



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

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FIFTH SECTION

Application no. 3959/26
T.A.
against Türkiye
lodged on 2 February 2026
communicated on 21 September 2026

SUBJECT MATTER OF THE CASE

The applicant, an Afghan national born in 2005, entered Türkiye with her family in 2008. At the material time, all family members were registered as refugees with the United Nations High Commissioner for Refugees (UNHCR). In 2018, following the transfer of refugee status determination procedures to the domestic authorities, the applicant's refugee status was revoked. Her subsequent application for international protection was rejected by the Konya governor's office on 16 April 2019. An action for annulment of that decision was dismissed by the Konya Administrative Court on 9 October 2019; a judgment which became final on appeal. Following the Taliban's takeover in Afghanistan, she was issued a humanitarian residence permit on an unspecified date.

On 13 May 2024, the applicant was apprehended by the Turkish security forces while attempting to cross irregularly into Greece by sea. Consequently, on 16 May 2024, her residence permit was annulled, and a deportation order was issued against her under Section 54(1)(h) of Law no. 6458 on the grounds that she had violated, or attempted to violate, the provisions governing lawful entry into or departure from Türkiye. She was placed in administrative detention at the İzmir Harmandalı Removal Centre, from which she was released on 21 May 2024.

On an unspecified date, the applicant reapplied for a humanitarian residence permit, which was rejected on 11 December 2024. The Konya

Administrative Court dismissed her annulment action against this rejection on 25 June 2025, a decision upheld on appeal on 19 September 2025. In parallel, on 17 April 2025, the İzmir Administrative Court dismissed her action against the deportation order, finding the alleged risk upon removal to Afghanistan unsubstantiated as she relied primarily on the general security situation rather than any individualised risk.

On 29 October 2025 the applicant lodged an individual application with the Constitutional Court. In a summary decision of 16 December 2025, the Constitutional Court declared the applicant’s complaint inadmissible as being lodged out of time.

The applicant relies on Article 3 of the Convention.

QUESTIONS TO THE PARTIES

1. Did the applicant duly exhaust the remedies available in domestic law in respect of her complaint under Article 3 of the Convention, as required by Article 35 § 1? Specifically, the Government are requested to comment on the Constitutional Court’s decision to declare the applicant’s complaint under Article 3 inadmissible as out of time, given that the removal decision remained unenforced and the applicant was still present on the territory of the respondent State (see *J.A. and A.A. v. Türkiye*, no. 80206/17, § 41, 6 February 2024 and the case-law cited therein)?

2. Is the applicant currently under a threat of deportation to Afghanistan? If so, would this entail a real risk that she would be subjected to treatment in violation of Article 3 of the Convention (see, *mutatis mutandis*, *J.K. and Others v. Sweden* [GC], no. 59166/12, §§ 77-123, 23 August 2016; *A.A. v. Switzerland*, no. 32218/17, §§ 39-59, 5 November 2019; and *D.M. v. Sweden*, no. 32694/23, §§ 155-99, 26 March 2026)?

3. Did the national authorities and courts fulfil their obligation to conduct an adequate examination of the applicant’s allegations that she would be exposed to a real risk of ill treatment if removed to Afghanistan, as required under Article 3 of the Convention (see, *mutatis mutandis*, *F.G. v. Sweden* [GC], no. 43611/11, §§ 110-27, ECHR 2016, and *Khasanov and Rakhmanov v. Russia* [GC], nos. 28492/15 and 49975/15, §§ 93-116, 29 April 2022)?