COI Network III

Training, Master Class, Good Practice

Country Information in Asylum Procedures

Quality as a Legal Requirement in the EU

Written by

Gábor Gyulai

Refugee Documentation Centre Ireland • Hungarian Helsinki Committee • Dutch Council for Refugees • Informationsverbund Asyl • Asociación Comisión Católica Española de Migración • Forum Réfugiés • Polish Helsinki Foundation for Human Rights • The Human Rights League • Italian Council for Refugees • Ministry of the Interior of Croatia – Department for Foreigners and Asylum • Ministry of the Interior of Slovenia – Asylum Section • Ministry of the Interior Spain – Dirección General de Política Interior, Subdirección General de Asilo • Ministry of the Interior Latvia – Office of Citizenship and Migration Affairs • Ministry of the Interior Romania – National Refugee Office • Office for Aliens Poland • Romanian National Council for Refugees • Society of Citizens Assisting Migrants

Country Information in Asylum Procedures – Quality as a Legal Requirement in the EU

by

Gábor Gyulai

Copyright © 2007 by the Hungarian Helsinki Committee. All rights reserved.

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means without the prior permission of the publisher.

Gábor Gyulai:
Country Information in Asylum Procedures – Quality as a Legal Requirement in the EU

ISBN: 978-963-87757-0-2

This report reflects the situation as on 20 November 2007.

Research for this publication was carried out in the framework of the "COI Network III – Training, Master Class, Good Practice" project, co-funded by the European Refugee Fund Community Action 2005. The views expressed in this publication are those of the Hungarian Helsinki Committee and do not necessarily reflect the views of researchers who contributed to this study, other project partners, the European Refugee Fund or the European Union.

Proof-reading: Shuja Qadri
Cover photo: Gábor Gyulai
Design, layout and printing: Judit Kovács | Createch Ltd.

Published by
Hungarian Helsinki Committee
Bajcsy-Zsilinszky út 36–38.
H–1054 Budapest, Hungary
www.helsinki.hu

Table of Contents

Executive Summary 5

List of Contributors 7

I. Introduction 9

II. Methodology 11
- II.1 Objective 11
- II.2 Research and Reporting Methodology 11

III. Systems of COI Quality Standards in Europe 13
- III.1 UNHCR 13
- III.2 ACCORD and the COI Network 14
- III.3 IARLJ 15
- III.4 EU Common Guidelines 15
- III.5 Summary 16

IV. Sources of Legal Criteria 17
- IV.1 Legislation 17
- IV.2 Jurisprudence 18

V. Basic Standard: The Compulsory Use of COI 20
- V.1 Legislation 20
- V.2 Jurisprudence 21
- V.3 Summary 24

VI. Standard 1: Legal Relevance of COI 25
- VI.1 Concrete Guidance Concerning the Legal Relevance of COI 25
  - VI.1.1 Legislation 25
  - VI.1.2 Jurisprudence 26
- VI.2 Individualised Assessment 27
  - VI.2.1 Legislation 27
  - VI.2.2 Jurisprudence 28
- VI.3 Mandatory Examination of “Actual” Legal Practices 29
  - VI.3.1 Legislation 29
  - VI.3.2 Jurisprudence 30
- VI.4 Summary 31

VII. Standard 2: Reliability and Balance of Sources ... 32
VII.1 Objectivity and Impartiality ... 32
VII.1.1 Legislation ... 32
VII.1.2 Jurisprudence ... 33
VII.2 Variety of Sources ... 33
VII.2.1 Legislation ... 33
VII.2.2 Jurisprudence ... 34
VII.3 Concrete Guidance on the Selection of Sources and Source Analysis ... 35
VII.3.1 Legislation ... 35
VII.3.2 Jurisprudence ... 36
VII.4 Summary ... 38

VIII. Standard 3: Accurate Research and Selection of Up-to-date Information ... 39
VIII.1 Obtaining Objective, Impartial and Precise Information ... 39
VIII.1.1 Legislation ... 39
VIII.1.2 Jurisprudence ... 40
VIII.2 Currency of information ... 41
VIII.2.1 Legislation ... 41
VIII.2.2 Jurisprudence ... 42
VIII.3 Summary ... 44

IX. Standard 4: Transparent Processing and Communication of Information ... 45
IX.1 Legislation ... 46
IX.2 Jurisprudence ... 47
IX.3 Summary ... 50

Annex ... 51

Executive Summary

In recent years, country information (COI) has become one of the main issues on the European asylum agenda, partly as a result of the spectacular advancement of information technologies. Far from its supplementary role in the nineties, its key importance as being always-available objective evidence is widely recognised by all actors in this field. The UNHCR, non-governmental organisations and the judiciary have elaborated guidelines summarising main quality standards and requirements related to COI, while EU member states are currently in the process of finalising their guidance document. In addition, professional standards have gradually taken root in national and community asylum legislation as well as in jurisprudence in the Union.

As the first such trans-national initiative, this study aims to draw a complex picture of how substantive quality standards of researching and assessing COI appear in the form of legal requirements within the present system, either as binding legal provisions or guiding judicial practice. As such, the study intends to provide a tool and a set of concrete examples for policy- and law-makers, advocates, judges and trainers active in this field. The four standards selected to determine the construction of the present report have been established in the practice of the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD) and the Europe-wide "COI Network".

1. Relevance

Standard: COI must be closely related to the legal substance of an asylum claim (i.e. fear of being persecuted/risk of suffering serious harm and lack of protection) and must objectively reflect (confirm or disprove) the important facts related thereto.

Main findings: Legal relevance at present is scarcely reflected as a legal requirement in the EU, as only Austria and Hungary provide a compact definition of what should be understood as relevant COI in their national asylum legislation. Far from such a comprehensive interpretation, the Qualification Directive sets two criteria that may somehow be linked to this norm: that of individualised processing of claims and that of assessing actual legal practices instead of merely looking at law in the books in the country of origin. Both of these binding standards are now reflected in the jurisprudence of some senior European courts dealing with asylum cases. Nevertheless, the reference to individualisation is significantly more frequent than the other criterion, and on certain occasions it is even explicitly connected to an individualised assessment of COI (as opposed to the use of only general, not case-specific information).

2. Reliability and balance

Standard: Given the inevitable bias of sources, COI has to rely on a variety of different types of sources, bearing in mind the political and ideological context in which each source operates as well as its mandate, reporting methodology and the intention behind its publications.

Main findings: This norm is now firmly anchored in both asylum-related legislation and jurisprudence in the EU. Its main concrete incarnation is the requirement of using a variety of different sources of COI as foreseen by the Procedures Directive and echoed by the European Court of Human Rights and several senior courts. Presently, Hungarian law provides the most concrete requirement in this respect, while the Romanian asylum legislation sets forth a list of suggested types of COI sources.

3. Accuracy and currency

Standard: COI has to be obtained and corroborated from a variety of sources, with due attention paid to finding and filtering the relevant and up-to-date information from the sources chosen and without any distortion of the content.

Main findings: This methodological norm has gradually appeared in both legislation and jurisprudence in EU member states. Being fairly more "technical" than that of relevance and reliability, this standard is more limited in its scope to general requirements (such as "precise and up-to-date information" as set forth by the Procedures Directive), rather than concrete methodological guidance. Currency is a key element of accuracy, interpreted both by the Qualification Directive and the European Court of Human Rights as the requirement of assessing facts related to the country of origin "at the time of taking a decision". Furthermore, the standard of currency is largely covered in the jurisprudence of several senior European courts, even if – quite understandably – is referred to in rather general terms.

4. Transparency and retrievability

Standard: Given its role as decisive evidence, COI has to be – as a general principle – made available for all parties involved in refugee status determination, principally through the use of a transparent method of referencing. Original sources and reports should therefore be retrievable and their content and meaning should not be distorted in the process of paraphrasing or translating.

Main findings: This may be the most debated quality standard among those presented in this report. A transparent system of processing and referencing country information in decisions and case files has become a widely supported and respected norm in COI professional circles. Meanwhile, EU member states have neither elaborated a joint position on rules and systems of referencing, nor have they determined common standards with regard to information transparency in refugee status determination. The Procedures Directive, however, sets forth some important basic requirements (such as the justification of asylum decisions in fact and in law, and the access of counsellors to the information included in their client's file, if liable to be examined by appeal authorities). Going much further than law-makers, senior courts in several member states have established clear and specific standards in this respect.

List of Contributors

Written by
Gábor Gyulai (Hungarian Helsinki Committee)

Senior research coordinator
Gábor Gyulai (Hungarian Helsinki Committee)

Research coordinator
Agata Foryś (Polish Helsinki Foundation for Human Rights)

Research assistant
Magdeleine Walger (Hungarian Helsinki Committee)

Publication assistant
Tiziano Tomassini (Hungarian Helsinki Committee)

Researchers

Austria:	Vanessa Prinz (ACCORD)
Belgium:	Thomas Jézéquel, Judit Tánczos
Bulgaria:	Maria Yankova Ivanova-Vranesku (Sofia City Court)
Czech Rep.:	Hana Tóthová (Society of Citizens Assisting Migrants – SOZE)
Estonia:	Sven Randlaid (Citizenship and Migration Board)
Finland:	Sari Sirva (Turku University)
France:	Vera Zederman (Refugee Appeal Board – CRR), Gábor Gyulai (Hungarian Helsinki Committee)
Germany:	Michael Kalkmann (Informationsverbund Asyl)
Hungary:	Júlia Mink (ELTE University/Central European University), Gábor Gyulai (Hungarian Helsinki Committee)
Ireland:	John Stanley (Refugee Documentation Centre)
Italy:	Daniela di Rado (Italian Refugee Council)
Lithuania:	Egle Samuchovaite (Lithuanian Red Cross Society)
Netherlands:	Femke Vogelaar (Dutch Council for Refugees)
Poland:	Agata Foryś (Polish Helsinki Foundation for Human Rights), Agata Ewertyńska (Office for Aliens)
Romania:	Ştefan Leonescu (Romanian National Council for Refugees)
Slovakia:	Katarina Fajnorová (Human Rights League)
Slovenia:	Vita Habjan (Legal-informational Centre for NGOs – PIC)

Spain: Marta Sainz de Baranda (ACCEM)
Sweden: Karin Czubala
UK: Ali Bendegani (Refugee Legal Centre)
ECtHR: Júlia Mink (ELTE University/Central European University)

Contact persons
Cyprus: Maria Kyprianou (Refugee Review Authority)
Denmark: Jan Olsen (Danish Immigration Service)
Greece: Spyros Koulocheris (Greek Council for Refugees)
Latvia: Dace Zvarte (Office of Citizenship and Migration Affairs)
Luxemburg: Jacqueline Guillou-Jacques (Ministry of Foreign Affairs)
Malta: Katrine Camilleri (Jesuit Refugee Service)
Portugal: Gabriela Tiago, Carla Ramos (Office of Asylum and Refugees)

Thanks to
Andrea Jakober, Michael Kalkmann, Reinhold Jawhari, Carol Doyle, Mark Jansen, Nicholas Oakeshott, Jérôme Camus, Jens Vedsted-Hansen, Elna Søndergaard, Catalin Albu, Natasa Andreou, Dóra Németh, Anikó Gál, Zoltán Pozsár-Szentmiklósy, Miguel Sánchez Rubio

I. Introduction

"COI" is one of the mysterious acronyms so frequently used by those working in the field of asylum law and practice. Its meaning – country of origin information – as well as its importance has significantly changed throughout the last years.

COI has always been considered as an adequate way to provide an "objective element" or factual evidence in refugee status determination, and as such its importance has never been questioned. However, not so long ago, COI was deemed a "soft" issue, relating to, but at the same time hiding far behind the real "hard" questions of refugee law. COI research meant no more than consulting the few human rights reports available in hard copies, dated often from previous years.

Since the late nineties, the character of COI as evidence in refugee status determination has changed due to a number of reasons. Thanks to **the advancement of information technology** and the world-wide accessibility of the internet, now thousands of reports and newsprints are available within a click of a button. It is possible to find detailed information even on something that happened yesterday in a remote location thousands of kilometres away. The internet opened a great horizon of opportunities to use COI as determining factual evidence in asylum procedures, which enables authorities to confirm asylum-seekers' statements in a much more detailed way than previously.

It does not come as a surprise then that **the interest towards COI has increased** in the last few years. Not being considered any more as an interesting side-issue of refugee law, COI is now on top of the agenda of European asylum issues. The Hague Programme[1], which outlines the future of asylum systems in Europe, puts special emphasis on practical cooperation among EU member states and explicitly refers to the aim of "jointly compiling, assessing, and applying information on countries of origin". COI-related guidelines have been prepared by the United Nations High Commissioner for Refugees (UNHCR), the Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), and the International Association of Refugee Law Judges (IARLJ), while the common EU guidelines for processing COI are currently being finalised.

As COI research became a more complex task and the need for this service was quickly multiplied, it became **a profession on its own right**, instead of being a complementary exercise for refugee law practitioners and decision-makers. In previous years, practically all European asylum agencies established a unit dedicated to COI research, and so did many non-governmental organisations and courts[2]. The number of seminars and meetings dedicated solely to this issue is on the rise, year after year.

