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GREECE: Greek Court recognises Atheism as ground for asylum

Atheist Alliance International (07.05.2021) – <https://bit.ly/3ft8P3l> – Ali (not his real name), was born to a Sunni Muslim family in Pakistan. He grew up a practicing Muslim but, in 2015, horrified and repulsed by the Taliban's atrocities against innocents, he left Islam and identified as an atheist.

He made his atheistic views known on social media and became an active member of the Atheist and Agnostic Alliance of Pakistan, an AAI affiliate that is fighting for the rights of non-believers in Pakistan.

In 2017, the Pakistan Federal Investigation Agency (FIA) raided Ali's house to arrest him. Although Pakistan does not have a law against apostasy, it does provide the death penalty for blasphemy and the two offenses are easily conflated in the minds of hyper-religious members of the judiciary and the individuals who are inclined to take the law into their own hands.

Fortunately, he was not at home, so the FIA officers confiscated his laptop computer and passport. They even took his motorbike. Knowing the fate of people accused of blasphemy in Pakistan (they have been killed in jails and courtrooms, and student Mashal Khan had recently been killed by a mob in the street), Ali had no option but to flee to Europe.

He sought help from AAI's affiliate the Atheist Union of Greece (AUG) to apply to the Greek authorities for asylum. After being rejected twice, AUG helped him appeal to a Greek Administrative Court to annul the second decision and ask the court to order temporary judicial protection pending a ruling on his application for annulment. Humanists International helped as well.

In February last year, the Court held that, in the event of his deportation from Greece, there would be a high risk of arrest and irreparable harm by the authorities in Pakistan or by fanatical Islamists. Accordingly, the Court annulled the Asylum Services' decision to deny Ali's asylum application and ordered the Government to provide him temporary international protection until the final judgment of the Court has been delivered.

The Court took note of documents that were provided by our two affiliates to prove Ali's atheism. The Atheist Union of Greece argued, in a press release, that international protection should have been provided to the applicant from the very first time he presented his case to the State.

We are delighted to report that last March the Administrative Court issued its final judgment on this case. The Court granted Ali asylum in Greece and this week he was given his residence permit / ID card.

This is the first final judgement of the Greek judiciary, and we believe, one of the first in the world, that recognizes atheism as a ground for the vulnerability of a citizen of a fundamentalist religious state. This is an important case! It can now be argued, in Europe at least, that atheists are at special risk in some Islamic countries and, consequently, need to be protected. [A legal summary of the case by the attorney that handled it (Vasilis Sotiropoulos) can be found here in Greek, translated below.]

We send our warm congratulations to Ali and our heartfelt thanks to our affiliates, the Atheist and Agnostic Alliance of Pakistan and the Atheist Union of Greece.

Legal Summary (Translation from Greek)

Our office successfully represented a refugee before the First Instance Administrative Court of Thessaloniki, which issued an irrevocable decision, recognizing atheism as a reason for vulnerability that allows the provision of asylum to refugees.

In the Islamic Republic of Pakistan atheism is punishable (as a blasphemy) by the death penalty. The few citizens who dare to declare publicly that they do not belong to the official state religion are persecuted by local authorities, imprisoned or even murdered.

The refugee we represented in Court had been examined by the Greek asylum committees and his request had been deemed unfounded. In particular, both the primary and the secondary committee had deemed his testimony unreliable, considering that his atheism was not an integral part of his personality,

as well as in completely secondary parts of it, such as how he was identified by the prosecuting authorities of his country. With these two rejections, the refugee was in danger of being deported and facing a charge punishable by death for his conscientious choices and beliefs.

The three-member First Instance Administrative Court of Thessaloniki issued its final decision, which became irrevocable and under which the refugee finally received asylum from the Hellenic Republic, i.e. international protection due to vulnerability. The Court applied the 1951 Geneva Convention, as amended by the 1968 New York Protocol, which states that the concept of refugee applies to any person *“ who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”* .

The Court concludes that from the Geneva Convention *“it is inferred that the foreigner, who wishes to be subject to the special protection regime of this Convention, must report to the Administration, with elementary clarity, the specific facts that cause him, to an objectively justified way, fear of persecution due to race, religion, nationality, social class or political beliefs (see CoS 633/2013, 4750/2012, 4565–6 / 2012, 4544/2012, 2904/2012, 2763/2012, 1303/2012 etc.). Moreover, the article 4 par. 5 of PD 141/2013 stipulates that the data of the statements of the applicant for international protection, even when they are not documented with documents or other evidence, do not need confirmation, if he has made a real effort to document, has submitted all relevant information available, and has given a satisfactory*

explanation for any lack of other relevant information, his statements are consistent and plausible and do not contradict available specific and general information relevant to his case, he requested international protection as soon as possible (unless he gave a valid reason which prevented him from doing so) and his general credibility is well-founded, while, in any case, the benefit of doubt applies. However, the above provision does not remove the obligation of the interested party to invoke certain specific facts capable of proving the conditions of his inclusion in the aforementioned protection regime (CoS. 1303/2012, 1078/2012, 3463-5/2011, 3459/2011, 2911-3/2011, 2640/2011, 2591-2 / 2011 etc.). In view of the nature and importance of the goods at stake, in the event of forced return of the applicant for international protection foreigner to his country of origin, it is necessary, in the context of the evaluation of his application on an individual basis, to thoroughly examine his substantive allegations and the specific and complete reasoning of any potential rejection of his request (cf. CoS 1303/2012, 1078/2012, 2512/2011, 1379/2011, 4154/2009, 3726/2009, 2534/2009, 817/2009, 1628/2007). “

The refugee in this case had proved his atheism, citing a certificate of participation in the Association of Atheists and Agnostics of Pakistan, publications about the blocking of his accounts on FACEBOOK due to “blasphemous content” and invoked a Pakistani Court ruling that had ordered his arrest. The refugee referred to the raiding of Pakistani authorities to the homes of atheist friends of him who conspired to warn him to escape, while an operation had already been launched to arrest him. Following the arrest of his friends, he decided to leave the country to escape persecution.

