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Czech Republic - Supreme Administrative Court, 14 January 2004, A.C. v. Ministry of Interior, 2 Azs 69/2003-49

Country of Decision:

Czech Republic

Country of Applicant:

Moldova

Date of Decision:

14-01-2004

Citation:

n.2 Azs 69/2003 ? 49

Court Name:

The Supreme Administrative Court

Keywords:

Membership of a particular social group

Manifestly unfounded application

Persecution (acts of)

Well-founded fear

Relevant Legislative Provisions:

International Law > [1951 Refugee Convention](#) [1] > [Art 1A \(2\)](#) [2]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 10](#) [4]

European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [3] > [Art 10](#) [4] > [Art 10.1 \(d\)](#) [4]

Headnote:

Belonging to a group of people without power or influence does not constitute a particular social group and therefore cannot be deemed a convention ground for persecution under the Refugee Convention.

Facts:

The applicant left Moldavia in the 1990s. He alleged he was persecuted by members of the security forces (both the police and the army), and that the persecution was tolerated by the authorities in his country of origin. He was allegedly persecuted for reasons of his membership of a particular social group, which he argued was a group of people without power or friends of influence (he had economic problems and a difficult relationship with his family). He applied for international protection in the Czech Republic in 2003. The Ministry of Interior (MOI) dismissed his application as manifestly unfounded. According to the MOI the applicant asserted clearly unreliable facts. The applicant brought a challenge against the decision of the MOI to the Regional Court; however, this challenge was dismissed. As a result the applicant appealed to the Supreme Administrative Court (SAC).

Decision & Reasoning:

The SAC firstly referred to its previous decision of 2 Azs 40/2003, where it stated that a social group, within the meaning of the Asylum Act (section 12(a) implementing Art 1A(2) of the 1951 Refugee Convention), is a social formation which is sufficiently identifiable as a group to be victims to acts of persecution. Membership of a particular social group is therefore a persecution ground and often argued where other reasons for persecution, such as race, religion, nationality or political opinion, are not present. Examples can include sexual minority groups that do not have a religious or political character, or other groups within the characteristic eligible for persecution, which were not known when the Refugee Convention was adopted.

Secondly, it was concluded that belonging to a group of people without power or friends of influence, could not be considered as a particular social group within the meaning of the Asylum Act, because such a group is not objectively verifiable and could include every human being in society at some stage of their lives. The notion of every human being having the same influence in society is only an ideal, which has never been realised. Every society in every moment has a group of people who feel they do not have enough power or influence. Granting asylum on these grounds would be absurd and against the fundamental reason as to why asylum is granted. The SAC held that the applicant did not establish any evidence of being persecuted by reason of his particular social group (as stated in section 12 of the Asylum Act) and therefore his application was dismissed in compliance with section 16 of the Asylum Act as manifestly unfounded.

Outcome:

The appeal was dismissed.

Observations/Comments:

Case available on the website of the Supreme Administrative Court - www.nssoud.cz [5]

Links:

[1] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention>

[2] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention#1>

[3] <http://www.asylumlawdatabase.eu/en/content/qualification-directive>

[4] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%2010%20QD>

[5] <http://www.nssoud.cz>