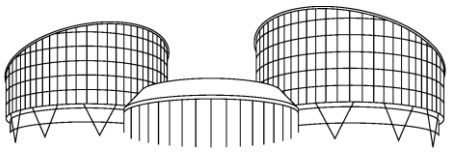

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

DECISION

Application no. 3202/09
F.N.
against the United Kingdom

The European Court of Human Rights (Fourth Section), sitting on 17 September 2013 as a Chamber composed of:

Ineta Ziemele, *President*,
David Thór Björgvinsson,
Päivi Hirvelä,
George Nicolaou,
Paul Mahoney,
Krzysztof Wojtyczek,
Faris Vehabović, *judges*,

and Françoise Elens-Passos, *Section Registrar*,

Having regard to the above application lodged on 20 January 2009,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicant,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, F.N., is a Ugandan national, who lives in Kampala. She was represented before the Court by Ms K. Brandemo of Women Against Rape, a non-governmental organisation based in London. The United Kingdom Government ("the Government") were represented by their Agent, Ms L. Dauban, of the Foreign and Commonwealth Office.

A. The circumstances of the case

2. The facts of the case, as submitted by the parties, may be summarised as follows.

3. The applicant was born in 1975 in Gulu in Northern Uganda. Her mother died in 1990 and the applicant lived with her father for a while, then moved in with her grandmother since she did not get on with her father's other wife. Her grandmother died in 2000 or 2001 and her father died in 2003. Her first language is Acholi, but she also speaks good English and some Lugandan.

4. The applicant arrived in the United Kingdom on the morning of 3 October 2000, travelling on a passport bearing the name of another woman. Immigration officers at Gatwick Airport detected that the passport was fraudulent, in that the photograph had been changed, and questioned the applicant. During the first ten minutes of the interview, she maintained that her name was as stated in the passport, that the passport was genuine and that she was a resident of the United Kingdom who had been out of the country temporarily. However, she subsequently claimed asylum.

5. The applicant was interviewed in respect of her asylum claim later that day, at Gatwick Airport. She claimed that the Lord's Resistance Army (LRA), a rebel group, had been harassing the population of the area of Northern Uganda where she lived with her grandmother. On one occasion the rebels came to her college dormitory but she was able to run home to her grandmother's house, spraining her ankle. A few weeks before she travelled to the United Kingdom, some people whom she did not know came to her house and took clothes and household items, but then left without hurting her or her grandmother.

6. The applicant was then released. She went to live with her aunt, a midwife, in Hayes. Shortly after her arrival she told her aunt that she had been raped by seven LRA rebels who had broken into her home a few days before she came to the United Kingdom, and that her grandmother had helped her to leave Uganda because they were afraid that she would be attacked again. Her aunt took her to see a doctor, who referred the applicant to a counsellor. The applicant went on to see this counsellor weekly until the end of 2002. She was also prescribed anti-depressants which she took until the end of 2002. She began visiting a local church with her aunt and made friends amongst the congregation. In July 2001 she began studying at college; first English, then Access to Nursing. In August 2002 she began a nursing course at Thames Valley University. She qualified as a nurse in 2006.

7. The applicant claimed asylum and humanitarian protection under Article 3 of the Convention on the basis of her gang-rape by members of the LRA. Her asylum claim was refused on 4 March 2001 on the grounds that her credibility had been damaged by her failing to state her claim fully at the outset and by travelling on a false documents and that, even if her account was to be believed, the acts of the LRA did not amount to a sustained pattern or campaign of persecution directed at the applicant which was knowingly tolerated by the Government and that the applicant could have

attempted to seek redress through the Ugandan authorities before seeking international protection.

8. The applicant appealed against the refusal of asylum and protection under Article 3. Her appeal was heard by the Asylum and Immigration Tribunal (as it then was) on 24 March 2006. The Immigration Judge found the applicant to be credible, stating that it was entirely plausible that she would not have admitted at the outset to having been raped because she was humiliated and ashamed. This was consistent with evidence that the applicant had undergone counselling for rape trauma and with her demeanour during the hearing. He also found the applicant's account of her experiences to be wholly consistent with background evidence on the practices of the LRA. The judge further found that, while the applicant would be safe from the LRA in Kampala, the capital of Uganda, it would be unduly harsh to expect her to relocate there given the trauma she had suffered and the lack of any remaining family or other support available to her in Uganda, since her grandmother was now dead.