With the initial decision of the Regional Asylum Office of Thessaloniki, the request was rejected as unfounded, on the grounds that, on the one hand atheists sentenced to death are not executed by the authorities and on the other that the

atheism of this refugee *“is not essential and is not an integral part of his personality and his identity, while, his profile as an amateur internet user does not place him in a high-risk profile to attract the interest of the Pakistani authorities, and that his claim of persecution by the authorities of his country, because of his apostasy from Islam and his beliefs about atheism, relied solely on his own conjectures and, therefore, that the applicant did not have a well-founded and justified fear of persecution because of his religious beliefs and could not be granted refugee status.”* The applicant appealed to the Appeals Authority of the Ministry of Civil Protection against the initial rejection.

The Appeals Authority considered unreliable the allegations of the applicant as to why he had left his country of origin and did not wish to return to it and, in particular, his allegations that he had left his country of origin because he had been targeted and wanted by the authorities because of his atheistic beliefs, due to “ambiguities, vagueness and contradictions”, which affected their internal coherence. His answers regarding his FACEBOOK account were considered contradictory and his answer to the question how the local authorities located him was unsatisfactory and his testimony about how he was notified and escaped from the prosecution was not plausible.

The First Instance Administrative Court of Thessaloniki annulled the above decision, considering the application for annulment of the applicant refugee accepted, mainly because his atheism was challenged without a legal reason by the Greek authorities. The Court held that “the above allegation of unlawful reasoning of the contested decision, in so far as it rejected the applicant’s allegations of his atheistic beliefs, is well founded, because the contested decision was rejected on unreasonable grounds, as generalistic, vague and not based on personal experiences. In particular: a) the reasoning of

the contested decision that the applicant provided only a general definition of the concept of atheism, without citing experiential elements of his daily life regarding his own acceptance of his personal position of not believing in any religion, it is not legitimate because the Commission did not take into account that the applicant, in his personal interview, did mention on the one hand specific situations and specific experiences that led him to the relevant choice, on the other hand did mention specific personal circumstances of his daily life, related to his atheistic beliefs. In particular, the applicant stated that one of the main reasons for his choice to become an atheist was the occurrence of religious violence in his country of origin (in particular, he stated that there are *"many terrorists in Pakistan who destroy humanity through religion"*), while citing a specific incident that took place in 2014 in the city of Pesawhar, in which extremist Muslims (Taliban) had invaded a school and killed about 135 children (an incident which was verified as true during the investigation carried out by the Asylum Service), stating at the same time that this incident made him wonder *"how a religion can allow innocent souls to be killed without having done anything wrong"* . Furthermore, the applicant referred to specific personal circumstances of his daily life, related to his atheistic beliefs, such as his non-participation in Muslim worship and in particular in Friday prayers, meetings and discussions with like-minded people in parks and hotels in Karachi and his posts on social media against the Muslim religion (in particular, he stated that he had made posts against jihadism, which, in his view, is permitted by Islam, and in posts about his opinion that is not acceptable for someone to follow *"the footsteps of a Prophet who had performed 11 marriages and at worst, one marriage with a six-year-old"*), and b) the reasoning of the contested decision that the applicant claimed to have become an atheist after studying the Quran and other religions, but without giving any example or even reference to the comparative study of other religions that led him to acceptance of atheism, and

that in his social media posts he had limited himself to criticism of Islam, is not legal because the Commission did not take into account that the applicant, in his personal interview, explained the reason for his rejection of all religions and in particular stated that, in his opinion, all religions are man-made (in particular he stated that "*all these books are written by men*"), while the mere fact that he did not mention any other religion than Islam, a religion which he has studied and rejected, is not sufficient to legitimately justify the Commission's judgment on the vagueness of his claim, given that he had not been asked any clarifying question in that regard. Furthermore, the Court considers that the applicant's statement that he had criticized Islam in his social media posts could not legitimately justify the Commission's judgment that his allegation of atheism was vague, given that it was reasonable for him to criticize primarily the prevailing religion in his country and not other religions. Finally, the Court emphasizes that, in assessing the validity of the international protection applicant's fear that he will be persecuted, it is irrelevant whether he is in fact or to a certain extent characterized by the religious element which causes or is likely to cause persecution (in this case by atheism), provided that this characteristic is attributed to him by the body of the persecution, according to the explicitly defined in article 10 par.2 of PD 141/2013."

Furthermore, the Court annulled the allegations of the Greek authorities that his allegations were allegedly not plausible and clear, with a complete re-examination of the information provided by the applicant. The Court ordered the reimbursement of the fee (EUR 150) and court costs (EUR 405) to the applicant. Earlier, the same Court had given an interim injunction and suspended the execution of the contested decision, so that the refugee would not be deported until the final court decision was issued.

Photo : Atheist Alliance International

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