

CASE Appeal against asylum decision
APPELLANT (Name)

DECISION WHICH IS BEING APPEALED AGAINST

Authority	Date	Number
Aliens' Board	3/10/02	

The Directorate of Immigration had decided that the appellant should not be granted asylum. Since the appellant was in need of protection, the Directorate of Immigration granted the appellant permission of stay till 3/10 2001 with status A.3.

CLAIMS PRESENTED TO THE ADMINISTRATIVE COURT

The decision by the DOI should be reversed and the appellant should be granted asylum. A hearing should be arranged to give the appellant the possibility to explain in person the grounds for his asylum application.

The asylum application of the appellant is based upon the account of his activity and position within the Fatah organization which was presented in his case. The appellant has a well-founded reason to fear persecution on the grounds of his political views as this is defined in par. 30 of the Aliens' Law, and he is not a citizen of a nation state which could offer him protection. Both the State of Lebanon and UNRWA are incapable of protecting him. The decision by DOI shows an incomplete understanding of the grounds of the appellant's asylum application. The appellant is living in fear for his life even here in Finland and is requesting that the relevant experts in the Finnish Secret Service be consulted in the handling of his appeal.

The appellant should be granted legal proceedings free of charge and Master of Laws A-M T. should be appointed his legal adviser.

STATEMENTS, EXPLANATIONS AND REJOINDERS

DOI has given a statement in the case according to which the appellant has received protection from the United Nations in Lebanon through UNRWA. Lebanon allows Palestinian refugees to return and the security situation in Lebanon is not such that it could be seen as preventing the appellant's return.

In addition, the DOI statement refers to a 1993 memorandum from the Asylum Board and to UNHCR's views on the issue.

The appellant has not given any rejoinder to the statement.

VERBAL HEARING

A verbal hearing in the case was held 8/2 2002.

DECISION BY THE ADMINISTRATIVE COURT

The Administrative Court reverses the Directorate of Immigration (DOI) decision and returns the case to DOI for renewed hearing.

Justifications

According to Article 1 D of the Geneva Convention, the Convention does not apply to persons who are at present receiving from organs or agencies other than the UNHCR protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the UN, these persons shall ipso facto be entitled to the benefits of this Convention. The appellant is a stateless Palestinian registered with UNRWA.

According to Par. 31 of the Aliens' Law, a foreigner can be granted permission of stay on protection grounds if he in his home country or country of permanent residence is under threat of death penalty, torture or other inhuman or degrading treatment or if he is unable to return there because of armed conflict or environmental catastrophe. In the decision that is being appealed against, DOI concludes that the appellant is in need of protection, taking into account the details in his case. The wording of the decision does not spell out on what grounds DOI has concluded that the appellant is in need of protection. Neither was the DOI representative able to give a clarification to this part of the decision when the verbal hearing in the case was held. However, since it is obvious that the appellant has been identified as in need of international protection because of his nationality and his political activity connected to his nationality, the protection accorded to him by UNRWA must be seen as having ceased. Hence, his application for asylum should not have been rejected on the basis of the grounds given in the DOI decision.

Sources

Aliens Law Par. 1, Art. 1; Par, 30 and 31
Geneva Convention Art. 1 D