9. The Secretary of State appealed against the Tribunal's decision and the case was remitted for reconsideration on 26 April 2006. A Senior Immigration Judge found that the first-instance Immigration Judge had erred in finding that the applicant was a member of a particular social group for the purposes of the 1951 Convention on the status of Refugees. He had further erred in finding that the Ugandan authorities could not offer effective protection, and that it would be unduly harsh for the applicant to relocate to Kampala.

10. The case was therefore reheard before a differently constituted Tribunal on 27 March 2007. The Immigration Judge at this hearing accepted that a victim of rape might have difficulties in discussing such matters with strangers. Nonetheless, he considered that it cast doubt on her credibility that, in her asylum interview at Gatwick, she specifically stated that the men who came to her house to steal clothes and other items had not harmed her in any way. He also found her claim to have believed that her passport was genuine and that she could lawfully use it for travel to be implausible. In any event, even if he accepted the applicant's version of events, he did not consider that she was a refugee within the terms of the Refugee Convention, as there was no evidence that she had been targeted by the LRA on account of being a member of a specific social group or that any LRA attack on her had been knowingly tolerated by the Ugandan authorities. The Immigration Judge accepted that the LRA continued to commit mass killings in Northern Uganda but did not consider that the applicant would be at risk from the LRA if she relocated to Kampala. It was not unduly harsh to expect a 32-year old woman, who was in good physical health, and had qualified as a nurse whilst in the United Kingdom and could therefore be presumed to be able to find work in Uganda, to return to Kampala and re-establish herself. He accepted that the applicant had undergone counselling in the past and

had been prescribed anti-depressants, but found that there was little evidence before him of her having any significant mental health problems or having had recourse to medication for depression since 2002. As to the applicant's rights under Article 8, it was accepted that she lived with and enjoyed a close relationship with her aunt, which amounted to family life. It was also accepted that she had established private life in the United Kingdom, which included her nursing studies and the support network on which she relied. However, while her removal would have a major impact on her life, her case was not sufficiently exceptional to render removal disproportionate in all the circumstances.

11. Following this decision, the applicant began again to suffer from anxiety and depression, including suicidal thoughts, for which she received treatment in the form of anti-depressants and regular visits from members of her local Community Mental Health Team. From April 2007, she was in contact with the association Women against Rape, which provided her with one-to-one counselling and also referred her to a self-help group for victims of rape.

12. Removal directions were set and the applicant was taken into detention in August 2007, which increased her depression and suicidal tendencies. She commenced judicial review proceedings on 21 August 2007, which were refused on the papers on 30 January 2008. Her appeal against the judgment of 27 March 2007 was refused by the Court of Appeal on 19 October 2007.

13. On 17 December 2007 the applicant made an application to the Secretary of State for discretionary leave to remain on compassionate grounds, stating that she had suffered depression since 2000 and had received treatment to 2002, and had suffered a relapse in June 2007, "with concomitant suicidal thoughts". On 15 May 2008 the Secretary of State issued a decision, which noted that the applicant had suffered a relapse into depression after she had exhausted all her appeal rights, and observed that when a person has no immigration status in the United Kingdom and is subject to enforcement action it is not unlikely that they will experience stress and anxiety. The medication which the applicant had been prescribed would be available in Uganda and the her medical condition had been considered in the 16 March 2007 AIT determination and found not to reach the threshold of Article 3 of the Convention. The applicant's aunt could, from the United Kingdom, continue to provide financial support and if the applicant found herself without any means of supporting herself and wholly depend on her aunt, she could apply for entry clearance from Uganda to rejoin her. The decision concluded that the applicant's further representations did not amount to a fresh claim and that there was no right of appeal against the decision.

14. She was again taken into immigration detention on 16 May 2008 and directions were set for her removal on 19 May 2008. She submitted further

representations to the Secretary of State on 19 May 2008, stating that she had suffered serious ill-treatment in the past and that her gender and lack of family support would make her vulnerable to predatory sexual attacks, from which the Ugandan authorities would provide no protection. She further submitted that she was suffering from post-traumatic stress disorder and was at risk of suicide. These representations were rejected on the same date as not amounting to a fresh asylum claim. The Secretary of State took into account the applicant's medical notes from the immigration detention centre, which stated that the applicant had twice attempted to self-harm whilst in the centre, but that she had denied being suicidal.

