



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

SECOND SECTION

CASE OF RAZAGHI v. SWEDEN

(Application no. 64599/01)

JUDGMENT
(Striking out)

STRASBOURG

25 January 2005

FINAL

25/04/2005

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Razaghi v. Sweden,

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

Mr J.-P. COSTA, *President*,

Mr A.B. BAKA,

Mr I. CABRAL BARRETO,

Mr R. TÜRMEŒ,

Mr M. UGREKHELIDZE,

Mrs E. FURA-SANDSTRÖM,

Ms D. JOČIENĖ, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 4 January 2005,

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

PROCEDURE

1. The case originated in an application (no. 64599/01) against the Kingdom of Sweden lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Iranian national, Mr Ali Reza Razaghi (“the applicant”), on 11 January 2001.

2. The applicant was represented by Ms E. Haddadi, a lawyer practising in Sundbyberg. The Swedish Government (“the Government”) were represented by their Agent, Ms E. Jagander, Ministry for Foreign Affairs.

3. The applicant alleged that his expulsion to Iran would involve a violation of Articles 2 and 3 of the Convention and Article 1 of Protocol No. 6 to the Convention.

4. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1.

5. The President of the Chamber and subsequently the Chamber decided to apply Rule 39 of the Rules of Court, indicating to the Government that it was desirable in the interests of the parties and the proper conduct of the proceedings not to expel the applicant pending the Court's decision.

6. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Fourth Section (Rule 52 § 1).

7. By a decision of 11 March 2003 the Court declared the application partly admissible.

8. The applicant and the Government each filed observations on the merits (Rule 59 § 1).

9. On 1 November 2004 the Court again changed the composition of its Sections. This case was assigned to the newly composed Second Section (Rule 52 § 1).

THE FACTS

10. The applicant was born in 1974. On 30 November 1998 he applied for asylum in Sweden. He claimed mainly that he was sought by the Iranian authorities as he had had a relationship with a married woman whose husband was a *mullah*. The *mullah* and his followers had been planning to apprehend him and he had therefore fled his home town. Before leaving Iran, he had been told that a warrant for his arrest had been issued and he also believed that he and the woman had been sentenced to death by stoning.

11. On 14 April 1999 the National Immigration Board (*Statens invandrarverk*) rejected the application and ordered that the applicant be expelled to Iran. The Board did not find his allegations plausible and also noted that the evidentiary requirements in cases of adultery were very high in Iran.

12. The applicant appealed against the decision and claimed that, despite the rules on evidence concerning adultery, he could still be convicted on less evidence for having offended public morals and be sentenced to be lashed. He also stated that he had converted to Christianity on 7 February 1999, for which he could be sentenced to death in Iran.

13. On 13 November 2000 the Aliens Appeals Board (*Utlänningsnämnden*) rejected the appeal. It noted that the applicant had not produced any evidence showing that he had had the above-mentioned relationship or that he would be subjected to inhuman treatment on account of it. In regard to his conversion, the Board stated that conversion to Christianity was regarded by the Iranian authorities as a “technical” step to acquire asylum.

14. On 14 December 2000 the applicant lodged a new application for a residence permit with the Aliens Appeals Board. He submitted two Iranian documents, issued in May or June 1998 and in November 1999, which purportedly contained a summons for him to appear before an Iranian court to answer charges of adultery. Claiming that he would rather commit suicide than return to Iran, the applicant also submitted a medical certificate issued on 5 January 2001 by Mr Lars Odefors and Mr Nahid Mohseni, qualified psychologists, who stated that the applicant showed signs of desperation and expressed suicidal thoughts which should be taken seriously and that he was in need of treatment in a psychiatric ward.

15. On 16 January 2001, following the Court's indication under Rule 39 of the Rules of Court, the National Migration Board (*Migrationsverket*;

previously the National Immigration Board) stayed the enforcement of the expulsion order.

16. By a decision of 23 September 2004 the Aliens Appeals Board revoked the expulsion order and granted the applicant a permanent residence permit. While considering that the Iranian documents relied on by the applicant were falsifications and that he could not be regarded as a refugee, the Appeals Board found that there were humanitarian reasons to grant him a residence permit. In this respect, it noted that the new application had been pending for a long time, that the applicant had been residing legally in Sweden since January 2001 and that the validity of its decision of 13 November 2000 to expel him would expire on 13 November 2004.

THE LAW

17. The Court reiterates that the applicant complained that his expulsion to Iran would expose him to a risk of treatment in violation of Articles 2 and 3 of the Convention and Article 1 of Protocol No. 6 to the Convention. Noting that the Aliens Appeals Board, on 23 September 2004, revoked the expulsion order against the applicant and granted him a permanent residence permit, the Court finds that the applicant no longer faces expulsion to Iran or any risk of treatment in violation of the mentioned provisions.

18. In these circumstances, the Court concludes that the matter has been resolved within the meaning of Article 37 § 1 (b) of the Convention. Furthermore, the Court finds no reasons of a general character, as defined in Article 37 § 1 *in fine*, which would require the examination of the application by virtue of that Article.

19. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

Decides to strike the case out of the list.

Done in English, and notified in writing on 25 January 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President