---

1 The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, European Council 2005/C 53/01

2 See for example: Comparative Study on Country of Origin Information Systems – Study on COI Systems in Ten European Countries and the Potential for Further Improvement of COI Cooperation, International Centre for Migration Policy Development (ICMPD), April 2006, http://www.icmpd.org/typo3conf/ext/icmpd/secure.php?u=0&file=1224&t=1193301720&hash=e8920ce5b73301683273dbc4b6d7933b

This change of role and the multiplied importance of COI generated a higher demand for **systemised quality standards**. Being a decisive element of the majority of asylum cases, it requires firm rules of research, documentation and use, in order to avoid unjustified decisions based on insufficient or erroneous COI which can in the worst case result in *refoulement*. All key actors in the European asylum field have already established or are currently in the process of elaboration of structured quality standards.

Lately, these quality standards appear to infiltrate community and national legislations, as well as relevant jurisprudence and thus more frequently **take the form of legal requirements** instead of simple exemplary practices. The present study aims to draw an unprecedented comprehensive picture of legal criteria relevant to COI quality standards in the EU, with the goal of helping both policy-makers and refugee law practitioners to effectively apply and further improve these norms in the future.

II. Methodology

II.1 Objective

The present study focuses on specific **substantive quality standards** related to the research and use of country information as reflected in legal provisions and jurisprudence in the European Union. To this end, asylum-related laws and other legal acts, as well as relevant judgments from appeal and higher (administrative, quasi-judicial and judicial) instances have been looked at in all member states. The research aimed to present how COI quality standards have been transformed into **a system of legal requirements** in recent years, far beyond simple methodological guidelines or soft law recommendations which as a result were not touched upon.

The objectives of the present initiative are the following:

- to provide policy- and law-makers in the EU institutions, member states, and as well as judges with an outline of how key actors interpret COI quality standards and what the relevant legal obligations are,
- to promote a common, rights-based and quality-focused interpretation in this respect,
- to enhance the advocacy capacities of non-governmental organisations and the UNHCR in this field, and
- to create a supplementary training tool for COI trainers.

In view of its purposes, **no concrete recommendations** are formulated in the report. On the other hand, all the above-mentioned target groups are encouraged to use this study as a source of inspiration, as well as concrete information on existing exemplary practices when drafting new legislation, taking or reviewing decisions on refugee status, formulating advocacy principles or holding trainings.

Based on its objective, the report has a clear **European focus** which certainly does not mean that universal norms (such as those set by the UNHCR or other UN bodies) would in any way be considered as less important.

II.2 Research and Reporting Methodology

The research methodology that served as basis for this report was jointly elaborated by the two research coordinators. The relevant methodological guidelines were accompanied by **two questionnaires**, one focusing on national legislation, and the other on jurisprudence. The completed forms were then analysed and processed by the author of the report.

Research activities have been systematically carried out by **local researchers** (either organisations or individuals). Among the researchers, there has been a right balance of persons working for non-governmental, governmental, judicial and academic institutions.

Most researchers have already had years of experience and considerable expertise in dealing with COI. In a number of countries, local experts or other competent contact persons confirmed the non-existence of legislation or jurisprudence relevant for the present research. In such cases, no further research was carried out.

While researchers were requested to have a full coverage of their national legislation in force, capacities to research jurisprudence significantly varied from country to country. It is of course impossible to have access to the full asylum-related jurisprudence of all EU member states, mostly because in many countries these judgments are not made public or not even accessible for such purposes. Nevertheless, building upon the researchers' significant experience in this field, successful efforts have been carried out to detect at least "leading" or particularly relevant cases in member states where the necessary jurisprudence is not or only partly accessible.

As the method of referencing court decisions also varies in different European countries, **a joint code system** has been introduced. Accordingly, all pieces of national jurisprudence are referred to by the internet country domain plus a two-digit number (e.g. ES-03), and all these codes are included in a common table in the Annex of the report. The numbers given are random and neither reflect a scale of importance nor a chronological order. As for the jurisprudence of the European Court of Human Rights (ECtHR), the commonly used brief forms (e.g. Mamatkulov) are applied. Full references to all judgments are included in the Annex.

Throughout the report, the widely used acronym of "**COI**" and the term "**country information**" are used as synonyms. In line with the UNHCR's and various professional organisations' practice, the term of "country of origin information" has been replaced by the latter, indicating that relevant information may also cover third countries (of transit or former asylum).

All emphases are added by the author of the report. Translations from languages other than English are unofficial.

III. Systems of COI Quality Standards in Europe

Based on the factors described in the Introduction, all key actors in the European asylum field felt the necessity of some cohesive thought about COI quality standards, which often resulted in the production of formal guidelines. The present chapter briefly shows how different actors structure these norms and what the main quality requirements in question are. The different guidelines are presented in chronological order.

III.1 UNHCR

The UNHCR published its paper **Country of Origin Information: Towards Enhanced International Cooperation**[3] in February 2004. This document can be considered the first major initiative to formalise substantive COI quality standards as the wide set of UNHCR guidelines and policy papers published in past decades only indirectly referred to some sort of principles.

From the viewpoint of substantive quality standards, the UN Refugee Agency defines its position and provides guidance on three main areas:

- The **objective** of country of origin information[4]
- **Sources** (reliability assessment[5], selection and evaluation of sources[6] and specific guidance on sources in the country of origin[7])
- **Transparency** and confidentiality[8]

While this paper is undoubtedly a milestone in the formalisation process of COI quality standards, it applies an approach concentrating on practical cooperation issues between states and thus does not intend to create a comprehensive structure of such norms or relate them to the research process.

[3] Country of Origin Information: Towards Enhanced International Cooperation, UNHCR, 2004 – an amended version of a report prepared by UNHCR under the European Refugee Fund project "Provision of Country of Origin Information and related information", JAI/2002/ERF/010. – hereinafter "UNHCR Position Paper", http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=403b2522a&page=search

[4] Ibid. Para. 9–14.

[5] Ibid. Para. 47–50.

[6] Ibid. Para. 24–27.

[7] Ibid. Para. 35–37.

[8] Ibid. Para. 28–34.

III.2 ACCORD and the COI Network

The Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD) played a pioneer role in systemising COI quality standards in Europe. Its training manual **Researching Country of Origin Information**[9] prepared in conjunction with other European expert organisations and published in 2004 was the first ever document that aimed to draw a full and comprehensive structure of quality principles in this field, based on the above-mentioned UNCHR paper, the EU asylum *acquis*, and relevant jurisprudence and existing good practices in COI research in Europe and Canada. Being primarily a training tool, it goes beyond the scope of a position paper and includes a wide range of detailed practical guidance.

The four substantive quality standards of COI research and use are – in this interpretation – linked to the different phases of the research procedure and can be summarised as follows (indicating the concrete task related to each norm):

1. **Relevance**: COI must be closely related to the legal substance of an asylum claim (i.e. fear of being persecuted/risk of suffering serious harm and lack of protection) and must objectively reflect (confirm or disprove) the important facts related thereto.
   - Transformation of the legally relevant facts of an asylum claim into COI **questions** and research topics.
2. **Reliability and balance**: Given the inevitable bias of sources, COI has to rely on a variety of different types of sources bearing in mind the political and ideological context in which each source operates as well as its mandate, reporting methodology, and the intention behind its publications.
   - Identification of a set of reliable and balanced **sources** that can provide answers to the previously identified COI questions.
3. **Accuracy and currency**: COI has to be obtained and corroborated from a variety of sources with due attention paid to finding and filtering the relevant and up-to-date information from the sources chosen and without any distortion of the content.
   - Effective **research** of the necessary information, making use of the previously selected sources.
4. **Transparency and retrievability**: Given its role as decisive evidence, COI has to be – as a general principle – made available for all parts involved in refugee status determination, principally through the use of a transparent method of referencing.
   - Communication and **documentation** of research results.

9 Researching Country of Origin Information – A Training Manual, Austrian Red Cross, 2004 – hereinafter "ACCORD Manual", http://www.coi-training.net/content/

These standards now constitute the basis of various COI training and e-training sessions all over Europe, involving both governmental and NGO target groups. In addition, they appear to have a significant influence on the EU's approach towards this topic.

Complementing the above norms, the ACCORD Manual further specifies four procedural quality standards: the equality of arms, the use of public domain material, the impartiality and neutrality of research and the protection of personal data of the applicant.

III.3 IARLJ

In 2006, the International Association of Refugee Law Judges (IARLJ) also issued its position paper titled **Judicial Criteria for Assessing Country of Origin Information (COI): A Checklist**[10]. This guidance document is a proof of an increasing interest among refugee law judges towards COI and highly reflects the standards already defined in the UNHCR Position Paper and the ACCORD Manual. The IARLJ Checklist however applies a more specialised approach, aiming to provide guidance to judges on what to consider when evaluating COI as evidence. Accordingly, this document puts more emphasis on legal issues and the assessment of research results, while it remains rather silent about the research procedure itself.

The IARLJ summarises the main quality issues of COI as follows:

- **Relevance and adequacy** of the information
  1. How relevant is the COI to the case in hand?
  2. Does the COI source adequately cover the relevant issue(s)?
  3. How current or temporally relevant is the COI?
- **Source** of the information
  4. Is the COI material satisfactorily sourced?
  5. Is the COI based on publicly available and accessible sources?
  6. Has the COI been prepared on an empirical basis using sound methodology?
- **Nature / Type** of the information
  7. Does the COI exhibit impartiality and independence?
  8. Is the COI balanced and not overly selective?
- **Prior judicial scrutiny**
  9. Has there been judicial scrutiny by other national courts of the COI in question?

[10] Judicial Criteria for Assessing Country of Origin Information (COI): A Checklist, Paper for the 7th Biennial IARLJ World Conference, Mexico City, 6–9 November 2006, by members of the COI-CG Working Party – hereinafter "IARLJ Checklist", http://www.iarlj.nl/cms/images/stories/forms/WPPapers/Hugo%20Storey CountryofOriginInformationAndCountryGuidanceWP.pdf

III.4 EU Common Guidelines

In line with the objectives defined by the Hague Programme, a project group of eight European countries'[11] asylum authorities are in the process of elaborating the **Common EU Guidelines for Processing Country of Origin Information (COI)**, the draft of which was finalised in April 2007. This initiative constitutes an extremely important step in the process of establishing a sound system of COI quality standards in Europe, as it is the first such initiative on behalf of member states. Since the final draft of the Common Guidelines has not yet been made officially public, it is regrettably not possible to analyse its content within the context of the present study.

III.5 Summary

As previously explained, all key actors in the European asylum field (governments, NGOs, the judiciary and the UNHCR) have elaborated some sort of quality standards in connection with country information. Comparing the documents in question, it appears that no significant divergence can be witnessed concerning the content of these quality standards. The apparent differences are mainly due to the diverse scope and degree of comprehensiveness of the above documents, rather than signifying fundamentally different approaches or findings.

While recognising from a professional viewpoint that all of these standards are equally important, the system proposed by the ACCORD Manual has been selected to determine the construction of the present study, given its exhaustiveness (it equally includes aspects of law, research and documentation) and clear structure (it comprises only four substantive standards that chronologically cover the entire research process). Thus the four norms – as presented in this report – are based on the similar standards elaborated in the ACCORD Manual and applied in different COI research centres' practice.

[11] Germany, Denmark, The Netherlands, Belgium, France, Poland, the UK and Switzerland

IV. Sources of Legal Criteria

Following the trends described in the Introduction, each of the relevant quality norms have already infiltrated to a certain extent to the asylum legislation and judicial practice within the EU. This chapter briefly summarises the sources of these legal requirements, prior to the discovery of how substantive COI quality standards can be retrieved therein.

As pointed out in Chapter II, the present report aims to analyse substantive COI quality standards already existing in the form of legal requirement in the EU, and to describe a gradually nascent common interpretation of these norms. This objective clearly determines the selection of sources below, thus general sources of soft law and academic literature are not touched upon, and a special emphasis is put on common European standards and national practices of interest.

IV.1 Legislation

The European Union does not have a binding legislative act on country information quality standards. However, both **the Qualification**[12] **and the Procedures Directive**[13] set a certain number of requirements in this respect. These directives create clear-cut obligations for member states and thus can be considered the only regional instruments determining COI quality standards with a **legally binding effect**. Member states were obliged to transpose the provisions of the Qualification Directive into their national legislation before 10 October 2006[14], while the transposition deadline for the Procedures Directive is 1 December 2007[15].

Given the fact that most of the European Union is currently in the middle of this process and that various trans-national transposition-monitoring initiatives[16] are also in place, the description of how many countries have already transposed certain provisions,

12 Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, hereinafter "Qualification Directive"

13 Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, hereinafter "Procedures Directive"

14 Qualification Directive, Article 38 (1)

15 Procedures Directive, Article 44

16 See: Asylum in the European Union – A study of the Implementation of the Qualification Directive, UNHCR, November 2007 (http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=473050632), as well as the on-going "Networking on the Transposition of the Qualification Directive" project coordinated by the Dutch Council for Refugees and the current transposition-monitoring activities of the Odysseus Network and the European Legal Network on Asylum (ELENA)

and in what manner, has been considered as falling outside the scope of the present study. This is in addition based upon the presumption that all member states are required to comply with these criteria, as such it is worth more focusing on "good practice examples" of those member states which have a more sophisticated legislation reflecting COI quality standards and therefore go beyond the basic norms set by the directives or give a somehow specific interpretation thereof[17]. While these national laws evidently do not create legal obligations for other member states, given the goal of a Common European Asylum System, they can be referred to as exemplary practices and can positively inspire law-makers in other EU countries.