15. The applicant made an application for permission to seek judicial review of the decision not to treat her representations as a fresh claim, as a result of which her scheduled removal was cancelled. She was released from detention on 9 July 2008. However, her application was refused by the High Court on 10 October 2008, following a hearing. The judge noted that the arguments during the hearing had centred on the risk of suicide. The medical report of the doctor who had followed the applicant's treatment over the longest period concluded that, if she were removed and unable to access psychiatric and psychological treatment, she would be more vulnerable. The judge did not consider that this risk reached the threshold of Article 3 ill-treatment.

16. The applicant was again taken into immigration detention on 14 January 2009, with a view to her removal. She made further representations to the Secretary of State on the same day, which were rejected as not amounting to a fresh claim on 20 January 2009. The Secretary of State did not consider that a report from the applicant's psychiatrist stating that the applicant was highly likely to harm herself if removed to Uganda amounted to the clearest possible indication that there was a real risk of suicide in the applicant's case, such as would be required to prevent her removal, particularly as there was evidence from medical staff at the detention centre that she was not considered to be at risk of suicide. An application to appeal against the refusal of the applicant's application for permission to seek judicial review was refused on the same day by the Court of Appeal, which found that all the new material put to the Secretary of State since the High Court had considered the case had been fully addressed, without error of law.

17. Also on the same date, the applicant sought interim measures under Rule 39 from this Court to prevent her removal to Uganda which was scheduled for that evening, although she did not at that time provide the Court with any medical evidence relating to her mental state. The application under Rule 39 was refused and the applicant's removal went ahead as scheduled.

18. Since April 2009, the applicant has been living in Kampala. According to the statements provided to the Court, her aunt initially

arranged for her to live with a friend, but after a time she had to leave and she has since moved between different friends' houses, with periods where she has had to sleep on the streets for want of accommodation. She has been unable to find work but is receiving financial support from her aunt and friends in the United Kingdom. A friend from the self-help group she had joined in the United Kingdom checked on her by telephone every few weeks and two friends saw her in Kampala during a visit. On several occasions she had to come off the anti-depressant medication which she had been prescribed in the United Kingdom, because it was hard to find and expensive in Kampala, causing her to suffer depression and panic attacks In 2010 she was raped at knifepoint. She became pregnant as a result and gave birth to a baby boy in December 2011. She considered giving the child up for adoption, but finally was able to keep him with financial help from her contacts in the United Kingdom.

B. Relevant domestic law

1. Asylum and human rights claims

19. Article 1 of the 1951 Convention on the Status of Refugees defines a refugee as someone who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality and is unable or, owing to such fear, unwilling to avail himself of the protection of that country. It is open to an asylum seeker also to make a claim for protection on human rights grounds. Sections 82(1) and 84 of the Nationality, Immigration and Asylum Act 2002 provide for a right of appeal against an immigration decision made by the Secretary of State for the Home Department, *inter alia*, on the grounds that the decision is incompatible with the Convention. Appeals in asylum, immigration and nationality matters were, at the relevant time, heard by the Asylum and Immigration Tribunal. Section 2 of the Human Rights Act 1998 provides that, in determining any question that arises in connection with a Convention right, courts and tribunals must take into account any case-law from this Court so far as, in the opinion of the court or tribunal, it is relevant to the proceedings in which that question has arisen. Section 6(1) provides that it is unlawful for a public authority to act in a way which is incompatible with a Convention right.

2. Domestic case-law concerning the refoulement and internal relocation of lone women

20. In *A.A. (Uganda) v. Secretary of State for the Home Department* [2008] EWCA Civ 579, the Court of Appeal considered the case of a Ugandan national born in 1986, whose father was beaten to death and

whose mother was killed by the LRA. AA arrived in the United Kingdom in December 2003, on a lawfully issued visa, to live with her aunt. However, while living there AA was raped by her uncle, became pregnant and had an abortion. Her aunt refused to believe her, which prompted AA to attempt suicide and she was then taken into a residential care home for vulnerable young people. She applied for asylum and humanitarian protection, was refused, and appealed. It was accepted by the Secretary of State that she would be at risk of violence from the LRA if returned to Northern Uganda, so the principal issue before the domestic courts was whether it would be unduly harsh to expect her to relocate to Kampala. The Immigration Judge in the Asylum and Immigration Tribunal accepted the evidence of an expert called by AA, to the effect that in East Africa contacts and information were critical in the search for employment and that it would be difficult to get a job interview without contacts. The expert further considered that AA would find it hard to become self-employed since she had no training or skills such as might generate an income in the informal sector, for example, cooking, sewing, trading. The expert therefore concluded, and the Immigration Judge accepted, that the only jobs that would be open to AA in Kampala would be as a sex worker. The Immigration Judge nonetheless concluded, *inter alia*, that as there were many women in that situation in Kampala, it would not be unduly harsh to expect AA to relocate there. AA appealed, and the Court of Appeal held as follows:

