



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

THIRD SECTION

CASE OF MOHAMMED YUUSUF v. THE NETHERLANDS

(Application no. 42620/02)

JUDGMENT
(Striking out)

STRASBOURG

21 April 2005

FINAL

21/07/2005

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 Mohammed Yuusuf v. the Netherlands,

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

Mr B.M. ZUPANČIČ, *President*,

Mr L. CAFLISCH,

Mr C. BÎRSAN,

Mrs M. TSATSA-NIKOLOVSKA,

Mrs A. GYULUMYAN,

Ms R. JAEGER,

Mr E. MYJER, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 31 March 2005,

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

PROCEDURE

1. The case originated in an application (no. 42620/02) against the Kingdom of the Netherlands lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Somali national, Ms Khadra Mohammed Yuusuf (“the applicant”), on 21 November 2002.

2. The applicant was originally represented by Ms M.C. Boon of the Legal Aid Bureau (*Bureau voor Rechtshulp*) in Leeuwarden. Ms Boon was subsequently replaced by Mr H.A. Limonard, also of that Bureau. The Netherlands Government (“the Government”) were represented by their Agents, Mr R.A.A. Böcker and Ms J. Schukking of the Ministry of Foreign Affairs.

3. The applicant complained under Article 8 of the Convention of a disproportionate interference with her right to respect for her family life in that she had been refused the right to reside in the Netherlands, having been convicted of relatively minor offences, whereas her husband and children in fact had all been granted residence rights.

4. The application was declared admissible on 2 December 2004.

5. Various letters were received from the Government on 31 January, 4 February and 7 March 2005 and from the applicant on 1 and 2 February and 8 March 2005.

THE FACTS

6. The applicant, Ms Khadra Mohammed Yuusuf, is a Somali national, who was born in 1965 and lives in Sint Maartensdijk (Netherlands).

1. Background to the case

7. The applicant, her husband and their two children entered the Netherlands on 10 October 1994. They were given temporary accommodation in a refugee holding centre.

8. While in the holding centre the applicant twice got into fights, in connection with which she was prosecuted and tried. She was sentenced to a fine of 500 Netherlands guilders (NLG), or ten days' detention in lieu, suspended for two years.

9. Three further children were born to the applicant and her husband after their arrival in the Netherlands.

2. Immigration proceedings

10. The applicant, her husband and their children lodged applications for asylum in the Netherlands or, in the alternative, residence permits on humanitarian grounds. They were initially met with a refusal and pursued their case in objection and appeal proceedings.

11. On 6 October 2000, the competent administrative authority granted the applicant's husband and the children residence permits on humanitarian grounds; the applicant was refused a residence permit in view of her criminal record. On 14 June 2002 the Regional Court of The Hague confirmed this decision on appeal.

3. Subsequent developments

12. By decision of 31 July 2003 the Head of the Immigration and Naturalisation Service (*Immigratie- en Naturalisatiedienst*), writing on behalf of the Minister for Aliens Affairs and Integration, notified the applicant's husband that he would be granted Netherlands nationality.

THE LAW

13. On 4 February 2005 the Agent of the Government wrote informing the Court that the Immigration and Naturalisation Service had decided to grant the applicant a residence permit.

14. On 8 March 2005 the applicant's representative wrote informing the Court that, in view of this decision of the Immigration and Naturalisation

Service, the applicant had no objections to the case being struck out; she would pursue any claims for financial compensation in the domestic courts.

15. The Court takes note of the Government's unilateral undertaking to grant a residence permit to the applicant, with which the applicant has pronounced herself satisfied for the purposes of the present proceedings. In the circumstances, the Court is led to conclude that the matter has been resolved (Article 37 § 1 (b) of the Convention). There is no call for it to continue its examination of the application for reasons of respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention).

16. 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 21 April 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President