taken in France subsequently proved to be a match with the photograph and fingerprints of the person calling himself Michel Moungar in the United Kingdom.
14. Mr. Moungar/Emani was convicted on 13 February 2007 at Manchester Crown Court for possession and use of a false instrument. He was sentenced to 12 months imprisonment and was recommended by the Court for deportation. He did not appeal against his conviction or sentence. The Cameroonian passport in the identity of Adabert Blaise Emani was referred to the passport authorities in Cameroon who confirmed that the passport was genuine and was issued to Mr. Adabert Blaise Emani, born in Bafang on 22 October 1968. On 10 April 2007, Mr Emani was asked to provide any reasons why he believed he should not be deported from the United Kingdom. He made no reply.
15. On 1 May 2007, he was informed that it had been decided to cancel his refugee status and to make a deportation order against him. That decision attracted a right of appeal. Mr. Emani lodged his appeal on 4 May 2007 in the identity of Michel Moungar. His

grounds for appeal were that he would face treatment contrary to articles 2, 3 and 8 of the European Convention on Human Rights if he were to be returned to Chad. On 7 May 2007, Mr. Mounzar/Emani completed his custodial sentence and he was subsequently detained under the provisions of paragraph 2 of Schedule 3 of the Immigration Act 1971. Mr. Mounzar/Emani's appeal was heard on 3 July 2007. He was present and was able to give evidence to the Immigration Judge.

16. In his determination issued on 16 July 2007, the Immigration Judge commented: "The Appellant is a thoroughly dishonest witness who is completely lacking in credibility". He found that: "In reaching our findings that the passport belongs to the Appellant we have also had regard to the fact that a Cameroonian driving licence was also recovered from the Appellant's home which is also in the same name as Adabert Blaise Emani. Consistent with our findings that the Appellant has lied concerning his Chadian identity and that he has fabricated a false asylum claim on the basis of persecution in Chad, and taking account of our positive findings that both the Cameroonian passport and the driving licence belong to the Appellant, then we are satisfied on the balance of probabilities that the Appellant's true identity is Adabert Blaise Emani and that he is a citizen of Cameroon and that he is not Michel Mounzar from Chad".

17. Having found that Mr. Emani's deportation to Cameroon would not be in breach of the United Kingdom's obligations under the Refugee Convention or the ECHR, the Immigration Judge concluded: "We bear in mind the fact that the sentencing Judge recommended deportation and that the offence of which the Appellant was convicted was one of using a false French passport, an offence which we find goes to the heart of immigration control. We also take into account our findings that the Appellant deceived the Respondent into granting him asylum by falsely claiming that he was a national of Chad who had suffered persecution there. We find that public policy demands that those who abuse the asylum system in such a way ought not to be allowed to benefit from that deception by being allowed to remain in the United Kingdom, save perhaps in the most exceptional circumstances, and clearly this case does not fall within that category".

18. On 14 August 2007, Mr. Mounzar/Emani's application for a review of the decision to dismiss his appeal was refused by a Senior Immigration Judge. Mr Mounzar/Emani now claimed to be from Darfur in Sudan. On 15 August 2007, he made a further application to the High Court for a review of the decision to dismiss his appeal, which was rejected on 22 November 2007 thereby exhausting all available avenues of appeal. On 21 January 2008, a Deportation Order was signed against Adabert Blaise Emani, authorizing his continued detention until his removal from United Kingdom territory. He was later deported to Cameroon.

19. The Government lastly states that Mr. Emani's continued detention was reviewed on a regular basis. Paragraph 2 of Schedule 3 of the immigration Act 1971 provides that a person who has been recommended for deportation by a Court may be detained pending the making of a deportation order. Mr. Emani's continued detention was lawful and fully justified by the Court's recommendation that he be deported; his very poor immigration history; the degree of deception he practised; and the likelihood that he would not comply with any conditions attached to his release.

20. The response from the Government was submitted to the source, which did not provide the Working Group with its observations or comments.

21. The Working Group considers that Mr. Michel Mounzar/Adabert Blaise Emani was deported to Cameroon under the authority of a deportation order issued by a competent administrative immigration authority, a decision which was revised by competent judicial authorities, the Immigration Judge and the High Court.

22. However, the Working Group also notes that this person has been under criminal detention between 3 November 2006 and 7 May 2007 for possession and use of a false instrument and under administrative detention since then and until his deportation. His applications to be released on bail were refused on 1 June and 8 November 2007. This period of administrative detention seems to be of an unwarranted and unnecessary duration for the execution of a deportation order. The Working Group considers that the right not to be deprived of liberty is one of the fundamental human rights and that the principles of no undue delay and reasonable time are principles consecrated in articles 9 and 14 of the International Covenant on Civil and Political Rights (see, in this regard, the Working Group's Opinion No. 45/2006 (United Kingdom of Great Britain and Northern Ireland) (A/HRC/7/4/Add.1, p. 40)).

23. Considering that Mr. Michel Mounzar/Adabert Blaise Emani was deported from the United Kingdom, the Working Group, according to paragraph 17 (a) of its methods of work, decided to file the case.

Adopted on 10 September 2008