> "17. ... On the evidence accepted by the AIT, AA is faced not merely with poverty and lack of any sort of accommodation, but with being driven into prostitution. Even if that is the likely fate of many of her fellow countrywomen, I cannot think that either the AIT or the House of Lords that decided *AH (Sudan)* would have felt able to regard enforced prostitution as coming within the category of normal country conditions that the refugee must be expected to put up with. Quite simply, there must be some conditions in the place of relocation that are unacceptable, to the extent that it would be unduly harsh to return the applicant to them, even if the conditions are widespread in the place of relocation.
>
> 18. This was a case that called for an enquiry as to whether conditions in Kampala fell into that category. In not addressing that enquiry the AIT acted irrationally and its determination cannot stand. It therefore falls to this court to revisit that decision if there are facts and materials already placed before the AIT that enable the court to form its own view. In this case, and relying only on the evidence that was before the AIT, I would hold for the reasons already indicated that it would be unduly harsh to return AA to Kampala."

The Court of Appeal further held that, even if the above conclusion were wrong, the facts that AA was a traumatised rape victim, suffering from chronic depression, would render he manifestly less able than most to bear the conditions that would await her in Kampala.

21. In *FB (Lone women, PSG, internal relocation, AA (Uganda) considered) Sierra Leone* [2008] UKAIT 00090, the AIT considered the effect of the Court of Appeal's judgment in AA, and held:

> "38. In our respectful view, the return of a woman to a country where she faced prostitution would not simply have a *significant effect* upon whether it would be unduly harsh to expect an appellant to be subjected to such a fate; it would be determinative of that issue. No construction of the obligations owed by the United Kingdom authorities (under whatever Convention) could possibly envisage permitting a woman prostituting herself as a survival technique and yet maintain it would not be unduly harsh for her to do so. ...
>
> 39. ... faced with that material, it is not surprising that the Court of Appeal allowed the appeal but the Court of Appeal's decision is not authority for a wider proposition that lone women cannot be returned to Uganda or, indeed, any other specific country. Nor is it support for the proposition that it is unduly harsh to expect lone women to relocate to the capital city of their country of origin or any large urban centre. Rather, it is a re-affirmation, in line with *AH (Sudan)*, that such relocation must be reasonable, in other words, that it must not have such consequences upon the individual as to be unduly harsh for her. Inevitably it *will* be unduly harsh if an appellant is unable for all practical purposes to survive with sufficient dignity to reflect her humanity. That is no more than saying that if survival comes at a cost of destitution, beggary, crime or prostitution, then that is a price too high."

COMPLAINTS

22. The applicant complained under Articles 3 and 8 of the Convention about her removal to Uganda.

THE LAW

A. Alleged violation of Article 3 of the Convention

23. Article 3 of the Convention provides as follows:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

24. The applicant asked the Court to consider the evidence and to accept, as did the first-instance Immigration Judge, that she had been the victim of a brutal gang-rape immediately before her arrival in the United Kingdom. Although adverse credibility findings were made against her in the subsequent domestic proceedings, the reasoning employed was flawed. In particular, the finding that the applicant lacked credibility because of her failure immediately to disclose that she had been raped ignored the mental health implications of this type of ill-treatment. She further submitted that the gang-rape by members of the LRA constituted torture within the meaning of Article 3. The Ugandan authorities had failed and would continue to fail to protect her from sexual violence. The authorities of the

United Kingdom, by removing her to Uganda, had deprived her of her rights as a torture survivor to redress, compensation and as full a rehabilitation as possible. This, she argued, was a violation of the United Kingdom's positive obligations under Articles 1 and 3 of the Convention. She further submitted that at the time of her removal she was suffering from post-traumatic stress disorder as a result of the rape and that it was foreseeable that in Uganda she would not be able to obtain the medication, treatment or counselling she required for her mental illness. The applicant was a single, unaccompanied female with no family or relatives in Uganda. Since being returned, her situation had been precarious. She had not been able to get a job, since she lacked the networks of family and friends essential for obtaining employment in Kampala. She had experienced periods of homelessness, and her situation and poor mental state had made her vulnerable to crime, leading to her being raped at knife point.

