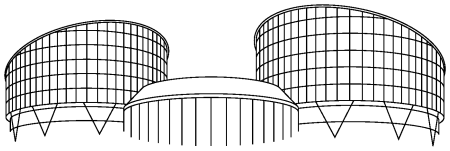

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

CASE OF A.B. AND OTHERS v. FRANCE

(Application no. 11593/12)

JUDGMENT
(extracts)

STRASBOURG

12 July 2016

This judgment is final under Article 44 § 2 of the Convention but it may be subject to editorial revision.

In the case of A.B. and Others v. France,

The European Court of Human Rights (Fifth Section), sitting as a Chamber composed of:

Angelika Nußberger, *President,*
Ganna Yudkivska,
Khanlar Hajiyev,
André Potocki,
Yonko Grozev,
Síofra O'Leary,
Mārtiņš Mits, *judges,*
and Claudia Westerdiek, *Section Registrar,*

Having deliberated in private on 21 June 2016,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 11593/12) against the French Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a couple of Armenian nationality, Mr A.B. and Ms A.A.B., and their son A.B. ("the applicants"), on 24 February 2012. The President of the Section acceded to the applicants' request not to have their names disclosed (Rule 47 § 4 of the Rules of Court).

2. The applicants were represented by Ms F. Tercero, a lawyer practising in Toulouse. The French Government ("the Government") were represented by their Agent, Mr F. Alabrune, Director of Legal Affairs at the Ministry of Foreign Affairs.

3. The applicants alleged that their administrative detention at the Toulouse-Cornebarrieu centre, pending their removal, had breached Articles 3, 5, 8 and 13 of the Convention.

4. On 29 February 2012 notice of the application was given to the Government.

5. Having regard to the Court's findings in *I v. Sweden* (no. 61204/09, §§ 40-46, 5 September 2013), it was decided not to give notice of the present application to Armenia.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

6. The applicants were born in 1978, 1980 and 2007 respectively.

7. They fled Armenia on account of fears of persecution related to the first applicant's activity as a journalist and his political activism.

8. After arriving in France on 4 October 2009 they filed applications for asylum, which were rejected by the French Office for the Protection of Refugees and Stateless Persons (Office français de protection des réfugiés et apatrides – OFPRA), on 21 December 2009, then by the National Asylum Court (Cour nationale du droit d'asile – CNDA), on 28 February 2011. Their subsequent requests for re-examination were also rejected.

9. On 3 May 2011 the prefect of Loiret issued orders rejecting the applicants' requests for leave to remain and obliging them to leave French territory. On 18 October 2011 the Orleans Administrative Court, on an appeal from the applicants, refused to overturn those orders.

10. The first applicant was arrested by the police in connection with a theft on the evening of 16 February 2012 and was taken into police custody that same day. The second and third applicants were arrested the next day at the reception centre for asylum seekers (Centre d'accueil des demandeurs d'asile – CADA) at Chaingy, where the family had been living. The applicants were taken that same day to the administrative detention centre (Centre de rétention administrative – CRA) of Toulouse-Cornebarrieu. The detention orders in respect of the first two applicants read as follows:

> "Whereas the immediate enforcement of the [order to leave France] is not possible on account of the organisation of [their] departure for [their] country of origin.
>
> Whereas [the applicants] [have] not presented sufficient guarantees that [they] will not abscond, not having a valid passport, [having] neither a fixed abode nor sufficient resources, not [having] complied with the previous removal directions issued to [them] and [having] formally opposed, when interviewed, [their] return to [their] country of origin."

11. The first two applicants challenged their detention orders and in parallel lodged an urgent application for a stay of execution. They claimed that they had a fixed addressed at the reception centre (CADA), that a friend was prepared to accommodate them and that, in any event, their detention would be incompatible with the best interests of their child. In this connection they indicated that their child, who was too young to be left on his own, was obliged to accompany them in all their administrative formalities and therefore to come into contact with armed police officers in uniform.

12. On 21 February 2012 the President of the Toulouse Administrative Court dismissed the urgent application without a hearing, finding as follows:

> "Under the [domestic statutory] provisions, the legality of decisions ordering administrative detention in connection with removal measures can be challenged fully through a specific procedure, which itself has the nature of an urgent procedure, separately from the remit of the urgent applications judge ...; it follows therefrom that the applicants' request for that judge to order ... the stay of execution of the detention orders made for the purpose of enforcing the removal directions, a stay which would in fact have an equivalent effect to that of the annulment of the same decision on the merits, is inadmissible."

