



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee
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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 128/02, 1 PKH 24/02
Other Citation Number	
Date Decision Delivered	31/07/2002
Country of Applicant/Claimant	Iraq
Keywords	Internal protection; Reasonableness; Sufficient protection
Head Note (Summary of Summary)	Case concerning the necessary economic conditions for a location (in this case: Northern Iraq) to be considered an internal flight alternative.
Case Summary (150-500)	The applicant, an Iraqi national, appealed the decision of the Higher Administrative Court of Saxony-Anhalt (Oberverwaltungsgericht Sachsen-Anhalt) of December 2001 rejecting his application for asylum on the grounds that there was an internal flight alternative available to him in Northern Iraq, where UN-organisations provided assistance to displaced persons.
<i>Facts</i>	Further procedural and factual background not published.
Decision & Reasoning	<p>While the Federal Administrative Court decided that the matter was not of principal importance, it helpfully laid out the criteria concerning minimum economic conditions for a place to be considered an internal flight alternative as established by its jurisprudence. It follows from the jurisprudence of the Federal Constitutional Court that a place cannot be considered apt for internal relocation when a person would face a desperate situation ("ausweglose Situation") upon return (Bundesverfassungsgericht, decision of 10 July 1989, 2 BvR 502/86, 2 BvR 1000/86, 2 BvR 961/86). One criterion to establish a desperate situation with respect to the economic situation that an applicant would face is the lack of a minimum level of subsistence ("Existenzminimum").</p> <p>The Federal Administrative Court considered this criterion to be met if the applicant, once having surpassed initial difficulties, would be able to gain what is absolutely required for his or her subsistence; be it through his or her own work or grants from others. This would not be the case, if the applicant, under a duly generalized view, would have to expect permanent living conditions that would lead to hunger, impoverishment, and ultimately death, or if he or she had to expect nothing but to languish at the margin of the minimum level of subsistence ("dahinvegetieren am Rande des Existenzminimums") upon relocation.</p> <p>"Ein verfolgungssicherer Ort bietet dem Ausländer das wirtschaftliche Existenzminimum grundsätzlich immer dann, wenn er durch eigene Arbeit oder durch Zuwendungen von dritter Seite jedenfalls nach Überwindung von Anfangsschwierigkeiten das zu seinem Lebensunterhalt unbedingt</p>



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	<p>Notwendige erlangen kann. Das ist nicht der Fall, wenn der Asylsuchende am Ort der inländischen Fluchtalternative bei der gebotenen grundsätzlich generalisierenden Betrachtungsweise auf Dauer ein Leben zu erwarten hat, das zu Hunger, Verelendung und schließlich zum Tode führt, oder wenn er dort nichts anderes zu erwarten hat als ein Dahinvegetieren am Rande des Existenzminimums.“</p> <p>Threats of disadvantages and dangers other than those caused by political persecution would exclude a potential location from being an internal flight alternative only when a similar existential threat would not exist at the place of origin.</p> <p>„Andere als durch die politische Verfolgung bedingte Nachteile und Gefahren, die an einem verfolgungssicheren Ort drohen, schließen diesen Ort als inländische Fluchtalternative nur aus, wenn eine gleichartige existenzielle Gefährdung am Herkunftsort nicht bestünde.“</p> <p>Concerning this aspect it has to be noted, that the respective jurisprudence has not been upheld in light of the Qualification Directive (Cf. Bundesverwaltungsgericht, judgement of 29 May 2008, 10 C 11.07)</p> <p>Concerning the present case, the Federal Administrative Court found that the Higher Administrative Court had not complied with its duty to fully investigate the facts of the case, as it had failed to duly investigate whether the applicants fundamental needs could really be satisfied through grants from UN-organizations present in Northern Iraq, as was assumed in the appealed judgement.</p>
<p><i>Outcome</i></p>	<p>The appeal was successful. The case was remanded to the Higher Administrative for a new consideration.</p>