IV.2 Jurisprudence

The **European Court of Justice (ECJ)** is the primary judicial institution of the European Union, and as such is in charge of ensuring a uniform interpretation and application of community law. In this regard, the ECJ may develop relevant jurisprudence concerning COI standards as reflected by the relevant provisions of the two above-mentioned directives. Given though that at the time of carrying out the main part of this research, member states still had several months to comply with the obligations set by the Procedures Directive, as well as the short time elapsed since the transposition deadline of the Qualification Directive the ECJ has not ruled in any relevant case yet.

The other major pan-European judicial body, the **European Court of Human Rights (ECtHR) has a wide range of relevant jurisprudence**. While the ECtHR does not watch the application of EU law (and thus the above-mentioned directives), it has established considerable case law concerning Article 3 of the European Convention on Human Rights[18] (the prohibition of torture, inhuman and degrading treatment and punishment). Many of these judgments are related to the question of forcible return and international protection, and therefore are regularly referred to within the context of asylum as well. These judgments solely create concrete obligations for the defendant state; however, they set consequent principles that should be respected by all signatory states in similar procedures.

The tendencies concerning the role and importance of COI described in the Introduction can be perfectly traced through the analysis of Article 3 cases of the ECtHR. In its relevant judgments from the early nineties (Vilvarajah and Cruz Varas), the Court was reluctant to set a range of COI standards and did not produce any additional (let alone dissident) country information, emphasising solely the knowledge and experience of states in this field. This practice significantly changed in the mid-nineties with the milestone judgment in Chahal, where the ECtHR itself engaged in the collection of information and for the first time referred to a wide range of substantive COI standards. The same tendencies continued later in Hilal and N. The recent Salah Sheekh case can

---

17 See Chapter II.1 on the objective of the present report

18 1950 Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms

again be considered as of crucial importance from the viewpoint of the analysed matter. In Salah Sheekh the Court deals with an unprecedentedly abundant COI material and sets relevant quality standards in significantly more explicit manner than in previous judgments.

The increased attention of the judiciary towards COI as key evidence is somehow less apparent when examining national jurisprudences. Many EU member states' asylum jurisprudence considers a wide range of COI and discusses the quality standards related thereto. Moreover, some countries (such as Austria, Ireland or the Czech Republic) have developed particularly rich and progressive case law in this context. On the other hand, judges from various EU countries are so far reluctant to address this issue in a systematic manner. The latter appears to be more often the case in countries where local (regional, municipal) courts proceed in asylum appeal cases (for example in Italy or Portugal), as there is no centralised judicial body with a special interest and a concentrated professional experience in this field. Different national judicial traditions may also constitute a reason for certain reluctance towards the present topic. The most ostensive example for this sort of different approach is France, where the Refugee Appeal Board (CRR) is neither required to individually mention in its decision the different elements of the file it examines, nor does it have the obligation to tell why certain elements do not appear to have an evidentiary force according to its judgment[19]. Regional differences in this respect are also interesting: in addition to Common Law jurisdictions (the UK and Ireland), Central European judges appear to pay the most attention to this issue.

Again, while the judicial decisions referred to in the present study do not create legal obligations for judges in other member states, they cannot be overlooked and therefore should be referred to as exemplary practices for the whole EU judiciary, keeping in mind the aim of a future Common European Asylum System.

[19] See the FR-02 judgment of the Council of State

V. Basic Standard: The Compulsory Use of COI

Prior to a detailed analysis of how the main substantive quality standards of COI are reflected by the legislation and jurisprudence of the European Union, it is worth examining whether a general principle of using COI in refugee status determination exists in member states. While such a requirement cannot be considered as a quality standard *per se*, it may serve as a basis for all further norms and reflects the increased importance and improved role of country information.

V.1 Legislation

Article 4 (3) (a) of the Qualification Directive sets a clear-cut requirement of using COI in refugee status determination:

> 3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:
>   (a) **all relevant facts as they relate to the country of origin** at the time of taking a decision on the application; including laws and regulations of the country of origin and the manner in which they are applied;

This binding provision clearly reflects the increasing awareness about the necessity of using COI as evidence. Some EU member states have adopted legal provisions envisaging a compulsory examination of COI in asylum decision-making, but not transposing directly the wording of the Qualification Directive. For example, the relevant provision in **Lithuanian** law reads as follows[20]:

> (63) A public servant of the Migration Department, examining an application for asylum of an asylum-seeker, who has a right to use temporary territorial asylum, as to substance shall: (…)
>
> (63.5) collect necessary information about the country of origin of the asylum-seeker.

The asylum legislation of **Romania** links the compulsory use of COI to the professional preparedness of decision-makers[21]:

> (1) The decision regarding the resolution of the asylum application is made after a suitable examination of the applicant's circumstances has been carried out by the specially designated officials who are qualified in the field of asylum. The latter presumes: (…)
>   b. Consultation of information from the country of origin, obtained from different sources, necessary to evaluate the personal circumstances of the asylum-seeker.

---

[20] Procedural rules regulating the examination of aliens' applications for asylum, decision-making and implementation of decisions (approved by the order of Minister of the Interior of the Republic of Lithuania No. IV-361, 2004), Section 63.5

[21] Act no. 122/2006 on asylum, Section 13 (1) (b)

The **Hungarian** Asylum Act not only foresees the use of COI, but also specifies its source (a COI research centre operating under the auspices of the asylum authority)[22]:

> (2) The refugee authority and – in case of need – the Court shall obtain the report of the agency responsible for the provision of country information under the supervision of the Minister.

The current asylum legislation in **Spain** also refers to the use of COI, but in a more indirect manner (as instead of "country information" it evokes "objective circumstances")[23]:

> (1) (…) Based on the applicant's statements, the Authority will conduct research concerning the objective circumstances alleged by the asylum-seeker and will evaluate their importance related to the matter of asylum.

Austrian law also specifies that[24]

> (1) The authority shall endeavour *ex officio* at all stages of the procedure to ensure that information relevant to a decision is adduced or that incomplete information concerning the circumstances invoked in support of the application is supplemented, that the evidence to substantiate such information is specified or that the evidence offered is complete and, in general, that any explanations required in support of the application are provided. If necessary, evidence is also to be procured *ex officio*.

While similarly to the above-cited Spanish provision, this principle does not explicitly refer to the mandatory use of COI, it may still be understood as indirect guidance to this end[25].

V.2 Jurisprudence

The growing attention and the changing attitude of the **ECtHR** towards country information have already been touched upon in Section IV.2. In light of this tendency, it is not surprising that in recent judgments, the Court explicitly defines the analysis of COI as a *sine qua non* of evaluating the risk of treatment falling under Article 3 of the ECHR in expulsion cases. In Mamatkulov, the Court pointed out that[26]

> It is the settled case-law of the Court that extradition by a Contracting State may give rise to an issue under Article 3, and hence engage the responsibility of that State under the Convention, where substantial grounds have been shown for believing that the person in question would, if extradited, face a real risk of being subjected to treatment contrary to Article 3 in the receiving country. The establishment of such responsibility inevitably involves an assessment

[22] Act LXXX of 2007 on asylum, Section 41 (2) – enters into force on 1 January 2008

[23] Royal Decree 203/1995 of 10 February, Section 9 (1)

[24] Asylum Act of 2005, Section 18 (1)

[25] Mostly if read in conjunction with Section 60 of the same Act, which provides for the establishment of a country documentation service and rules related to its operation. See relevant details in Chapters VI.1.1, VIII.1.1 and VIII.2.1

[26] Para. 67

of conditions in the requesting country against the standards of Article 3 of the Convention. (…)

This principle is repeated in Salah Sheekh as well[27]:

The establishment of any responsibility of the expelling State under Article 3 inevitably involves an assessment of conditions in the receiving country against the standards of Article 3 of the Convention (…)

The compulsory use of COI, as a general standard, is traceable in the jurisprudence of a number of EU member states. As an exemplary practice, the **Czech** High Court has already ruled back in 1994 (CZ-01) that

It is the duty of the administrative body to assess the available evidence on the situation in the country of origin (…). In order to obtain evidence, it can make use of the diplomatic or consular personnel, the computer database of the UNHCR, where a large range of information regarding the observance of human rights in individual countries is available or it can query a supranational organisation specialised in the protection of human rights.

This standard reiterated in CZ-02 the same year, is particularly interesting not only for predating most European jurisprudence dealing explicitly with COI issues but also for clearly designating the administrative decision-making body as responsible for collecting country information. The above rule was further elaborated in a more recent judgment of the Supreme Administrative Court (CZ-09), which pointed out that

(…) [it is the administrative authority's] task to put the reasons alleged by the asylum-seeker (…) to the precise framework of the reality of Nigerian society.

and later refers to the lack of documented evidence as an obstacle to take a correct decision. The relevant judgment of the Regional Court of Brno (CZ-16) also set a clear-cut and generally applicable standard:

The defendant is to collect the information on country of origin of the asylum-seeker in the course of asylum proceedings.

The jurisprudence of the **Austrian** High Administrative Court also calls for a compulsory use of COI in asylum procedures. Elaborating on an earlier decision back in 1998 (AT-01), the Court ruled in AT-08 that

Whenever the general situation in a country of origin is assessed, asylum offices are expected to make use of the available information in particular, reports that are created by international organisations dealing with refugee issues, and to take this information into consideration for the decision.

In AT-10, the High Administrative Court held that

(…) it is unlawful if at first instance, authorities are satisfied with unfounded and objectively wrong allegations without researching the actual situation in the country of origin of the asylum-seeker.

thus criticising a practice of leaving the assessment of country information for second-instance authorities.

[27] Para. 136

The courts of the **United Kingdom** have also held on various occasions that the assessment of an asylum claim should be done in the context of COI. Back in 1997, the Court of Appeal set a relevant standard in UK-09:

> In administering the asylum jurisdiction, the Tribunal (whether it be a special adjudicator or an appeal tribunal) has to consider not only whether the individual asylum seeker has the necessary subjective fear to be regarded as someone who is entitled to asylum, but in addition has to be satisfied that fear is well-founded. Whether or not that fear is well-founded involves applying an objective standard, a standard which will depend upon the state of affairs in that particular country as well as the circumstances of the individual asylum seeker.

UK jurisprudence further points out the necessity of using country information when assessing an asylum-seeker's credibility. In UK-10 the Immigration Appeal Tribunal held that

> (…) credibility findings can only really be made on the basis of a complete understanding of the entire picture. It is our view that one cannot assess without placing that claim into the context of the background information of the country of origin. In other words, the probative value of the evidence must be evaluated in the light of what is known about the conditions in the claimant's country of origin.

Different later judgments[28] endorsed this principle.

The relevant **Irish** jurisprudence of recent years has been reflecting issues and viewpoints similar to those of UK judges. For instance, the Irish Supreme Court in IE-01 referred with approval to the above-cited paragraph of UK-09.

The general principle of using COI in asylum procedures and the main questions to which it shall be related already appeared in a landmark judgment (IE-03) of the High Court of Ireland in 2000:

> Simply considered, there are just two issues. First, could the applicant's story have happened, or could his or her apprehension come to pass, on their own terms, given what we know from available country of origin information? Secondly, is the applicant personally believable? If the story is consistent with what is known about the country of origin, then the basis for the right inferences has been laid.

In IE-04 (2001), the Court went further and set a clear obligation of considering COI when holding that[29]

> [The Minister] must have regard to relevant background material on the applicant's country of nationality.

In addition to setting such a general standard, the Irish High Court in IE-06 (2001) also established a clear link between COI and the assessment of "personal credibility" (already referred to as an issue of central importance in IE-03):

> It is clear that a knowledge of conditions in the applicant's country of origin is an important element in assessing the applicant's credibility.

[28] UK-03, UK-04, etc.

[29] See also IE-07 and IE-08 for further reference

Fairly clear guidance was provided on the above in a later judgment (IE-14) from 2005:

> (…) it is incumbent on the Tribunal Member to refer to available country of origin information where this is possible and where such country of origin information may be relevant to the assessment of credibility, and further that it is not sufficient to make what has been described as a bald statement that the applicant lacks credibility. Further, the fact that the Tribunal Member does not find certain minor matters, or matters not central to the core issues, to be credible, is insufficient to found an adverse finding of credibility generally in order to refuse a declaration.

With the above decision, the Irish High Court set an exemplary precedent on how to base credibility assessment on factual considerations and related it to relevant factors using country information, as such avoiding an isolated analysis of personal believableness as an "abstract" matter. This issue was addressed from a different perspective in IE-15, where the judge held that without detracting from the force to be given to the general standard already set by both UK and Irish jurisprudence, it

> (…) could not be extended to mean that in every case no matter how unbelievable the applicant is found to be on the "pure credibility" issue, the Tribunal Member must indulge in a pointless exercise, namely looking at amounts of country of origin information (…). Such information, especially given the finding in respect of which leave was refused as to credibility, could not add anything of real relevance with a capacity to influence the assessment of overall credibility in the present case.

Reading in balance IE-14 and IE-15, according to the Irish High Court it is mandatory to use COI in credibility assessment and base related decisions thereon. It is however useless to engage in lengthy COI research and analysis when an applicant is manifestly lacking in personal credibility.

The Supreme Court of **Spain** (ES-04), the Council of State of the **Netherlands** (NL-02), the Permanent Refugee Appeal Board of **Belgium** (BE-02) and the Administrative Court of **Slovenia** (SI-01) have reinforced the principle of a mandatory use of COI in asylum decision-making in recent years. Further reference can be made to judgments of **Hungarian** (HU-04), **Slovak** (SK-02) and **Lithuanian** (LT-01, LT-03) courts where the lack of COI is considered a main reason for quashing a lower-instance decision, or – when on behalf of the asylum-seeker – for dismissing an appeal (HU-05).

