

**NEWS REPORT**

<b>Date:</b>	11 November 2010
<b>Expert:</b>	Athanasios Theodoridis
<b>Title:</b>	Refusal to grant social security to political refugees was in breach of the European Convention of Human Rights
<b>Country:</b>	Greece
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Differential treatment exclusively based on nationality / ethnic origin in awarding a family allowance to political refugees and compatibility with the ECHR
<b>Ground of discrimination:</b>	race/ ethnic origin
<b>Source:</b>	ECHR
<b>Field:</b>	social protection, social advantages
<b>Legislative provisions:</b>	Article 8 (rights to respect for private and family life) combined with Article 14 (prohibition of discrimination) of the European Convention of Human Rights

**Content**

**Case development:** The applicants Hamo Fawsie, a Syrian national, and Mona Saidoun, a Libanese national, have both been officially recognised as political refugees, together with their children, respectively since 1998 and 1995, and are legal residents in Athens. On 24 January 2005 the family allowance branch of a farmer's social security organisation rejected the applicants' requests for the allowance paid to mothers of large families. The rejection decision explained that the applicants did not have the status of "mother of a large family" within the meaning of the legislation, as neither they nor their children had nationality of one of the Member States of the EU or were repatriated refugees of Greek origin. The applicants' appeals against that decision remained unsuccessful. The Supreme Administrative Court found that the legislation laid down objective conditions for the award of the allowance and had not had the effect of disrupting family ties or impeding the building of a family, and therefore had not been in breach of Article 8 of the European Convention on Human Rights. That Court added that there had not been a violation of Article 14 of the Convention, either,

because the distinction based on foreigners and nationals was based on the reasonable and objective criterion of nationality.

**Decision of the Court:** In the the cases of *Fawsie vs. Greece*(application no. 40080/07) and *Saidoun vs. Greece*(application no. 40083/07) rendered on 28 October 2010(which are not final), the ECtHR held, unanimously, that there had been a violation of Article 8 (rights to respect for private and family life) combined with Article 14 (prohibition of discrimination) of the European Convention of Human Rights.

While the Court did not call into question the desire of the Greek legislature, in awarding the family allowance to people who were unlikely to leave the country, to address the country's demographic problem that seemed to be worsening, it did not agree with the criterion chosen, being based mainly on Greek nationality or origin, especially as it was not uniformly applied at the relevant time. The Court reiterated that only very strong considerations could lead it to consider a difference in treatment exclusively based on nationality to be compatible with the Convention. It noted moreover that the Supreme Administrative Court had, in 2000, found in favour of a person in a similar situation to that of the applicants. In addition, from 1997 onwards, the status of beneficiary of the allowance had been granted to nationals of EU Member States, then from 2000 to nationals of States Parties to the European Economic Area, and finally, from 2008, to refugees such as the applicants. Lastly, under the Geneva Convention on the Status of Refugees, to which Greece was a party, States had to grant to refugees staying lawfully in their territory the same treatment with respect to public relief and assistance as was accorded to their own nationals. Therefore, the refusal of the authorities to award a large family allowance to the applicants had not been reasonably justified. The Court held unanimously that there had been a violation of Articles 8 and 14 of the Convention, together. Under 41 (just satisfaction) of the Convention, the Court held that Greece was to pay Mrs Fawsie 13,190.52 euros (EUR) in respect of pecuniary damage, EUR 1,500 for non-pecuniary damage and EUR 2,000 for costs and expenses.

**Internet link source and additional information :**

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=open&documentId=876459&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>



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