



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

A project of the Hungarian Helsinki Committee

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Country of Decision/Jurisdiction	Czech Republic
Case Name/Title	Y. A. v. Ministry of Interior
Court Name <i>(Both in English and in the original language)</i>	Supreme Administrative Court (Nejvyšší správní soud)
Neutral Citation Number	6 Azs 50/2003-89
Other Citation Number	
Date Decision Delivered	24/02/2004
Country of Applicant/Claimant	Iran
Keywords	Credibility; Benefit of doubt; Personal interview
Head Note (Summary of Summary)	Cassation complaint of the asylum applicant against judgment of the Municipal Court in Prague which approved the dismissal of his application on grounds that he lacked credibility as he did not prove his political activities and opinions.
Case Summary (150-500)	Y. A., a national of Iran, claimed that he was not free to express his opinions (especially political ones) and that he was psychically tortured in prison due to his political opinions. He was imprisoned for participation in several demonstrations directed against the government. Therefore, he maintained to have well-founded fear of persecution from the State organs on grounds of his political opinion.
<i>Facts</i>	<p>The asylum application was rejected by the Ministry of Interior (MoI) on 2 September 2003. The MoI rejected that application as the applicant could not substantiate that he was imprisoned and tortured due to his political opinions. The MoI considered his statements too general. The applicant did not mention any concrete details about the demonstrations in which he was allegedly participating, nor did he reveal his political opinions in detail. Similarly, the applicant did not substantiate that he was imprisoned on account of his political opinions; his statements about the imprisonment were too general, too. His dissatisfaction with the political regime in Iran is not a sufficient ground for granting asylum.</p> <p>The Municipal Court in Prague upheld the decision of the MoI with its judgment of 7 October 2003.</p> <p>Therefore, the applicant lodged a cassation complaint with the Supreme Administrative Court (SAC).</p>
<i>Decision & Reasoning</i>	The SAC held that it is the duty of the administrative authority (the MoI) to lead the interview in such a way that the general statements of the applicant are clarified in more detail. If the MoI asks the applicant only general questions, it is violating the Asylum Act (Act No. 325/1995 Coll.).



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	<p>If the applicant mentions a fact which may lead to the conclusion that he was persecuted on one of the grounds relevant for asylum, the MoI is obliged to focus the interview in this direction and ask about concrete details which are necessary for the establishment whether the applicant has well-founded fear.</p> <p>The SAC further emphasised that the asylum proceedings are specific for the lack of available evidence; therefore, the applicant should be given the benefit of doubt.</p> <p><i>"In the asylum proceedings the administrative authority often has to decide despite the lack of evidence. In this case it is necessary to take into account the character of the country of origin of the asylum applicant, the exercise of power in this country, the possibility to exercise one's political rights as well as further circumstances which might have impact on the granting of asylum. In case it is well known that the respect for human rights in the country of the applicant is poor, that the citizens are denied the right to change the government, that unlawful executions and disappearances occur, that torture is often used, etc., the administrative authority is obliged to take these facts into account when deciding in situation where there is lack of evidence, and the applicant should be given the benefit of doubt.</i></p> <p><i>On the contrary, if the country of origin of the asylum applicant is a country with democratic regime, it is up to the asylum applicant to credibly substantiate that he is really persecuted."</i></p> <p><i>"V řízení o udělení azylu musí správní orgán často rozhodovat v důkazní nouzi. Za této situace je nutné i zohlednit charakter země původu žadatele o azyl, způsob výkonu státní moci v ní, možnost uplatňování politických práv a další okolnosti, které mají vliv na naplnění důvodů pro udělení azylu. Je-li například o zemi původu žadatele známo, že stav dodržování lidských práv je špatný, že občanům je upíráno právo na změnu vlády, že dochází k nezákonným popravám, mizením osob, častému používání mučení atd., pak tyto skutečnosti musí správní orgán zohlednit v situaci důkazní nouze, a to ve prospěch žadatele o azyl.</i></p> <p><i>Naopak, je-li země původu žadatele o azyl právním státem s demokratickým režimem, je na žadateli o azyl, aby věrohodně doložil, že je skutečně pronásledován."</i></p> <p>This opinion of the SAC has been reiterated in a rather similar manner in various other cases such as No. 6 Azs 235/2004-57 of 21 December 2005, No. 2 Azs 49/2008-83 of 24 July 2008, No. 2 Azs 100/2007-64 of 26 February 2008, No. 4 Azs 103/2007-63 of 27 March 2008, No. 4 Azs 99/2007-93 of 24 January 2008, or No. 5 Azs 40/2009-74 of 28 July 2009.</p>
<p><i>Outcome</i></p>	<p>The SAC quashed the judgment of the Municipal Court in Prague and referred the matter back for further proceedings.</p>