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Czech Republic - Supreme Administrative Court, 24 July 2013, D.B. v The Ministry of the Interior, 4 Azs 13/2013-34

Country of Decision:

Czech Republic

Country of Applicant:

Mongolia

Date of Decision:

24-07-2013

Citation:

4 Azs 13/2013-34

Court Name:

Supreme Administrative Court

Keywords:

Actors of protection

Manifestly unfounded application

Persecution Grounds/Reasons

Safe country of origin

Relevant Legislative Provisions:

European Union Law > [EN - Asylum Procedures Directive, Council Directive 2005/85/EC of 1 December 2005](#) [1] > [Art 23](#) [2] > Art 23.3

European Union Law > [EN - Asylum Procedures Directive, Council Directive 2005/85/EC of 1 December 2005](#) [1] > [Art 23](#) [2]

Headnote:

The application cannot be rejected as manifestly unfounded on the grounds that the Applicant comes from a safe country of origin, if she demonstrably claims and proves, with documented evidence, facts that are relevant to international protection. Domestic violence is such a relevant fact if the Applicant is not provided with efficient protection against such actions.

Facts:

After a few years of staying without permission, the Applicant ? who came from Mongolia ? applied for international protection in the Czech Republic. She pointed to her problems with her former husband who used to physically attack her and threaten both her and her family in various ways. She used to suffer from continuous harassment and brutal physical attacks, and even changing her place of residence was not a solution. The Applicant supported her statements with documented proof.

The Ministry of the Interior rejected the application as manifestly unfounded pursuant to Article 16(1)(d) of Act no. 325/1999 on Asylum, since Mongolia is a safe country of origin where domestic violence is punishable.

The Municipal Court in Prague rejected the case and confirmed the aforementioned conclusion of the Ministry.

The Applicant filed a cassation complaint with the Supreme Administrative Court.

Decision & Reasoning:

Rejection of the application as manifestly unfounded is by definition precluded in cases in which the Applicant provides reasons pertaining to international protection that need to be duly examined. This form of shortened proceedings is available only in situations where no form of international protection is in question. The Applicant, however, talked about a serious case of domestic violence and she supported it with documented proof in the proceedings. Domestic violence may be a reason for granting some form of international protection after an assessment of the extent to which the public bodies in the country of origin are willing or able to provide protection. It is the responsibility of the public body to convincingly disprove that the protection provided by the public bodies will not be of use to the Applicant.

?For such a conclusion, it is not sufficient if it is clear from the evidence collected that there is legislation concerning domestic violence in the country of origin of the Applicant, or that such legislation is enforced by the appropriate bodies in the country of origin. These facts can only demonstrate the willingness of the country of the Applicant to provide protection against domestic violence. In order to conclude that, in that particular case, the alleged domestic violence cannot be considered asylum-relevant persecution in accordance with the Act on Asylum, it is necessary in addition to assess how effective the application of that particular legislation is in the country of origin of the Applicant. ?

In the case of the Applicant, the governmental agencies intervened several times against the husband but in the end were not able to provide the Applicant with protection against the acts carried out by the violent husband, because his attacks continued. Moreover, the Applicant sought to support these facts with documented proof. She also partly agreed with and summed up the information from the Ministry concerning Mongolia as a safe country of origin. In such a case, it is not possible to examine the application as manifestly unfounded in abridged proceedings. The above mentioned argument needs to be duly verified and thoroughly proven in substantive proceedings.

Outcome:

The Supreme Administrative Court upheld the cassation complaint and annulled the judgment of the Court and the Ministry.

Attachment(s):

[4Azs_13_2013.pdf](#)[3]

National / Other Legislative Provisions:

[Czech Republic - Asylum Act \(325/1999 Coll.\) - Art 2\(8\)](#) [4]

[Czech Republic - Asylum Act \(325/1999 Coll.\) - Art 12\(b\)](#) [5]

[Czech Republic - Asylum Act \(325/1999 Coll.\) - Art 12](#) [6]

[Czech Republic - Asylum Act \(325/1999 Coll.\) - Art 14a](#) [7]

[Czech Republic - Asylum Act \(325/1999 Coll.\) - Art 16\(1\)\(d\)](#) [8]

Links:

[1] <http://www.asylumlawdatabase.eu/en/content/asylum-procedures-directive>

[2] <http://www.asylumlawdatabase.eu/en/content/asylum-procedures-directive#Art 23>

[3] https://m.asylumlawdatabase.eu/sites/default/files/aldfiles/4Azs_13_2013.pdf

[4] <https://m.asylumlawdatabase.eu/en/taxonomy/term/7716>

[5] <https://m.asylumlawdatabase.eu/en/taxonomy/term/1377>

[6] <https://m.asylumlawdatabase.eu/en/taxonomy/term/1270>

[7] <https://m.asylumlawdatabase.eu/en/taxonomy/term/1269>

[8] <https://m.asylumlawdatabase.eu/en/taxonomy/term/7914>