



Greece - Council of the State (Suspension Committee) 746/1998

The Council of State approved the application for interim measures and suspended the deportation order against the applicant, who was born in Palestine and was stateless, according to certain documents on the public record (or a Libyan national based on others). The deportation order (issued due to suspicions that the applicant was a member of Hamas) was found to cause hardly repairable damage to the applicant, while the Hellenic Police had failed to concretely demonstrate why delaying the deportation would harm national security and the public order.

Case name (in original language) : ΣΤΕ (Επιτροπή Αναστολών) 746/1998

Case status: Decided

Case number: 746/1998

Date of decision: 16/11/1998

State: Greece

Court / UN Treaty Body: Council of the State

Language(s) the decision is available in: Greek

Applicant's country of birth: Palestine

Applicant's country of residence: Greece

Key aspects: Burden of proof, Deportation and removal, Detention, Respect for private and family life, Standard of proof

Relevant Legislative Provisions:

Greek Law 1975/1991

Facts

The applicant arrived in Greece with his family in 1991, but their application for asylum was rejected. In 1994 they were granted a temporary residence permit for humanitarian reasons, until they were able to plan their return trip. In 1996 the Greek administration rejected the permit's renewal. In 1998 the applicant was

arrested in Athens and the Hellenic Police ordered his deportation, on the grounds that the applicant was residing in Greece without permit, in violation of the provisions of law 1975/1991 and his presence created serious public order concerns. The order also provided for the applicant's detention until deportation was feasible.

Legal arguments by the applicant

The applicant argued that his presence in Greece did not cause any public order concerns given that he was involved into Islamic circles solely on his capacity as an imam of Islam. The applicant also argued that he has lived in Greece since 1991 (for 7 years) with his wife and four children, two of which are studying in elementary school, and for this reason the execution of the deportation order would cause hardly repairable damage to his family life.

Legal arguments by the opposing party

The Hellenic Police claimed that the deportation was ordered on the grounds that the applicant's presence in Greece raised serious national security and public order concerns, because the applicant was involved in Islamic circles and was reportedly a member of Hamas.

Decision & Reasoning

The Council of State requested the Hellenic Police to introduce evidence that the applicant was actually a member of Hamas and that the applicant's involvement in Islamic circles was linked to other activities than his capacity as imam. Due to the failure of the Hellenic Police to introduce additional evidence and since deportation would cause hardly repairable damage to the application, the Council of State ordered the suspension of the applicant's deportation.

Decision documents

[ΣτΕ 746.1998.pdf](#)

Outcome

The deportation order was suspended until the Council of State's final judgement on the merits.

The Council of State Decision n. 3631/2002 (available only in summary) postponed the judgement on the merits until the administration submits additional evidence substantiating the claim that the applicant constituted a public safety concern. This

is the only other relevant decision on this application that is publicly available.