

2022

International Migration and Refugee Law Moot Court

Final case

Omar Sharif

vs

**The Minister of Home Affairs of the People's
Republic of Kalakuta**

Migration Law Research Group

Ghent University



FRAGOMEN

Outcome of the appeal

On Thursday 17 March 2022, the Administrative Court of First Instance of the People's Republic of Kalakuta decides that Mr Omar Sharif's appeal is dismissed as the decision by the Commissioner of International Protection did not error in law. Consequently, Mr Omar Sharif is not in need of international protection.

When Mr Omar Sharif is granted the official decision by the Court's Clerk on Friday 18 March 2022 in the morning, the decision is accompanied by two documents.

International agreement

Agreement on migration issues between the People's Republic of Kalakuta and the Syrian Arab Republic

The People's Republic of Kalakuta and the Syrian Arab Republic face unprecedented refugees and migration challenges. Addressing them requires solidarity, determination and collective efforts.

This agreement reflects the joint commitment of the People's Republic of Kalakuta and the Syrian Arab Republic to step up their cooperation on addressing and preventing irregular migration, and on returning irregular migrants who after the consideration of all relevant international law and legal procedures cannot be granted international protection status, as part of the overall partnership between the Governments of the People's Republic of Kalakuta and the Syrian Arab Republic.

In their cooperation under this declaration, the People's Republic of Kalakuta and the Syrian Arab Republic remain committed to all their international obligations, in particular;

- Respecting the provisions of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;
- Upholding the rights and freedoms guaranteed in the International Covenant on Civil and Political rights;
- Respecting the safety, dignity and human rights of irregular migrants subject to a return and readmission procedure.

The People's Republic of Kalakuta and the Syrian Arab Republic intend to cooperate closely in order to organize the dignified, safe and orderly return of Syrian nationals to the Syrian Arab Republic who do not fulfil the legal criteria to sojourn in the People's Republic of Kalakuta.

In line with its obligations under international law, the Syrian Arab Republic reaffirms its commitment to readmit its citizens who entered into the People's Republic of Kalakuta or are staying on the People's Republic of Kalakuta's territory irregularly.

Syrian nationals who are found to have no legal basis to remain in the People's Republic of Kalakuta, whose protection needs or compelling humanitarian reasons, if any, have been considered in accordance *with international law* and who have received an enforceable order to leave the People's Republic of Kalakuta, can choose to return voluntarily. Syrian nationals who choose not to comply with such a decision on a voluntary basis will be forcibly returned to the Syrian Arab Republic, once administrative and judicial procedures with suspensive effects have been exhausted.

Prior to returning Syrian nationals, the People's Republic of Kalakuta will give fair consideration to humanitarian aspects in accordance with international law to unaccompanied minors, single women and women who are head of their families, family unity, elderly and seriously sick people. Special measures will ensure that such vulnerable groups receive adequate reception, assistance and care throughout the whole process.

To facilitate the return process, the People's Republic of Kalakuta will ensure that every Syrian returning to the Syrian Arab Republic on a voluntary or non-voluntary basis in line with international law is in possession of a valid travel document, such as a Syrian passport, a Syrian travel document or the People's Republic of Kalakuta standard travel document for the return of undocumented foreigners.

The People's Republic of Kalakuta will ensure that any person readmitted by the Syrian Arab Republic who, it later emerges, is not of Syrian nationality, is taken back by the People's Republic of Kalakuta.

Makosi City, 1 January 2022

Order to leave the People's Republic of Kalakuta's territory

Order to Leave the Territory of the People's Republic of Kalakuta

Administrative Court of First Instance

Reception Centre "PORT 3"

Omar SHARIF

12, Window Street

MAKOSI City

KALAKUTA

March 18, 2022

File number: 2020/58/B

Surname : Omar

First name(s): Sharif

Date of birth : December, 11th, 2003

Nationality: Syrian

Date of application for international protection: March 16th, 2020

Hearing date at the Administrative Court of First Instance: March 17th, 2022

1. Decision: Obligation to leave the Territory of the People's Republic of Kalakuta

On 1 October 2021, the decision was taken by the Commissioner for International Protection (CIP) of the People's Republic of Kalakuta to reject Mr Omar Sharif's application for international protection. The court confirms the decision of the CIP and instructs non-national Mr Omar Sharif to immediately leave the territory.

Following the International Agreement between the People's Republic of Kalakuta and the Syrian Arab Republic, of which a copy will be shared with Mr Omar Sharif, Kalakuta has received individual guarantees by the Syrian Arab Republic that Mr Omar Sharif will be at no risk upon return. The Arab Republic of Syria has guaranteed that the human rights of Mr Omar Sharif will be respected, in line with the Syrian Arab Republic's obligations under international human rights law, and that Mr Omar Sharif will not be required to fulfill his military service upon return. Mr Omar Sharif will be able to reside with his aunt, who is still living in Damascus Governate. The return of Mr Omar Sharif is consequently in full compliance with Kalakuta's obligations under international law, including the obligation to respect the principle of non-refoulement as is expressed in Article 3 Convention against Torture and Article 7 International Covenant on Civil and Political Rights.

Mr Omar Sharif can return with a commercial flight leaving Makosi City on 18 March 2022 at 8 pm from the Airport of Makosi City, with destination Damascus City, Syrian Arab Republic (flight number PR 12SYX, Airline Gè Kuol Airdreams). Mr Omar Sharif is requested to present himself at the airport authorities at 5pm. Mr Omar Sharif has the right to a return and reintegration package, the details thereof will be discussed by the flight attendant.

In case Mr Omar Sharif does not present himself at the airport, a non-voluntary return procedure will immediately be started up by Kalakuta's Ministry of Home Affairs.

2. Legal remedies

An appeal against this deportation order and obligation to leave the territory, is only possible in expedient appeals procedure before 18 March 2022, at 2 pm.

The Chamber of Utmost Urgent Matters

Human Rights Street 15

MAKOSI City

KALAKUTA