



# KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee*

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## Case Summary Template

Country of Decision/Jurisdiction	<b>Bulgaria</b>
Case Name/Title	Sina Faham v. the head of the State Agency for Refugees
Court Name <i>(Both in English and in the original language)</i>	Supreme Administrative Court <i>(Върховен административен съд)</i> Panel of five judges
Neutral Citation Number	2866/2011
Other Citation Number	
Date Decision Delivered	17/05/2011
Country of Applicant/Claimant	Iran
Keywords	credibility, persecution on ground of political opinion
Head Note (Summary of Summary)	In this case Mr. Sina Faham appealed the judgment of the first instance court (a panel of three SAC judges) that had dismissed his appeal against the decision of the head of the State Agency for Refugees to refuse refugee and subsidiary protection to him. The administrative organ and the first instance court had concluded that Mr. Faham's fear stemmed from events that only had criminal character and that his statements about detention following involvement in demonstrations were not credible.
Case Summary (150-500)	
<i>Facts</i>	<p>Mr. Faham stated that he was a student in "computer engineering" in Iran. He had an internet blog that he used to call for student participation in political protests and demonstrations. He was a member of the pre-election team of Mr. Mir-Hossein Mousavi who stood as candidate for president of Iran. Mr. Faham was detained and criminal charges for instigation of unlawful demonstrations and unrest were placed against him. He was released on bail following a significant payment made by his uncle, after which he fled to Turkey, wherefrom he came to Bulgaria. He was sentenced to three years of imprisonment on the criminal charges in Iran.</p> <p>The head of the State Agency for Refugees assumed that the applicant's statements were not credible. Firstly, the organ said that there were contradictions in the dates related by the applicant. Secondly, regarding his arrest, Mr. Faham had stated that he was detained by men in civil clothes, but he didn't know more details about who these men were. Thirdly, the country of origin information unit at the State Agency for Refugees could not find the city that the applicant claimed that he was coming from.</p> <p>At the court hearing, Mr. Faham presented the following evidence: his Iranian identity card, his student card with his picture, his card as a member of the election campaign team of Mir-Hossein Mousavi, a contract for bail</p>



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	paid by the applicant's uncle and the sentence by the Iranian court.
<i>Decision &amp; Reasoning</i>	<p>Firstly, the Court stated that it could not share the conclusion of the first judicial instance and the administrative organ that the detention and the threats that Mr. Faham had undergone were of purely criminal character. The court noted that the right to demonstrations is a fundamental civil and political right.</p> <p>Secondly, regarding the applicant's credibility, the Court made the following observations:</p> <ol style="list-style-type: none"> <li>1) The first instance court had not discussed the objection raised by the applicant that the contradictions in the dates stated by him were due to the difference with the Iranian calendar and the discrepancies in the interpretation during the asylum interview. The court stated that the validity of this objection was decisive for the applicant's credibility;</li> <li>2) Regarding the inability of the State Agency for Refugees to find the applicant's city of origin in Iran, the Court noted that the administrative organ should have referred also to an external independent source, such as, e.g. the Ministry of Foreign Affairs;</li> <li>3) The court referred to a recent report by Amnesty International that confirmed the applicant's statements;</li> <li>4) At the asylum interview the applicant wrote down the web address of his internet blog, but the head of the State Agency for Refugees did not appear to have checked that web address.</li> </ol>
<i>Outcome</i>	The panel of five judges of the Supreme Administrative Court repealed the judgment of the first instance court and the decision of the head of the State Agency for Refugees and obliged the administrative organ to issue another decision following the binding instructions by the court.