



Constitutional Court

**PRESS RELEASE
JUDGMENT 163/2022**

Suspension of the law of assent to the Belgian-Iranian treaty insofar as it allows the transfer to Iran of a person convicted in Belgium for having committed a terrorist offence with the support of Iran

In 2021, A. Assadi, an Iranian diplomat, was sentenced in Belgium to 20 years in prison for a terrorist offence. On 11 March 2022, Belgium and Iran concluded a treaty on the transfer of sentenced persons. Ten persons and the “National Council of Resistance of Iran”, who were civil parties in the trial of A. Assadi, are requesting the suspension and annulment of the provision assenting to this treaty, because it would allow the transfer of the convicted diplomat to Iran, where he could be immediately released. O. Vandecasteele, a Belgian detained in Iran since February 2022, intervenes in the proceedings to oppose this request.

The Court rules that the challenged provision seems to violate the right to life of the victims insofar as it allows the transfer to Iran of a person convicted in Belgium for having committed a terrorist offence with the support of Iran. In fact, Belgium knows or should know that Iran will not effectively execute the sentence in this case. The Court considers that the immediate application of this provision could cause serious harm difficult to remedy for the ten persons who brought the proceedings before the Court. The Court suspends the challenged provision to the extent specified.

1. Background to the case

In February 2021, the Antwerp Criminal Court sentenced Assadollah Assadi, an Iranian diplomat, to 20 years in prison for an attempted terrorist attack. On 11 March 2022, Belgium concluded a treaty with the Islamic Republic of Iran (hereafter: Iran) on the transfer of sentenced persons. Several individuals and the “National Council of Resistance of Iran”, who were civil parties in the trial of A. Assadi, are requesting the annulment and suspension of Article 5 of the law of 30 July 2022, which grants assent to the treaty. The applicants criticise the treaty for allowing the transfer of A. Assadi to Iran, where he could be immediately released. Olivier Vandecasteele, a Belgian detained in Iran for unknown reasons since February 2022, intervenes in the proceedings to oppose this request.

2. Review by the Court

2.1. The interest

The Court notes that Belgian law accords several guarantees to the ten natural person applicants, in their capacity as victims, in the framework of the enforcement of the sentence (including the right to be informed and to be heard). **In the event of A. Assadi's transfer** to Iran, the enforcement of the sentence would be regulated by Iranian law and would fall within Iran's

sole jurisdiction. **The applicants would therefore no longer be able to invoke the rights they enjoy under Belgian law.** No party indicates that Iranian law grants victims similar rights. The Court concludes that **these applicants have an interest in seeking the annulment and suspension of the challenged provision.**

The Court also finds that the intervention of O. Vandecasteele is admissible. The suspension of the challenged provision could have a direct and adverse effect on his situation.

2.2. The request for suspension

In order to obtain the suspension of the challenged provision, the applicants must show that at least one of the grounds they invoke is serious and that the immediate application of the challenged provision risks causing them serious harm difficult to remedy.

2.2.1. The existence of a serious ground

The applicants invoke a violation of the right to life (Article 2 of the European Convention on Human Rights). The law of assent would violate the right to life of the victims insofar as it authorises the Belgian Government to transfer to Iran a person convicted in Belgium of an attempted terrorist attack on the lives of others, with the support of Iran.

The Court refers to the case law of the European Court of Human Rights (ECtHR). **Each State must take appropriate steps to safeguard the life of persons. This includes the obligation to enforce final judicial decisions that are made in the context of the respect for the right to life.** In particular, the ECtHR holds that **when foreign convicted persons are transferred to their home country to serve their sentence, the sentencing State must, as part of the transfer procedure, protect the victims' right to life.**

The Court notes that **the treaty of 11 March 2022 allows the State to which the convicted person is transferred to grant pardon or amnesty**, so that the sentence is not carried out.

During the preparatory works of the challenged law, the competent minister declared that Iran resorts to reprehensible practices (abductions, illegal detentions and terrorist acts) and that it has exerted pressure on Belgium since the arrest of A. Assadi. It is also clear from A. Assadi's conviction that he was acting as an agent of the Iranian intelligence and security services. The Court concludes that **Belgium knows or should know that** if Belgium and Iran agree on the transfer of an Iranian who has been sentenced by a Belgian court for having committed a terrorist offence with Iranian support, **Iran will not effectively execute this sentence.**

The Court concludes that **insofar as it allows the transfer to Iran of an Iranian who was convicted in Belgium for having committed a terrorist offence with the support of Iran, the treaty of 11 March 2022 seems to violate the victims' right to life.** The ground is therefore serious.

2.2.2. The existence of a risk of serious harm difficult to remedy

The Court considers that **the immediate application of the challenged provision risks causing serious harm difficult to remedy to the natural person applicants.** In fact, A. Assadi could be transferred to Iran in application of the treaty of 11 March 2022 before the Court has been able to rule on the action for annulment of the law of assent. Moreover, such a transfer would deprive the applicants of their rights under Belgian law as victims and would constitute an irreparable infringement of their right to life.

3. Conclusion

The Court **suspends** Article 5 of the law of 30 July 2022 granting assent to the treaty of 11 March 2022, insofar as this treaty allows for the transfer to Iran of an Iranian who was convicted in Belgium for having committed a terrorist offence with the support of Iran. The Court rules on the action for annulment within three months.

The Constitutional Court is the court that watches over the compliance with the Constitution by the various legislatures in Belgium. The Court can annul, declare unconstitutional or suspend laws, decrees or ordinances for violating a fundamental right or a rule on the division of competences.

This press release, drafted by the Court's media unit, is not binding on the Constitutional Court. The [text of the judgment](#) is available on the website of the Constitutional Court.

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