

Title: Judgment of the Supreme Administrative Court, No. 2 Azs 13/2009 of 21/4/2009

Publisher: Czech Republic/Supreme Administrative Court

Country: Czech Republic/Kosovo

Subject: International organisations as actors of protection, Art 7 of the Qualification Directive

The *Ministerstvo vnitra* (Ministry of Interior) rejected an application for an international protection submitted by a Kosovo Albanian applicant according to Articles 12, 13, 14, 14a and 14b of *Zakon č.325/1999 Sb., o azylu* (Asylum Act). According to Ministry, the applicant's fear of being persecuted by the Albanian People's Army (AKSh) was unfounded. Subsequently, *Krajský soud v Brně* (Regional Court in Brno) dismissed the appeal of the applicant against the above mentioned administrative decision.

The applicant filed a cassation complaint against the decision of the Regional Court. He claimed that in Kosovo he was forced to join the AKShs where due to his expertise in kick-boxing, he was supposed to train the AKSh members in martial arts. Because of his refusal to join this organization, he was intimidated by the AKSh and had a fear from persecution. The *Nejvyšší správní soud* (Supreme Administrative Court) considered whether this paramilitary terrorist organization can be an actor of persecution and whether a local government and international organizations working in Kosovo can provide protection within the meaning of Article 7 of Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (Qualification Directive). The Court pointed out that it is obvious that an actor of acts to whom the applicant was subjected, was the AKSh, i.e. the organization that cannot be considered as the state. The Court furthermore held that according to information available in the applicant's file, the AKSh is neither controlling the state or a substantial part of the territory of the state it is therefore potentially an actor of persecution within the meaning of Article 6 (c) of the Qualification Directive. In case of such actors it must be examined if the actors of protection according to Article 7 (1) were and are able to provide protection. The case of Kosovo is specific in the sense that on its territory are simultaneously operating actors of protection within the meaning of letter a) and also b) of this paragraph, these are Kosovo authorities on one hand and international organizations on the other hand, more specifically UN mission (UNMIK established in accordance with UN Security Council Resolution 1244 and responsibility for security in Kosovo lies with NATO-led international force called KFOR). Ability of these organizations to provide protection to persons in situation similar like to that of the applicant was examined particularly on the basis of a report by the Stycna kancelar CR (Czech Liaison Office) in Pristina according to which: "The AKSh is rather a virtual power. The rapporteurs from UNMIK and KFOR are very well informed about the AKSh and have its activities under control. Neither UQK or

its succession organisations conduct at present any provoking acts". The Court held that the stated organizations are able to provide in cooperation with the state authorities protection to the applicant within the meaning of Article 7 (2) of the Qualification Directive. The Court rejected the cassation complaint as unfounded.