V.3 Summary

Most EU member states yet fail to concretely refer to the mandatory use of COI in their asylum legislation. Meanwhile, the clear-cut standard set by both the Qualification Directive and the European Court of Human Rights to consider country information in the assessment of claims for international protection, together with the wide reference to this issue by senior courts in several EU countries, shows a tendency according to which COI has become an indispensable element of asylum decision-making in Europe.

VI. Standard 1: Legal Relevance of COI

COI – often being the only factual evidence in asylum procedures – must be closely related to the legal substance of the claim (i.e. fear of persecution/risk of suffering serious harm and lack of protection) and must objectively reflect (confirm or disprove) facts related thereto. COI becomes irrelevant if it only reflects general concerns or is solely related to minor elements of the asylum claim.

The above criterion of legal relevance as established in professional practice[30], is not sufficiently reflected by EU asylum legislation or by national asylum laws. However, both the Qualification and the Procedures Directive envisage two general requirements that may be related to the question of legal relevance of COI: **the individualised assessment of asylum claims and the mandatory examination of "actual" legal practices in the country of origin**. Some member states go beyond these two standards and apply a more sophisticated legal practice in this respect.

VI.1 Concrete Guidance Concerning the Legal Relevance of COI

VI.1.1 Legislation

While the above-mentioned principles constitute two important elements of legal relevance[31], they fail to provide a complete definition thereof. Nevertheless, two EU member states have already adopted progressive legislation concretely pointing out what may be considered as legally relevant COI. The recently adopted **Hungarian** Government Decree[32] on asylum may be considered as an exemplary legislative practice in this regard:

> (…) may be considered as relevant the information
> a) which is related to the individual circumstances of the applicant,
> b) which describes or analyses the actual situation in the country of origin of the applicant, the refugee, the beneficiary of subsidiary or temporary protection, or a third country relevant in respect of the recognition or withdrawal of these statuses, and

[30] See also UNHCR Position Paper, Para. 13; IARLJ Checklist, Para. 14-20

[31] See Chapters VI.2 and VI.3 for details

[32] Government Decree no. 301/2007 (XI.9.) on the implementation of Act LXXX of 2007 on asylum, Section 71 – enters into force on 1 January 2008

c) which helps to decide on the merits whether in case of the applicant, refugee, beneficiary of subsidiary or temporary protection there is a well-founded fear of being persecuted or a risk of serious harm, or whether in case of the applicant, refugee, beneficiary of subsidiary or temporary protection the given country is to be considered as safe country of origin (…) or safe third country (…)

The relevant sections of the **Austrian** Asylum Act, pioneer in this regard, reads as follows[33]:

(1) The Federal Asylum Office shall administrate a country documentation service. The country documentation service records relevant facts in the context of refugee status determination procedures on countries of origin as well as information sources.

(2) The purpose of the country documentation is the collection of facts which are relevant
1. to evaluate if there are facts which may imply the danger of persecution in terms of the federal law.
2. to evaluate the credibility of asylums seekers' statements and
3. for the decision if a certain state is safe in terms of Section 39 (safe country of origin) or Section 4 (safe third country).

Such a clear-cut definition may be of great help for all groups of COI-users (decision-makers, legal practitioners, etc.) as it promotes both effectiveness and a common interpretation of what sort of COI should be considered as key evidence. Law-makers in other member states are therefore encouraged to follow the exemplary legislative practice of Hungary and Austria on this particular issue.

VI.1.2 Jurisprudence

European courts are quite reluctant to give any sort of general guidance on what should be understood as legally relevant COI. While they pronounce such views in individual cases on a regular basis (i.e. whether or not certain information is relevant in a given procedure), attempts to formulate generally applicable standards are rather sporadic, currently only **Czech** jurisprudence may be evoked in this respect. The Supreme Administrative Court ruled in CZ-08 that

> In the asylum procedure, the administrative body often has to make the decision in lack of evidence. In such circumstances, it is necessary to take into account the character of the country of origin, the way state power is enforced within the country, the possibility to exert one's political rights and other circumstances which could affect the grounds for asylum. If it is known that human rights are not observed, that citizens are denied the possibility to change their government, that unlawful executions are carried out, that people go missing and torture is often used, etc. then these factors have to be considered for the benefit of the asylum-seeker. On the contrary, if the country of origin is a democratic state observing law, it is up to the asylum-seeker to credibly support his statement that he is indeed a victim of persecution.

33 Asylum Act of 2005, Section 60 (2)

While this citation did not explicitly define what sort of COI was to be considered relevant, it gave a list of issues that may be understood as such. The Regional Court of Brno set the following general standard in CZ-16:

> The defendant is to collect information on the country of origin of the asylum-seeker in the course of the asylum procedure. This shall include information about political tendencies in the respective timeframe, about the attitude of state power toward racial, religious and political issues.

VI.2 Individualised Assessment

VI.2.1. Legislation

Far from a comprehensive approach on legal relevance, Article 4 (3) of the Qualification Directive sets forth a standard that may be useful in this respect:

> 3. The assessment of an application for international protection is to be carried out **on an individual basis** and includes taking into account: (…)
>   (c) **the individual position and personal circumstances** of the applicant, including factors such as background, gender and age, so as to assess whether, on the basis of the applicants' personal circumstances, the acts to which he or she has been or could be exposed would amount to persecution or serious harm;

The same principle is reflected by Article 8 (2) (a) of the Procedures Directive:

> 2. Member States shall ensure that decisions by the determining authority on applications for asylum are taken after an appropriate examination. To that end, Member States shall ensure that:
>   (a) applications are examined and decisions are taken **individually**, objectively and impartially;

While these provisions do not mention COI as such, the principle behind them applies to the whole process of evidentiary assessment, a main element of which is the evaluation of country information. From a COI viewpoint, an individualised procedure means that **the information used and referred to in decision-making cannot be too general and should always reflect the individual circumstances of each asylum-seeker**. Therefore in this context the criterion of individualisation does not refer to the personalised or general character of an applicant's fear, it rather compels authorities to consider COI that reflects the individual situation referred to by the applicant. In many member states, this – now formalised – requirement may not bring anything new. At the same time, the rule of not using uniform "COI text modules" in various different decisions on refugee status will become generally applicable in all countries. For some member states, the obligation of individual assessment brings a change mostly in respect of subsidiary protection, where a merely country-specific approach has been more frequently used. The two directives in question do not distinguish between the two areas in this regard.

During the time this study was being conducted, EU member states were gradually transposing the above criterion into their national legislation. The practice of **Hungary** can be mentioned in this respect, as in addition to transposing the general standard

of individualised processing, it explicitly mentions this requirement as a condition for producing relevant COI[34].

VI.2.2 Jurisprudence

The **ECtHR** has already evoked the necessity of considering specific, individualised information in its judgment in Chahal[35], when – on the basis of the material provided by the defendant – it ascertained the improvement of conditions in the country and region of origin, but at the same time it stressed the insufficiency of such general information.

In Venkadajalasarma, once again, the ECtHR emphasised the need for an individualised assessment of country information[36]:

> The Court would agree with the applicant that the situation in Sri Lanka is not yet stable, as is illustrated by the recent developments on the political front (…) Whilst stability and certainty are factors to be taken into account in the Court's assessment of the situation in the receiving country, the fact that peace negotiations have not yet been successfully concluded does not preclude the Court from examining the individual circumstances of the applicant in the light of the current general situation (…)

Lacking in information of an individual character was pointed at by the Court in Mamatkulov as well, when with respect to the applicant's observations concerning the practice of torture and ill-treatment in Uzbekistan it established that[37]

> (…) although these findings describe the general situation in Uzbekistan, they do not support the specific allegations made by the applicants in the instant case and require corroboration by other evidence.

The individualised assessment of asylum claims and the use of case-specific COI to this end appear to be widely accepted standards in the jurisprudence of EU member states. A clear and compact formula on how this norm should be understood is given in **Polish** jurisprudence. The Regional Administrative Court of Warsaw in PL-10 emphasised that refugee status determination primarily requires the evaluation of the asylum-seeker's statements and not the situation in the country of origin above all, referring to the UNHCR Handbook and the consequent jurisprudence of the Supreme Administrative Court of Poland in this respect. Consequently the Court held that

> (…) general remarks on the social-political situation (…), organisations' reports and statements from enclosed academic expert opinions are only relevant to the extent where the circumstances they describe may be directly applied to the applicant.

The principle behind this standard may perhaps be the most clearly expressed within the jurisprudence of the Permanent Refugee Appeal Board of **Belgium** (BE-05):

---

[34] Government Decree no. 301/2007 (XI.9.) on the implementation of Act LXXX of 2007 on asylum, Section 71 (a) – enters into force on 1 January 2008, see detailed reference in Section VI.1.1

[35] Para. 91

[36] Para. 67

[37] Para. 73

> The Board reminds that the refugee status determination procedure does not have as objective the *in abstracto* establishment of the human rights situation in a given country, but rather the case-by-case evaluation of whether or not an asylum-seeker has reasons to fear persecution (…)

Reflecting the above principles, numerous senior European courts refer to the lack of case-specific, concrete COI or the use of general information with weak or no links to the given particular case when cancelling a lower-instance decision on refugee status. The jurisprudence of **Hungary** (HU-01, HU-05, HU-06, HU-08), the **Czech Republic** (CZ-05, CZ-06, CZ-10), **Austria** (AT-07), **Bulgaria** (BG-03), **Slovakia** (SK-09), **Slovenia** (SI-04) and **Sweden** (SE-01) may be referred to in this context. At the same time, judgments of the **French** Refugee Appeal Board (FR-01) and the **UK** Immigration Appeal Tribunal (UK-05) used the same reasoning but in connection with materials presented by the appellant when dismissing an appeal. The latter decision may be of particular interest as it firmly criticised the practice of submitting vast COI materials to adjudicators without pointing out relevant case-specific parts thereof:

> We deplore the practice of filing enormous bundles of irrelevant documents especially in publicly funded cases and there is no authority for requiring the Adjudicator to read the whole of such bundles unless his attention is drawn to them.

The above-referred **Slovak** judgment (SK-09) can also be deemed an especially interesting one as the Regional Court of Košice went beyond the simple requirement of considering individualised COI when ruling that

> Quotations from country of origin information sources cannot be summarised without giving reference to their relation with concrete facts of the case, which served for the decision-maker as the basis of considering and deciding the case.

While most of the cited judgments deal with refugee status determination in general, the relevant **Hungarian** (HU-05, HU-06, HU-08) jurisprudence and a judgment of the High Administrative Court of **Bulgaria** (BG-03) set the same standard as to the application of the safe country of origin concept[38]. As the requirement of individualisation is in some countries less clear and less widely accepted when assessing the entitlement to subsidiary forms of protection or when applying "safe country" concepts than in regular refugee status determination, the above judgments are definitely of importance.

VI.3 Mandatory Assessment of "Actual" Legal Practices

VI.3.1 Legislation

Another binding provision of EU asylum legislation that can be referred to in connection with the legal relevance of COI is set forth by Article 3 (3) (a) of the Qualification Directive and reads as follows:

[38] In these jurisdictions, at the time of passing the judgments in question, the application of safe country of origin concept also referred to the assessment of the applicant's entitlement to subsidiary protection (not yet fully in line with the common EU concept thereof).

3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:
   (a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application; including laws and regulations of the country of origin and **the manner in which they are applied**;

The Procedures Directive further elaborates on the same principle in connection with the safe country of origin[39] and the safe third country[40] concept. These provisions oblige member states **to examine not only what the law says in a certain country, but to assess to what extent and in what manner the provisions in question are applied**. From a COI professional's point of view, the importance of this provision lies within the fact that it prevents decision-makers from using exclusively the text of laws of the countries of origin as factual evidence. While such legal provisions may be in line with human rights principles or seem to ensure protection against persecution and other sorts of harm, in practice they often fail to do so.

At the time of the development of this study, EU member states were gradually transposing this criterion into their national legislation.

VI.3.2 Jurisprudence

The criterion of mandatory examination of "actual" legal practices is less present in European jurisprudence than that of individualised assessment. The Municipal Court of Budapest, **Hungary** reiterated its related standard in HU-07:

> (…) the Municipal Court of Budapest has already held in several guiding judgments that only those countries can qualify as safe countries of origin where the above-mentioned international legal instruments that set basic human rights guarantees are applied in practice, and where on the basis of the legal and social system the asylum-seeker can have access to effective protection.

The Court has consequently criticised the mere examination of legal provisions in the country of origin in additional cases as well, and makes use of this argument when quashing administrative decisions prescribing the assessment of the practical application of the given provisions (HU-02, HU-08) or the real situation the asylum-seeker would face upon return (HU-04).

The **Austrian** High Administrative Court set its relevant standard in AT-16:

> The sole reference that Turkish statutory provisions (i.e. the regulation on village guards) do not foresee forced recruitment is in itself inappropriate for drawing a conclusion about the factual threat of the asylum-seeker due to his refusal to work as village guard. When judging on the endangerment of a person who refused to accept such an office, the actual recruitment practice of the local authorities has to be considered.

[39] Procedures Directive, Article 30 (4) and Annex II

[40] Ibid., Article 27 (1) and 36 (2)

Slovak jurisprudence also emphasises the above principle and applies it as a reason for cancelling administrative decisions. The Regional Court of Bratislava held in SK-05 that

> Mere reference to the [relevant] article of the Constitution [of the country of origin] cannot be considered a proper examination of the case[41]

and ruled in SK-14 that

> The first-instance authority shall also try to find out whether basic rights and fundamental freedoms proclaimed in the Constitution are respected in practice [in the country of origin].

