

RULING

On April 19, 2004, the Federal Judge of the Lefortovsky District Court, the City of Moscow, Ms Y.V. Kaneva considered a case on administrative action under Article 18.8 of the RF Code on Administrative Offences with regard to Mr. Nakhibulla Mokhammad Shah, an Afghan national, born on 01.01.1966, who is a refugee.

The duties and responsibilities have been clarified to Mr. Nakhibulla Mokhammad Shah under Article 25.1 of the RF Code on Administrative Offences.

AND ESTABLISHED AS FOLLOWS:

It is indicated in a written report on the said administrative offence that on April 18, 2004, at 2.50 p.m., Mr. Nakhibulla Mokhammad Shah was detained at 15, Trofimova str., Moscow. Having no residence registration in Moscow, thus failing to observe the duly established residence registration procedure, he has violated the regime of stay on the territory of the RF. However, according to the UNHCR registration card submitted by Mr. Nakhibulla, he was referred to the migration authorities to apply for refugee status. Under Article 33 of the Geneva Convention relating to the Status of Refugees and Article 10 of the RF Law "On Refugees", he can not be expelled to his country of origin without having his refugee claim considered by the competent authorities. Consequently, his card was extended till 04.06.2004.

In view of the above, the Court does not perceive any administrative offence in Mr. Nakhibulla's actions envisaged in Article 18.8 of the RF Code on Administrative Offences.

Proceeding from the above and being guided by Articles 24.5, Clause 2, 29.9 Clause 2 of the RF Code "On Administrative Offences", the Federal Judge

HAS RULED AS FOLLOWS:

The legal proceedings initiated under the case on administrative offence with regard to Mr. Nakhibulla Mokhammad Shah shall be dismissed in the absence of the element of *corpus delicti* as prescribed in Article 18.8 of the RF Code on Administrative Offences.

An appeal against the decision can be filed with the Moscow City Court within 10 days following its receipt by the applicant.

Y.V. Kaneva
Federal Judge

I received a copy of the Ruling on 19.04.2004.

Signature