25. The Government submitted that, prior to her removal, the applicant had failed to substantiate that she would be in such a vulnerable position upon return to Uganda that she would fall within the high threshold set by Article 3 of the Convention. Her arguments before the domestic courts had focussed on the risk of suicide, rather than any risk of destitution or enforced prostitution, and although some of the medical reports had mentioned that she had suicidal ideation, none had concluded that there was a real risk of suicide. The Government relied on the high threshold for Article 3 in cases where an applicant suffers from a serious mental or physical illness (see *N. v. the United Kingdom* [GC], no. 26565/05, §§ 42-45, 27 May 2008). They did not accept that the applicant's account of her circumstances since her return to Uganda was necessarily correct, given the credibility findings of the Tribunal and, in any event, emphasised that subsequent alleged events could not retrospectively give rise to a contravention of Article 3. The Government acknowledged that in the light of national case law (see paragraphs 20-21 above) it was possible that conditions in the place of intended relocation might be considered unreasonable or unduly harsh, even if those conditions were not such as to infringe an applicant's rights under Article 3. However, the applicant's personal circumstances would not have been any better had she been able to return to Gulu, since she no longer had any family living there, and it was not unduly harsh to expect her to relocate to Kampala, since she was able to access a degree of support and assistance from her friends and family in the United Kingdom.

26. The Court recalls its settled case-law to the effect that as a matter of well-established international law, and subject to their treaty obligations, including those arising from the Convention, Contracting States have the right to control the entry, residence and removal of aliens. Neither the Convention nor its Protocols confer the right to political asylum. However, expulsion by a Contracting State may give rise to an issue under Article 3,

and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person concerned, if deported, faces a real risk of being subjected to treatment contrary to Article 3. In such a case Article 3 implies an obligation not to deport the person in question to that country (see *Saadi v. Italy* [GC], no. 37201/06, §§ 124-125, ECHR 2008).

27. In this type of case the Court is therefore called upon to assess the situation in the receiving country in the light of the requirements of Article 3. In determining whether substantial grounds have been shown for believing that there is a real risk of treatment incompatible with Article 3, the Court will take as its basis all the material placed before it or, if necessary, material obtained *proprio motu*. Its examination of the existence of a real risk must necessarily be a rigorous one. It is in principle for the applicant to adduce evidence capable of proving that there are substantial grounds for believing that, if the measure complained of were to be implemented, he would be exposed to a real risk of being subjected to treatment contrary to Article 3. Where such evidence is adduced, it is for the Government to dispel any doubts about it. In order to determine whether there is a risk of ill-treatment, the Court must examine the foreseeable consequences of sending the applicant to the receiving country, bearing in mind the general situation there and his personal circumstances. The existence of the risk must be assessed primarily with reference to those facts which were known or ought to have been known to the Contracting State at the time of expulsion (see *Saadi v. Italy*, cited above, §§ 128-133).

28. According to the Court's constant case-law, ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. The assessment of this minimum level of severity is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim. Article 3 principally applies to prevent a deportation or expulsion where the risk of ill-treatment in the receiving country emanates from intentionally inflicted acts of the public authorities there or from non-State bodies when the authorities are unable to afford the applicant appropriate protection (see *N. v. the United Kingdom* [GC], no. 26565/05, §§ 29-31). The mere fact of return to a country where the applicant's economic position will be worse than in a Contracting State is not sufficient to meet the threshold of ill-treatment proscribed by Article 3 (see *Miah v. the United Kingdom* (dec.), no. 53080/07, § 14, 27 April 2010 and *Abdi Ibrahim v. the United Kingdom* (dec.), no. 14535/10, § 31, 18 September 2012). Aliens who are subject to expulsion cannot in principle claim any entitlement to remain in the territory of a Contracting State in order to continue to benefit from medical, social or other forms of assistance and services provided by the expelling State. The fact that the applicant's circumstances, including his or her life expectancy, would be

significantly reduced if he or she were to be removed from the Contracting State is not sufficient in itself to give rise to breach of Article 3. The decision to remove an alien who is suffering from a serious mental or physical illness to a country where the facilities for the treatment of that illness are inferior to those available in the Contracting State may raise an issue under Article 3, but only in a very exceptional case, where the humanitarian grounds against the removal are compelling (see *N. v. the United Kingdom*, cited above, §§ 42-45, ECHR 2008).

