

DECISION

In the name of the Russian Federation

Taken 26 September 2000

In the Town of Orel

By Zheleznodorozhny court of the Orel region

Sitting of the court was chaired by S. P. Melnikova

Secretary : M. A. Fedorchuk

Having considered at the open sitting the civil case filed on the complaint submitted by Raiskhil Mohhammad Aryan to the Orel branch of the Migration Service the court established as follows:

On the decision of the Orlov branch of the Migration Service of 5 May 2000 an Afghan national M. A. Raiskhil was denied the refugee status. He was found not eligible to being granted the status as he does not meet the criteria stipulated by article 1, clause 1, sub-clause 1 of the Federal Law "On Refugees".

M. A. Raiskhil appealed the decision on the grounds that his return to Afghanistan is life-threatening as the Taliban movement subjects to repression all persons who studied or resided in the former Soviet Union or in the Russian Federation, or who used to be top officials in the National Democratic Republic Party of Afghanistan (NDPA). Moreover, Mr. M. A. Raiskhil is of Khazari ethnic background that brings about additional troubles because the Taliban movement, mainly represented by Pushtu ethnicity, feel animosity to persons belonging to other ethnic groups.

M. A. Raiskhil added that he used to be a senior lieutenant of the Ministry for State Security of the Republic of Afghanistan, member of the NDPA. From 1998 to 1992 he studied at the Orel Military College training top-rank military officers for the government communication section. In December 1992 he returned to Afghanistan and stayed for some time in Kabul. However, at the beginning of 1993 he had to leave his country and come to Russia through Pakistan. He could no longer stay in Afghanistan as the situation there was becoming life-threatening.

M. A. Raiskhil requested to overrule the decision of the Migration Service that denied to grant him the refugee status, as the denial was ungrounded and formal, and to oblige the Migration service to grant him the refugee status.

Mr. A. A. Zaitsev who represented Mr. Raiskhil in court gave similar reasons against the decision taken by the Migration Service.

Ms. T. V. Kashtanova regards the complaint as groundless because she presumes that actually there is no threat to his life in Afghanistan.

Having listened to persons involved in the case under consideration and having studied the relevant documents, the court finds that the complaint is well-grounded as according to the Article 1, Clause 1, sub-clause 1 of the Federal Law "On Refugees" "a refugee is a person who has arrived, or is wishing to arrive, to the territory of the Russian Federation, who was forced to, or has the intention to, leave the place of his/her permanent residence on the territory of another state due to violence or

persecution committed against in any form, or a real danger of being subjected to violence or other persecution on the grounds of race, nationality, religion, language, as well as membership of a particular social group or political opinion.

In accordance with Article 3, clause 3 of the Federal Law "On Refugee" the regional branch of the Migration Service had to prove that it had conducted an appropriate examination of the available information produced by the applicant and that the decision taken on the application is well-grounded.

In this case the representative of the Migration service did not deny the fact that the information provided by Mr. Raiskhil had not been verified and no letters of inquiry had been forwarded to Afghanistan. The decision is based on the assumption that the applicant's life will not be endangered upon his return to the country of origin.

By that Ms. Kashtanova confirmed that the Migration Service had no doubts that Mr. Raiskhil had been an officer of the state security service of the Republic of Afghanistan, that he had studied in the USSR and later in the Russian Federation.

Mass media report that the civil war is at its height in the Republic of Afghanistan. In the course of this war those who supported Soviet troops that intruded upon Afghanistan in December 1979, as well as those who collaborated with the Soviet army or served in the Security Service of the Republic of Afghanistan are violently subjected to repression by Taliban.

In Accordance with Article 55 of the GPK RSFSR the court finds the above information as the one that requires no confirmation

Mr. Raiskhil holds the supporting documents that could serve as a proof that he served in the State Security agencies in the Republic of Afghanistan, studied in the former Soviet Union and later in the Russian Federation and was a member of the NDPA.

Taking into account all the above the court believes that the Migration Service's denial to grant the refugee status is groundless.

In pursuance of the articles 1 and 3 of the Federal Law "On Refugees" and articles 191-197, 2391-2397 of the GPK RSFR the court has decided as follows:

To take a positive decision on Mr. Raiskhil Mohhammad Aryan's appeal filed by him against the decision taken by the Orel regional branch of the Migration Service according to which he was denied the refugee status. To declare invalid the denial and oblige the Orel regional branch of the Migration Service to grant Mr. Raiskhil Mohhammad Aryan, Afghan national, the refugee status.

The court decision can be appealed within 10 days in the Orel regional court.

Chairperson. Signature.