13. On the same day, the Toulouse Administrative Court dismissed the application lodged by the first two applicants for the annulment of the administrative detention order, on the following grounds:

> "It is not in dispute that [the applicants] cannot present any valid identity or travel document; although [they claim] that [they] have a fixed address in an asylum-seekers' reception centre, it can be seen from the evidence in the file that this centre asked [them] to vacate the premises, where [they have] unduly remained since June 2011; nor [have] the [applicants] adduced evidence of lawful income; lastly, since the notification of the judgment of the Orléans Administrative Court of 18 October 2011 dismissing [their] application against the order of the prefect of Loiret of 2 May 2011, [the applicants] [have] avoided the said removal measure; under those circumstances, the choice of the administrative authority to place [them] in administrative detention instead of ordering a measure of restricted residence ... is not vitiated by a manifest error of judgment."

Responding more specifically to the argument raised by the applicants concerning the child's best interests, the Administrative Court found it to be inapplicable, as the decisions appealed against pertained only to the parents' personal situation.

14. The prefect asked the Liberties and Detention Judge of the Toulouse *tribunal de grande instance* to extend the detention, after which the first two applicants tried to obtain the third applicant's voluntary intervention in the proceedings. On 22 February 2012 that judge authorised the extension of the applicants' detention for a period of twenty days, after finding inadmissible the request for voluntary intervention on behalf of the child, and having dismissed the argument that the conditions of detention were incompatible with the presence of a minor child, on the following grounds:

> "It is not for the judicial authority to interfere in the running of an administrative detention centre".

15. That decision was upheld on 24 February 2012 by the President of the Toulouse Court of Appeal, who found in particular as follows:

> "... the administrative detention centre of Cornebarrieu, where the child is held, has been authorised to receive families and contains all the necessary facilities to ensure the comfort of a family with children.

Thus the whole family is together and they have, in an autonomous area and separated from the rest of the detainees, rooms for them alone and for their exclusive use.

In addition, there is a playground on the site, like those to be found in town squares.

Lastly, a doctor and a nurse are available every day in the Toulouse administrative detention centre and Mr and Mrs A.B. have not shown that they met with a refusal when they asked to present their child – a request of which the existence has not been established.

The Convention provisions, especially Article 8, do not therefore appear to have been breached."

16. On 24 February 2012 the applicants submitted to the Court, under Rule 39 of the Rules of Court, a request for the suspension of the detention orders concerning them. On 29 February 2012 the Court decided not to indicate the requested interim measure.

17. On 5 March 2012 the applicants were released, after expressing their wish to return to Armenia, and after seeking voluntary return assistance for that purpose. However, they did not leave France, on account of the third applicant's state of health. On 13 July 2012 the first applicant was granted leave to remain as the parent of a sick child.

18. In two judgments of 15 November 2012, the Bordeaux Administrative Court of Appeal annulled the administrative detention orders of 17 February 2012 in respect of the first two applicants. Its judgments contained the same wording for each spouse:

"4. Article L. 561-2 of the Entry and Residence of Aliens and Right of Asylum Code provides, by way of exception to the cases where a foreign national may be placed in detention, the possibility of ordering a measure of restricted residence (*assignation à résidence*) if the alien can present guarantees to allay the risk of non-compliance with his or her obligation to leave France. Under provision 3º of part II of Article L. 511-1 of the same Code, such risk must in particular be regarded as established, save in specific circumstances, in cases where the alien has already evaded the execution of a removal measure. The finding by the administrative authority of facts falling within provision 3º of part II of Article L. 511-1, while it is such as to create a presumption of a risk that the alien might fail to comply with his or her obligation to leave France, does not dispense that authority, before any decision to place him or her in detention, from specifically examining the circumstances of the case. As regards aliens who are the parents of minor children and who do not have sufficient guarantees of compliance, such aliens being provided for by Article L. 562-1 of the said Code, and in accordance with the aims of Article 17 of Directive 2008/115/EC, recourse to placement in detention can only constitute an exceptional measure in cases where the alien does not have a stable place of abode at the time when the prefectoral authority takes the necessary measures to prepare for the removal.

