

Asylum law

Sources in law:

Residence Act	Section 60(1)
Asylum Procedure Act	Sections 26, 73
Administrative Procedure Act	Section 49(2) sentence 2, Section 48(4)
GRC	Article 1 C (5) and (6)
Directive 2004/83/EC	Article 2 (c) and (e), Article 4(4), Article 8, Article 11(1)(e) and (2)

Headwords:

Revocation of refugee status (Iraq); discretionary power; cessation of refugee status; cessation of circumstances; persecution; well-founded fear of persecution; protection of country; threat of persecution; reason for persecution; political opinion; family refugee status; subsidiary protection.

Headnotes:

1. According to Section 73(1) sentence 1 und 2 of the Asylum Procedure Act in conjunction with Article 11(1)(e) of Directive 2004/83/EC, the recognition of refugee status is to be revoked if, in consideration of a significant and non-temporary change of circumstances in the country of origin, the circumstances in connection with which the person concerned had a well-founded fear of persecution for one of the reasons indicated in Article 2 (c) of Directive 2004/83/EC and was recognised as a refugee have ceased to exist, and the person also need have no fear of 'persecution' within the meaning of Article 2 (c) of Directive 2004/83/EC for other reasons (drawing upon ECJ, judgment of 2 March 2010 – Case C-175/08 et al., Abdulla et al. – InfAuslR 2010, 188).

2. According to Article 11(2) of Directive 2004/83/EC, the change in the circumstances on which recognition as a refugee was based is substantial and non-temporary if it is established that the factors on which the refugee's fear of persecution was founded and that resulted in the recognition of his or her refugee status have ceased to exist, and this cessation can be regarded as permanent. As a rule, the change is permanent only if, in the country of origin, a state or other actor of protection under Article 7 of Directive 2004/83/EC is present and has taken suitable steps to prevent the persecution on which the recognition of refugee status was founded.

3. If the refugee, citing the same reason for persecution in the revocation proceeding as was found for his recognition as a refugee, claims that after the cessation of the facts in connection with which he was recognised as a refugee, other facts have arisen that give rise to a fear of persecution for the same reason of persecution, this is normally covered by Article 11(2) of Directive 2004/83/EC.

Judgment of the 10th Division of 24 February 2011 – BVerwG 10 C 3.10

- I. Schleswig Administrative Court, 5 August 2005 – Case no.: VG 6 A 41/05 -
- II. Schleswig Higher Administrative Court, 9 August 2006 – Case no.: OVG 1 LB 33/05 -