



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

A project of the Hungarian Helsinki Committee

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Country of Decision/Jurisdiction	Czech Republic
Case Name/Title	R. S. v Ministry of Interior
Court Name <i>(Both in English and in the original language)</i>	Supreme Administrative Court (Nejvyšší správní soud)
Neutral Citation Number	6 Azs 36/2010-274
Other Citation Number	
Date Decision Delivered	25/01/2011
Country of Applicant/Claimant	Kyrgyzstan
Keywords	Persecution; Membership of a Particular Social Group
Head Note (Summary of Summary)	Cassation complaint of the applicant for international protection against judgment of the Regional Court in Ostrava, which approved the dismissal of her application on grounds that the applicant presented only personal and family problems.
Case Summary (150-500)	R. S., a national of Kyrgyzstan, claimed that she lived contrary to her will in a forced and polygamist marriage where she was subjected to domestic violence. She decided to convert to Christianity mainly since she refused to agree with the perception of women in the Islamic religion, which in her opinion was discriminatory, and she did not approve of polygamy, which she was forced to stay in. When her husband came to know about her decision to change religion, he started to act violently towards her. She maintained that the State turns a blind eye to matters of domestic violence and, therefore, she had no possibility to receive protection.
<i>Facts</i>	<p>The Ministry of the Interior rejected her application with its decision of 24 April 2007 on grounds that the applicant presented only personal and family problems. Moreover, the applicant did not make sufficient use of the protection offered by the State organs in her country of origin.</p> <p>The Regional Court in Ostrava upheld the decision of the MoI with its judgment of 8 June 2010.</p> <p>Therefore, the applicant lodged a cassation complaint with the Supreme Administrative Court (SAC).</p>
<i>Decision & Reasoning</i>	The SAC held that the fact that the applicant was forced to marry or to remain in marriage contrary to her will (without consent), together with other infringements of human rights (e.g. domestic violence) and the factual situation in her country of origin regarding the discrimination of women in the society, could constitute persecution since all these measures taken together meet the requirements for the persecution on cumulative grounds [Article 9(1)(b) of the Qualification Directive].



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	<p>The SAC stated that whilst examining whether international protection should be granted to the applicant (when subjected to domestic violence), the Court needs to assess whether effective protection against acts of domestic violence provided in the country of origin are available and effective for other women in similar situations (Articles 6 and 7 of the Qualification Directive). The assessing authority shall thoroughly examine the available protection in the country of origin that implies the effectiveness and availability of such protection. The vague statement that the protection in the country of origin is provided, based on documents with ambiguous conclusions as to the effectiveness and availability of such protection, is not sufficient. The assessing authority shall examine relevant facts and evidence before coming to that conclusion.</p>
<i>Outcome</i>	<p>The SAC quashed the judgment of the Regional Court in Ostrava and referred the matter back for further proceedings.</p>