5. For the purposes of transposition of the above-mentioned Directive, Article L. 562-1 of the Entry and Residence of Aliens and Right of Asylum Code, as inserted by Law no. 2011-672 of 16 June 2011, provides: '*In the cases provided for in Article L. 551-1, where the alien is the parent of a minor child residing in France and has effectively contributed to the raising and education of that child in the conditions*

prescribed in Article 371-2 of the Civil Code since the birth of the child or at least for the past two years, and where the conditions for a restricted residence measure under Article L. 561-2 of the present Code are not fulfilled, the administrative authority can decide on a measure of curfew with electronic tagging, with the agreement of the alien concerned.

The measure of curfew with electronic tagging is decided by the administrative authority for a period of five days. The measure may be extended by the Liberties and Detention Judge under the same conditions as the extension of the administrative detention provided for in chapter II of title V of the present book.'

6. It can be seen from the evidence in the file that on the date of the decision appealed against, Mr [A.B.], accompanied by his wife and four-year-old son [A.B.], had been accommodated for several years in the hostel of the asylum-seekers' reception centre in Chaingy, and that the child had been going to school. Mrs [A.A.B.] was apprehended on 16 February 2012 in that hostel, where the family had remained unlawfully, even though they had been requested to leave the premises by the centre's administration, following the rejection of their requests for a review of their asylum situation by a decision of 28 July 2011 of the French Office for the Protection of Refugees and Stateless persons. In deciding on their placement in detention the prefect of Loiret merely stated that Mr [A.B.] did not present sufficient guarantees against the risk of non-compliance, as he did not have a valid passport, had no stable place of abode or sufficient income, and had not complied with the previous directions for his removal. It does not appear from the decision appealed against that the prefect had considered, having regard to the presence of a child, whether a less coercive measure than detention was possible for the necessarily short duration of the removal procedure. In those conditions, his decision was vitiated by an error of law and had for that reason to be declared null and void.

7. It transpires from the foregoing that, without there being any need to examine the other arguments in the application, Mr [A.B.] is justified in submitting that the judge appointed by the President of the Toulouse Administrative Court, in the judgment appealed against, had been wrong to reject his request for the annulment of the decision of 17 February 2012 placing him in administrative detention."

...

THE LAW

...

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

97. The applicants alleged that the placement of their child in administrative detention when he was four years old, in the Toulouse-Cornebarrieu centre, constituted treatment in breach of Article 3 of the Convention, which reads as follows:

Article 3

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

A. The parties' submissions

98. The applicants wished firstly to point out certain events that had taken place prior to their placement in detention. They said that their child, who was brutally snatched from his day-to-day environment, as he had been going to school, had been arrested and taken away in a police van in the presence of an escort of several uniformed officers for a journey lasting nearly five hours.

99. The applicants then complained about the noise level in the Toulouse-Cornebarrieu detention centre. This centre was located in an area unsuitable for construction, according to the land-use plan, on account of the noise level caused by its proximity to Toulouse-Blagnac airport. According to the noise exposure survey of 2007, the level of exposure to noise in the centre ranged on average between 62 and 70 decibels (db). According to the World Health Organisation, exposure to noise at 70 db led to a loss of hearing and at 55 db to serious discomfort, while at 30 db children's sleep was disturbed and at 35 db speech was no longer intelligible. According to an opinion of 6 May 2004 of the Superior Council of Public Health in France, a noise level of 60 db on the outside wall of residential buildings should not be exceeded.

100. The applicants asserted that, in any event, even though they were held in a centre which included a family area, it was unsuitable for small children on account of the tension and anxiety necessarily caused by such confinement. The physical conditions of organisation were not adapted to their presence. Their child had thus been shocked by loud-speakers which, by permanently broadcasting messages, created an ambient noise that was difficult to put up with, thus exacerbating the feeling of despair and putting detainees on edge. The applicants further emphasised that a four-year-old child was not supposed to remain for a whole day in the same room and that a small courtyard containing a slide was surrounded by railings several metres high with an escape-prevention net over the top. They added that they had not been preserved from the daily violence stemming from the confinement of other adults. They would come into contact with those adults in the communal areas of the centre. In addition, their child had been obliged to follow them in all their movements around the centre (OFII, CIMADE, medical visits), then on their visits to the courthouse (when summoned to appear before the Liberties and Detention Judge, Court of Appeal, Administrative Court), when they were always escorted by armed police in uniform, sometimes crossing paths with other detainees who were handcuffed. The applicants explained that they had shared the family area

with a couple who had four children of between 14 months and 5 years and that the couple's children had been particularly traumatised as the father had violently slashed his arm in front of them using a knife, slicing tendons and nerves.

