

Date: 20080326

Docket: IMM-1335-08

Ottawa, Ontario, March 26, 2008

PRESENT: The Honourable Mr. Justice Shore

BETWEEN:

LEONTII PRENCO

Applicant

and

**THE MINISTER OF PUBLIC SAFETY
AND EMERGENCY PREPAREDNESS**

Respondent

ORDER

UPON a motion for the stay of execution of the removal order in respect of the Applicant;

AND UPON the material being before the Court;

AND UPON hearing counsel for the parties by telephone conference, March 26, 2008;

THIS COURT RECOGNIZES that in respect to the Applicant:

- (a) there is a serious issue to be tried;
- (b) the Applicant will suffer irreparable harm unless the Order is granted;
- (c) the balance of convenience rests with the Applicant.

Mr. Leontii Prenco owns and operates his own successful business which, not only supports him, but also provides employment opportunities to Canadians and economic benefit to Canada. In addition to this, Mr. Prenco, owns his own motor vehicle.

Mr. Prencu is a skilled construction worker and has been praised by his employer as thorough and conscientious.

As can be seen from the supporting documents, he is also strongly supported by his church and community and is widely held in high regard.

Mr. Prencu made an unsuccessful claim for refugee protection based upon his Ukrainian ethnicity and his profile as a practicing Seventh Day Adventist.

Mr. Prencu, who is an epileptic, alleges that he was subjected to an ongoing and systematic campaign of harassment, intimidation, threats and varying degrees of ethno-religiously motivated violence which culminated in attempts to force him to perform military service, for which he neither is eligible nor liable to perform (and to which he is religiously and conscientiously opposed) – the cumulative effect of which was to lead his wife to divorce him; however, as the Immigration and Refugee Board (IRB) did not consider his fear of persecution to be objectively well-founded, it rejected his claim.

While his profile did not expose him to a risk of persecution in the eyes of the IRB, the risk of undue, disproportionate and excessive ethno-religious hardship would still appear sufficient to meet the lower threshold required to support a successful Humanitarian and Compassionate application as it is clear that the interest of ethnic and non traditional religious minorities in Moldova are reportedly under pressure and the source of strained relations with other elements within Moldova.

Moreover, there is a positive obligation under ss. 3(3)(f) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, to construe and apply the Act in a manner consistent with Canada's

international human rights agreements and the persuasive authority of the United Nations High Commission for Refugees (UNHCR) Handbook which states:

71. The Universal Declaration of Human Rights and the Human Rights Covenant proclaim the right to freedom of thought, conscience and religion, which right includes the freedom of a person to change his religion and his freedom to manifest it in public or private, in teaching, practice, worship and observance.

THIS COURT ORDERS the stay of removal from Canada, of the Applicant, which is scheduled for March 27, 2008, and which stay is ordered to remain in effect until a final determination will have been made in respect of the application of Mr. Prencu for leave and also for judicial review, should leave be granted.

“Michel M.J. Shore”

Judge