



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	Austria
Case Name/Title	K. et. al. v. Federal Asylum Review Board (FARB, by now: Asylum Court)
Court Name <i>(Both in English and in the original language)</i>	Supreme Administrative Court (Verwaltungsgerichtshof)
Neutral Citation Number	2007/20/0121 - 0122
Other Citation Number	
Date Decision Delivered	09/09/2010
Country of Applicant/Claimant	
Keywords	Internal protection, procedural rules, individual assessment;
Head Note (Summary of Summary)	Complaint against the refusal of international protection as the claimed acts of persecution were denied relevance for asylum procedures and the complainants were considered to have an internal relocation alternative at disposal.
Case Summary (150-500)	The first complainant, a Russian from Dagestan who is of Avaric confession, applied for international protection together with her 5-year-old daughter, the second complainant. Their whole family was living in Dagestan. After having divorced from her violent, religious fanatic husband, the complainant was threatened by members of his family and beaten up by unknown men on the street. Living in fear, the complainant changed working places and shelter constantly, but, nevertheless, one night was kidnapped and raped by unknown men. These men threatened to kill her and her daughter if she reported the crime to the police. The complainant presented medical certificates regarding the maltreatment. She left her country in fear for herself and for her daughter. She had not considered moving to another part of the Russian Federation because she was afraid of moving there alone. Dagestani and "dark skinned people" (" <i>dunkelhäutige Menschen</i> ") were not welcomed in Russia and frequently were victims of racist assaults.
<i>Facts</i>	The Federal Asylum Agency (FAA), as the first instance administrative authority, dismissed the applications. Although the statements were considered credible, they were deemed to lack relevance for asylum procedures. Firstly, the attacks against the first complainant had only been criminal acts of unknown persons, and secondly, even if they were considered relevant, just considering the Russian Federation's extension and magnitude of population, internal relocation was at her disposal. The complainants appealed against this decision, bringing forward that, according to the Amnesty International report of 2005, not only Chechens, but also Dagestani, faced increasing discrimination in the Russian Federation.



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	<p>The FARB, as the second instance administrative authority, followed the FAA’s argumentation and dismissed these appeals without a hearing of the complainants any further examination in merit.</p>
<p><i>Decision & Reasoning</i></p>	<p>The Court initially objected to the authorities’ view that the persecution claimed by the complainants was not relevant to asylum procedure. Indeed, according to the Court’s permanent jurisprudence (see, for instance case summary Y. v. Federal Asylum Review Board, 2008/23/0176), persecution as ascertained in this case had to be considered as persecution for membership of a “social group” in terms of Article 1, Section A, para 2 of the Geneva Convention relating to the Status of Refugees.</p> <p>Moreover, the Court considered the assumption of an internal relocation/protection alternative as inconclusive. The authorities’ had failed to properly examine the specific situation of people from the Caucasus region, in particular Dagestani people, who were intending to move to other parts of the Russian Federation. Considering the first complainant’s statements and detailed explanations on why she did not consider moving to another part of the country, such examination was indispensable. Furthermore, the Court noticed that:</p> <p>“Furthermore, the first instance decisions do not show any consideration of the complainants’ specific situation as a single mother with her child and no family ties. ”</p> <p><i>“Hinzu kommt, dass sich den erstinstanzlichen Bescheiden nicht entnehmen lässt, dass die spezifische Lage der Beschwerdeführerinnen - alleinstehende Mutter mit Kind ohne Familienanschluss - in irgendeiner Weise Berücksichtigung gefunden hätte (...).”</i></p> <p>On a whole, the Court concluded, the authorities’ decisions lacked sufficient examination on the complainants’ specific situation to be expected in case of relocation.</p>
<p><i>Outcome</i></p>	<p>The FARB’s decision was repealed for unlawfulness because of violation of procedural rules.</p>