101. Lastly, the applicants argued, producing a medical certificate in evidence, that their child had undergone a traumatic experience.

102. The Government sought to distinguish the present case from the *Popov* judgment, in which the Court had found a violation of Article 3 of the Convention "in view of the children's young age, the length of their detention and the conditions of their confinement in [the] detention centre". In the present case, while similar to the *Popov* case in terms of the child's age and the length of the detention, the conditions of accommodation for families in the Toulouse-Cornebarrieu centre were, in the Government's view, far superior to those examined by the Court in *Popov*. Relying on reports by the CPT and of the Inspector-General of Custodial Premises, they submitted that the Toulouse-Cornebarrieu detention centre, a recent construction (2006) designed from the outset to cater for families, contained functional and modern facilities providing all detainees in general, and families in particular, with accommodation to the highest standard. They went on to say that the reception area for families was equipped with separate and tailored outdoor courtyards, that games were made available to children, and that appropriate toiletries and food were provided.

103. In response to the applicants' arguments about the proximity of the airport, the Government emphasised that neither the Inspector-General of Custodial Premises nor the CPT had commented on this issue and in particular neither of them had referred to an excessive noise level.

104. They argued that the applicants were asking the Court to find that the presence of a child in a detention centre constituted in itself, regardless of the physical conditions prevailing in that centre, treatment in breach of Article 3 of the Convention. That view, said the Government, went beyond the Court's case-law, the Guidelines on Forced Return issued by the Committee of Ministers on 4 May 2005 and the provisions of the EU Return Directive.

105. Lastly, the Government rejected the applicants' argument that the young boy's mental health problems were entirely attributable to his confinement in the centre. They pointed out that the medical certificate drawn up three months after the applicants' release had only indicated "polymorphous manifestations of psychiatric disorders in a child of 4 years and 9 months, related to a destabilisation of family life, precarity of day-to-day surroundings, uprooting and a loss of habitual references", without expressly associating these problems with the detention.

106. For these reasons, the Government took the view that the conditions of the applicants' detention could not be regarded as constituting a violation of Article 3.

B. The Court's assessment

1. Applicable principles

107. The Court reiterates that Article 3 of the Convention makes no provision for exceptions. This absolute prohibition of torture and of inhuman or degrading treatment or punishment shows that Article 3 enshrines one of the fundamental values of the democratic societies making up the Council of Europe (see *Soering v. the United Kingdom*, 7 July 1989, § 88, Series A no. 161).

108. In order to fall within the scope of Article 3, the ill-treatment must attain a minimum level of severity, the assessment of which depends on all the circumstances of the case, and in particular the nature and context of the treatment, the manner in which it was inflicted, its duration, its physical or mental effects and, in some cases, the sex, age and state of health of the victim (see, among other authorities, *Raninen v. Finland*, 16 December 1997, § 55, *Reports of Judgments and Decisions* 1997-VIII).

109. The Court has found a violation of Article 3 of the Convention on a number of occasions on account of the placement in migrant detention centres of accompanied minors (see *Muskhadzhiyeva and Others v. Belgium*, no. 41442/07, 19 January 2010; *Kanagaratnam v. Belgium*, no. 15297/09, 13 December 2011; and *Popov*, cited above) or unaccompanied minors (see *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, no. 13178/03, ECHR 2006-XI, and *Rahimi v. Greece*, no. 8687/08, 5 April 2011). In cases concerning the placement of accompanied foreign minors, it has found a violation of Article 3 in particular on account of a combination of three factors: the child's young age, the length of the detention and unsuitability of the premises for the accommodation of children.

