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Hungary - Metropolitan Court, 11 July 2013, M.A.A. v Office of Immigration and Nationality (OIN), 6.K.31830/2013/6

Country of Decision:

Hungary

Country of Applicant:

Syria

Date of Decision:

11-07-2013

Citation:

6.K.31830/2013/6

Court Name:

Metropolitan Court of Budapest (currently: Budapest Administrative and Labour Court)

Keywords:

Actor of persecution or serious harm

Credibility assessment

Indiscriminate violence

Persecution (acts of)

Political Opinion

Subsidiary Protection

Relevant Legislative Provisions:

International Law > [1951 Refugee Convention](#) [1] > [Art 1A](#) [2]

International Law

International Law > [1951 Refugee Convention](#) [1]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 4](#) [4]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 9](#) [5] > [Art 9.1](#) [5]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 9](#) [5]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 10](#) [6]

[UNHCR Handbook](#) [7] > Para 41

Headnote:

It must be noted that the Applicant's occupation as a pharmacist meant that according to the country of origin information, he could be a target group for the country's security forces if they suspected that assistance was being provided to the insurgents. This was considered to constitute the Applicant's imputed political opinion to be taken into consideration in light of the right to asylum, in other words, circumstances to be considered pursuant to the Geneva Convention.

Facts:

The Applicant and his wealthy family were living in Damascus when the insurgents threatened them that any supporters of the ruling Bashar al-Assad regime would face death. The Applicant's children attended the same school as those of Assad. Previously, two children from this school had been kidnapped and the insurgents had demanded ransom for them. The insurgents from Homs previously had contacted the Applicant to purchase medical drugs from him. Following the above, the country's security forces arrested the Applicant twice, interrogating him about his sales. The Applicant, thanks to his contacts, found out that he was listed and being monitored.

Decision & Reasoning:

The OIN rejected the application, however, it granted the Applicant subsidiary protection status. The Court recognised the Applicant and his family's (wife and two children) refugee status as the risk of indiscriminate violence threatening the lives of civilians is present in the country of origin.

The Court rejected the OIN's argument that physical abuse or serious atrocity would be required to establish the Applicant's risk of being persecuted. The right to asylum must also be provided for those whose fear of persecution is well-founded. According to the UNHCR Handbook, this does not necessarily need to be based on previous personal involvement or experience. The Court accepted that the reason for flight, beyond the Syrian situation, was to provide the children with an education (they attended the same school as the President's children), and that the Applicant and his wealthy family had well-founded reasons to fear that their children would fall victims to kidnapping.

The Court stated that it is well-known and well-documented that the Syrian government continuously violates both international human rights standards and humanitarian law. In this atmosphere, the Applicant reasonably feared that both his interrogations by the security forces could have ended badly thanks to the excess amount of medication he sold to the rebel opposition. It must be noted that the Applicant's occupation as a pharmacist meant that according to the country of origin information, he could be a target group for the country's security forces if they suspected that assistance was being provided to the insurgents. This was considered to constitute the Applicant's imputed political opinion to be taken into consideration in light of the right to asylum, in other words, circumstances to be considered pursuant to the Geneva Convention. Pursuant to Section 53 of the UNHCR Handbook, the Applicant's experiences and potential threats and not individual incidents should constitute the overall basis for recognition as refugee.

Outcome:

The Court recognised the Applicant and his family`s refugee status.

Attachment(s):



[Original judgment - 6.K.31830-2013-6.pdf](#)[8]

Other sources cited:

2012 Human Rights Report by the US Department of State, Bureau of Democracy, Human Rights and Labour

National / Other Legislative Provisions:

[Hungary - Act LXXX of 2007 on Asylum - Art 6](#) [9]

[Hungary - Act LXXX of 2007 on Asylum - Art 7](#) [10]

[Hungary - Act LXXX of 2007 on Asylum - Art 60](#) [11]

[Hungary - Act LXXX of 2007 on Asylum - Art 64](#) [12]

[Hungary - Act LXXX of 2007 on Asylum - Art 68](#) [13]

Links:

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

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

[3] <http://www.asylumlawdatabase.eu/en/content/qualification-directive>

[4] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art 4 QD>

[5] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%209%20QD>

[6] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%2010%20QD>

[7] <http://www.asylumlawdatabase.eu/en/content/unhcr-handbook-procedures-and-criteria-determining-refugee-status>

[8] <https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/Original%20judgment%20-%206.K.31830-2013-6.pdf>

[9] <https://www.asylumlawdatabase.eu/en/taxonomy/term/1432>

[10] <https://www.asylumlawdatabase.eu/en/taxonomy/term/1433>

[11] <https://www.asylumlawdatabase.eu/en/taxonomy/term/791>

[12] <https://www.asylumlawdatabase.eu/en/taxonomy/term/1504>

[13] <https://www.asylumlawdatabase.eu/en/taxonomy/term/8006>