

Federal Court



Cour fédérale

**Date: 20171130**

**Docket: IMM-2089-17**

**Citation: 2017 FC 1080**

**Toronto, Ontario, November 30, 2017**

**PRESENT: The Honourable Mr. Justice Campbell**

**BETWEEN:**

**ABDULKADER WASEL**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP AND  
IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant is a 46 year-old citizen of Syria who moved to Greece in 1998, resided there until May 2014, entered Canada in May 2014 and made a refugee claim against return to Syria. On December 18, 2014, the Refugee Protection Division (RPD) found the Applicant to be excluded for refugee protection on the basis of Article 1E of the Refugee Convention because he was found to be admissible to Greece. An appeal of the RPD decision to the Refugee Appeal

Division was dismissed in April 2015. As a result the Applicant applied for humanitarian and compassionate relief to be landed in Canada.

[2] The present Application challenges a negative humanitarian and compassionate decision rendered by a delegate of the Minister (Officer) dated April 10, 2017. The issue before the Officer was whether the Applicant was presently admissible to Greece. Counsel for the Applicant argued that, on the basis of a lawyer's opinion produced to the Officer, a change in the law had placed the Applicant's admissibility to Greece in doubt (see the letter in the Appendix to these reasons). Essentially as the argument goes, the Applicant has lost any status he might have had prior to the change in the law because he has been away from Greece for more than two years.

[3] The issue for determination in the present Application is whether the Officer reasonably considered the Applicant's humanitarian and compassionate relief concerns. The following are the Officer's views about the opinion letter:

While I acknowledge that counsel has adduced an Opinion Letter from a lawyer in Greece supporting the applicant's view that he would be unable to renew his PR status in Greece, I find that this document is not equivalent to official documentation from the Greek government and/or Greek immigration authorities. Moreover, I find the document to represent that of which it [sic] has been named ("Opinion Letter") - an opinion written by a lawyer in Greece. This document, while it has been prepared by an attorney, expresses the legal implications that may arise taking into account the applicant's status, but does not confirm that the Greek government and/or Greek immigration authorities have rejected the applicant's bid to renew his PR status in Greece, nor does it confirm that the applicant has lost his PR status or has had it revoked. Thus, I find that the inclusion of this document to not bear much weight in regards to the applicant not being able to continue residing in Greece as a permanent resident. A more

compelling piece of evidence, in my view, would be an official refusal letter from Greek authorities in regards to the applicant's renewal of his "Residence Permit", or official government documentation confirming that the applicant has lost his PR status in Greece or has had it revoked by Greek immigration officials.

[Emphasis added]

(Decision, p. 5)

[4] The Applicant submitted the opinion letter to make a serious point about his future. In my view, the contents of the opinion letter should have been given humanitarian and compassionate consideration. By the use of the Officer's words "this document to not bear much weight", I find that the needed consideration was not given.

[5] As a result, I find that the decision under review is unreasonable.

**JUDGMENT**

**THIS COURT'S JUDGMENT is that** the decision under review is set aside and the matter is sent back for redetermination by a different decision-maker.

There is no question to certify.

“Douglas R. Campbell”

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Judge

## “APPENDIX”

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### OPINION LETTER

Date, 26 May 2016

Dear Sir,

Regarding your request I would like to mention briefly my point of view related to the aforementioned outstanding legal issues.

#### FIRST QUESTION

According to the new greek immigration law with Number 4332/2015 which has been enforced from September 2016, a foreigner who is a holder of a permanent residence permit in Greece can not renew his residence permit on condition that he lives abroad at least two years. So in this case, Mr. Abdulkader could re-enter in Greece at any time but the immigration office will not renew his residence permit.

#### SECOND QUESTION

The residence permit of Mr. Abdulkader had been issued under section 91 paragraph 2 of the law 3386/2005. The law 3386/2005 is not still in force. In Greece the permanents residence permits has been cancelled. According to the current Greek immigration LAW there are only residence permits valid for 10 years. The new immigration law with number 4332/2015 would govern the residence permit of Abdulkader. Mr Abdulkader can renew his residence permit in Greece before it expires only on condition he lives and works in Greece the last two years. Otherwise he can not renew his residence permit. According to the existing law if Mr Abdulkader announces to the Greek immigration office that the last two years used to live and work in Canada, the government will not accept the renewal of his residence permit. According to the immigration law with number 4332/2015, the residence permit of Mr. Abdulkader will expire in 2018.

#### THIRD QUESTION

Considering Abdulkader's absence from Greece since May 2014, he can't renew his residence permit in Greece.

Based on the greek immigration law, he should stay and work in the two years prior to the renewal of his residence permit.

FOURTH QUESTION

In case that Abdulkader is sent back to Greece and loses his residency rights, Greece would not repatriate him to Syria due to the war situation occurred in Syria. In my experience, Greece presently does not deport back to Syria citizens who live illegally in Greece.

FIFTH QUESTION

If Mr. Abdulkader traveled to Canada on a Greek passport belonging to someone else, he would face administrative and criminal consequences when he will return back to Greece. The greek prosecutor will accuse him for the crime of forgery and he will be sentenced in prison for at least three months. If Mr. Abdulkader will be condemned in prison, he will definitely loose his residency rights.

Sincerely,

Marina Katsanou

Attorney - at - law

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**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-2089-17

**STYLE OF CAUSE:** ABDULKADER WASEL v THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** TORONTO, ONTARIO

**DATE OF HEARING:** NOVEMBER 28, 2017

**JUDGMENT AND REASONS:** CAMPBELL J.

**DATED:** NOVEMBER 30, 2017

**APPEARANCES:**

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David Knapp FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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Attorney General of Canada FOR THE RESPONDENT