

Denmark - Refugee Appeals Board's decision of 17 April 2018

Country of Decision:

Denmark

Country of Applicant:

Eritrea

Date of Decision:

17-04-2018

Court Name:

The Refugee Appeals Board

Keywords:

Child Specific Considerations

First country of asylum

Inhuman or degrading treatment or punishment

Vulnerable person

Relevant Legislative Provisions:International Law > [1951 Refugee Convention](#) [1] > [Art 33](#) [2]European Union Law > [EN - Charter of Fundamental Rights of the European Union](#) [3] > [Article 19](#) [4]

Headnote:

The complainant, an Eritrean citizen and a single woman with a one-and-a-half-year-old child, filed a complaint against the decision of the Danish Immigration Service to reject her application in accordance with the Danish Aliens Act art. 29 (b) as the Greek authorities had granted her refugee status in Greece, valid until 25 November 2017. The complainant referred to the UNHCR EXCOM-conclusion no. 58/1989.

The Board did not find that the general social and economic conditions for refugees with a residence permit in Greece ? although difficult ? in itself could lead to the complainant not being referred to Greece as first asylum country. The Board did not find that the complainant as a single mother with a one-and-a-half-year-old child was to be considered quite particularly vulnerable. Consequently, the Refugee Appeals Board found the conditions for using Greece as first country of asylum fulfilled. The case was, however, remitted to the Immigration Service by

the Appeals Board in May 2018 upon the Service's confirmation that they would consider the application in light of the applicant's residence permit having expired in Greece.

Facts:

The complainant, born in 1986, is an Eritrean citizen. She entered Denmark in April 2016 and applied for refugee status.

In October 2016 she gave birth to a daughter.

On 12 December 2016 the Danish Immigration Service rejected the complainant's application in accordance with the Danish Aliens Act art. 29 (b) as the Greek authorities had informed the Danish authorities that on 18 November 2014 the applicant was granted refugee status in Greece valid until 25 November 2017.

On 12 December 2016 the complainant filed a complaint claiming that her application for asylum was to be considered in Denmark as Greece did not fulfil the conditions to be considered as the complainant's first country of asylum cf. the Danish Aliens Act art. 7 (4) and consequently, the conditions to reject the application according to the Danish Aliens Act art. 29 b were not fulfilled. In support hereof, she referred to the UNHCR EXCOM-conclusion no. 58/1989. The complainant stated that she was a single mother with a one-and-a-half-year-old child with earlier experience (3 years) of the lack of assistance from the Greek authorities regarding housing, work and acquisition of the Greek language. Consequently, she was in a particularly vulnerable situation.

Decision & Reasoning:

The Refugee Appeals Board accepted that the complainant was granted refugee status in Greece and this thus protected her against refoulement. The Board noted that Greece, as a member of the EU, must apply the European Union Charter of Fundamental Rights art. 19 (2) and has ratified the Refugee Convention including compliance with the non-refoulement-principle as stated in the Convention art. 33 (1). The protection concept includes a certain social and economic element. In this regard the Board refers to the Convention chapter II-V as well as the UNHCR EXCOM Conclusion no. 58 according to which it is a condition - to be able to send back asylum seekers or refugees to a country where they have been granted protection ? that they are ?treated in accordance with recognised basic human standards?.

The Board did not find that the general social and economic conditions for refugees with a residence permit in Greece ? although difficult ? in itself could lead to the complainant not being referred to Greece as a first asylum country. The Board did not find that the complainant, as a single mother with a one-and-a-half-year-old child, was to be considered quite particularly vulnerable. Consequently, the Refugee Appeals Board found the conditions for applying the first country concept to Greece as fulfilled. Therefore, the Board did not find any reason to reverse the decision of the Danish Immigration Service, cf. the Danish Aliens Act art. 48 a (1) (1) cf. art. 29 (b).

Outcome:

The complaint was not accepted. The Refugee Appeals Board accepted Greece as the first country of asylum for the applicant and upheld the decision of the Danish Immigration Service.

Subsequent Proceedings :

The case was resumed by the Board on 3 May 2018. The Board remitted the case to the Danish Immigration Service as the Immigration Service on 26 April had, by phone, informed the Board that

it was the firm practice of the Immigration Service not to reject to consider an application for refugee status in Denmark in cases where the residence permit in Greece had expired (which had in this case on the 25 November 2017).

Other sources cited:

UNHCR EXCOM-conclusion no. 58/1989

National / Other Legislative Provisions:

[Denmark - The Danish Aliens Act Art. 7 \(4\)](#) [5]

[Denmark - The Danish Aliens Act art. 29 \(b\)](#) [6]

[Denmark - The Danish Aliens Act art. 48 a \(1\) \(1\) cf. art. 29 \(b\)](#) [7]

Links:

[1] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention>

[2] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention#33>

[3] <https://www.asylumlawdatabase.eu/node/453>

[4] https://www.asylumlawdatabase.eu/node/453#toc_88

[5] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/denmark-danish-aliens-act-art-7-4>

[6] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/denmark-danish-aliens-act-art-29-b>

[7] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/denmark-danish-aliens-act-art-48-1-1-cf-art-29-b>