

Sweden - Migration Court, 13 July 2011, UM 1238-11

Country of Decision:

Sweden

Country of Applicant:

Kuwait

Date of Decision:

13-07-2010

Citation:

UM 1238-11

Court Name:

Migration Court, Malmö

Keywords:

Persecution Grounds/Reasons
Membership of a particular social group
Political Opinion
Country of origin information
Credibility assessment
Discrimination
Persecution (acts of)

Headnote:

Bidoons in Kuwait are not issued with ID documents and are denied work, school and medical care. Despite the quality of the documents the applicant submitted he was considered to have established his affiliation as an unregistered Bidoon. The Court found that he had a well-founded fear of being subjected to further persecution as an unregistered Bidoon and that he qualified for refugee status. He was granted permanent residence as a refugee.

Facts:

The applicant was a Bidoon from Kuwait who sought asylum in Sweden on November 2nd 2010. He had been apprehended by the police in Kuwait in 2009 while selling fruit and was charged with not having a permit for this activity. The police subjected him to physical violence and verbal abuse. He was released after four days and forced to sign a document stating he would never

work again and that he would not divulge what had occurred. (He had not mentioned this at the initial hearing because he felt ashamed talking about this in front of a female interpreter.)

As an unregistered Bidoon he claimed that he lacked many basic rights and together with friends formed an informal group to write slogans on walls to protest against discriminatory treatment. In October 2010 three in the group were arrested by the police before the applicant arrived at the agreed venue. A few days later the police sought him with a summons and this occurred on three subsequent occasions. He hid at his cousin's home.

The Kuwaiti authorities do not hold registers of Bidoons and therefore it was not easy for them to locate him. He claimed that his family and relatives contributed money so that he could flee, which he did with the help of a facilitator who accompanied him to Sweden. If returned he claimed he would face persecution and also risk punishment for illegal exit.

He suffered from diabetes and lacked funds to pay for his medicine (which was free to Kuwaiti citizens). Since he was an unregistered Bidoon there was also a high chance that Kuwait would not readmit him.

The Migration Board rejected the application. The Migration Board claimed that the identification documents presented had low evidentiary value (they lacked a photograph). The applicant had not submitted a passport, so it was not possible to establish when or how he had left Kuwait. The Migration Board found that he had not established that he was a Bidoon. If he was found to be a Bidoon then it was more likely that he was registered because unregistered Bidoons would not be able to raise the money to flee. The applicant and his companions had not been caught in the act of painting slogans by the police and there was no clear nexus between these events and a political involvement. If there was political involvement it was at a very low level.

Decision & Reasoning:

The Migration Court had to first establish whether the applicant was a Bidoon or not and, if so which category. The investigation into the submitted documents, especially the birth certificate showed that it could be genuine. It was not possible to verify the Bidoon identification card but it had the same format and character as mentioned in a country of origin report and therefore could not be dismissed as totally lacking in evidentiary value.

The country of origin information also confirmed that Bidoons have great difficulty in obtaining identity documents in the form of marriage certificates and driving licenses. Therefore it is not likely that a Bidoon can establish his identity or membership of a group. Therefore an overall assessment must be made of the applicant's account and the submitted documents.

The applicant consistently maintained that he and his family were victims of discrimination as unregistered Bidoons being denied schooling, health care and the right to work. His account was detailed, consistent and lacked contradictions.

His account tallied also with the known conditions for unregistered Bidoons. The Court did not support the Migration Board's claim that an unregistered Bidoon would be unable to raise the money to flee. Therefore, the Court found that what the applicant had presented was sufficient to show that he was reasonably likely to be an unregistered Bidoon. These Bidoons live under extremely difficult conditions and are systematically discriminated against. The Court accepted the applicant's reason for not divulging earlier the treatment he was subjected to in 2009 and found his account credible. The Court found that the applicant belonged to the group of unregistered Bidoons and that the applicant personally ran a risk of being arrested by the police because of his

membership of this social group.

Outcome:

The Court therefore found that he had a well-founded fear of being subjected to further persecution as an unregistered Bidoon and that he qualified for refugee status based on chapter 4 section 2 of the Alien's Act. He was granted a permanent residence permit and declared to be a refugee.

Other sources cited:

Country of origin information Lifos 20879 available at lifos.migrationsverket.se
