



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	Netherlands
Case Name/Title	
Court Name <i>(Both in English and in the original language)</i>	District Court Almelo (Rechtbank Almelo)
Neutral Citation Number	AWB 08/39512
Other Citation Number	AWB 08/39522
Date Decision Delivered	28-11-2008
Country of Applicant/Claimant	Colombia
Keywords	Indiscriminate violence, Internal protection, Credibility
Head Note (Summary of Summary)	According to the court, the appealed decisions do not show that careful research had been done regarding the question of whether a part of Colombia fulfills the criteria in Article 8(1) QD, taking the elements of Article 8(2) QD into account.
Case Summary (150-500)	The applicants come from Valle del Cauca, Colombia.
<i>Facts</i>	<p>The applicants' first asylum applications were rejected on the 5th of April 2006. The district court considered the applicants' appeal as well-founded. The respondent's further appeal against this decision was also considered as well-founded.</p> <p>The respondent again refused to grant the applicants asylum permits on the 5th of November 2008. The applicant then filed an appeal and requested an interim provision.</p>
<i>Decision & Reasoning</i>	<p>The district court first considered that the stated lack of credibility of the asylum accounts does not exclude the possible granting of an asylum status on the grounds of Article 15(c) QD, since it has been established that the applicants are Colombian nationals.</p> <p>Regarding the respondent's claim that the applicants cannot be granted an asylum permit on the grounds of Article 15(c) QD, because there is a possibility of internal protection in Colombia, the district court held that it follows from article 8 para 1 QD that at a minimum the applicant must not run a real risk of serious harm in the relocation alternative. It then held:</p> <p>"According to the court, the appealed decisions do not show that careful research has been done regarding the question of whether a part of Colombia fulfills the criteria in Article 8(1) QD, taking the elements of Article 8(2) QD into account. The district court can conclude from the decisions that, in the framework of the research performed with regards to the</p>



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	<p>applicants' asylum stories, the respondent consulted the general country of origin report of the Dutch Minister of Foreign Affairs about Colombia (of September 2008) and has heard the applicants. However, taking into account the complex situation in Colombia – according to the aforementioned country of origin report, there is a dynamic conflict there – the district court deems this research to be insufficient in the present case.” In addition, the country of origin report of 2008 describes the situation as it was in 2006 and, therefore, does not describe the current situation.</p> <p><i>"Naar het oordeel van de voorzieningenrechter geven de bestreden besluiten er geen blijk van dat zorgvuldig onderzoek is gedaan naar de vraag of een deel van Colombia voldoet aan de in het eerste lid van artikel 8 van de Definitierichtlijn gestelde voorwaarde(n), rekening houdend met de in het tweede lid van dit artikel genoemde factoren. Uit de besluiten maakt de voorzieningenrechter op dat verweerder in het kader van het onderzoek dat is verricht naar aanleiding van de asielaanvragen van verzoekers het ambtsbericht Colombia (van september 2008) heeft geraadpleegd en verzoekers heeft gehoord, doch gelet op de complexe situatie in Colombia – volgens het ambtsbericht is daar sprake van een dynamisch conflict – acht de voorzieningenrechter dat in het onderhavige geval onvoldoende."</i></p> <p>In reasoning the rejection of the application, the respondent referred to the general country report of Colombia and the applicants' statements that their families have resettled elsewhere in Colombia and have had no problems. The district court referred to the respondent's policy regarding internal protection (paragraph C4/2.2 Aliens Circular 2000) and stated:</p> <p>"(...) it can only be reasonably expected from the asylum seeker that he stays in another part of the country of origin, if there is an area where the asylum seeker is not in danger and the safety there is lasting. It must be considered unlikely that there is a part of Colombia where safety is lasting, since the country report of Colombia states that there is a dynamic conflict, specifically when taking into account the safety situation per region as described in paragraph 2.3.2."</p> <p><i>"(...) pas in redelijkheid van de vreemdeling kan worden verwacht dat hij zich elders in het land van herkomst begeeft, als er een gebied is waar de vreemdeling geen gevaar loopt en waar de veiligheid bestendig is. Nu in het ambtsbericht Colombia is vermeld dat er sprake is van een dynamisch conflict en mede in aanmerking genomen de in paragraaf 2.3.2 beschreven veiligheidssituatie per regio, moet worden betwijfeld of er een deel van Colombia is aan te merken waar de veiligheid bestendig is."</i></p> <p>The district court concluded that the underlying decision was not made with the necessary care, and the reasoning used does not support the conclusions. The district court also considered that the case had wrongfully been assessed in an accelerated procedure.</p>
<p><i>Outcome</i></p>	<p>The appeal was well-founded and the underlying decisions were annulled. The district court referred the case back to the respondent to make a decision taking the considerations of this court into account.</p>



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