2. Application to the present case

110. The Court finds that in the present case, as in the case of *Muskhadzhiyeva and Others* (cited above), the applicants' child was accompanied by his parents throughout the period of detention. It takes the view, however, that this factor is not such as to release the authorities from their obligation to protect the child and to adopt appropriate measures in line with their positive obligations under Article 3 of the Convention (ibid., § 58) and it is important to bear in mind that the child's extreme vulnerability is the decisive factor and takes precedence over considerations relating to the child's status as illegal immigrant (see *Popov*, cited above, § 91; compare *Mubilanzila Mayeka and Kaniki Mitunga*, cited above, § 55). It observes that the European Union directives regulating the detention of migrants adopt the position that minors, whether or not they are accompanied, constitute a vulnerable category requiring the special

attention of the authorities. Children certainly have specific needs, resulting in particular from their age and dependence.

111. The Court notes that, during the detention in question, the applicants' child was four years old and he was held with his parents for eighteen days at the Toulouse-Cornebarrieu detention centre.

112. As regards the physical conditions of the detention, the Court observes that the Toulouse-Cornebarrieu centre is one of the facilities that is "authorised" to receive families under a decree of 30 May 2005 ... It can be seen from the inspection reports on this centre ... that the authorities were careful to separate families from the other detainees, to provide them with specially fitted rooms and to make available material that was tailored to child care. Moreover, the NGOs have acknowledged that, unlike the situation in *Popov* (cited above), the physical conditions in the centre were not problematic.

113. The Court would observe, however, that the Toulouse-Cornebarrieu detention centre, being situated right next to the runways of Toulouse-Blagnac airport, is exposed to particularly high noise levels which have resulted in the land being classified as an "area unsuitable for building" ... It points out that children, for whom periods of outdoor leisure activities are necessary, are thus particularly affected by the excessive noise. The Court further finds, without having to rely on the medical certificate produced by the applicants, that the constraints inherent in a place of detention, which are particularly arduous for a young child, together with the centre's conditions of organisation, must have caused the applicants' child some anxiety. The boy, who could not be left alone, was obliged to attend, with his parents, all the meetings required by their situation, together with the various judicial and administrative hearings. While being transferred for that purpose he would mix with armed police officers in uniform. In addition, he was constantly subjected to the announcements made through the centre's loudspeakers. Lastly, he witnessed the mental distress sustained by his parents, in a place of confinement that did not allow him to distance himself.

114. The Court is of the view that such conditions, even though they necessarily represent a significant source of stress and anxiety for a small child, are not sufficient, where the confinement is for a short duration, depending on the circumstances of the case, to attain the threshold of severity required to engage Article 3. It is convinced, however, that in the case of a longer period, the repetition and accumulation of such mental and emotional aggression would necessarily have harmful consequences for a young child, exceeding the above-mentioned threshold. Accordingly, the passage of time is of primary significance in this connection for the application of this Article. The Court concludes that the permissible short duration has been exceeded in the present case, which concerns the

detention of a four-year-old child lasting for eighteen days in the conditions set out above.

115. Therefore, in view of the age of the applicants' child, and the length and conditions of his confinement in the Toulouse-Cornebarrieu detention centre, the Court finds that the authorities subjected this child to treatment which exceeded the threshold of severity required to engage Article 3 of the Convention. There has accordingly been a violation of that Article in respect of the applicants' child.

III. ALLEGED VIOLATION OF ARTICLE 5 §§ 1 AND 4 OF THE CONVENTION

116. The applicants argued that the placement of their child in administrative detention was in breach of Article 5 §§ 1 and 4. Those provisions read as follows:

> "1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
>
> ...
>
> (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
>
> ...
>
> 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful."

A. Article 5 § 1

1. The parties' submissions

117. The applicants contended that Article 5 § 1 had been breached as the authorities had failed to ascertain whether an alternative to administrative detention could be envisaged. They claimed that they had been accommodated since 2009 on a continuous basis, though without being settled, in the asylum-seekers' reception centre at Chaingy and that they had even presented, during the proceedings, a certificate of accommodation from one of their relatives offering to receive them.

