

## **ECtHR - K.M. v. Switzerland, Application no. 6009/10, 2 June 2015**

**Country of Applicant:**

Albania

**Date of Decision:**

02-06-2015

**Citation:**

K.M. v. Switzerland, Application no. 6009/10, 2 June 2015

**Court Name:**

European Court of Human Rights Second Chamber

**Keywords:**[Family unity \(right to\)](#) [1][Refugee Status](#) [2]**Relevant Legislative Provisions:**Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [3] > [Article 8](#) [4]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [3] > [Article 34](#) [5]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [3] > [Article 35](#) [6]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [3] > [Article 36](#) [7]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [3] > [Article 44](#) [8]**Headnote:**

The European Court of Human Rights held that the removal of an Albanian national from Switzerland to Albania would not violate his right to family life.

**Facts:**

The applicant, an Albanian national, entered Switzerland with his family and applied

unsuccessfully for asylum. His deportation was ordered by the Swiss authorities before granting him temporary admission on an individual basis on account of his three-year-old daughter's health problems. Some years later he was convicted to 2.5 years' imprisonment and exclusion for ten years from Swiss territory. His subsequent applications for a residence permit were all dismissed as well as his appeals to the Federal Court.

The applicant complained that the refusal to grant him a residence permit and the order for his expulsion infringed his right to family life under Article 8.

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**Decision & Reasoning:**

The Court noted that due to the applicant's long duration of stay in Switzerland, the refusal to renew his residence permit and the imposition of his removal from the territory constituted an interference with his right to respect for private life. The Court noted that the applicant had been convicted of serious facts linked to drug trafficking and involving sums of money. What is more, it recalled that the applicant had entered Switzerland with his family and had benefited from a provisory admission for 7 years before being arrested in 1999 and had lived there for twelve years when his provisional admission was lifted in 2003 [56]. It further highlighted that the applicant and his wife, who had in the meantime obtained Swiss citizenship, were divorced and had full knowledge that the applicant risked being expelled. In addition, it took into consideration that the applicant's wife was an Albanian national residing in their country of origin until the age of 29 and, therefore, would not have any difficulty in case of return to Albania.

Turning to the couple's children, the Court noted that they were both adults and did not have particularly strong ties with Albania. However, it acknowledged that in the case of the applicant's removal, their family ties could be continued by other means of communication as well as by visits to Albania. The Court observed that the applicant arrived in Switzerland at the age of 29, after living all of his life in Albania including attending school, getting married and having his first child there [60].

Taking into account the aforementioned, and in particular the severity of the conviction for an offence relating to narcotics pronounced against the applicant, the Court estimated that there was no violation of Article 8.

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**Outcome:**

No violation of Article 8.

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**Case Law Cited:**

ECtHR - Kwakie-Nti and Dufie v. the Netherlands no 31519/96

ECtHR - Vasquez v. Switzerland, no. 1785/08

ECtHR - Slivenko v. Latvia [GC], Application No. 48321/99

ECtHR - Boultif v Switzerland, Application No. 54273/00

ECtHR - Üner v. the Netherlands [GC], Application No. 46410/99

ECtHR - Dalia v. France, Application No. 26102/95

ECtHR - Moustaquim v. Belgium, Application No. 12313/86

ECtHR - Berisha v. Switzerland, Application no. 948/12

ECtHR - Hasanbasic v. Switzerland, no 52166/09

ECtHR - Shala v. Switzerland, no 52873/09

ECtHR - Maslov v. Austria ([GC], no 1638/03

ECtHR - Kissiwa Koffi v. Switzerland, no 38005/07

ECtHR - Udeh v. Switzerland, no12020/09

ECtHR - Ukaj v. Switzerland, no 32493/08

ECtHR - Mehemi v. France, no. 53470/99

ECtHR - Baghli v. France, no 34374/97

ECtHR - Ezzouhdi v. France, no 47160/99

ECtHR - Emre v Switzerland (no. 2) (Application no. 5056/10)

**Attachment(s):**



[AFFAIRE K.M. c. SUISSE.pdf](#)[9]

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**Authentic Language:**

French

**State Party:**

Switzerland

**National / Other Legislative Provisions:**

Switzerland - Federal Law of 26 March 1931 on the residence and establishment of foreigners

Switzerland - Federal Law of 16 December 2005 on foreigners

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**Links:**

[1] [https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field\\_keywords%3A196](https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A196)

[2] [https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field\\_keywords%3A192](https://m.asylumlawdatabase.eu/en/case-law-search?f%5B0%5D=field_keywords%3A192)

[3] <http://www.asylumlawdatabase.eu/en/content/en-european-convention-protection-human-rights-and-fundamental-freedoms-echr>

[4] [https://m.asylumlawdatabase.eu/node/195#toc\\_46](https://m.asylumlawdatabase.eu/node/195#toc_46)

[5] [https://m.asylumlawdatabase.eu/node/195#toc\\_132](https://m.asylumlawdatabase.eu/node/195#toc_132)

[6] [https://m.asylumlawdatabase.eu/node/195#toc\\_135](https://m.asylumlawdatabase.eu/node/195#toc_135)

[7] [https://m.asylumlawdatabase.eu/node/195#toc\\_144](https://m.asylumlawdatabase.eu/node/195#toc_144)

[8] [https://m.asylumlawdatabase.eu/node/195#toc\\_173](https://m.asylumlawdatabase.eu/node/195#toc_173)

[9]

<https://m.asylumlawdatabase.eu/sites/default/files/aldfiles/AFFAIRE%20K.M.%20c.%20SUISSE.pdf>