

RULING

Moscow

April 15, 2003

On April 15, 2003, Ms. O.V. Linuyova, a judge of the Zyuzinsk District Court, considered an administrative case under Article 18.8 of the RF Code on Administrative Offences with regard to Mr. Mokhammad Shakh Shakh Zaman, - an Afghan national, born on May 5, 1972 in the City of Kabul, single, has a son born on September 9, 2002, residing at Kalanaidger str., Khayar district, Kabul, Republic of Afghanistan – who is currently employed at the “Sevastopol” centre as a labourer and has no earlier record of administrative proceedings instituted against him. Mr. Shir Mokhammad, an interpreter, was also involved in consideration of the case.

I, Shir Mokhammad, was explained my obligations under Article 25.10 of the RF Code on Administrative Offences.

(signature)

I, Mokhammad Shakh Shakh Zaman, was explained my rights and obligations under Article 25.1 of the RF Code on Administrative Offences, which are clear to me.

(signature)

Having considered the administrative case in question, the Judge

Has established the following:

Following the cancellation of the decision of the Zyuzinsk District Court, Moscow, of February 28, 2003, on instituting administrative proceedings against Mr. Mokhammad Shakh Shakh Zaman pursuant to Article 18.8 of the RF Code on Administrative Offences, the administrative case was forwarded to Court for review.

As it follows from Mr. Mokhammad Shakh Shakh Zaman’s statement and additional materials submitted to the Panel of Judges on criminal cases of the Moscow City Court, Mokhammad Shakh Shakh Zaman, upon his arrival in Russia, applied for temporary asylum with the Moscow Regional GUV D Department for Migration (UNHCR No. 36053).

Having heard Mr. Mokhammad Shakh Shakh Zaman’s statement and having studied the materials on the administrative case, the Judge finds it necessary to return the protocol on the administrative offence and the case materials to the body that has drafted the protocol in view of improper drafting of the protocol and incompleteness of the submitted materials, as the information provided by Mr. Mokhammad Shakh Shakh Zaman was not verified, e.g. registration data with GITS MVD and UVIR GUV D were not verified, while the protocol on the administrative offence was drawn up in violation of Article 28.2 of the Code on Administrative offences, failing to indicate the nature of the offence envisaged in Article 18.8 of the RF Code on Administrative offences.

Proceeding from the above and being guided by Article 29.4 of the RF Code of Administrative Offences, the Court

HAS AWARDED THE FOLLOWING JUDGEMENT:

The protocol on the administrative offence and the case materials shall be returned to the Zyuzino District OVD in view of improper drafting of the protocol and incompleteness of the submitted materials.

Mr. Mokhammad Shakh Shakh Zaman shall be released from the Moscow UVD YUZAO detention centre.

O.V. Linyova
Judge of the Zyuzinsk District Court
Moscow

The Ruling was brought to my notice, interpreted into my native language and is clear to me. Its copy was presented to me on April 15, 2003.

(signature)

(interpreter's signature)