



# KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee*

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## Case Summary

Country of Decision/Jurisdiction	<b>United Kingdom</b>
Case Name/Title	SA (political activist – internal relocation) Pakistan
Court Name <i>(Both in English and in the original language)</i>	Upper Tribunal (Immigration and Asylum Chamber)
Neutral Citation Number	[2011] UKUT 30 (IAC)
Other Citation Number	
Date Decision Delivered	26 January 2011
Country of Applicant/Claimant	Pakistan
Keywords	Internal relocation
Head Note (Summary of Summary)	<p>Requiring a political activist to live away from his home area in order to avoid persecution at the hands of his political opponents has never been considered a proper application of the internal relocation principle. A political activist is not expected to give up their political activities or refrain from pursuing legitimate grievances in order to avoid persecution.</p> <p>The fact that an asylum claimant was able to avoid persecution by moving around the country does not in itself indicate that there would be a viable internal relocation alternative available.</p>
Case Summary (150-500)	<p>The appellant's claim was that he feared persecution at the hands of opposition party members principally from the Pakistan People's Party (PPP). The latter had targeted his brother who was the town Nazim (a kind of local mayor) and who belonged to the Q League (PMLQ Party).</p> <p>The appellant and his brother had suffered personal attacks from 2005 onwards. He had been very well off, owning shops and a restaurant; but in early 2009 members of opposing parties burnt them all down. In early March 2009 members of the opposing parties had shot and killed his brother at a party meeting. He and his family went to stay at his brother-in-law's house in Islamabad and later at a place in Muree where he had relatives. In Islamabad he and his family received threats to their life via friends and relatives.</p>
<i>Facts</i>	<p>The appellant's asylum claim had been refused by the Secretary of State, and his appeal was dismissed by an Immigration Judge of the First-tier Tribunal (Immigration and Asylum Chamber). Although his account had been accepted, the appeal was dismissed on the basis that there was sufficiency of protection and, if not, he could internally relocate.</p> <p>Permission to appeal to the Upper Tribunal (Immigration and Asylum Chamber) was granted on two grounds – firstly, that the Immigration Judge had looked at the issue of sufficiency of protection in Pakistan in general, but had failed to consider the lack of protection provided to the appellant on the accepted facts of the case; and secondly, that the Immigration Judge had</p>



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	<p>found that internal relocation was available on the basis that the appellant had moved around the country in order to avoid persecution before fleeing to the UK.</p>
<p><i>Decision &amp; Reasoning</i></p>	<p>The Upper Tribunal found that the appellant was entitled to pursue his political activities, and a number of legitimate complaints he had against his opponents, without fear of persecution. Given his political activities in the past it was reasonable to expect that he would continue those activities wherever he lived in Pakistan. He could not be expected to live in hiding.</p> <p>12. <i>A third error concerned the IJ's treatment of the matter of whether the appellant could relocate in safety. On the appellant's own evidence he had a number of legitimate complaints that he wished to pursue against his opponents arising out of past attacks on him and his properties as well as their murder of his brother; the only reason he had not stayed to pursue those was fear of further persecution. In addition, he was quite clear that he had been and would continue to be active in the PMLQ. His unchallenged evidence was that there was strong support in his local area for him to stand for the Nazim post, which his brother had previously held. The significance of his and his family's political profile and ongoing involvement in the PMLQ was that his party and the PPP are national parties and that it was reasonable to expect that wherever else the appellant went in Pakistan he would continue his visible involvement in the PMLQ and that his opponents in Rawalpindi would come to learn where he and his family were.</i></p> <p>13. <i>When considering this matter the IJ attached particular significance to the fact that the appellant had been able to exercise the option of internal relocation already between the date of his brother's murder and his departure. However, whilst it was true that during this period the appellant had lived in other parts of Rawalpindi and in Islamabad and Muree, his unchallenged evidence was that he was having to move in order to avoid detection ("he had moved around different places when he was having trouble"). Further, during this period, even when he was living in Islamabad, the PPP had sent him serious threats via his relatives. His experience of internal relocation was not experience showing it had been viable and the IJ was wrong to assume to the contrary.</i></p> <p>14. <i>In our judgement the appellant should not be expected to return to Pakistan and give up his active involvement in the PMLQ and his pursuit of his legitimate grievances against local PPP members who had destroyed his property, frequently conducted personal attacks against him and his brother, murdered his brother and then subjected him and his family to serious threats and intimidation. Yet any return to his home area would expose him to a real risk of serious harm against which he would not receive adequate protection.</i></p> <p>15. <i>In our judgement also, the only way the appellant could achieve safety by relocation was if he effectively decided to live in hiding or in political exile. In UK asylum law, requiring a political activist to live</i></p>



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	<p><i>away from his home area in order to avoid persecution at the hands of his political opponents has never been considered as a proper application of the internal relocation principle: see e.g. Nolan J in <u>R v Immigration Appeal Tribunal, ex p. Jonah</u> 1985] Imm AR 7. And (since October 2006) such a requirement cannot be considered to be consistent with para 3390 of the Immigration Rules (Article 8 of the Qualification Directive). Indeed, the pitfalls of requiring a person to act contrary to his normal behaviour in order to avoid persecution have been further emphasised by the Supreme Court in <u>HJ(Iran)</u> [2010] UKSC 31.</i></p>
<p><i>Outcome</i></p>	<p>The appeal was allowed on refugee grounds. The appellant was found to be entitled to the protection of the Refugee Convention.</p>