118. In the Government's view, the present case had to be distinguished from *Popov* for three reasons. Firstly, they contended that the accommodation conditions in the detention centre were not unsuited to the placement of the applicants and their child pending removal. Secondly, they pointed out that Article L. 553-1 of the Entry and Residence of Aliens and Right of Asylum Code, as worded following the Law of 16 June 2011, now

indicated that minors could be held in certain centres when the law expressly provided that they could stay there with their parents. Lastly, the Government noted that the prefectoral authority had examined beforehand the possibility of an alternative measure of restricted residence but had rejected it because the applicants had not presented guarantees that they would not abscond. In the detention order the prefect had thus noted that the applicants did not have sufficient guarantees that they would not abscond, as they did not have "a valid passport, ... neither a fixed abode nor sufficient resources, [had] not complied with the previous removal directions issued to [them] and [had] formally opposed, when interviewed, [their] return to [their] country of origin". The Liberties and Detention Judge had also been careful to assess the relationship between the reason for the applicants' detention and the place and conditions of that detention.

2. The Court's assessment

119. In order to comply with Article 5 § 1, any deprivation of liberty has to follow "a procedure prescribed by law" and must be "lawful" (see, among other authorities, *Winterwerp v. the Netherlands*, 24 October 1979, § 37, Series A no. 33, and *Witold Litwa v. Poland*, no. 26629/95, § 78, ECHR 2000-III).

120. The Court reiterates, moreover, that all that is required for detention to be compatible with Article 5 § 1 (f) is that action is being taken with a view to deportation and that the detention is carried out for the purposes of enforcing the measure. In principle it is therefore immaterial whether the underlying decision to expel can be justified under national or Convention law, or whether the detention was reasonably considered necessary, for example to prevent the person concerned from absconding or from committing an offence. The Court nevertheless has regard to the specific situation of the detained person. Thus, by way of exception, when a child is involved it considers that the deprivation of liberty must be necessary to fulfil the aim pursued, namely to secure the family's removal. In the case of *Popov* (cited above) it found a violation of Article 5 § 1 after observing in particular that the authorities had not verified that the placement in administrative detention was a measure of last resort for which no alternative was available (ibid., § 119).

121. The Court notes that French law regulates certain aspects of the presence of minors accompanying parents who have been placed in administrative detention ... However, there are no statutory provisions governing the conditions in which the child's presence is possible. In particular, as a foreign minor under eighteen cannot be subject to an obligation to leave France ..., there is no provision in domestic law to the effect that a child can be subject to a detention order for the purposes of removal. This explains why the order in the present case was only made against the parents and not against the child accompanying them.

122. However, the Court observes that the situation of children is intrinsically linked to that of their parents, from whom they should not be separated as far as possible. That link, which is in the children's interest, has the consequence that, where the parents are placed in detention, their children are themselves *de facto* deprived of liberty. That deprivation of liberty stems from the legitimate decision of the parents, having authority over their children, not to entrust them to the care of a third party. The Court can accept that such a situation is not, in principle, incompatible with domestic law. It nevertheless emphasises that the environment in which the children then find themselves is a source of anxiety and tension that may cause them serious harm.

123. In those circumstances, the Court finds that the presence in a detention centre of a child accompanying its parents will comply with Article 5 § 1 (f) only where the national authorities can establish that this measure of last resort has been taken after actual verification that no other measure involving a lesser restriction of their freedom could be implemented.

124. In the present case, the Court notes that the applicants and their child were placed in a detention centre pending their removal and, accordingly, this constituted a deprivation of liberty for the purposes of Article 5 § 1 (f). The Court would refer to the finding of the Administrative Court of Appeal that there was no indication in the detention orders that the prefect had verified, in view of the child's presence, whether an alternative measure that would have been less coercive than detention was possible. Accordingly, while having regard to the reasons given in the prefect's decision to place the applicants in a detention centre, the Court takes the view that the evidence before it is not sufficient for it to be satisfied that the domestic authorities had effectively verified that the administrative detention of the family was a measure of last resort with no possible alternative.

125. Having regard to the foregoing, the Court finds that there has been a violation of Article 5 § 1 of the Convention in respect of the applicants' child.

...

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

...

2. *Holds* that there has been a violation of Article 3 of the Convention in respect of the applicants' child;

3. *Holds* that there has been a violation of Article 5 §§ 1 and 4 of the Convention in respect of the applicants' child;

...

Done in French, and notified in writing on 12 July 2016, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Claudia Westerdiek
Registrar

Angelika Nußberger
President