



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

FIRST SECTION

DECISION

Application no. 39019/11
Khosravi Nazir Akhmad Sultan AKHMAD and others
against Russia

The European Court of Human Rights (First Section), sitting on 16 October 2012 as a Committee composed of:

Linos-Alexandre Sicilianos, *President*,

Anatoly Kovler,

Erik Møse, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 17 June 2011,

Having regard to the interim measures indicated to the respondent Government under Rule 39 of the Rules of the Court,

Having regard to the observations submitted by the respondent Government,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr Khosravi Nazir Akhmad Sultan Akhmad (“the first applicant”) born in 1966, Mrs Khosravi Khabiba Shakh Vali (“the second applicant”) born in 1970, Ms Khosravi Fatana Nazir Akhmad (“the third applicant”) born in 1992, Ms Khosravi Mezhgan Nazir Akhmad (“the fourth applicant”) born in 1995, Mr Khosravi Khasib Akhmad Nazir Akhmad (“the fifth applicant”) born in 1998 and Mr Khosravi Reshad Akhmad Nazir Akhmad (“the sixth applicant”) born in 2003 are Afghan nationals who live in Moscow. The applicants are a father, a mother, two daughters and two sons respectively. They are represented before the Court by

Ms S. Gannushkina, Ms R. Magomedova and Mr V. Simonov, lawyers practising in Moscow.

The Russian Government (“the Government”) were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

The first applicant and his wife, as well as their daughters were born in Afghanistan. In 1995 they left Afghanistan for Russia in face of a rapid advance by the Taliban throughout Afghanistan. Since 1995 the family has been living in Moscow and has never left Russia. The fifth and the sixth applicants were born in Moscow.

In 2009 and 2010 Russian migration authorities dismissed the applicants’ applications for refugee status and temporary asylum and informed the applicants that they would be subjected to administrative removal or deportation if their appeal against the decisions refusing them refugee status were unsuccessful and if they did not leave Russia voluntarily. In 2010 domestic courts dismissed the applicants’ appeals against the decisions refusing them refugee status.

The applicants complained under Article 3 of the Convention that in the event of their deportation/expulsion to Afghanistan they would be subjected to inhuman and degrading treatment and/or punishment. They further complained under Article 13 that they had not had effective remedies in Russia for their complaints under Article 3. Finally, the applicants complained under Article 8 that if deported/expelled to Afghanistan their right to respect for their private and family life would be violated, because during their long stay in Russia they had adopted a European lifestyle and developed strong social and cultural ties. On 12 September 2011 the President of the First Section decided to apply interim measures under Rule 39 of the Rules of the Court in the applicants’ case, requesting the Government to ensure that the applicants were not deported or removed from Russia to Afghanistan pending the proceedings before the Court.

The applicants’ complaints under Articles 3, 13 and 8 were communicated to the Government, who submitted their observations on the admissibility and merits. In their observations the Government informed the Court that on 19 October 2011 the migration authorities granted the first applicant refugee status in Russia until 19 October 2014. Following that decision, on 13 February 2012 the migration authorities granted refugee status to the other applicants, until 19 October 2014. The Government provided the Court with copies of the above decisions. The Government’s observations were forwarded to the applicants, who were invited to submit their own observations. No reply was received to the Registry’s letter.

By letter dated 18 May 2012, sent by registered post, the applicants’ representatives were notified that the period allowed for submission of the applicants’ observations had expired on 2 May 2012 and that no extension of time had been requested. The applicants’ representatives’ attention was

drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application. It follows from the internet site of the post service that the letter of 18 May 2012 was delivered to the applicants' representatives on 20 June 2012. However, no response has been received.

THE LAW

The Court considers that, in these circumstances, the applicants may be regarded as no longer wishing to pursue their application, within the meaning of Article 37 § 1 (a) of the Convention. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case. The Court notes that all the applicants were granted refugee status in Russia until 19 October 2014 which will serve a legal basis for their stay in the territory of the Russian Federation until that date. The Court also notes that the applicants will have the opportunity to lodge a new application with the Court (including the possibility of requesting an interim measure under Rule 39 of the Rules of the Court) should that need arise.

In view of the above, it is appropriate to lift the interim measures indicated under Rule 39 of the Rules of the Court and strike the case out of the list.

For these reasons, the Court unanimously

Decides to lift the interim measures indicated under Rule 39 of the Rules of the Court;

Decides to strike the application out of its list of cases.

André Wampach
Deputy Registrar

Linos-Alexandre Sicilianos
President