



Bundesverwaltungsgericht

Press release

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The Federal Administrative Court confirms deportation orders against two individuals posing a threat of Islamic terrorism

The Federal Administrative Court (BVerwG, *Bundesverwaltungsgericht*) in Leipzig dismissed today actions brought by two Salafists considered as posing a terrorist threat. The two men challenged deportation orders issued by the Lower Saxony Ministry of the Interior and Sports (*Niedersächsisches Ministerium für Inneres und Sport*, Ministry of the Interior (*Innenministerium*)). In February 2017, the Ministry ordered the deportation of an Algerian national and a Nigerian national in accordance with section 58a of the Residence Act (*AufenthG, Aufenthaltsgesetz*). Following the rejection of their request for interim protection, the men were deported.

The Federal Administrative Court, which is competent to rule in first and last instance on deportation orders under section 58a *AufenthG*, confirmed today that the orders were lawful. Under the provisions of section 58a *AufenthG*, introduced in 2005, a foreign national may be deported without a prior expulsion order in order to avert a particular threat to the security of the Federal Republic of Germany or a terrorist threat. According to the standard established by the 1st Senate deciding on appeals on points of law (*1. Revisionssenat*) and subsequently confirmed by the Federal Constitutional Court (*Bundesverfassungsgericht*), the fact-based threat assessment, which is necessary for such a deportation, requires a threat situation in which the risk of an act endangering security or a terrorist act resulting from the foreign national can evolve at any time and become a specific threat. The Senate holds that these requirements are satisfied in the case of both Salafists considered to pose a terrorist threat, also on a renewed assessment taking account of the overall picture arising from multiple indicators and indicia. In particular, both men had been involved for a long time in the radical Islamist scene in Germany, sympathised with the terrorist organisation "Islamic State" ("IS") and had promised on multiple occasions acts of violence involving weapons.

In both cases the court held that no bans on deportation existed by reason of a risk of torture or an inhuman or degrading treatment or punishment in the countries to which they were deported. In the case of the Algerian national, the Court initially ordered the deportation to be conditional on an assurance from an Algerian government body that the individual concerned would not be threatened with such risks. Following discussions between the claimant and the Algerian consulate-general during his detention in Germany, it was to be expected, however, that he would not be treated as terrorist on account of his actions in Germany and, for that reason, at the time of his deportation a real risk of a violation of article 3 of the European Convention on Human Rights (ECHR) no longer existed. The claimant also expected not to be at risk in Algeria and, for that reason, requested his own deportation. Following his arrival and questioning in Algeria, this assessment proved to be correct.

In both cases the Federal Administrative Court severed the decision concerning the ban on entry and

residence for an unlimited period imposed by the Ministry of the Interior on the claimants and remitted the issue to the Göttingen Administrative Court (*Verwaltungsgericht*), which is competent in the matter.

BVerwG 1 A 2.17 - Judgment of 22 August 2017

BVerwG 1 A 3.17 - Judgment of 22 August 2017