Country of Decision/Jurisdiction	**Czech Republic**
Case Name/Title	L. O. v. Ministry of Interior
Court Name *(Both in English and in the original language)*	Supreme Administrative Court (Nejvyšší správní soud)
Neutral Citation Number	5 Azs 40/2009-74
Other Citation Number	
Date Decision Delivered	28/07/2009
Country of Applicant/Claimant	Senegal
Keywords	Internal protection; Credibility
Head Note (Summary of Summary)	Cassation complaint of the applicant for international protection against judgment of the Regional Court in Hradec Králové, which approved the dismissal of his application on grounds that (1) he lacked credibility and (2) an internal protection alternative was a viable option for him.
Case Summary (150-500)	L. O., originating from Senegal, allegedly feared to be killed by rebels who killed his family in 2005. Furthermore, he claimed that in the region from where he originated a long lasting internal armed conflict prevailed and therefore it was not possible for him to move to another safe place within his country.
Facts	His application was dismissed by the Ministry of Interior (MoI) as manifestly unfounded on 27 March 2007. The MoI stated that the applicant did not present any relevant facts that could lead to the conclusion that he has well-founded fear of persecution or that he was in real risk of serious harm. On appeal the Regional Court in Hradec Králové quashed the decision of the MoI since the MoI failed to assess the internal armed conflict in relation to subsidiary protection. Subsequently, the MoI issued a new decision, however, it did not grant asylum or subsidiary protection. The MoI repeated its conclusions as to the assessment of persecution. More concretely, it stated that the applicant lacked credibility as regards his statements that his family was killed by rebels as well as that he originated from the region of Casamance where an internal armed conflict was taking place. The MoI found the applicant not credible as he demonstrated a fundamental lack of knowledge about local particularities. The rejection of subsidiary protection was backed up on the availability of an internal protection alternative. The Regional Court in Hradec Králové dismissed the applicant's action with the judgment of 27 February 2009. Therefore, the applicant lodged a cassation complaint with the Supreme Administrative Court (SAC).

Decision & Reasoning	First, the SAC pointed out that the MoI as well as the Regional Court erred in the **assessment of credibility** of the applicant. From the requirements for a personal interview stated in Article 13(3)(a) of the Procedures Directive taken together with Article 4(3)(c) of the Qualification Directive it can be derived that in evaluating the credibility of the applicant for international protection regarding his knowledge about local particularities of his country of origin it is necessary to take into account his education (*a fortiori* illiteracy) and cultural origin. Therefore, the MoI should have taken into account that the applicant was illiterate and without any school education when assessing his knowledge about significant rivers and administrative centres in his region of origin. In addition, the MoI failed to consider the cultural differences and the resulting different ideas about what an individual should know about his country of origin. Furthermore, the SAC referred to its judgment No. 5 Azs 66/2008-70 of 30 September 2008 according to which, in case it is not possible to back up a statement with evidence nor is it possible to refute it by documentary evidence and the applicant has met the conditions laid down in Article 4(5) of the Qualification Directive, the administrative authority shall take this statement into account. The SAC concluded that the applicant has met the conditions of the above mentioned provision of the Qualification Directive; therefore, the statement of the applicant that he originated from the region Casamance does not need to be proved by any further evidence and the MoI as well as the Regional Court should be bound by this conclusion in further proceedings. Relying on its settled case law (e.g. judgment No. 6 Azs 235/2004–57 of 21 December 2005) according to which the applicant is not obliged to prove the persecution by means other than his own credible testimony, the SAC held that the MoI has to either convincingly refute the applicant's claim that his family was killed (or to refute that this event occurred in the way the applicant claims), or take it as granted. "*Mere speculations, the possibility of an alternative sequence of events or minor discrepancies are not by themselves capable of refuting the applicant's allegations.*" „*Pouhá spekulace, možnost alternativního sledu událostí či drobné nesrovnalosti k vyvrácení tvrzení stěžovatele nestačí*" The SAC referred further to its judgments 2 Azs 49/2008-83 of 24 July 2008 and 5 Azs 66/2008-70 of 30 September 2008. Furthermore, the SAC emphasised that "[t]*he defendant* [the MoI] *supported his doubts about the credibility of the applicant's statements only with alleged contradictions in the applicant's testimonies (some of which have been proven above as unsubstantiated) and did not corroborate his doubts with objective and sufficiently accurate COI. In this context the SAC observes that the responsibility to ascertain the facts of the matter in relation to the country of origin lies in the proceedings on international protection upon the defendant.*" „*žalovaný své pochybnosti o věrohodnosti tvrzení stěžovatele opřel pouze o*

	jím tvrzené rozpory ve výpovědích stěžovatele (z nichž některé se ukázaly jako neopodstatněné), aniž by své subjektivní pochybnosti podložil objektivními a dostatečně přesně zaměřenými informacemi o zemi původu. V této souvislosti zdejší soud rovněž konstatuje, že odpovědnost za náležité zjištění reálií o zemi původu nese ve věcech mezinárodní ochrany žalovaný." Furthermore, the SAC concluded that the MoI, as well as the Regional Court, failed to assess the relevant criteria for the existence of an **internal protection alternative**. Relying on its previous case law (judgment No. 4 Azs 99/2007-93 of 24 January 2008) the SAC further refined the criteria for the assessment of the internal protection alternative. The SAC emphasised that the Asylum Act (Act No. 325/1999 Coll.) has to be interpreted in accordance with Article 8 of the Qualification Directive since the national law does not encompass any criteria as regards the internal protection alternative. The Court held that in order to establish that an internal protection alternative exists, the following 4 criteria have to be fulfilled: *"(1) the proposed site of internal protection is accessible for the applicant; (2) the proposed site affords a meaningful solution for the identified risk of persecution or serious harm in the original area; (3) there is no risk for the applicant to be returned back to the original area; and (4) the protection offered in the proposed site meets at least the minimum standard of protection of human rights. These criteria have to be fulfilled cumulatively and applied in the given logical sequence. While assessing all the four criteria, general circumstances prevailing in the country of origin as well as personal circumstances of the applicant have to be considered.*" *„(1) zda je jiná část země pro žadatele dostupná; (2) zda přesun do jiné části země je účinným řešením proti pronásledování či vážné újmě v původní oblasti; (3) zda žadateli nehrozí navrácení do původní oblasti; a (4) zda ochrana v jiné části země splňuje minimální standard ochrany lidských práv. Tyto čtyři podmínky musí být splněny kumulativně a mají rovněž svoji logickou posloupnost, a tudíž musí být aplikovány ve výše uvedeném pořadí. Při posuzování všech čtyřech kritérií je navíc nutné brát v potaz celkové poměry panující v zemi původu a osobní poměry žadatele.*" These criteria were apparently inspired by the "Michigan Guidelines on the Internal Protection Alternative", (cf. especially point 13 of the Guidelines); nonetheless, the SAC does not refer to this document expressly. In the instant case the MoI did not ask the applicant any relevant question as regards the internal protection alternative during the interview; therefore, the applicant had hardly any chance to express his viewpoint on the possibility to relocate in another part of his country of origin. The SAC concluded that this failure of the MoI was unlawful and the Regional Court did not heal this deficiency during the oral hearing.
Outcome	The SAC quashed the judgment of the Regional Court in Hradec Králové and referred the matter back for further proceedings.