



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

## FOURTH SECTION

### DECISION

Application no. 49259/18  
M.J.  
against the Netherlands

The European Court of Human Rights (Fourth Section), sitting on 21 October 2021 as a Committee composed of:

Armen Harutyunyan, *President*,

Jolien Schukking,

Ana Maria Guerra Martins, *judges*,

and Viktoriya Maradudina, *Acting Deputy Section Registrar*,

Having regard to the above application lodged on 15 October 2018,

Having regard to the decision to grant the applicant anonymity under Rule 47 § 4 of the Rules of Court,

Having deliberated, decides as follows:

### FACTS AND PROCEDURE

The applicant is an Afghan national who was born in 1997 and who is currently residing in the Netherlands. He was represented by Ms M.E. Muller, a lawyer practising in Gouda.

Invoking Article 3 of the Convention and Article 13 in conjunction with Article 3, the applicant complained, firstly, of the treatment to which he feared he would be subjected if he were returned to Kabul, Afghanistan, and, secondly, of an alleged lack of an effective remedy. These complaints were communicated to the Dutch Government (“the Government”).

On 3 September 2021 the Government informed the Court that a six-month moratorium on decisions on asylum requests by Afghan nationals as well as on removals to Afghanistan had been established, which had entered into force on 26 August 2021.

On 9 September 2021 the Registry asked the applicant whether, in light of the information provided by the Government, he wished to maintain his application.

On 21 September 2021 the applicant informed the Court that he wished to maintain his application, because the moratorium only applied for a period of six months after which he might face expulsion again. He added that the moratorium need not prevent the authorities from assessing his individual situation and from granting him a residence permit.

## THE LAW

In view of the above, the Court notes that the risk of the applicant being expelled and, potentially, being exposed to a risk of treatment in breach of Article 3, has now, at least temporarily, been removed. Moreover, the Court finds that the complaints under Article 13 and on the procedural requirements of Article 3 in the present case are in essence inextricably connected to the proposed expulsion of the applicant (see *Nasseri v the United Kingdom* (dec.), no. 24239/09, § 18, 13 October 2015, and *J.W. v. the Netherlands* (dec.), no. 16177/14, § 32, 27 June 2017). In these circumstances, the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)). Moreover, it is satisfied that respect for human rights, as defined in the Convention and the Protocols thereto, does not require a continuation of the application by virtue of Article 37 § 1 *in fine*.

Accordingly, the application should be struck out of the list. In reaching this conclusion, the Court has taken into account its competence under Article 37 § 2 of the Convention to restore the case to its list of cases if it considers that the circumstances justify such a course.

For these reasons, the Court, unanimously,

*Decides* to strike the application out of its list of cases.

Done in English and notified in writing on 18 November 2021.

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Viktoriya Maradudina  
Acting Deputy Registrar

Armen Harutyunyan  
President