The relevant judgment from **Polish** jurisprudence (PL-01) did not address the issue of legal provisions, but rather the mere existence of judicial authorities, as an argument insufficient *per se* to establish the existence of domestic protection:

> The mere existence of courts does not prove anything. In order to justify the thesis on the effectiveness of domestic protection, it should be proved that they work properly.

Further reference was made to the standard in question by the **German** Federal Administrative Court in DE-01:

> (…) the court of appeal violated its obligation to safeguard the right to a hearing in accordance with the law and to clarify the facts *ex officio* by forming its opinion on the issue of the claimants' Azerbaijani citizenship only on the basis of the quoted legislation [from the country of origin] "on its own legal expertise" (…) and without investigating the legal situation and legal practice [in the country of origin] (…)

VI.4 Summary

Legal relevance, as a core quality standard of COI in refugee status determination is only scarcely reflected in EU asylum legislation and jurisprudence. Meanwhile, the Qualification Directive sets two criteria that may somehow be linked to this norm: that of individualised processing of claims and that of assessing actual legal practices instead of merely looking at law in the books in the country of origin. Both of these binding standards are now reflected in the jurisprudence of some senior European courts dealing with asylum cases. Nevertheless, the reference to individualisation is significantly more frequent than the other criterion, and on certain occasions it is even explicitly connected to an individualised assessment of COI (as opposed to the use of only general, not case-specific information).

By setting these criteria, the EU legislation is yet far from providing a general standard of legal relevance. Such principles may, however, effectively contribute to an improving interpretation of this norm in countries where the above two issues have not yet been widely discussed or clarified in legal practice.

Hungarian and Austrian asylum legislations can be referred to as "best practice" at the European level, as they put forward a compact definition of legal relevance with regard to country information, in line with already existing professional standards.

[41] The same argument is reiterated in SK-04

VII. Standard 2: Reliability and Balance of Sources

Being aware of the inevitable bias of sources, COI researchers and users should consult a number of different types of sources (e.g. international organisations, government sources, NGOs and media sources). The political and ideological context in which a source operates should be considered, as well as its mandate, focus, reporting methodology, financial background and the intention behind its publications, and all information should be assessed accordingly.

The above professional standard[42] is much more clearly reflected by EU asylum directives and some member states' national legislation than that of legal relevance. The reason behind it may be the evident need of well-founded (and therefore hardly attackable) COI, recognised by all actors of refugee status determination.

VII.1 Objectivity and Impartiality

VII.1.1 Legislation

The first clear standard set by EU legislation in connection with reliability of sources is objectivity and impartiality. According to Article 8 (2) (a) of the Procedures Directive:

2. Member States shall ensure that decisions by the determining authority on applications for asylum are taken after an appropriate examination. To that end, Member States shall ensure that:
   (a) applications are examined and decisions are taken individually, **objectively and impartially**;

From a COI professional's perspective, these criteria mean that sources (and the information they provide) are selected **without any sort of pre-conception or preference to a certain approach**. Such an approach prevents any COI research aiming at information that solely serves the purpose of supporting or rejecting a claim for international protection, while it promotes a balanced and un-biased attitude. During the time this

[42] See also UNHCR Position Paper, Para. 24-27; IARLJ Checklist, Para. 49–60

report was being written, only a few EU member states have included these norms into their national asylum legislation.

VII.1.2 Jurisprudence

The **ECtHR** has not yet set standards on how to establish whether an information source is objective. However, in its milestone judgment in Salah Sheekh, it has already evoked the criteria of reliability and objectiveness[43]:

> (…) In respect of materials obtained *proprio motu,* the Court considers that, given the absolute nature of the protection afforded by Article 3, it must be satisfied that the assessment made by the authorities of the Contracting State is adequate and sufficiently supported by domestic materials as well as by materials originating from other, **reliable and objective sources**, (…)

While objectivity and impartiality appear to be a basic standard in asylum jurisprudence all over Europe, courts and judicial bodies only rarely refer to this requirement in concrete terms in connection with COI sources. It is of curiosity, however, to examine the wording they use in this context. The High Court of **Ireland** in IE-05 used the interesting term of "internationally reliable sources", the **Belgian** Permanent Refugee Appeal Board consequently (BE-06, BE-07) referred to "seriousness and reliability", while the Civil Court of Lecce in **Italy** in IT-01 alluded to "organisations dealing with refugees in an objective and serious manner". In its relevant judgment (NL-01), the **Dutch** Council of State ruled that

> (…) the country report [issued by the Ministry of Foreign Affairs] shall procure information in an impartial, objective and insightful manner (…)

while in other judgments (NL-02, NL-04) it consequently set the requirement of using "objective" sources.

VII.2 Variety of Sources

VII.2.1 Legislation

Further to a general standard of objectivity and impartiality, Article 8 (2) (b) of the Procedures Directive sets a more concrete rule of using various different sources:

> 2. Member States shall ensure that decisions by the determining authority on applications for asylum are taken after an appropriate examination. To that end, Member States shall ensure that: (…)
>   (d) precise and up-to-date information is obtained from **various sources**, such as the United Nations High Commissioner for Refugees (UNHCR), as to the general situation prevailing in the countries of origin of applicants for asylum and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions;

[43] Para. 136

The same requirement is reiterated in connection with the national determination of safe countries of origin in Article 30 (5).

During the period this report was being written, only a few countries have transposed this concrete requirement into their national asylum legislation, and **Hungary** is currently the member state that foresees concrete guidance on its actual meaning, in line with already existing professional "good practices" and in conjunction with the previous standard of objectiveness[44]:

> (8) The Country Information Centre carries out the collection of information and the preparation of reports in an objective, impartial and precise manner. To this end,
> a) it uses different sources of information,
> b) equally and to the maximum extent uses governmental, non-governmental and international sources of information.

The **Romanian** asylum legislation also suggests the use of different types of sources in a more indirect manner[45].

VII.2.2 Jurisprudence

Since the early nineties, the **ECtHR** has been gradually putting more emphasis on the variety of sources when evaluating country information in Article 3 cases. As already introduced in Chapter IV.2, the Court is now far from its earlier practice of relying mainly on the "professional experience" of defendant states and the materials presented by them. While practice was already showing an increased commitment to use a variety of different sources, concrete principles were only laid down in Salah Sheekh[46]:

> (…) In respect of materials obtained *proprio motu,* the Court considers that, given the absolute nature of the protection afforded by Article 3, it must be satisfied that the assessment made by the authorities of the Contracting State is adequate and sufficiently supported by domestic materials as well as by **materials originating from other, reliable and objective sources**, such as, for instance, other Contracting or non-Contracting States, agencies of the United Nations and reputable non-governmental organisations. (…) it would be too narrow an approach under Article 3 in cases concerning aliens facing expulsion or extradition if the Court, as an international human rights court, were only to take into account materials made available by the domestic authorities of the Contracting State concerned without **comparing these with materials from other, reliable and objective sources**. (…)

In line with the ECtHR's practice, various European courts have started to put significant emphasis on this requirement in recent years. The High Court of **Ireland** withheld very clearly in IE-07 that[47]

> The evaluation of country of origin information from various sources is a matter for the Tribunal.

---

44 Government Decree no. 301/2007 (XI.9.) on the implementation of Act LXXX of 2007 on asylum, Section 70 (8) – enters into force on 1 January 2008

45 Decision 1251/2006 for the approval of the Methodological Norms for the implementation of Act no. 122/ 2006 on asylum in Romania, Section 16 (3) – See more details in Section VII.3.1

46 Para. 136

47 See also IE-09, more details in Section VII.3.2

In its relevant judgment (UK-08), the **UK** Court of Appeal also put forth its standard with the same clarity:

> (…) it is the task of the adjudicator not to select a particular evaluation without placing it side by side with others in order to make a qualitative assessment and arrive at a balanced overview of those materials.

The Independent Federal Asylum Board of **Austria** is another appeal body which has repeatedly emphasised the importance of using a variety of different information sources in refugee status determination. In AT-11, the Board held (and later in AT-12 and AT-15 partly reiterated) that

> [It] gave great importance to the proper balance of available sources and the use of governmental, as well as non-governmental materials.

The Regional Court of Brno, **Czech Republic**, also set concrete standards when ruled in CZ-16 that

> The defendant shall then base its assessment on information emanating from state institutions (Country Reports of the US State Department, Czech Ministry of Foreign Affairs, UK Home Office, Czech Press Office, etc.) but also on information provided by non-governmental organisations (such as Amnesty International, Human Rights Watch, etc.)

and in CZ-17 that

> With respect to the proper assessment of the facts it is necessary that the administrative body includes in its evidentiary assessment both reports by non-governmental organisations observing the situation in [the country of origin] and by the [relevant] UNHCR guidelines regarding (…) then it uses these reports as basis for its decision.

The Permanent Refugee Appeal Board of **Belgium** has repeatedly referred to the importance of diversifying COI sources, even if in a more indirect way. Instead of setting an explicit standard, the Belgian authority used this argument when dismissing or admitting an appeal, praising the variety of sources used (BE-06, BE-07), or criticising the lack thereof (BE-01).

The necessity of using various sources in order to have a balanced picture on the country of origin is also traceable in **German** jurisprudence (DE-04)[48].

VII.3 Concrete Guidance on the Selection of Sources and Source Analysis

VII.3.1 Legislation

The Procedures Directive is rather silent about what the impartiality or the variety of sources mean in concrete. It specifies though two concrete sources of major importance: the **UNHCR**[49] and the **Council of Europe**[50] (the latter only in connection with the

48 See more details in Section VII.3.2

49 Procedures Directive, Article 8 (2) (b) and 30 (5)

50 Ibid. Article 30 (5)

national determination of safe countries of origin). Furthermore, it suggests the use of information provided by **other member states**[51].

The reluctance of the EU and its member states to distinguish "preferred" sources is understandable, given the difficulty (or even impossibility) of creating a comprehensive, balanced and abiding list of the most useful and reliable COI sources. On the other hand, some more concrete guidance on what types of sources should be consulted could prove to be of significant use. The **Romanian** asylum legislation may be referred to in this respect as it currently is the only one including such a concrete enumeration[52]:

> (3) In accordance with Section 13 (1) (b) of the Act, civil servants with competence in consulting information from the applicants' country of origin shall consult any information available in public sources, web sources, libraries, opinions of experts in the field, reports and materials of institutions, centres and organisations specialised in this topic and materials issued by the Romanian Ministry of Foreign Affairs, as well as any other sources that may contribute to the assessment of the situation in the country of origin.

VII.3.2 Jurisprudence

In Salah Sheekh, the **ECtHR** gave a basic list of types of sources which should be used for comparison with domestic material[53], namely

> (…) for instance, other Contracting or non-Contracting States, agencies of the United Nations and reputable non-governmental organisations. (…)

Similar guidelines were given in an early judgment of the **Czech** High Court (CZ-01)[54]:

> In order to obtain evidence, [the authority] can make use of the diplomatic or consular personnel, the computer database of the UNHCR, where a large range of information regarding the observance of human rights in individual countries is available or it can query a supranational organisation specialised in the protection of human rights.

Judges – similarly to law-makers – appear to be rather reluctant to suggest the use of "preferred" sources or to provide guidance on how to test or analyse sources. Among the rare relevant cases, the UNHCR is definitely the most frequently mentioned source, while some other well-known COI-providers (such as Amnesty International, Human Rights Watch or the UK Home Office) are also referred to in a few cases. However, these suggestions consistently tend to provide an example or recommendation rather than strict guidance.

Courts also refrain from recommending the preferred use of a certain type of source which approach is in line with the commitment to promote the diversification of sources

---

51 Ibid. Article 30 (5)

52 Decision 1251/2006 for the approval of the Methodological Norms for the implementation of Act no. 122/2006 on asylum in Romania, Section 16 (3)

53 Para. 136

54 See also CZ-02

as previously presented. The AT-09 judgment of the **Austrian** High Administrative Court constitutes an interesting exception:

> Whenever the general situation in a country of origin is assessed, the asylum offices are expected to make use of the available information, in particular reports by international organisations dealing with refugee issues, (…)

While the requirement that a valid COI source should have a sort of "good international reputation" is not alien to European courts dealing with asylum cases[55], such a clear preference to international information-providers (against governmental or local NGO sources) appears to be rather a singular occurrence.

Courts rarely undertake to analyse the reliability of a given source. Nevertheless, some courts have already formulated highly interesting opinions in this regard. The Administrative Court of Lüneburg, **Germany** in its judgment of DE-04 debated the practice of relying solely on COI prepared by the German Foreign Office, providing thus an unprecedented criticism of these reports, indicating important considerations for source analysis:

> From a methodological point of view, it is not sufficient for an overall perspective to consider only the country reports prepared by the Foreign Office, as "Vietnam is a focus country of German development aid policies", "Germany is one of Vietnam's most important bilateral donors" (…). Apart from this, the most recent country report by the Foreign Office (from 28 August 2005) does not, by its own account, incorporate the bi-annual report of 2005 (...), nor the Country Report on Human Rights Practices 2004 of the US Department of State from 28 February 2005. The Foreign Office rather refers solely to the respective reports from the previous year. The Human Rights report no. 28 by the "Society for Threatened People" from 28 April 2005 and the annual report 2004 by ISHR (International Society for Human Rights) are neither mentioned, nor included. Whether other media reports were taken into account is in doubt. Thus the informative value of the Foreign Office's country reports is highly limited because the recent developments in Vietnam, as it is reported by other sources, is insufficiently perceived and described.
>
> Accordingly, especially in view of the special relationship between Germany and Vietnam and the insufficient informative value of the Foreign Office's country reports, other evidence – if possible, from a wide range of sources – has to be included and evaluated in a balanced judicial assessment.

