

Germany - High Administrative Court of Bavaria, 14 August 2008, 15 ZB 07.30176

Country of Decision:

Germany

Country of Applicant:

Colombia

Date of Decision:

14-08-2008

Citation:

15 ZB 07.30176

Additional Citation:

asyl.net/M14302

Court Name:

High Administrative Court of Bavaria

Keywords:

Persecution Grounds/Reasons

Membership of a particular social group

Non-state actors/agents of persecution

Relevant Legislative Provisions:European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [1] > [Art 10](#) [2]European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [1] > [Art 10](#) [2] > [Art 10.1 \(d\)](#) [2]

Headnote:

The Administrative Court lawfully decided that the applicant was not entitled to refugee status since, in the present case, a possible risk of being subjected to acts of persecution was not connected to the reasons for persecution. The group of "businessmen in Colombia" cannot be regarded as a "particular social group" within the meaning of Art. 10.1 (d) of the Qualification Directive.

Facts:

The applicant stated in his asylum procedure that he had been an entrepreneur in Colombia and threatened by paramilitary groups for refusing to pay protection money. The Administrative Court of Munich found in February 2007 that the applicant was not entitled to refugee status. The applicant applied for leave to submit a further appeal at the High Administrative Court.

Decision & Reasoning:

The application for leave to submit a further appeal was rejected. The Court held:

The question of whether businessmen or tradesmen should be regarded as a social group within the meaning of the Qualification Directive was not of fundamental significance and therefore did not have to be clarified in a further procedure.

A social group within the meaning of Art. 10.1 (d) of the Qualification Directive has a distinguishable and characteristic identity which is perceptible to the outside. The group in question does not fulfill these criteria, even if it is more narrowly defined as a group of ?businessmen who refuse to pay protection money? or as a group of ?businessman who have a certain economic power?. There is a multitude and variety of businessmen within Colombian society, therefore such an assumption can be ruled out.

Outcome:

The application for leave to grant a further appeal was rejected. The decision by the Administrative Court of Munich was legally valid.

Subsequent Proceedings :

None

Attachment(s):

 [14302.pdf](#)[3]

Other sources cited:

Kay Hailbronner, Ausländerrecht (Commentary on German alien law), para. 46 et seq. on Section 60 of the Residence Act

Links:

- [1] <http://www.asylumlawdatabase.eu/en/content/qualification-directive>
- [2] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%2010%20QD>
- [3] <https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/14302.pdf>