



IMMIGRATION AND REFUGEE BOARD  
(REFUGEE PROTECTION DIVISION)

LA COMMISSION DE L'IMMIGRATION  
ET DU STATUT DE RÉFUGIÉ  
(SECTION DE LA PROTECTION DES RÉFUGIÉS)

IN PRIVATE  
HUIS CLOS  
**TA3-11046**

CLAIMANT(S)

DEMANDEUR(S)

DATE(S) OF HEARING

**January 19, 2004**

DATE(S) DE L'AUDIENCE

DATE OF DECISION

**January 19, 2004 (rendered orally)  
February 2, 2004 (written reasons)**

DATE DE LA DÉCISION

CORAM

**V. Bubrin**

CORAM

FOR THE CLAIMANT(S)

**N/A**

POUR LE(S) DEMANDEUR(S)

REFUGEE PROTECTION OFFICER

**N/A**

AGENT DE PROTECTION DES RÉFUGIÉS

DESIGNATED REPRESENTATIVE

REPRÉSENTANT DÉSIGNÉ

MINISTER'S COUNSEL

CONSEIL DE LA MINISTRE

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On . 2004, the Refugee Protection Division heard the claim of for protection. Having heard the claimant's evidence and his submissions, at the end of the hearing, the panel rendered its negative decision concerning his claim. The following are the reasons for that decision edited for readability and also for citations of jurisprudence and documentary evidence.

The claimant is a 50-year-old citizen of Poland. His citizenship is supported by a certified true copy of his Polish passport some pages of which we have on file from Citizenship and Immigration Canada.<sup>1</sup>

The claimant testified that he does not have his Polish passport any longer. Apparently he lost it, or it was stolen in 2002. Nevertheless, I do accept that the claimant is who he says he is and that he is, on a balance of probabilities, a citizen of Poland.

The claimant's story revolves around problems he experienced in Poland as a result of his bisexual orientation. The details of some of these problems were set out in the claimant's Personal Information Form<sup>2</sup> and in oral testimony. Assuming without finding that the claimant's sexual orientation is indeed bisexual, his claim fails for two main reasons.

First of all, there appears to be a significant delay in making a claim upon arrival

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<sup>1</sup> Exhibit R/A-2  
<sup>2</sup> Exhibit C-1

in Canada along with some contradictions and inconsistencies in the claimant's evidence. The second and the main reason for the failure of the claim is the claimant's failure to explain to the Board's satisfaction, why an internal flight alternative (IFA) to a city like Warsaw is not viable. Thus, even if I had no credibility concerns, or no concerns regarding the claimant's subjective fear, the IFA issue became determinative.

I will first analyse the issue of delay. The claimant arrived in Canada on his brother's invitation on 2000. Six months later, his visitor's visa expired and in spite of his fear of being asked to leave Canada, he did not make a refugee claim until of 2003. While the claimant may not have been well informed or properly guided by those around him, given his testimony about fearing being deported and not doing anything about his fear for approximately two and a half years, is detrimental to the assessment of the claimant's subjective fear.

However, the delay in itself is not determinative. I also have some concern with respect to the consistency with which the claimant was able to convey the details of his story. The claimant was not very consistent with respect to the dates and events which prompted him to leave Poland. He himself became aware of that because he raised that as the first issue when I asked him to give a statement with respect to the merits of his claim. The claimant stated that he had difficulty in remembering the details of his story. While there may also have been some unwillingness to remember, given that the claimant was able to provide a number of details when he filed his PIF on 2003, I find

that his explanation for these inconsistencies and discrepancies at the hearing, only six - seven months after the PIF was prepared, is not reasonable.

Thus, even if I were to assume without findings that the claimant is bisexual, I do have reasons to reject the credibility of the details which the claimant provided in support of the problems he allegedly experienced in Poland.

Let me now turn to what appears to be the determinative issue in this claim, namely, the issue of the IFA, which has to be understood in the light of the limited and narrow jurisdiction within which the Board makes its decisions on well-founded fear of persecution and protection.

The internal flight alternative, according to the jurisprudence which we have to apply to these cases, arises when a claimant, who has a well-founded fear of persecution in his or her area of the country, is not a Convention refugee, because he or she has an IFA elsewhere in that country. The proposed IFA in the claimant's case, given that he lived and experienced his problems in his small town of                    is Warsaw, the capital city of Poland.

The IFA test has two parts. The first one is that there is no serious possibility of the claimant being persecuted in the IFA area. Looking at the claimant's testimony, when the issue of moving to Warsaw was raised, the claimant indicated no reason to fear persecution if he were to live in Warsaw. The claimant's evidence, therefore, does not meet the first test.

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The second test states that the conditions in the IFA must be such that it would not be unreasonable in all the circumstances for the claimant to seek refuge there. In other words, would it be unduly harsh to expect the claimant to move to another less hostile part of the country before seeking protection abroad? To get to the IFA, the claimant must not encounter any physical danger. I do not believe that there is any evidence before me that travelling to Warsaw represents undue hardship or danger for the claimant. Moreover, apart from the hardship of travelling to Warsaw, is there any reason why the claimant cannot stay there?

The reasons the claimant gave why he cannot or does not want to stay in Warsaw have more to do with the economic situation than with the issue of persecution. The claimant fears that he will have difficulty finding work, that he will have difficulty finding an apartment and that he will not be able to afford an apartment in Warsaw. In my opinion, these are not valid concerns for the purposes of granting him refugee status.

Regarding IFA, therefore, I find that the claimant has not provided any reasonable explanation why he could not live free of persecution in Warsaw.

In the course of the hearing, the claimant also indicated that returning to Poland now, would represent a dangerous situation for him due to wide-spread crime and criminal gangs, and that coming from Canada he might be a target because these groups might think that he is coming from a wealthy country and has money. The problem of

criminality and corruption in Poland is a problem equally faced by all citizens of Poland, not specifically the claimant. As such, it is not a valid ground on which to make a positive finding for the claimant.

As for the claimant returning to Poland from Canada, which may be perceived as a wealthy country, the claimant's evidence is not supported by the evidence we have on Poland before us. In Exhibit R-1, item 7.1 for example, the Research Department of the Immigration and Refugee Board, contacted experts specifically with this question and the response from those experts was that the fear such as the one expressed by the claimant, is not a legitimate fear. I prefer the documentary evidence which has no vested interest in the outcome of this claim to the claimant's insufficiently informed testimony.

For all these reasons I find that the claimant is not a Convention refugee and is not a person in need of protection as set out in Sections 96 and 97(1) of the Immigration and Refugee Protection Act. For all of these reasons, the claim of \_\_\_\_\_ is rejected.

\_\_\_\_\_  
"V. Bubrin"

V. Bubrin

DATED at Toronto this 2<sup>nd</sup> day of February, 2004

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