While this judgment may yet be considered as a dissenting voice in German jurisprudence, it should definitely be praised for formulating a clear idea of what should be considered when analysing the reliability of a source in a specific context, as well as for indirectly pointing out that even the most reputable information-providers operate with a specific mandate and an inevitable bias. This position is endorsed by the High Court of **Ireland**, in connection with other similar governmental sources (IE-09):

> I do not consider that placing total reliance on reports, and even more so, on extracts from reports, furnished to the governments or State Departments of the United States of America

[55] See for example the Irish High Court's IE-05 judgment and its standard about "internationally reliable sources", as mentioned in Section VII.1.2

> or Great Britain is always a sufficient compliance with the need to ascertain and evaluate relevant circumstances in the country of origin of a particular applicant. The reasons for and the background to these reports could seriously limit their value as independent indicators of the circumstances in the country of origin of the particular applicant.

In PL-11, the Regional Administrative Court of Warsaw further addresses the issue of source analysis, a highly specific case of using questionable sources when assessing the applicability of exclusion clauses. The **Polish** Court presented in its judgments the various aspects of analysing sources related to one part of an armed conflict:

> The Court does not agree with the applicant, who questions in principle any possibility to base the assessment of Chechen asylum-seekers' cases on Russian sources and information agencies. There is no doubt that the Russian Federation, as part of the conflict in Chechnya, is for obvious reasons interested in preseting this conflict the most favourable way for itself and corresponding with its political interests, and therefore, the way the Refugee Board duly put it, "accounts and data from the Russian media must be assessed with great care". It does not mean, however, that usually they shall be refused credibility, but only that, firstly, it is necessary to make a distinction between information and its assessment presented in these sources and to confront these facts with the circumstances raised by the applicant, as well as with other available sources. Secondly, making its own assessment of the facts from the viewpoint of the reasons for applying exclusion clauses, it has to be taken into account that they must be interpreted strictly.
>
> The fact emphasised by the applicant, that the information presented by Russian news agencies uses a style of language, such as a detained fighter "was to say" or people "were to die/disappear", does not prove that these sources are unreliable and undependable, but on the contrary, it is a clear and reliable reservation made by the agency that the information presented was not corroborated or confirmed in other sources, and this means that in such an asylum procedure, as long as no further verification is done and the information presented with this sort of "reservation" is not supported by any other evidence, it cannot be regarded as a valid evidence and serve as a reason ("serious reason") to apply an exclusion clause.

These pieces of jurisprudence underline the importance of source analysis, including the assessment of a source's mandate and motivation even in case of the most reputable governmental sources, and as such – from a COI professional's perspective – are highly valuable.

VII.4 Summary

The criterion of using balanced and reliable COI sources in refugee status determination is now firmly anchored in both asylum-related legislation and jurisprudence in the EU. Its main concrete incarnation is the requirement of using a variety of different sources of COI, as foreseen by the Procedures Directive and echoed by the ECtHR and several senior courts. Presently, Hungarian law provides the most concrete requirement in this respect, while the Romanian asylum legislation sets forth a list of suggested types of COI sources.

VIII. Standard 3: Accurate Research and Selection of Up-to-date Information

Accurate COI is obtained and corroborated from various sources, with due attention to find and filter the relevant and up-to-date information from the sources chosen, avoiding the distortion of the content. The research process should reflect high professional standards and be free of any bias or pre-conception.

While the previous standard of reliability deals with the selection and analysis of sources, accuracy is about obtaining the relevant information from the selected sources, (i.e. it is the key quality standard of the research process itself). It is of common knowledge that COI research requires a certain ability to use the internet, as well as other communication, technical and methodological skills. Complementing these general requirements, European professional practice has established a more complex norm of accuracy[56] that is based primarily on the principle of cross-checking or corroboration (from a variety of sources), and on an unbiased selection of up-to-date information. Both EU law and national practices reflect to a certain extent these requirements.

VIII.1 Obtaining Objective, Impartial and Precise Information

VIII.1.1 Legislation

Article 8 (2) (b) of the Procedures Directive sets a rather general standard of preciseness, which can be interpreted in conjunction with the requirement of objectivity and impartiality in Article 8 (2) (a):

2. Member States shall ensure that decisions by the determining authority on applications for asylum are taken after an appropriate examination. To that end, Member States shall ensure that:
   (a) applications are examined and decisions are taken individually, **objectively and impartially**;

[56] See also IARLJ Checklist, Para. 21–24

(b) **precise** and up-to-date information is obtained from various sources, such as the United Nations High Commissioner for Refugees (UNHCR), as to the general situation prevailing in the countries of origin of applicants for asylum (…)

The standard of objectivity has already been analysed in connection with the reliability and balance of sources; it may however be related to the selection of information as well. From a COI professional viewpoint this means that it is not *per se* satisfactory to select objective and relatively unbiased sources, the information itself should also be researched in an objective and impartial way.

It is of interest to see that different national asylum laws transpose these criteria in a different manner. **Hungarian**[57] and **Luxembourgian**[58] law for example, use a wording similar to that of the Directive, evoking both objectivity/impartiality and preciseness. The **Romanian** asylum legislation[59] solely mentions objectivity as a general standard in decision-making. The **Austrian** Asylum Act sets the standard of objectivity in relation with the "processing" of information (thus not referring to the selection of sources in this respect, but rather to an objective research of COI), and it further complements it with the requirement of a "scientific" approach[60]:

(2) (…) The collected facts have to be summarised for each country, processed objectively and scientifically (general analysis) and documented in a general form. (…)

VIII.1.2 Jurisprudence

European courts frequently refer to objectivity and balance in reference to the selection of COI sources. However, they only seldom do so in connection with the research process and the selection of information from the given sources. This reserved approach is understandable, since while it is rather easy to evaluate whether a group of selected information-providers can be deemed as balanced or sufficiently wide, it is practically impossible for a judge to assess whether the research process itself reflected high methodological standards.

The **Austrian** High Administrative Court evoked the requirement of "preciseness" in AT-10, which in this particular case meant taking into account regional differences in the country of origin.

Behind such general norms, some courts point out that no abusive, out-of-context selection of information is permitted and such proceeding should result in cancelling lower-instance decisions. In a very recent judgment (CZ-11), the **Czech** Supreme Administrative Court emphasised (thus formulating the clearest standard in this respect) that

57 Government Decree no. 301/2007 (XI.9.) on the implementation of Act LXXX of 2007 on asylum, Section 70 (8) – enters into force on 1 January 2008

58 Act of 5 May 2005 on asylum and complementary forms of protection, Section 18

59 Act no. 122/2006 on asylum in Romania, Section 13 (1) (a)

60 Asylum Act of 2005, Section 60 (2)

> (…) the situation of the asylum-seeker in his country of origin has to be assessed objectively, because otherwise there is a procedural fault (…). First of all, it is not permitted to proceed in such a way that only those facts and findings from the reports are taken into account which correspond to the final decision of the administrative body. In the present case, the Supreme Administrative Court found that the method of using the information on the country of origin was not objective, because the claimant selectively pointed out only certain areas of the claim and did not deal with the other information relevant in this case. (…)
>
> (…) in the opinion of the Supreme Administrative Court, [the authority used COI] in a selective way, since it left aside fundamental information (…)

Romanian jurisprudence has also repeatedly criticised (RO-02, RO-03) that

> The interpretation of COI is obviously made in a truncated manner and out of context.

and used this as an argument to squash administrative decisions. The **Belgian** Permanent Refugee Appeal Board talked in BE-04 about an "abusive reading" of sources, while according to the Regional Administrative Court of Warsaw, **Poland**, the fact that the first-instance authority failed to consider and attach to the file a relevant part of a report otherwise widely considered in the given case

> (…) not only gives rise to serious doubts as to the correctness of the conclusions made by the authority and makes the decision uncontrollable by the Court, but it also renders justifiable the applicant's allegation that the authority used the given report in a selective way.

VIII.2 Currency of Information

VIII.2.1 Legislation

Article 8 (2) (b) of the Procedures Directive envisages another concrete standard relevant to the accuracy of COI research, namely that of currency:

> 2. Member States shall ensure that decisions by the determining authority on applications for asylum are taken after an appropriate examination. To that end, Member States shall ensure that:
>
>   (…)
>
>   (b) precise and **up-to-date** information is obtained from various sources, such as the United Nations High Commissioner for Refugees (UNHCR), as to the general situation prevailing in the countries of origin of applicants for asylum and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions;

While this provision does not elaborate what "up-to-date" means, Article 4 (3) (a) of the Qualification Directive provides more guidance on this requirement:

> 3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:
>
>   (a) all relevant facts as they relate to the country of origin **at the time of taking a decision** on the application; including laws and regulations of the country of origin and the manner in which they are applied;

Reading in conjunction the above two provisions, it can be deduced that the COI used in refugee status determination should relate to a period as close as possible to the time of taking a decision (regardless of the fact that it is a first- or upper-instance, administrative or judicial decision). From a COI professional's viewpoint, there may be exceptions from the "as up-to-date as possible" rule. When certain events referred to by the asylum-seeker did not occur prior to his/her flight, but for example years before, COI dating from the given period – i.e. otherwise completely outdated – will still be accurate. Another exception may be the case of cultural or historical information (for example on wedding rites in an African tribe or the calendar used in different Islamic countries), which often remains unaltered in time. In such cases, the norm of currency may not be interpreted in a very strict manner.

By the completion of this study, only a few member states have transposed the above provision of the Qualification Directive into their national asylum legislation, while some others already apply the term "up-to-date" in their asylum acts. The **Austrian** Asylum Act goes beyond this basic requirement and sets a strict rule in connection with its Country Documentation, aiming at the elimination of all outdated information and even envisaging the revision of analyses based thereon[61]:

> (2) (…) The documentation has to be corrected as to facts which do not or no longer correspond to the actual situation. Analyses on the basis of these facts have to be rectified. (…)

Furthermore, it even encourages COI users to notify the documentation service about such information[62]:

> (7) The Federal Asylum Office has to be informed if a user notices (…) that certain information covered by the country documentation does not or no longer correspond to the actual facts. Other persons are authorised to inform the Federal Asylum Office about such facts.

A similar provision is set forth in **Hungarian** legislation[63]:

> (9) The Country Information Centre regularly updates the information it stores
> a) by obtaining up-to-date information and
> b) by rectifying out-dated information not reflecting any more the real situation.

VIII.2.2 Jurisprudence

The issue of currency of country information is widely dealt with by European courts. The **ECtHR** explicitly set a standard regarding the currency of information in Chahal[64]:

61 Asylum Act of 2005, Section 60 (2)

62 Asylum Act of 2005, Section 60 (7)

63 Government Decree no. 301/2007 (XI.9.) on the implementation of Act LXXX of 2007 on asylum, Section 70 (9) – enters into force on 1 January 2008

64 Para. 86

> (…) the material point in time must be that of the Court's consideration of the case. It follows that, although the historical position is of interest in so far as it may shed light on the current situation and its likely evolution, it is the present conditions which are decisive.

While the Court did not provide detailed guidance on how to ensure the up-to-date character of COI, it clearly determined that the analysis should focus on the situation at the time of decision-making. This principle is similarly reiterated both in Ahmed[65] and Venkadajalasarma[66].

In Salah Sheekh the Court once again reinforced its standard on currency[67]:

> (…) in assessing an alleged risk of treatment contrary to Article 3 in respect of aliens facing expulsion or extradition, a full and ***ex nunc* assessment** is called for as the situation in a country of destination may change in the course of time.

National courts are somehow more reluctant to formulate such general standards behind the concrete evaluation of the material before them in a given case.

One of the few relevant judgments is CZ-07, in which the **Czech** Supreme Administrative Court indirectly held that COI had to be related to the period in which the events claimed by the asylum-seeker had taken place[68], besides that it was insufficient to base rejections on only partly up-to-date information.

> (…) the Supreme Administrative Court found a grave infringement of elementary principles which concern the limits of administrative discretion, when out of the reports cited, which were used in order not to grant asylum (…) only one (…) was related to the war and after-war situation in Iraq, which had crucial importance upon the applicant's departure from her country.

A further interesting example, echoing the above quotation from Salah Sheekh, is UK-02, in which the **UK** Immigration Appeal Tribunal discussed the issue of currency in the context of a second asylum claim:

> Evidence dating from before the determination of the first Adjudicator might well have been relevant if it had been tendered to him: but it was not, and he made his determination without it. The situation in the Appellant's own country at the time of that determination is very unlikely to be relevant in deciding whether the Appellant's removal at the time of the second Adjudicator's determination would breach his human rights. Those representing the Appellant would be better advised to assemble up-to-date evidence than to rely on material that is *(ex hypothesi)* now rather dated.

In PL-08, the Regional Administrative Court of Warsaw, **Poland**, set valuable standards in respect of the above issue (somehow reiterating the principle laid down in UK-02, but applying it to appeal authorities):

> The Court's task is to assess the conformity of administrative decisions with the law. Conclusive in this respect is the date when the decision was issued. But if the evidence material assessed

[65] Para. 43

[66] Para. 63

[67] Para. 136

[68] Reiterated by CZ-13 and CZ-18

> in this decision dates back from several months or years preceding the issuance of the decision, it is a flaw of the administrative procedure if the appeal authority does not supplement the data on facts with the knowledge on the evolution of circumstances in the applicant's country of origin.