29. In this regard, the Court recalls its findings in the case of *Bensaid v. the United Kingdom*, no. 44599/98, §§ 37-40, ECHR 2001-I, which involved a sufferer of schizophrenia and psychotic illness, who was to be removed from the United Kingdom to Algeria. The Court accepted that the difficulties in obtaining medication and the stress inherent in returning to the applicant's area of Algeria, which at that time was experiencing violence and active terrorism, risked exacerbating his already existing mental illness and possibly causing a relapse into hallucinations and psychotic delusions involving self-harm and harm to others. The Court further accepted that the suffering associated with such a relapse could, in principle, fall within the scope of Article 3. However, it also found that the applicant faced a risk of his mental health deteriorating even if he remained in the United Kingdom. Although his removal would arguably increase the risk and the applicant's circumstances in Algeria would be less favourable than in the United Kingdom, the applicant's claim that his removal would lead to deterioration in his mental state and that he would not receive the appropriate treatment or care was, to a large extent, speculative. Having regard to the high threshold set by Article 3, particularly where the case did not concern the direct responsibility of the Contracting State for the infliction of harm, the Court did not find that there was a sufficiently real risk that the applicant's removal would be contrary to the standards of Article 3. The case did not disclose exceptional circumstances.

30. Turning to the facts of the present case, the Court observes, first, that the applicant does not contend that the alleged torture, namely her gang-rape by members of the LRA, took place within the jurisdiction of the United Kingdom or was in any way attributable to the United Kingdom. In this connection, it recalls that the engagement undertaken by a Contracting State under Article 1 of the Convention is confined to "securing" the listed rights and freedoms to persons within its own "jurisdiction".

31. The applicant did not contend that she faced a real risk in Kampala from rebel forces, which were mainly active in the north of the country. Instead she argued that her removal gave rise to a breach of Article 3, first, because her vulnerable state and the disruption of the support network she relied on in the United Kingdom created a risk of mental breakdown and, secondly, because of the risk of destitution inherent in the relocation to Kampala of a single female without family connections there. As regards

the risk to the applicant's mental health, the Court notes that the medical reports prepared prior to her removal concluded that she was suffering from depression and anxiety but not, for example, that she was actively or imminently suicidal. As with the applicant in the case of *Bensaid*, cited above, the contention that her removal would lead to an increased risk of suicide was largely speculative. It was foreseeable that in her country of origin she would not have access to the same level of medical and social support that she had enjoyed in the United Kingdom. However, the domestic authorities considered that it would be possible for her to purchase in Kampala the same anti-depressant medication she had been taking in the United Kingdom. This view appears to have been correct since, according to the information subsequently provided by the applicant, she was able to continue with this medication, albeit with some periods of interruption due to lack of availability or lack of money. Moreover, the evidence before the domestic authorities did not support the view that the applicant would be destitute if repatriated. The Immigration Judge who decided her case on 27 March 2007 considered that, as a young woman in relatively good health with the nursing qualification she had obtained in the United Kingdom, it would be reasonable to expect her to be able to find work in Kampala. This does not appear to have happened. Nonetheless, unlike, for example, the young woman in *A.A. (Uganda) v. Secretary of State for the Home Department* (see paragraph 20 above), the applicant had been supported for many years by her aunt in the United Kingdom. It appeared likely at the time of removal, and has proved to be the case, that this support would continue to be extended from a distance. In conclusion, the information available to the national authorities at the relevant time did not establish that the applicant's case was very exceptional case, with compelling humanitarian grounds against removal.

32. For the foregoing reasons, the applicant's complaint under Article 3 is manifestly ill-founded and therefore inadmissible, pursuant to Article 35 §§ 3 and 4 of the Convention.

B. Article 8 of the Convention

33. Article 8 of the Convention 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."

34. The applicant submitted that her removal to Uganda severed her social and familial ties in the United Kingdom. She had lived with her aunt

in the United Kingdom for eight and a half years. She had no family in Uganda and had never lived on her own. The applicant's removal to Kampala largely severed her connection with Women against Rape, a non-governmental charity which provided her with crucial psychological and emotional support. There was no similar support available to the applicant in Uganda. The removal caused high levels of stress and exacerbated the applicant's mental illness. She argued that her removal represented the premature termination of her psychiatric rehabilitation in the United Kingdom and thus violated her right to physical and moral integrity. In the circumstances, the applicant submitted that the decision to remove her constituted a disproportionate interference with her right to respect for family and private life because it interfered with that right to an extent unjustified by any pressing social need.

