

# **Kuznecova v. Canada (Minister of Citizenship and Immigration)**

Between  
Svetlana Kuznecova, Dmitrijs Kuznecovs and Kirils Kuznecovs,  
applicants, and  
The Minister of Citizenship and Immigration, respondent

[2000] F.C.J. No. 647  
Court File No. IMM-2750-99

**Federal Court of Canada - Trial Division**  
**Montréal, Quebec**  
**Pinard J.**

Heard: April 13, 2000.  
Judgment: May 17, 2000.  
(8 paras.)

*Aliens and immigration — Admission, refugees — Grounds, well-founded fear of persecution — Considerations.*

Application by Kuznecova for judicial review of a decision of the Immigration and Refugee Board that Kuznecova and her sons were not Convention refugees. The applicants were residents of Latvia. They claimed to have a well-founded fear of persecution in Latvia based on their Russian nationality. The Board assessed the claims against Russia, where Kuznecova was born. Kuznecova claimed that as a re-settler in Russia, she and her sons would face discrimination. The Board held that the propiska system of which Kuznecova complained did not apply in less populated areas of Russia, and that the evidence failed to show that she and her sons would face discrimination if they attempted to re-settle anywhere in Russia.

**HELD:** Application dismissed. The Board did not err in concluding that any discrimination which Kuznecova and her sons might face upon re-settling in Russia did not amount to persecution to justify a finding that they were Convention refugees.

## **Statutes, Regulations and Rules Cited:**

Immigration Act, R.S.C. 1985, c. I-2, s. 2(1).

Federal Court Act, R.S.C. 1985, c. F-7, s. 18.1(2).

## **Counsel:**

Jeffrey Nadler, for the applicant.  
Jocelyne Murphy, for the respondent.

---

1 **PINARD J.** (Reasons for Order):— The applicants seek judicial review of a decision of the Refugee Division of the Immigration and Refugee Board (the Board) dated May 7, 1999, determining that the applicants are not Convention refugees as defined in subsection 2(1) of the Immigration Act, R.S.C. 1985, c. I-2.

2 Svetlana Kuznecova, the principal applicant, and her sons Dmitrijs and Kirils (a minor) Kuznecovs are permanent residents of Latvia. They claim to have a well-founded fear of persecution in Latvia based on their nationality and their membership in a particular social group.

3 The applicants claim that as part of the Russian minority in Latvia, they are persecuted. The principal applicant claims in her Personal Information Form (PIF) that she is not entitled to apply for Latvian citizenship until 2003. Consequently, the applicants allege that they are stateless.

4 The Board disagreed that the applicants are stateless and assessed their claims against Russia where the principal applicant was born. At the hearing before me, learned counsel for the applicants indicated that the question of the applicants' Russian citizenship was no longer at issue in this matter. Therefore, the only issue is related to the Board's conclusion that the applicants "are not "Convention refugees" as defined in subsection 2(1) of the Immigration Act."

5 The transcript of the hearing indicates that the Board assessed the applicants' claims with reference to Russia. The Board informed the principal applicant that because she could obtain Russian citizenship, she was required to demonstrate a well-founded fear of persecution in Russia. In response, the principal applicant testified that she could not take her children to Russia because of the propiska system. The Board indicated to the principal applicant that the documentary evidence shows that in many of Russia's less populated areas, people are able to move without a propiska. The Board then asked the principal applicant if she would face other problems in Russia. She reiterated her concern about the propiska system and mentioned that her children would be persecuted as foreigners. There was no mention of a concern that the principal applicant's son might be drafted into the Russian army in the principal applicant's PIF, the principal applicant's affidavit, the son's PIF or during the hearing.

6 In this factual context, the Board's finding that the applicants did not have a well-founded fear of persecution in Russia does not appear to be unreasonable. This conclusion is reinforced by this Court's finding in *Igumnov v. Canada (Minister of Citizenship and Immigration)* (1994), 89 F.T.R. 62, at page 65, that the propiska system is not persecutory:

[12] With respect to the issue of whether the "propiska" system amounts to persecution and can support a finding of a "well-founded fear of persecution", the Board came to the following conclusion:

"With respect to the first witness evidence of bad treatment of re-patriots by locals, and nothing that his evidence is with respect to large cities only, the panel is not prepared to determine on the basis of this evidence alone that, wherever he attempts to settle in Russia, the claimant or others similarly situate would be discriminated against to the point where such discrimination would amount to persecution. Nor, on the evidence before us, do we find such discrimination as has been described to amount to persecution and, therefore, we find no well-founded fear of persecution."

[13] The Board did not err in deciding as it did. Even though the applicant may suffer harassment as a "resettler", it does not amount to persecution as defined in the jurisprudence.

7 As the applicants do not dispute the right of the Board to assess their claims against Russia, but are merely in disagreement with the Board's appreciation of the facts in that regard, I am not satisfied, upon reviewing the evidence, that the Board based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it (subsection 18.1(2) of the Federal Court Act, R.S.C. 1985, c. F-7).

8 Consequently, the application for judicial review is dismissed.

PINARD J.