A different position was taken by the Regional Court of Košice, **Slovakia**, which in SK-15 held that

> The conditions for granting asylum are always to be considered in relation with the situation in the country of origin during the period in which the asylum-seeker fled his country. Later developments in the country of origin should be taken into account when considering the possibility of the expulsion of the applicant to the country of origin.

Another approach was applied by the **German** Federal Administrative Court, when in DE-02 it ruled in connection with the periodical reports issued by the German Foreign Office that

> (…) the Administrative Courts dealing with asylum matters are principally obliged to ascertain *ex officio* whether a new country report is available and gives account of considerable changes in the political circumstances in the respective country, which are relevant in terms of asylum law.

This rather basic but highly important requirement of always using the most recent report available from a given source is reiterated in **Polish** jurisprudence (PL-07) as well.

Unlike defining in general terms the meaning of up-to-date COI, many courts pronounce views on the lack of currency concerning information dated from a certain period. In this context, COI from two years prior has been found outdated in **Austrian** (AT-02) and **Polish** (PL-03, PL-05) jurisprudence, while information from the preceding year has been considered unacceptable in a **Polish** (PL-06) and a **Slovenian** (SI-02) court decision. The requirement of using up-to-date COI or its lack as a ground for cancelling lower-instance decisions is further referred to – even if without less concrete details – in a high number of other judgments from various EU member states[69].

VIII.3 Summary

This methodological standard has gradually appeared in both legislation and jurisprudence in EU member states. Being fairly more "technical" than that of relevance and reliability, this standard is more limited in its scope to general requirements (such as "precise and up-to-date information" as set forth by the Procedures Directive), rather than concrete methodological guidance.

Currency is a key element of accuracy, interpreted both by the Qualification Directive and the ECtHR as the requirement of assessing facts related to the country of origin "at the time of taking a decision". Furthermore, the standard of currency is largely covered in the jurisprudence of several senior European courts, even if – quite understandably – is referred to in rather general terms.

[69] See AT-03, AT-04, AT-05, AT-06, BG-02, SE-01, SI-03, SK-03, SK-04, SK-10

IX. Standard 4: Transparent Processing and Communication of Information

Since COI is often a decisive factor in asylum procedures, it should be made available for all parties involved therein, primarily – as a minimum standard – through a transparent and consistent system of referencing. Original sources and reports should therefore be retrievable, and care should be taken that their content and meaning are not distorted in the process of paraphrasing or translating.

Observing the above standard of transparency is a key factor to ensure legal security in refugee status determination – closely related to the procedural norm of the "**equality of arms**" – as it enables the asylum-seeker to have access to the information on the basis of which his/her claim has been decided. In addition, it also serves the interest of processing authorities since well-referenced and retrievable COI constitutes much "stronger" supportive evidence in a possible appeal procedure. It should be emphasised that the results of COI research may be based on relevant questions and may reflect high methodological standards; these criteria remain uncontrollable without ensuring the transparency of the information used.

Applying a **transparent method of processing and referencing COI** (the latter including the source, title, date of information and eventually the period to which the source refers, page/paragraph number, web link, etc.) has become a widely accepted norm by COI professionals in their daily work. While summaries of research results, often in the national language of the asylum system, may be more user-friendly (or may even be required by the national legislation of a given country), care must be taken that the meaning of the original sources is not distorted in the process of paraphrasing or translating. In case of complex COI reports or summary query responses the original sources used should be attached or otherwise made available; in order to allow the accuracy of the summary to be checked or to look for more detailed information.

Different EU member states' practices vary to a considerable extent in respect of transparency of country information. This divergence often reflects more general and long-standing differences in administrative and judicial traditions, and as such, will hardly be subject to any immediate change.

IX.1 Legislation

In the light of the above-mentioned divergence among member states' approach towards transparency of COI, it is not surprising that these professional standards are scarcely reflected by EU asylum legislation. However, the Procedures Directive does include some important provisions which may have an indirect effect on the promotion of transparency in the given context. Article 9 (2) of the Procedures Directive stipulates that

> 2. Member States shall also ensure that, where an application is rejected, **the reasons in fact and in law are stated in the decision** and information on how to challenge a negative decision is given in writing.

As contradictions between asylum-seekers' statements and COI often proves to be the crucial reason for rejection, the above provision may affect positively the transparency of COI used in asylum decision-making. Presuming a progressive approach toward this criterion, an improvement may be expected in those member states where administrative decisions still fail to give a detailed reasoning (and refer to COI therein).

In addition, Article 16 (1) of the Procedures Directive **ensures the access of counsellors to information included in their client's file**, provided that it is liable to be examined by appeal authorities:

> 1. Member States shall ensure that a legal adviser or other counsellor admitted or permitted as such under national law, and who assists or represents an applicant for asylum under the terms of national law, shall enjoy access to such information in the applicant's file as is liable to be examined by the authorities referred to in Chapter V, insofar as the information is relevant to the examination of the application.
>
> Member States may make an exception where disclosure of information or sources would jeopardise national security, the security of the organisations or person(s) providing the information or the security of the person(s) to whom the information relates or where the investigative interests relating to the examination of applications of asylum by the competent authorities of the Member States or the international relations of the Member States would be compromised. In these cases, access to the information or sources in question shall be available to the authorities referred to in Chapter V, except where such access is precluded in cases of national security.

Given the crucial role of country information in decision-making, it is presumable that COI materials will regularly fall under the scope of the above provision.

During the time of writing this study, practically no concrete provisions could be found in national asylum laws that would set concrete standards on transparency and referencing of COI. An exemplary and outstandingly precise exception can be found in **Belgian** law, setting high standards of transparency in the specific case of obtaining information from an expert person or institution[70]:

> The General Commissioner or one of his/her deputies can, in his/her decision lean on information obtained from a person or institution by telephone or e-mail.

[70] Royal Decree of 11 July 2003 fixing the procedure before the General Commissioner for Refugees and Stateless Persons, as well as its functioning, Section 26

> The administrative file shall in such a case define the reasons for which the given person or institution has been contacted, as well as the reasons for presuming his/her/its reliability.
>
> A written summary shall be prepared on the basis of the information obtained, and it shall mention the name of the person contacted by telephone, a summary description of his/her activities or function, his/her telephone number, the date of the telephonic conversation, as well as an overview of the questions asked during the telephonic conversation and the responses given by the contacted person thereto.

IX.2 Jurisprudence

In contrast with law-makers, a number of senior European courts have produced consistent jurisprudence emphasising the importance of transparency and retrievability of country information.

Clear norms are established in this respect in **Irish** jurisprudence. The High Court in IE-11 set a general standard on the "equality of arms" principle that may be of great significance when discussing the present norm of transparency:

> If a matter is likely to be important to the determination of the [Refugee Appeal Tribunal] then that matter must be fairly put to the applicant so that the applicant will have an opportunity to answer it. If that means the matter being put by the Tribunal itself then an obligation so to do rests upon the Tribunal. Even if, subsequent to a hearing, while the Tribunal member is considering his or her determination an issue which was not raised, or raised to any significant extent, or sufficient at the hearing appears to the Tribunal member to be of significant importance to the determination of the Tribunal then there remains an obligation on the part of the Tribunal to bring that matter to the attention of the applicant so as to afford the applicant an opportunity to deal with it. This remains the case whether the issue is one concerning facts given in evidence by the applicant, questions concerning country of origin information which might be addressed either by the applicant or by the applicant's advisors or, indeed, legal issues which might be likely only to be addressed by the applicant's advisors.

In IE-18, the High Court held that the failure to disclose COI can be an arguable ground for judicial review, then precised in IE-13 that

> Where, however, as here, there is no evidence to be found in the decision that the country of origin information favourable to the applicant's case was considered and, equally, as a consequence, no rational explanation as to why it was rejected, it seems to me that there are at least arguable grounds for the applicant's contention that the decision maker did not take into account relevant considerations.

The **Spanish** Supreme Court has consequently reiterated the requirement of transparency in its judgments. In ES-01, the Court expressed with clarity its position (which it later reiterated rather similarly in ES-02 and ES-03):

> [Both the first and second-instance authority] justified the refusal of admission to procedure by saying that the available information does not indicate that the authorities authorised or remained inactive in front of the persecution alleged by the asylum-seeker, but neither communicated details about such "available information", nor they attached documents

> or other elements from which the source or the content of such information could have become known. Consequently, such information can only be considered as gratuitous and insusceptible to support the refusal of admission to procedure.

In another landmark decision (ES-04), the Supreme Court emphasised that when conducting research concerning the objective circumstances alleged by the asylum-seeker

> (…) – in order that the applicant has the indispensably necessary elements for his/her defence – if the administrative authority questions the verisimilitude of the latter's allegations as they do not correspond to the disposable objective information on the country of origin, it is desirable that the authority should indicate this contradiction and disclose in the case file the sources considered when coming to such a conclusion.

The **Polish** Supreme Administrative Court also set a clear standard on transparency when held in PL-13 that

> Sources of information, which serve as basis for statements concerning the facts, have to be found in the file of the case, together with translation of the fragments important for the case. (…)
>
> Defects in the evidence material make the Court's verification of the findings and assessments in the decision impossible. (…) A general reference to unspecified data from a country of origin information centre and a Human Rights Watch report does not fulfill the criteria for indicating the evidence, on which the findings as to the facts were based (…). The lack of evidence, on which the findings concerning the facts were based, not only disables the Court to control the assessment of the credibility of the evidence, but it also makes impossible for the applicant to question the credibility of the evidence.

In PL-06, the Regional Administrative Court of Warsaw pointed out that[71]

> It should be emphasised that there is no need to translate the whole texts of reports of human rights organsations, including UNHCR reports, relating to the country of origin information. Nonetheless, it is crucial for making a proper decision to translate and include in the evidence material fragments which are important for the assessment of the current situation, (…)

The Refugee Board of Poland criticised in PL-03 that the first-instance authority had not explained what a certain abbreviation (referring to a source) meant, nor had it included its internet address.

Slovak jurisprudence is also consequent in setting a standard of retrievability, the clearest formula of which was established in SK-13 by the Regional Court of Bratislava:

> The statements of an asylum-seeker must be considered in the light of country of origin information. The first-instance authority is obliged to explain in its decision, which facts the decision-maker took into consideration as basis for the decision and how he/she examined the available evidence.

The lack of clear references to COI was further denounced by Slovak courts in SK-01 and SK-08.

[71] Reiterated in PL-03 and PL-04

The Municipal Court of Budapest, **Hungary** set a similar standard in its judicial practice. In HU-05, the Court used the term of "punctually referenced" COI and emphasised that the same norm is to be applied in this respect for proceeding authorities and legal representatives:

> (…) it is not permissible to accept any reference of general nature, in the case of country of origin information in view of the accountability and identification, the legal representative shall indicate with proper references and details on which points it challenges the respective part of the administrative decision.

As for **Czech** jurisprudence, the clearest formula was provided in CZ-15 (while the lack of transparency and retrievability was also denounced in CZ-12 and CZ-14):

> (…) in addition to the fact that the administrative body does not specify [the referred "background information"], it neither quotes it, nor provides any explanation on what consideration it has when assessing the evidence. The absence of this consideration then renders the decision not reviewable and this deficiency must be taken into account by the Court *ex officio*.

The High Administrative Court of **Bulgaria** in BG-01 held unacceptable the mere reference to "recent information" (without specifying its source).

The Permanent Refugee Appeal Board of **Belgium** has pronounced various judgments concerning the assessment of anonymous sources. While in BE-03, the Board held that since the first-instance authority bases its decision on information from an anonymous source,

> it is therefore not possible to formulate a definite opinion as for its statements, nor does it enable to establish the lack of credibility without further research.

On the other hand, it pointed out in BE-09 that

> the anonymity of a source does not make *per se* the given information unreliable, (…) it can be in the interest of the asylum-seeker that the authorities stay discreet about their sources (…)

The relevant standard set by the **Dutch** Council of State in NL-01 reflected the above dilemma between transparency and source protection:

> (…) the country report [issued by the Ministry of Foreign Affairs] shall procure information in an impartial, objective and insightful manner, indicating – if possible and on the condition it is safe to do so – the sources from where it has been obtained.

A quite dissenting voice – compared to the above-referred vast jurisprudence – is that of the High Administrative Court of Berlin, **Germany**, in DE-03. As to the transparency of the country reports prepared by the German Foreign Office, considering it as "official statement", the Court held that

> In principle the participants [of the refugee status determination procedure] are not entitled to learn how and on which basis a statement by the Foreign Office has been produced. Neither are the courts obliged to clarify this, unless serious and case-related doubts as to the accuracy of statements provide a reason for it in individual cases. Such a reason emerges if the claimant's submission shows coherently that the Foreign Office has manipulated its sources (…)

IX.3 Summary

The transparency and retrievability of COI may be the most debated quality standard among those presented in this report. A transparent system of processing and referencing country information in decisions and case files has become a widely supported and respected norm in COI professional circles. Meanwhile, EU member states have neither elaborated a joint position on rules and systems of referencing, nor have determined common standards with regard to information transparency in refugee status determination. The Procedures Directive, however, sets forth some important basic requirements (such as the justification of asylum decisions in fact and in law and the access of counsellors to the information included in their client's file, if liable to be examined by appeal authorities). Going much further than law-makers, senior courts in several member states have established clear and specific standards in this respect. On this basis, all actors of refugee status determination are encouraged to adopt these standards in the next phase of establishing a Common European Asylum System.

