

**Date: 20080201**

**Docket: IMM-6318-06**

**Citation: 2008 FC 131**

**Ottawa, Ontario, February 1, 2008**

**PRESENT: The Honourable Madam Justice Heneghan**

**BETWEEN:**

**ANTON MALAJ**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**REASONS FOR JUDGMENT AND JUDGMENT**

[1] Mr. Anton Malaj (the “Applicant”) seeks judicial review of the decision of the Immigration and Refugee Board, Refugee Protection Division (the “Board”), dated November 22, 2006. In its decision, the Board determined that the Applicant was neither a Convention refugee nor a person in need of protection as defined in section 96 and subsection 97(1) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the “Act”).

[2] The Applicant, a citizen of Albania, sought protection in Canada on the basis of his fear of persecution at the hands of the husband with whose wife he had had an affair. The affair began while the Applicant, a house painter, was working for the husband, painting his house.

[3] The Board made one negative credibility finding against the Applicant, that is with respect to his claim that the husband would cause him harm when no actions had been taken against members of the Applicant's family who remain in Albania. The Applicant argues that this finding was based upon speculation, in ignorance of the evidence that he had submitted and further, that it was irrelevant since his family members were not responsible for his actions.

[4] The Board also found that the Applicant held a Greek passport and it was not satisfied that he did not hold Greek citizenship. The Applicant argues that this conclusion is patently unreasonable and is not grounded in the evidence.

[5] In this case, the Board found that the Applicant possessed a Greek passport. It was not convinced that he did not possess Greek citizenship. Further, it was not persuaded that state protection was unavailable in Albania.

[6] The Board's finding with respect to the possibility that the Applicant holds Greek citizenship is suspect. The Applicant testified that he had entered Canada, holding a false Greek passport. The Board made no adverse findings concerning the Applicant's testimony that he was not a Greek citizen. I agree with the Applicant's submission that in making its finding as to his citizenship, the Board ignored the evidence before it.

[7] However, this error by the Board is not determinative of this application for judicial review, since the Board turned its mind to the availability of state protection in Albania, the Applicant's country of birth.

[8] I am satisfied that, on the basis of the evidence referred to by the Board, that the finding as to the availability of state protection is not patently unreasonable. There is a police force and a functioning judiciary. Although the documentary evidence relating to the current political and economic situation in Albania shows that there are occasional problems with the behaviour of the police, the jurisprudence requires that a state provide adequate, if imperfect, protection to its citizens; see *Kadenko v. Canada (Minister of Citizenship and Immigration)* (1996), 143 D.L.R. (4<sup>th</sup>) 532 (F.C.A.); leave to appeal to S.C.C. dismissed (1997), 218 N.R. 80 (note).

[9] In the result, this application for judicial review is dismissed. There is no question for certification arising.

**JUDGMENT**

The application for judicial review is dismissed. There is no question for certification arising.

“E. Heneghan”

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Judge

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

**DOCKET:** IMM-6318-06

**STYLE OF CAUSE:** ANTON MALAJ and THE MINISTER OF  
CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** Toronto, Ontario

**DATE OF HEARING:** November 15, 2007

**REASONS FOR JUDGMENT  
AND JUDGMENT:** HENEGHAN J.

**DATED:** February 1, 2008

**APPEARANCES:**

Mr. David Yerzi FOR THE APPLICANT

Ms. Leanne Briscoe FOR THE RESPONDENT

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