



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

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- Ilana Alansucu v. Rustatia -

1. Ilana Alansucu was born in Rustatia, a newly-born Balkan republic which declared its independence from Yugoslavia in 1994. In the next following year, Rustantia adhered to the Council of Europe and became part of the European Convention of Human Rights, in order to prove the European orientation assumed by the newly-created republic. Ilana Alansucu is a citizen of this country, belonging to the Azghan community, an ethnic minority commonly accused by the local private media of distorting the image of the Rustantians in Europe due to the behaviour of certain members.

2. After the publication of certain articles in the local press which were demonstrating the Asian origin of the Azghans, Rustatia was submitted to a wave of harsh manifestations against this community, especially in the Becherovka region, in which Ilana was living. The region became the scene of numerous and violent clashes between demonstrators and the authorities called to ensure the peaceful nature of the demonstration. The confrontations reached a climax on the 1st of August 2015, when the residents broke the police cordon and set fire to the houses of the Azghans, including Ilana's. The policemen managed to protect Ilana until she ran away. Afterwards, the police officers themselves got attacked with stones by the residents.

3. Appaled by the attitude of authorities described as a betrayal of national interests on the grounds of having opposed the arson, the demonstrators occupied the buildings where until recently the local stations of public policy have been operating. They did not answer the calls of the central government than four days later, when they informed the authorities of the proclamation of an independent republic with the same name in the former region of Becherovka. The locals wanted to follow their own way by taking advantage of the state border's contiguity and of the governmental inaction against the citizens' movement. A local referendum has been announced in order to ratify the proclamation and the election of the representatives of the region.

4. Meanwhile, Ilana found her house guarded by her former neighbours, but she did not dare to approach them. Moreover, she assumed that some domestic animals have been brought there. Since then, Ilana have never returned home. After seven months of living in barns and other improvised living places, she left the separatist region. She met Andrey, who promised to help her so as to find a job at some acquaintance in the Principality of Sealand, another Party of the European Convention of Human Rights, situated at the frontier between France and The United Kingdom. This would allow her to also find a long term accomodation abroad.

5. However, Ilana hesitated due to the fact that this adventure seemed risky. She manifested interest in her possible return to her former home in Becherovka by addressing the central authorities with a felony complaint regarding the 1st of August incidents. Her aim primarily concerned the punishment and the evacuation of those who were in charge of her house with a view to discouraging this kind of acts in the future. Ilana would not obtain any compensation for dispossession, but she would take back her house without being submitted to the life of a stray. The authorities encouraged her to take a stance toward the prejudice, but she refused, deeming as worthless the value of the destroyed goods

6. Good news appear very soon. On the 15th of April 2016, Ilana receives the competent court's decision. The prosecution bodies have identified the persons responsible for arson and occupation of Ilana's home. The Court acquitted them of any offense on grounds of a so-called collective state of tension during the demonstrations against Azghane community, showing that psychology of the crowds is often difficult to control. However, the occupants were forced to evacuate the dwelling under the penalty for the caused damages and criminal liability, compounded with each day of delay. The decision has become final by making no appeal.

7. However, on the 20th of April 2016, Rustatia recognized under the constitutional rules the independence of the Republic of Becherovka, the technical details of the sequence of states remaining to be discussed later. According to the joint declaration of the President and the Parliament of Rustatia, the separation between the two countries is proving to be "*the ideal*

solution for solving the Azghan ethnical problem by the justified authorities under the principle of subsidiarity". Faced with these events, Ilana accepts the idea of emigration in the search of a new beginning, at least until the permanent release of her home. On the 1st of May 2016, she follows Andrey in Sealand, enjoying his assurances regarding her professional future.

8. A week after their installation in Sealand, Andrey is arrested by the Principality's authorities on charges of proxenetism. Ilana fails to find any job and Andrey's acquaintance turns out not to be helpful in the end. She is informed by notification that on the 10th of June 10 2016 the authorities will proceed to her expulsion, arguing that having no job at all, her visa cannot be renewed after the expiring term of the existing one.

9. Ilana disputes the expulsion decision, notified by the Immigration Office of the Principality before the local competent Courts on the grounds that her return to Rustatia would expose her to an increased risk of *degrading treatment and violation of the right to respect for private and family life*, showing the facts that have determined her to leave her homeland. She motivates that in *M.S.S. v. Belgium and Greece (30696/09)*, The European Court of Human Rights has condemned Belgium precisely for having expelled an asylum solicitant without ensuring that he isn't exposed to any violations of the fundamental human rights in his residence country. Therefore, events that happened in Rustatia are almost identical with the ones sanctioned as degrading treatments by The European Court of Human Rights in its decision, *Moldovan and Others v. Romania (41138/98; 64320/01)*.

10. The Principality Court, however, rejected the appeal on the 1st June 2016, on grounds based on the statement that the rustatian authorities have always had an exemplary conduct regarding the protection of the ethnic minorities. Even from Ilana's statements is drawn the conclusions that they are not behind the Azghan housing's immolation, but certain individuals, participants of the demonstrations, so that Rustatia cannot be accused of any rights infringement action.

The judge stresses in a final note that he does not understand the extent to which persons without fixed residence from another country reached Sealand's problem. Moreover, the local procedural rules prohibit to decide on future actions. If after returning home, Ilana will suffer violations of the fundamental human rights in her country of origin, nothing prevents her from notifying the competent authorities, including the European Court of Human Rights. The Court's decision cannot be appealed.

11. Because trouble does not come alone, on the 5th of June 5 2016, Ilana receives a letter from the Government of Rustatia regarding the final decision rendered following her complaint. Dated May 15, 2016, the letter informs Ilana that the decision could not be enforced despite the entreaties made by the Government because the dwelling is no longer in that country but that of fresh proclaimed Becherovka. This means that the issues related to a possible restriction of Ilana's legitimate human rights and her access in the building are no longer related to its jurisdiction, but to the one of the new republic, exactly on the purpose confirmed by the European Court of Human Rights in Case of *Ilaşcu and others v. Moldova and Russia (48787/99)*. In any event, the Government cannot send police forces across the border in order to apply the decision on Becherovka's territory. Any interference with its sovereignty by exercising coercion on its territory would represent a reprehensible conduct in the relations between two independent countries.

12. However, as a sign of good faith, the letter specifies that negotiations have been opened regarding Ilana's issue too, among other transient issues, with people that submitted as representatives of the citizens of Becherovka. The latter has been recalled polite importance of respecting ethnical minorities' rights and it has been made a proposition regarding the organization of a series of joint seminars with common participation, on this topic. For the future, it is wanted the giving up on this specific subject of negotiation considered rather disturbing to the representatives of the former separatist regions, in exchange for

signing several very lucrative commitments for Rustatia regarding the economic cooperation.

Ilana is convinced by the Government to apply directly to the authorities of Becherovka in order to in order evict the occupants of the dwelling. It is however shown that at this time it is not possible to precisely identify the local entitled institutions, as representatives of the region are at the moment busy with organizing the future referendum described above, but also preparing a project to accelerate joining the breakaway republic to the Council of Europe, particularly to become party to the European Convention on Human Rights.

13. Ilana, however, is not convinced by this reasoning. On the 7th of June 2016, she filed complaints for the European Court of Human Rights against both Rustatia and the Principality of Sealand, on grounds of infringement of *Articles 3 and 8 of the Convention*. Court decides to bring together the two complaints in the file no. M-00001/17 and set a date for hearing the parties on 10th to 12th March 2017. The two countries' defendants decide to be represented before the Court by a single defender.