



# KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee  
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## Case Summary

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| Country of Decision/Jurisdiction                                 | <b>Austria</b>  |
| Case Name/Title  | D. v. Federal Asylum Review Board (FARB)  |
| Court Name <i>(Both in English and in the original language)</i> | Supreme Administrative Court (Verwaltungsgerichtshof)   |
| Neutral Citation Number  | 2000/20/0539  |
| Other Citation Number  |   |
| Date Decision Delivered  | 29/03/2001  |
| Country of Applicant/Claimant                                    | Ukraine   |
| Keywords   | Internal protection, non-state agents of persecution;   |
| 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 complainant was considered to have an internal relocation alternative at her disposal.   |
| Case Summary (150-500)   | The complainant, a Ukrainian national and business consultant, was persecuted together with her family by unknown persons because of her stepfather's German origins. Via telephone, she was ordered to leave the country or she would get raped. Then, one day in Donetsk, a swastika was scratched into her car door. One evening, she was threatened and ordered to leave the country by an unknown man in front of a friend's house in Charzisk. The complainant applied for international protection in Austria on the 1 <sup>st</sup> of March 1999.  |
| <i>Facts</i>   | <p>The Federal Asylum Agency (FAA), as the first instance administrative authority, dismissed the application for international protection, as it could not identify any occurrences representing asylum grounds in terms of the Geneva Convention relating to the Status of Refugees within the complainant's statements. The complainant appealed against this decision.</p> <p>The FARB, as the second instance administrative authority, interrogated the complainant as well as her mother. Because of significant contradictions between their statements, it concluded that the complainant had not been able to demonstrate credibly that she had been a victim of persecution relevant to asylum procedures. Besides, even if the complainant's statements had been true, she would still have the possibility to move to another part of the country to evade the assaults.</p> |
| <i>Decision &amp; Reasoning</i>                                  | The Court objected the FARB's assumption of contradictions between the statements of the complainant and her mother. However, the Court agreed with the administrative authorities, even if her statements were considered credible, the occurrences described still would not represent persecution  |



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|                       | <p>relevant for asylum procedures.</p> <p>Additionally, the Court, for the following reasons, agreed that the complainant had an internal relocation alternative at her disposal:</p> <p>"In fact, the calculation of reasonableness, inherent in 'internal flight alternatives', requires the asylum seeker not to end up in a hopeless situation in the alternative country area considered. In compliance, according to the Supreme Administrative Court's jurisprudence, economic disadvantages can also be relevant for asylum procedures if they deprive any means of existence. However, no evidence can be found that the complainant, according to her own statement, working as business consultant, would get into such existential hardship if she moved to another part of the Ukraine. "</p> <p><i>"Das einer 'inländischen Fluchtalternative' innewohnende Zumutbarkeitskalkül setzt zwar voraus, dass ein Asylwerber im in Frage kommenden Gebiet nicht in eine ausweglose Lage gerät. Dem entspricht die Judikatur des Verwaltungsgerichtshofes, wonach auch wirtschaftliche Benachteiligungen dann asylrelevant sein können, wenn sie jegliche Existenzgrundlage entziehen (...). Hinweise darauf, dass die nach ihren eigenen Angaben als Wirtschaftsberaterin tätige Beschwerdeführerin in einem anderen Teil der Ukraine in eine derartige existentielle Notlage geraten könnte, bestehen aber nicht. "</i></p> <p>For these reasons, the Court concluded that the responding authority had rightly dismissed the appeal.</p> |
| <p><i>Outcome</i></p> | <p>The Court dismissed the complaint for being unfounded.</p>  |