



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

FIRST SECTION

DECISION

AS TO THE ADMISSIBILITY OF

Application no. 44828/98
by Ivan SLAVOV
against Sweden

The European Court of Human Rights (First Section) sitting on 29 June 1999 as a Chamber composed of

Mr J. Casadevall, *President*,
Mrs E. Palm,
Mr Gaukur Jörundsson,
Mr R. Türmen,
Mr C. Bîrsan,
Mrs W. Thomassen,
Mr R. Maruste, *Judges*,

with Mr M. O'Boyle, *Section Registrar*;

Having regard to Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 27 October 1998 by Ivan Slavov against Sweden and registered on 7 December 1998 under file no. 44828/98;

Having regard to the report provided for in Rule 49 of the Rules of Court;

Having deliberated;

Decides as follows:

THE FACTS

The applicant, a stateless person, was born in Bulgaria in 1939. Before the Court he is represented by Mr Henrik Olsson, a lawyer practising in Stockholm.

The facts of the case, as submitted by the applicant, may be summarised as follows.

The applicant moved to Sweden from Bulgaria in 1965. Since more than eight years, he is married to a Swedish national, A.S. He also has a 23 year old daughter who lives in Sweden.

As from 1968 the applicant has been convicted on many occasions for serious and repeated crimes, *inter alia* crimes against property, including robbery, as well as smuggling of goods and narcotics offences of an aggravated nature. He has been sentenced to the following terms of imprisonment: 1972 - 2 years, 1974 - 2 years, 1977 - 7 years, 1980 - 3 years, 1985 - 5 years. He was released on probation on 27 February 1991. At that time, 2 years and 10 months of his sentences had not been served.

The applicant's expulsion from Sweden was ordered in 1972 and 1980. However, by a Government decision of 29 April 1982, the expulsion orders were revoked by pardon as the applicant risked political persecution in Bulgaria. Having regard to that decision, the District Court (*tingsrätten*) of Huddinge, in its 1985 judgment, refrained from ordering the applicant's expulsion.

In May 1992 the applicant was charged with having possessed and stored, with the intention to sell, 389 grams of amphetamine in April 1992. However, on 25 May 1992, the District Court of Huddinge acquitted the applicant.

By a judgment of 8 June 1993 the District Court of Nacka convicted the applicant for two narcotics offences, one of which was considered as aggravated, illegal possession of a weapon and falsification of a passport. All the crimes had been committed in March 1993. The more serious narcotics offence involved the possession and storage, with the intention to sell, about 5 kilograms of amphetamine. The applicant was sentenced to six years in prison. Further, the court ordered his expulsion from Sweden and issued a prohibition on his return. When fixing the applicant's prison sentence, the court had regard to the detriment suffered by him on account of the expulsion.

The public prosecutor appealed against the Huddinge District Court judgment and the applicant appealed against the Nacka District Court judgment.

The Svea Court of Appeal (*Svea hovrätt*) joined the two cases and gave judgment on 12 August 1993. Reversing the judgment of the District Court of Huddinge, it found the applicant guilty of the narcotics offence committed in April 1992. It upheld the judgment of the District Court of Nacka in regard to the finding of guilt, the expulsion order and the prohibition on return. Having regard to the expulsion order, it sentenced the applicant to a total of seven years' imprisonment.

On 15 September 1993 the Supreme Court (*Högsta domstolen*) refused the applicant leave to appeal.

In 1994, at his own request, the applicant lost his Bulgarian citizenship.

According to a medical certificate issued on 22 January 1996 by S.A., a licensed psychologist at Hall Prison, the applicant had mental problems due to the expulsion order and had expressed the intention not to commit any crimes in the future. S.A. expressed that, with increased age, criminal activities tend to decrease.

On several occasions thereafter the applicant requested the Government to exercise its power under Chapter 7, Section 16 of the Aliens Act to annul the expulsion order. All his requests were denied. The last decision was taken by the Government on 2 July 1998.

The applicant was released on probation on 4 October 1997 and was expelled from Sweden on 30 June 1998. His wife left Sweden and joined him soon thereafter.

COMPLAINT

The applicant claims that his expulsion from Sweden violates his right to respect for his family life under Article 8 of the Convention. Referring to his Swedish wife and his daughter, he states that they intend to live in Sweden. Further, he has established strong ties with Sweden during the many years he has lived in the country. In contrast, he has no connections to Bulgaria. The applicant also refers to the medical certificate issued by S.A. on 22 January 1996. He finally complains that the Swedish State put pressure on Bulgaria to accept the applicant although he is no longer a Bulgarian citizen.

THE LAW

The applicant complains that his rights under Article 8 of the Convention have been violated. This provision reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

The Court recalls that the expulsion of a person from a country in which close members of his family live may amount to an unjustified interference with his right to respect for his family life as guaranteed by Article 8 (see, among other authorities, the *Moustaquim v. Belgium* judgment of 18 February 1991, Series A no. 193, pp. 19-20, §§ 43-46).

In the present case, the applicant’s expulsion could be considered as an interference with his right to respect for his family life. However, as the expulsion was ordered under the applicable provision of the Aliens Act following the applicant’s conviction for serious and

repeated crimes, the interference was in accordance with law and pursued the legitimate aim of preventing disorder or crime.

With regard to the question whether the measure was “necessary in a democratic society”, it is recalled that the applicant, between 1972 and 1993, was convicted of narcotic offences of an aggravated nature and other serious crimes on several occasions and was sentenced to a total of 26 years in prison. Expulsion orders against the applicant was issued already in 1972 and 1980 but could not be enforced due to the risk of political persecution in Bulgaria. Despite the threat of being expelled from Sweden, the applicant continued with his criminal activities. It is true that, at the time of his expulsion, he had spent 33 years in Sweden and presumably had no remaining connection to Bulgaria. However, it appears that, except for his Swedish wife and daughter, he had not established any important ties with Sweden. Rather, he had supported himself through criminal activities and had spent a large part of his life in Sweden in prison. Moreover, it has not been alleged that his wife had any difficulties in joining him abroad, which she did soon after his expulsion. It should also be noted that the daughter remaining in Sweden is 23 years old and thus no longer a minor.

Finally, the applicant lost his Bulgarian citizenship after his latest conviction and after his expulsion had been ordered. It appears that his application to have his citizenship repealed was made in an attempt to obstruct his expulsion. In these circumstances, it was not unreasonable for the Swedish authorities to secure that the applicant would be received in Bulgaria. Further, the applicant has not submitted that his rights would be violated in Bulgaria. Having regard to the above, in particular the serious nature of the crimes committed by the applicant, the Court concludes that the Swedish authorities have not failed to fulfil their obligation to strike a fair balance between the relevant interests. Accordingly, the interference with the applicant’s right under Article 8 of the Convention is justified in that it can reasonably be considered as necessary in the interest of preventing disorder or crime.

It follows that the application is manifestly ill-founded within the meaning of Article 35 § 3 of the Convention.

For these reasons, the Court, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

Michael O’Boyle
Registrar

Josep Casadevall
President