Amonula v. Ukrainian State Committee of Nationalities and Migration

Ukraine

Pechersky District Court of Kyiv

MINISTRY OF JUSTICE OF UKRAINE

Case No.2-2672/6

1998

JUDGEMENT IN THE NAME OF UKRAINE

On December 11 1998 the Pechersky District Court of Kyiv	
consisting of: the presiding judge	Umnova O.V.
collegium members:	Fedorenko R.O.
the secretary	

having examined at the public sitting of the court in the city of Kyiv the case on the appeal of Gulam Hazlat Amonula against the rejection of granting him the refugee status by the Ukrainian State Committee of Nationalities and Migration,-

ASCERTAINED:

The applicant applied to the court with the appeal against the rejection of granting him the refugee status on the territory of Ukraine. In his appeal he refers to the fact that he, his wife and his three children, citizens of Afghanistan, in 1998 arrived in Ukraine. Thus he was forced to leave his country, as he was a member of the trade union of security authorities. The revolution took place in the country, and he was subjected to persecution. He feared for his children's fate, therefore he left his country. He asks to revoke the decision about the rejection of granting him the refugee status taken by the Ukrainian State Committee of Nationalities and Migration.

At the sitting of the court Gulam Hazlat Amonula maintained his appeal and asked to comply with it.

The representative of the Ukrainian State Committee of Nationalities and Migration objected to satisfaction of the appeal referring to the fact that prior to his arrival in Ukraine, the applicant stayed on the territory of Russia and Tadzhikistan where he could appeal for asylum or acquiring of the refugee status.

The court, having heard the explanations of the parties, having examined the materials of the case, considers that the appeal is to be satisfied on the following basis.

As it was established at the sitting of the court, in 1998 the applicant has arrived in Ukraine together with his wife and three children, he is a citizen of Afghanistan, he has a certificate of the Afghanistan KGB and the Party-membership card of the People's Democratic Party of Afghanistan. Upon the revolution he has been subjected to persecution by the present authorities. (pages 17-19 of the case)

Article 1 of the Law of Ukraine "On Refugees" defines a "refugee" as a foreigner who owing to well-founded fear of being persecuted for reasons of race, nationality, religion, citizenship, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the

protection of that country, and regarding whom the decision was taken on granting him the refugee status, according to the procedure and conditions established by the Law.

In this case the applicant has been subjected to persecution based on his membership of the People's Democratic Party of Afghanistan and his work at the KGB of Afghanistan.

Under such circumstances the court considers that the appeal of Gulam Hazlat Amonula is to be satisfied, moreover, the court takes into consideration the fact that the applicant has arrived in Ukraine with his three children, and as it is winter now, they are unable to move to other country.

On the basis of the above mentioned reasons, following Articles 248-2, 248-7 of the Civil Procedure Code of Ukraine, Article 1 of the Law of Ukraine "On Refugees", Articles 15, 30, 62, 202 of the Civil Procedure Code of Ukraine, the court, -

DECIDED:

 To comply with the appeal of Gulam Hazlat Amonula.

To revoke the decision on the rejection of granting the refugee status to Gulam Hazlat Amonula, taken on 8.06.1998 (order No.445) by the Ukrainian State Committee of Nationalities and Migration.

To oblige the Ukrainian State Committee of Nationalities and Migration to grant the refugee status to Gulam Hazlat Amonula for three months.

The judgement may be appealed against at the Kyiv City Court through the Pechersky District Court of Kyiv within 10 days.

Seal

Signed: Judge Umnova O.V.