

France's asylum procedures condemned by the European Court of Human Rights

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11 June 2007

The European Court of Human Rights (ECHR) on April 26 condemned France for the absence of an effective right to appeal for undocumented asylum-seekers. Nevertheless, French President Nicolas Sarkozy's newly formed administration has confirmed that the government intends to take tough measures on immigration and carry out the mass deportation of undocumented immigrants.

Sarkozy intends soon to present the first legislation of his five-year administration. Immigration will be a top priority at a mid-July session of the new National Assembly resulting from the second round of the legislative elections June 17. Sarkozy's prime minister, François Fillon, announced that a new law on immigration will be brought forward at the first parliamentary session after the elections. This is clearly an attempt to win further support away from the far-right National Front.

The measures outlined by Fillon will make it far more difficult for immigrants with family members already living in France to gain residence status. The person residing legally in France will have to have a house deemed adequate to accommodate the family member(s) and have income from work, specifically not from welfare payments, sufficient to provide for that person or persons. The candidates must prove their ability to speak French *before* being allowed to settle in France.

Sarkozy has chosen his close friend Brice Hortefeux to head the new Ministry of Immigration and National Identity. Hortefeux declared on Europe 1 radio, "We have rejected mass legalisation. It doesn't work and it penalises, even immigrants." He added that the policy would be carried out with "firmness and humanism" and "lots of pragmatism."

Hortefeux claimed there were 200,000-400,000

undocumented immigrants (*sans papiers*) in France and pledged to strictly adhere to the policy of deporting them. He expects 25,000 *sans papiers* to be deported this year.

The European Court of Human Rights ruled April 26, 2007, in the case of Gebremedhin v. France, that there had been a violation by the French authorities of Articles 13 and 3 of the European Convention of Human Rights. The court awarded the applicant €8,300.60 for costs and expenses. (See full text)

Asebeha Gebremedhin, 28, an Eritrean press photographer arrived without papers at Charles de Gaulle airport in Paris on June 29, 2005, and applied for asylum. He was placed in the "waiting area" of deportation. His request for refugee status to the French Office for the Protection of Refugees and Stateless Persons (OFPRA) was rejected due to "inconsistencies in his claims." The Ministry of the Interior dismissed his application and gave directions for his removal "to Eritrea, or if need be to any country where he may be legally admissible." An appeal against the decision was dismissed.

Consequently, with the support of the National Association for Assisting Foreign Nationals (ANAFE—Association nationale d'assistance aux frontières pour les étrangers), he appealed to the European Court of Human Rights. Through its intervention, the French authorities issued him a temporary residence permit, on July 20, 2005.

The European Human Rights judge stressed in the ruling, "Given the importance which the Court attached to Article 3 of the European Convention of Human Rights and the irreversible nature of the harm that might occur if the risk of torture or ill-treatment materialised, it was a requirement of Article 13 that the persons concerned should have access to a remedy with

automatic suspensive effect. As the applicant, while in the ‘waiting area,’ had not had access to this, he had been deprived of an ‘effective remedy’ in respect of his complaint under Article 3.”

The government of former President Jacques Chirac modified the OFPRA procedure for granting asylum to reduce the time for treating such cases. This average time decreased from 258 days in 2003 to 108 days in 2005.

Amnesty International France complained that the procedure time was too short and that it does not give enough time to asylum-seekers to produce proof of the authenticity of their claim. The authorities examine the files within 15 days instead of nearly three months. Asylum-seekers would not have the right to have any access to a financial allowance and healthcare if the case were rejected.

Such draconian procedures help the right-wing Union for a Popular Movement (UMP) government expedite the rapid expulsion of illegal immigrants and meet their target of 25,000 deportations. Many are sent back to their countries even though their lives are in serious danger. Many asylum-seekers have been imprisoned on their return to their countries, and several have lost their lives.

One of these was Elanchelvan Rajendram. He came to France in 2002, to escape persecution in Sri Lanka. The OFPRA rejected his demand for refugee status in early 2003. He lived in France as an undocumented immigrant until the police arrested him in 2005 and sent him back to Sri Lanka. He was murdered by the Sri Lankan army at his home on February 28, 2007.

The procedure for the granting of asylum status comes under the responsibility of the Ministry of the Interior, which makes the final decision on whether or not to admit an individual. At the time of Rajendram’s deportation, Sarkozy was interior minister. He thus bears a share of the responsibility for the former’s fate.

Amnesty International’s 2007 Annual Report noted: “Abusive practices in the fight against irregular immigration continued to be another major area of concern affecting many EU member states. The response has been disappointing, showing yet again a pattern of denial.”

The report added: “The lack of long-term sustainable solutions and the language of fear that dominates political agendas have led to disturbing manifestations

of racism and discrimination in Europe. The current climate encourages the stigmatisation of foreigners and suspicion of Muslims and members of other religious communities.”

At their summit meeting held in Seville in June 2002, the leaders of 15 European Union nations decided on drastic measures to further limit the flow of immigration into Europe. (See “EU summit steps up attack on refugees and foreigners”)

Sarkozy’s UMP is set to win the coming elections to the National Assembly, as a result of the collapse of the official left and his own populist demagoguery, promising everything to everybody. Sarkozy has attempted to whip up anti-immigrant prejudice to divert attention from the social crisis and the government’s record, as well as from its proposed free-market, anti-welfare state and repressive policies. The Socialist Party has no fundamental differences with Sarkozy on these questions, although it has disagreements as to how these measures should be implemented. The mass of the French population has consistently opposed the attacks on its rights and social gains, but it has been disenfranchised politically.

The brutal measures directed today against refugees, asylum-seekers and immigrant communities are an indication that further attacks on all democratic and social rights are on the agenda, and that Sarkozy, Fillon and the UMP intend to implement them as rapidly as possible.



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