



# KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Country of Decision/Jurisdiction	<b>Czech Republic</b>
Case Name/Title	L. R. 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	4 Azs 103/2007-63
Other Citation Number	
Date Decision Delivered	27/03/2008
Country of Applicant/Claimant	Democratic Republic of Congo
Keywords	Credibility
Head Note (Summary of Summary)	Cassation complaint of the applicant for international protection against judgment of the Regional Court in Hradec Králové which approved the dismissal of his application for international protection on grounds that he lacked credibility as regards his political activities.
Case Summary (150-500)	L. R., a national of the Democratic Republic of Congo, filed application for international protection on 16 August 2006. He claimed that he experienced severe hardship due to his membership in the political party UDPS (Union pour la Démocratie et Progrès Sociale) which belongs to the opposition. The applicant participated in a demonstration held by this party in March 2006 against the policy of the state, and in particular against the outcome of the presidential elections. The participants were allegedly attacked by the army and one of his friends was killed. The applicant maintained that the army is still searching for the participants of the demonstration.
<i>Facts</i>	<p>The MoI dismissed his application in its decision of 24 November 2006 on the ground that the applicant lacked credibility as regards his political activities. The MoI concluded that after confronting the applicant's testimony with the country of origin information it became apparent that the story of the applicant was not convincing. There were numerous contradictions in his allegations and the applicant's response towards many questions were evasive and vague.</p> <p>The Regional Court in Hradec Králové upheld the decision of the MoI in its judgment of 31 May 2007.</p> <p>Therefore, the applicant lodged a cassation complaint with the Supreme Administrative Court (SAC).</p>
<i>Decision &amp; Reasoning</i>	The SAC held that "[t]he principle of material truth [i.e. the principle according to which the administrative authority shall act in such a way as to ascertain the case status which is free of any unreasonable doubt - Section 3 of the Code of Administrative Procedure] has some specific features in the asylum proceedings which lies in the usual lack of evidence capable to prove



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	<p><i>the credibility of the applicant's allegations. It is, however, up to the administrative authority to prove or refute the veracity of the applicant's statements, either completely by establishing precise circumstances regarding the applicant's allegations, or at least with a degree of probability which does not raise substantial doubt on the correctness of the conclusion of the administrative body. The country of origin information on human rights protection plays an essential role in assessing the facts of the matter."</i></p> <p><i>"Zásada tzv. materiální pravdy má v řízení o udělení azylu svá specifika spočívající v pravidelné nedostatečnosti důkazů prokazující věrohodnost žadatelových tvrzení. Je však na správním orgánu, aby prokázal či vyvrátil pravdivost žadatelových tvrzení, a to buď zcela nevyvratitelně zjištěním přesných okolností vážících se na stěžovatelova tvrzení, anebo alespoň s takovou mírou pravděpodobnosti, která nevyvolává zásadní pochybnosti o správnosti úsudku správního orgánu. Elementární roli při zjišťování skutkového stavu věci hrají zprávy o stavu dodržování lidských práv v zemi původu žadatele."</i></p> <p>This conclusion has been adopted in a rather similar manner in e.g. judgments No. 4 Azs 146/2006-100 of 28 February 2007 or 5 Azs 40/2009-74 of 28 July 2009.</p> <p>Thereafter, the SAC referred to its settled case law on the benefit of doubt in case the country of origin is well-known for its poor human rights record (e.g. judgment No. 6 Azs 50/2003 of 24 February 2004).</p> <p>In the instant case, however, the applicant could not rely on the benefit of doubt since the SAC agreed with the MoI and the Regional Court that there were serious discrepancies in the applicant's testimony that severely undermined his credibility. More concretely, the applicant's allegations that members and supporters of the political party UPDS are being detained and beaten were not corroborated by the country of origin information. Moreover, there were numerous differences in the applicant's statements about his membership of that party and participation in the demonstrations in the application for international protection on the one hand and during the interview on the other.</p>
<p><i>Outcome</i></p>	<p>The SAC dismissed the cassation complaint.</p>