



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

A project of the Hungarian Helsinki Committee
co-financed by the European Commission

Case Summary

| | |
|--|---|
| Country of Decision/Jurisdiction | Germany |
| Case Name/Title | |
| Court Name <i>(Both in English and in the original language)</i> | Federal Administrative Court (Bundesverwaltungsgericht) |
| Neutral Citation Number | 1 B 100/05 |
| Other Citation Number | |
| Date Decision Delivered | 17/05/2006 |
| Country of Applicant/Claimant | Russia |
| Keywords | Internal protection; Reasonableness |
| Head Note (Summary of Summary) | Complaint concerning the rejection of applications from Chechen applicants, <i>inter alia</i> , on grounds of internal flight alternatives. |
| Case Summary (150-500) | Applicants of Russian nationality from Chechnya had filed applications for asylum in Germany due to fear of persecution. Factual as well as detailed procedural background not published. |
| <i>Facts</i> | The Higher Administrative Court of Saarland (the court of appeals) has dismissed the applicant's entitlement to refugee status, arguing that they would, in any case, be safe from persecution at some location within the Russian Federation. |
| <i>Decision & Reasoning</i> | <p>The Federal Administrative Court dismissed the applicant's argument, according to which the Higher Administrative Court had <i>inter alia</i> deviated from relevant supreme jurisprudence, argued in a contradictory manner and failed to duly investigate the facts.</p> <p>The Federal Administrative Court laid out principal conditions concerning gainful employment upon relocation to a safe internal location:</p> <p>A location safe from persecution is held to offer the economic minimum level of subsistence to persons capable of gainful employment, once they, having surpassed initial difficulties, are able to obtain what is absolutely necessary for their subsistence through work or grants from others, including situations where – principally reasonable – work is unattractive or not corresponding to their professional qualification. Among the accordingly reasonable occupations are those for which there is no demand on the general job market, or those that do not correspond to superseded job profiles. That can e.g. be because they may not demand any particular skills or can only be performed for the satisfaction of short-term needs, even if such occupations can be characterized as occupations within the so called "shadow" or "niche" economy. What is not reasonable is a referral to criminal work, that is, work</p> |



Hungarian Helsinki Committee

KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

A project of the Hungarian Helsinki Committee
co-financed by the European Commission

| | |
|---------|--|
| | <p>within the meaning of "mafia-like" employment, which is performed for criminal organisations that usually serve to perpetrate crimes or the respective participation in such activities.</p> <p><i>"Ein verfolgungssicherer Ort bietet erwerbsfähigen Personen das wirtschaftliche Existenzminimum grundsätzlich immer dann, wenn sie dort durch eigene, notfalls auch wenig attraktive und ihrer Vorbildung nicht entsprechende Arbeit, die grundsätzlich zumutbar ist, oder durch Zuwendungen von dritter Seite jedenfalls nach Überwindung von Anfangsschwierigkeiten das zu ihrem Lebensunterhalt unbedingt Notwendige erlangen können. Zu den danach zumutbaren Arbeiten gehören auch Tätigkeiten, für die es keine Nachfrage auf dem allgemeinen Arbeitsmarkt gibt, die nicht überkommenen Berufsbildern entsprechen, etwa weil sie keinerlei besondere Fähigkeiten erfordern, und die nur zeitweise, etwa zur Deckung eines kurzfristigen Bedarfs ausgeübt werden können, auch soweit diese Arbeiten als Tätigkeiten im Bereich einer "Schatten- oder Nischenwirtschaft" bezeichnet werden. Der Verweis auf eine kriminelle Arbeit, also eine Arbeit etwa im Sinne "mafioser" Erwerbstätigkeit, die für eine kriminelle Organisation geleistet wird und - wie bei Mitgliedern der Mafia - in der fortgesetzten Begehung von oder der Teilnahme an Verbrechen besteht, ist nicht zumutbar."</i></p> |
| Outcome | The complaint was rejected. |