35. The Government submitted that there was no suggestion that the applicant had enjoyed any family life with her aunt before she came to the United Kingdom. Any family life with her aunt, and any private life in the United Kingdom, was created at a time when the applicant was aware that its continuation was uncertain because of her immigration status. They accepted the possibility that treatment which did not reach the severity of Article 3 might nonetheless breach Article 8 in its private life aspect where there were sufficiently adverse effects on physical and moral integrity. However, in the present case, it had not been established that the applicant's return to Uganda would affect her psychological integrity to such a degree as to fall within the scope of Article 8. Moreover, even that there had been an interference with the applicant's right to respect for private or family life, such interference was in accordance with the law and pursued a legitimate aim, namely the protection of the economic well-being of the country, and was proportionate in all the circumstances.

36. The Court has previously held that there will be no family life, within the meaning of Article 8, between parents and adult children or between adult siblings unless they can demonstrate additional elements of dependence (*Slivenko v. Latvia* [GC], no. 48321/99, § 97, ECHR 2003 X; *Kwakye-Nti and Dufie v. the Netherlands* (dec.), no. 31519/96, 7 November 2000), and similar considerations apply to other familial relations such as that between aunt and niece. However, the Court accepts, as did the domestic authorities, that the applicant lived with and was more than usually dependent on her aunt as a result of her vulnerable mental state and thus that family life existed between the two. Although the applicant has been able to remain in close contact with her aunt since her removal to Uganda, the Court accepts that her removal did interfere, to an extent, with the family life she and her aunt enjoyed, since the two were no longer able to live together or enjoy the close contact that such cohabitation entailed. The Court further notes that the applicant's aunt appears to be her only surviving relation. The Court also accepts that the applicant's removal to

Uganda interfered with the private life which she had unquestionably established in the United Kingdom (see *Miah v. the United Kingdom* (dec.), no. 53080/07, § 17, 27 April 2010).

37. However, the Court finds that the applicant's removal was "in accordance with the law" and was motivated by a legitimate aim, namely the maintenance and enforcement of immigration control, which serves the general interests of the economic well-being of the country. As to the necessity of the interference, the Court finds that the private or family life established by the applicant during her stay in the United Kingdom, when balanced against the legitimate public interest in effective immigration control, did not render her removal a disproportionate interference. In this regard, the Court notes that the applicant's stay in the United Kingdom, pending the determination of her asylum and human rights claims, was at all times precarious, and any private and family life she established was in full knowledge of this fact (see, *mutatis mutandis*, *Nnyanzi v. the United Kingdom*, no. 21878/06, § 76, 8 April 2008). Having been found not to be in need of international protection in the United Kingdom, it was reasonable to expect her to return to her country of origin. It would have been possible, though not expected given that both the applicant and her aunt are independent adults, for her aunt to accompany the applicant to Uganda had they both considered it necessary in view of the applicant's vulnerability. The Court has never construed Article 8 as entailing a general obligation upon Contracting States to respect immigrants' choice of the country in which they enjoy their family life (see, *inter alia*, *Abdulaziz, Cabales and Balkandali v. the United Kingdom*, cited above, § 68; *Gül v. Switzerland*, judgment of 19 February 1996, *Reports of Judgments and Decisions* 1996-I, pp. 174-75, § 38; and *Boultif v. Switzerland*, no. 54273/00, § 39, ECHR 2001-IX), and the applicant has not shown any insurmountable obstacle to her aunt accompanying her to Uganda. As it was, the applicant's aunt remained in the United Kingdom and the two have been able to continue their family life by means of telephone calls.

38. Finally, the Court notes that the applicant's complaint regarding the fact that her removal to Uganda prevented her from continuing to access mental health and other support services in the United Kingdom has been dealt with under Article 3. It does not consider that it raises any separate issue under Article 8 of the Convention.

39. In view of the above considerations, the Court finds that the interference with the applicant's private and family life caused by her removal was not disproportionate in all the circumstances of the case to the legitimate aim of maintaining effective immigration control. It follows that the applicant's complaint under Article 8 is manifestly ill-founded and therefore inadmissible, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Françoise Elens-Passos Registrar	Ineta Ziemele President