

France - French National Court on Asylum, 5 July 2019, n° 17053942

Zem?, kde bylo rozhodnutí vydáno:

France

Zem? ?adatele:

Russia (Chechnya)

Datum vydání rozhodnutí:

05-07-2019

?íslo rozhodnutí:

French National Court on Asylum, 5 July 2019, n° 17053942

Název soudu:

French National Court on Asylum (CNDA), judge president M. Beaufaÿs

Klí?ová slova -hlavní:

Revocation of protection status

Terrorism

Pou?ítá ustanovení evropských p?edpis? (práva EU):International Law > [1951 Refugee Convention](#) [1] > [Art 1A \(2\)](#) [2]

International Law > UN Convention on the Rights of the Child

International Law > [1951 Refugee Convention](#) [1] > [Art 33](#) [3]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4]

Council of Europe Instruments

European Union Law > [EN - Charter of Fundamental Rights of the European Union](#) [5]Council of Europe Instruments > [EN - Convention for the Protection of Human Rights and Fundamental Freedoms](#) [4] > [Article 8](#) [6]

Shrnutí :

The French National Court on Asylum (CNDA) based its reasoning on the CJEU jurisprudence according to which the Article 14 of the Directive 2011/95/EU transposed in Article L.711-6 CESEDA, allows revocation of refugee status, but does not imply that the refugee protection ceases. The international refugee protection under the Article 1 (A) (2) of the Geneva Convention continues to be applicable to the Applicant.

Skutkový stav :

The Applicant, a Russian refugee of Chechen origin, arrived in France in September 2009 and was granted refugee status by a decision of the National Court of Asylum of 22 May 2012, due to his fear of persecution by the Russian authorities, in the event of his return to his country of origin for political reasons.

By decision of 18 April 2016, the French Office for the Protection of Refugees and Stateless Persons (OFPRA) revoked the Applicant's refugee status pursuant to Article L. 711-6 (1) CESEDA on the grounds that there were serious reasons to consider that his presence in France constitutes a serious threat to the security of the State. The Applicant had been convicted by a decision dated 22 September 2015 from the Colmar Court of Appeal, which had become final, to one year's imprisonment with permanent ban from French territory for threatening a person entrusted with a public service mission with a crime or misdemeanour, for intimidating that same person into performing or refraining from performing an act of his or her mission, as well as for public apology for an act of terrorism.

On appeal, the Applicant argued that his refugee status, which he obtained on 22 May 2012, should be maintained and that he did not represent a serious threat to the security of the State. He also alleged that although he was sentenced to one year in prison, which is a short sentence and that he has served his sentence.

Rozhodnutí a odvodnění:

The French National Court on Asylum (CNDA) considered that the applicant represented a serious threat to the security of the State and French society, pursuant to Article L. 711-6 (1) and (2) CESEDA, and that there were no evidence of a possible distancing from his criminal past or his desire to integrate into French society. Moreover, he had been the subject of two convictions in France and he was being monitored, as a preventive measure, by the intelligence services.

The CNDA based its reasoning on the CJEU jurisprudence according to which the circumstance that a refugee falls within one of the exception in which EU Member States may revoke or refuse to grant refugee status, referred to in Article 14(4) and (5) of Directive 2011/95/EU, and transposed in Article L. 711-6 CESEDA, does not necessarily imply that this person ceases to have refugee protection, despite such revocation or refusal. In fact, the refugee still benefits from a certain number of rights provided for in the Geneva Convention, interpreted and applied in compliance with the rights guaranteed by the Charter of Fundamental Rights of the European Union.

Thus, the international refugee protection under Article 1 (A) (2) of the Geneva Convention continued to be applicable to the Applicant.

The Court then examined the applicability of Article L. 711-6 CESEDA to the Applicant, which provides that the OFPRA may terminate the refugee status of a person if:

1) The presence of this person constitutes a serious threat to society, and;

2) This person has been convicted in France as a last resort for a crime or misdemeanour punishable by ten years' imprisonment.

Since the Applicant had been convicted of an offense punishable by ten years' imprisonment in France, the court held that the first condition set forth in Article L. 711-6 (2) was met, even though the Applicant was actually sentenced to a shorter prison sentence.

The Court finally elaborated on the definition of a serious threat to society. It took into account:

- The criminal convictions and the circumstances on which it was based, and;
- The subsequent conduct of the Applicant.

Finally, it came to the conclusion that the factual elements in the file were demonstrating the persistence of a threatening, paranoid, unstable attitude and radical remarks of a religious nature. Therefore, the presence of the applicant on French territory constituted a real and actual threat pursuant to Article L.711-6 (2) CEDESA.

The court rejected the Applicant's appeal.

Výsledek:

Appeal rejected.

Attachment(s):



[CNDA 26 juillet 2019 M. T. n°17053942 C+.pdf](#)[7]

National / Other Legislative Provisions:

[France ? Criminal code \(Article L. 433-3\)](#) [8]

[France - Code of entry and stay of foreigners and of the right to asylum \(Article L. 711-1\)](#) [9]

[711-4](#) [10]

[711-6](#) [11]

[713-1](#) [12]

[721-2 and 761-1\)](#) [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/1951-refugee-convention#33>

[4] <http://www.asylumlawdatabase.eu/en/content/en-european-convention-protection-human-rights-and-fundamental-freedoms-echr>

[5] <https://m.asylumlawdatabase.eu/node/453>

[6] https://m.asylumlawdatabase.eu/node/195#toc_46

[7]

<https://m.asylumlawdatabase.eu/sites/default/files/aldfiles/CNDA%2026%20juillet%202019%20M.%20T.%20n%2017053942%20C%20%20.pdf>

[8] <https://m.asylumlawdatabase.eu/cs/taxonomy/term/11936>

[9] <https://m.asylumlawdatabase.eu/cs/taxonomy/term/11937>

[10] <https://m.asylumlawdatabase.eu/cs/taxonomy/term/11938>

[11] <https://m.asylumlawdatabase.eu/cs/taxonomy/term/11939>

[12] <https://m.asylumlawdatabase.eu/cs/taxonomy/term/11940>

[13] <https://m.asylumlawdatabase.eu/cs/taxonomy/term/11941>