Annex

Short form	Name of ECtHR judgment	Date
Vilvarajah	Vilvarajah and others v. The United Kingdom	30 October 1990
Cruz Varas	Cruz Varas v. Sweden	20 March 1991
Chahal	Chahal v. The United Kingdom	15 November 1996
Hilal	Hilal v. The United Kingdom	6 March 2001
N	N v. Finland	26 July 2005
Salah Sheekh	Salah Sheekh v. The Netherlands	11 January 2007
Mamatkulov	Mamatkulov and Askarov v. Turkey	4 February 2005
Venkadajalasarma	Venkadajalasarma v. The Netherlands	17 February 2004
Ahmed	Ahmed v. Austria	17 December 1996

Code	Judgment/decision	Year	National court/ judicial body	Country
AT-01	98/01/0602	1999	High Administrative Court	Austria
AT-02	2004/01/0245	2005		
AT-03	2005/01/0290	2005		
AT-04	2001/01/0164	2002		
AT-05	2000/01/0348	2001		
AT-06	2000/20/0245	2002		
AT-07	2001/01/0164	2002		
AT-08	2004/21/0134	2004		
AT-09	2002/01/0060	2003		
AT-10	2000/20/0020	2002		
AT-11	223.315/0-VIII/23/01	2003	Independent Federal Asylum Board (UBAS)	
AT-12	227.558/10-I/02/04	2004		
AT-13	225.992/8-I/02/05	2005		
AT-14	218.974/11-I/02/06	2006		
AT-15	219.896/7-I/02/04	2004		
AT-16	2003/20/0486	2004	High Administrative Court	
BE-01	04-3503/F1761	2005	Permanent Refugee Appeal Board	Belgium
BE-02	04-3388/F1755	2005		
BE-03	04-2399/R12893	2005		
BE-04	04-0629/F2275	2006		
BE-05	02-0266/F1595	2003		
BE-06	02-0920/R11111	2003		
BE-07	98-0886/R8485	2000		
BE-08	05-1554/W11129	2005		
BE-09	04-1402/W10502	2005		
BE-10	00-1754/W6924	2001		
BE-11	05-0979/W11535	2006		

Code	Judgment/decision	Year	National court/ judicial body	Country
BG-01	No. 1400 of 18 February 2003	2003	High Administrative Court	Bulgaria
BG-02	No. 2968 of 31 March 2004	2004		
BG-03	No. 3253 of 13 April 2004	2004		
CZ-01	6 A 636/1993	1994	High Court	Czech Republic
CZ-02	6 A 592/1993	1994		
CZ-03	7 A 539/1995	1998		
CZ-04	6 A 780/2000-32	2002		
CZ-05	5 A 516/1999-54	2001		
CZ-06	6 A 781/2000-21	2002		
CZ-07	4 Azs 467/2004-89	2005	Supreme Administrative Court	
CZ-08	6 Azs 50/2003-89	2004		
CZ-09	5 Azs 202/2004	2004		
CZ-10	6 Azs 371/2004-52	2004		
CZ-11	2 Azs 41/2007	2007		
CZ-12	47 Az 22/2003	2003	Regional Court of Prague	
CZ-13	52 Az 48/2003	2003	Regional Court of Hradec Králové	
CZ-14	36 Az 418/2003	2003	Regional Court of Brno	
CZ-15	55 Az 663/2003	2004		
CZ-16	36 Az 263/2004	2005		
CZ-17	55 Az 52/2004	2005		
CZ-18	56 Az 316/2006	2007		
DE-01	1 B 12.04 (M7626)	2004	Federal Administrative Court	Germany
DE-02	1 B 217.02 (M7433)	2003		
DE-03	OVG 3 B 15.95 (M0178)	2000	High Administrative Court of Berlin	
DE-04	1 A 296/02 (M7468)	2005	Administrative Court of Lüneburg	
ES-01	2098/2002 (appeal no.)	2005	Supreme Court	Spain
ES-02	3213/2002 (appeal no.)	2005		
ES-03	7108/2000 (appeal no.)	2004		
ES-04	7130/2000 (appeal no.)	2004		
ES-05	94/2001 (appeal no.)	2002	National Court of Justice	
FR-01	394962, Mlle. B.	2002	Asylum Appeal Board (CRR)	France
FR-02	174085, Mlle. R.	1998	Council of State	
HU-01	24.K.33839/2005/7	2005	Municipal Court of Budapest	Hungary
HU-02	24.K.33469/2004/16	2004		
HU-03	6K/34029/2005/8	2005		
HU-04	6K/31468/2005/8	2005		
HU-05	6K/31128/2005/8	2005		
HU-06	24.K.33469/2004/16	2004		
HU-07	6.K.35121/2005/14	2005		
HU-08	18.Kpk.45276/2002/2	2002		

Code	Judgment/decision	Year	National court/ judicial body	Country
IE-01	Atanasov v Refugee Appeals Tribunal, 7 July 2006	2006	Supreme Court	Ireland
IE-02	Adam and Ors. v Minister for Justice, Equality and Law Reform, 5 April 2001	2001		
IE-03	Camara v Minister for Justice, Equality and Law Reform, 26 July 2000	2000	High Court	
IE-04	Zgnat'ev v Minister for Justice, Equality and Law Reform, 29 March 2001	2001		
IE-05	Zgnat'ev v Minister for Justice, Equality and Law Reform, 17 July 2001	2001		
IE-06	A(F) v Minister for Justice, Equality and Law Reform, 21 December 2001	2001		
IE-07	Manuel Rose v Minsiter for Justice, Equality and Law Reform, 2 October 2002	2002		
IE-08	Traore v Refugee Appeals Tribunal, 14 May 2004	2004		
IE-09	H(D) v Refugee Applications Commissioner, 27 May 2004	2004		
IE-10	Biti v John Ryan and Refugee Appeals Tribunal, 24 January 2005	2005		
IE-11	Idiakheua v Minister for Justice, Equality and Law Reform, 10 May 2005	2005		
IE-12	Imoh v Refugee Appeals Tribunal, 24 June 2005	2005		
IE-13	Muia v Refugee Appeals Tribunal, 11 November 2005	2005		
IE-14	Sango v The Minister for Justice and Ors., 24 November 2005	2005		
IE-15	Imafu v Minister and Ors., 9 December 2005	2005		
IE-16	Ngangtchang v Refugee Appeals Tribunal, 21 December 2005	2005		
IE-17	Kikumbi and Anor. v Refugee Applications Commissioner and Ors., 7 February 2007	2007		
IE-18	Bisong v Minister for Justice, Equality and Law Reform, 25 April 2005	2005		
IT-01	O. v The Central Commission for the Recognition of Refugee Status and The Ministry of the Interior, 1601/2003	2003	Civil Court of Lecce	Italy

Code	Judgment/decision	Year	National court/ judicial body	Country
LT-01	A6-626-03	2003	Supreme Administrative Court	Lithuania
LT-02	A5-17/2004	2004		
LT-03	III12-12-04	2004	Administrative Court of Vilnius District	
NL-01	200303977, NAV 2002/02	2001	State Council	The Netherlands
NL-02	200407775/1	2005		
NL-03	05/14268	2006	Court of Arnhem	
NL-04	200305368/1	2004	State Council	
PL-01	1134-1/S/02	2002	Refugee Board	Poland
PL-02	723-1/S/05	2005		
PL-03	171-2/S/2004	2004		
PL-04	547-1/S/2004	2004		
PL-05	V SA/Wa 1236/04	2004	Regional Administrative Court of Warsaw	
PL-06	V SA/Wa 1873/04	2005		
PL-07	V SA/Wa 3467/04	2005		
PL-08	V SA/Wa 2138/04	2005		
PL-09	V SA/Wa 1887/04	2005		
PL-10	V SA/Wa 2139/04	2005		
PL-11	V SA/Wa 918/06	2006		
PL-12	V SA/Wa 2616/05	2006		
PL-13	V SA 610/00	2000		
RO-01	3402/30.05.2005	2005	Local Court of Sector 5, Bucharest	Romania
RO-02	3221/05.05.2006	2006		
RO-03	3220/05.05.2006	2006		
SE-01	B.E. v Migration Court, no. MIG 2006:7	2006	Migration Appeal Court	Sweden
SI-01	U 696/2006	2006	Administrative Court	Slovenia
SI-02	U 1332/2003	2003		
SI-03	U 439/2004	2004		
SI-04	U 509/2005	2005		

Code	Judgment/decision	Year	National court/ judicial body	Country
SK-01	9 Saz 41/2006	2006	Regional Court of Bratislava	Slovakia
SK-02	2 Saz/1/2006	2006		
SK-03	11 Saz 5/2005	2005		
SK-04	9 Saz 36/2005	2005		
SK-05	10 Saz 43/2005	2005		
SK-06	10 Saz 40/2005	2005		
SK-07	10 Saz 32/2005	2005		
SK-08	1 Saz 2/03	2003	Regional Court of Košice	
SK-09	5 Saz 7/04	2004		
SK-10	9 Saz/16/2004	2004	Regional Court of Bratislava	
SK-11	10 Saz/27/2004	2004		
SK-12	11 Saz 39/2004	2004		
SK-13	11 Saz 28/2004	2004		
SK-14	11 Saz 9/2003	2003		
SK-15	10 Saz/20/2006	2006	Regional Court of Košice	
UK-01	Karnakaran v Secretary of State for the Home Department [2000] Imm AR 271	2000	Court of Appeal	The United Kingdom
UK-02	Justin Surenduran Deevaselan vs The Secretary of State for the Home Department [2002] UKIAT 00702	2002	Immigration Appeal Tribunal	
UK-03	Ahmed (R v IAT, ex parte Sardar Ahmed) [1999] INLR 473	1999		
UK-04	Y v SSHD [2006] EWCA Civ 1223	2006	Court of Appeal	
UK-05	RB (Credibility - Objective evidence) Uganda [2004] UKIAT 00339	2004	Immigration Appeal Tribunal	
UK-06	ZN (Warlords – CIPU list not comprehensive) Afghanistan [2005] UKIAT00096	2005		
UK-07	(Educated women – Chaldo-Assyrians – risk) Iraq CG [2006] UKAIT 00060	2006	Asylum and Immigration Tribunal	
UK-08	Safet Pajaziti v The Secretary of State for the Home Department [2005] EWCA Civ 518	2005	Court of Appeal	
UK-09	Manzeke v. The Secretary of State for the Home Department [1997] EWCA Civ 1888	1997		
UK-10	Milan Horvath v The Secretary of State for the Home Department [1997] INLR 7	1997	Immigration Appeal Tribunal	

Recent publications of the Hungarian Helsinki Committee

András Kádár, Balázs Tóth, István Varró: Without Defense – Recommendations for the Reform of the Hungarian Ex Officio Appointment System in Criminal Matters, Budapest, 2007

Júlia Mink: Detention of Asylum-Seekers in Hungary – Legal Framework and Practice, Budapest, 2007

Gábor Gyulai: Forgotten without Reason – Protection of Non-Refugee Stateless Persons in Central Europe, Budapest, 2007

Useful websites

www.ecoi.net provides up-to-date and publicly available country of origin information with a special focus on the needs of asylum lawyers, refugee counsels and persons deciding on claims for asylum and other forms of international protection. Access to information is facilitated by a comprehensive search tool and Topics & Issues files, offering thematically structured information on asylum-relevant topics and issues for a set of focus countries. Operated by ACCORD.

www.coi-network.net is the website of the Europe-wide COI Network.

www.coi-training.net offers COI training and e-training opportunities and related information for all target groups in various languages, based on the training manual developed by ACCORD and COI Network partners.

www.refugeelawreader.org – The Refugee Law Reader is the first comprehensive on-line model curriculum for the study of the complex and rapidly evolving field of international asylum and refugee law. The Reader is aimed for the use of professors, lawyers, advocates and students across a wide range of national jurisdictions. It provides a flexible course structure that can be easily adapted to meet a range of training and resource needs. The Reader also offers access to the complete texts of up-to-date core legal materials, instruments and academic commentary. In its entirety, the Refugee Law Reader is designed to provide a full curriculum for a 48-hour course in International Refugee Law and contains over 600 documents and materials. Publisher: Hungarian Helsinki Committee; Editorial Board: Rosemary Byrne (editor-in-chief), B.S. Chimni, Maryellen Fullerton, Madeline Garlick, Elspeth Guild, Lyra Jakulevièienė, Boldizsár Nagy, Luis Peral, Jens Vedsted-Hansen.

www.refworld.org contains a vast collection of reports relating to situations in countries of origin, policy documents and positions, and documents relating to international and national legal frameworks. The information is selected and compiled from UNHCR's global network of field offices, governments, international, regional and non-governmental organisations, academic institutions and judicial bodies. Operated by the UNHCR.

In recent years, country information (COI) has become one of the main issues on the European asylum agenda, partly as a result of the spectacular advancement of information technologies. As the first such trans-national initiative, this study aims to draw a complex picture of how substantive quality standards of researching and assessing COI appear in the form of legal requirements in the EU, either as binding legal provisions or guiding judicial practice. Thus, the publication of the Hungarian Helsinki Committee provides a useful tool and a set of concrete examples for policy- and law-makers, advocates, judges and trainers active in this field.