



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	Austria
Case Name/Title	A. v. Federal Asylum Review Board (FARB, by now: Asylum Court)
Court Name <i>(Both in English and in the original language)</i>	Supreme Administrative Court (Verwaltungsgerichtshof)
Neutral Citation Number	2006/20/0197
Other Citation Number	
Date Decision Delivered	31/03/2009
Country of Applicant/Claimant	Nigeria
Keywords	Credibility, country of origin information, procedural rules;
Head Note (Summary of Summary)	Complaint against the refusal to grant refugee status/subsidiary protection as the complainant's statement regarding an actual threat in Nigeria lacked credibility.
Case Summary (150-500)	The complainant's father was the leader of a group called Irawo-Owode. There had been fights between the Irawo-Owode and the Irawo-Ile about predominance in Ibadan, Nigeria. In January 2004, the Irawo-Ile's leader came to his father's house together with a group of armed men. One of them tried to shoot the complainant. While he was able to dodge the shot, his sister was hit fatally. Subsequently, fights started which left many people killed and many houses, among them government buildings, destroyed. For this reason, the Governor of Oyo State intervened. Members of the Irawo-Ile as well as the police in Nigeria looked for the complainant. He feared that he would be killed if any of them found him. The complainant applied for international protection in Austria on the 19 th of February 2004.
<i>Facts</i>	The Federal Asylum Agency (FAA) denied the application for international protection in the first instance administrative procedure. It considered the complainant's statement regarding his routeing to Austria as fairly vague. This was deemed as an indication for his whole statement not being true. Regarding the motives for escape, the FAA assessed the complainant's statement as vague and limited to platitudes. According to the FAA, he was not able to establish a connection to his person or to show credibly that he actually experienced the described occurrences. The FARB decided to follow the FAA's reasoning and dismissed the appeal without any public hearing of the complainant.
<i>Decision & Reasoning</i>	The Court objected to the FAA's reasoning, calling it incomprehensible: "The Supreme Administrative Court cannot comprehend how the Federal Asylum Agency could arrive at the conclusion that the complainant had



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	<p>described the facts vaguely and limited to platitudes. These very general considerations are insufficient for a comprehensive reasoning as they do not reveal which concrete or detailed statements were expected in addition to his description, which lacked internal contradictions. (...) A concrete examination of the complainant's statements was not conducted. Moreover, the FAA failed to introduce the real background of the occurrences described by the complainant (conflict between Irawo-Ile and Irawo-Owode) into the consideration of evidence and to measure the credibility of the complainant's statements by comparing them with reports concerning these occurrences (...)."</p> <p><i>„Es ist für den Verwaltungsgerichtshof nicht nachvollziehbar, wie das Bundesasylamt zu dem Ergebnis kommen konnte, der Beschwerdeführer habe den Sachverhalt vage geschildert und sich auf Gemeinplätze beschränkt. Diese - sehr allgemein gehaltenen - Überlegungen reichen für eine nachvollziehbare Beweiswürdigung nicht aus, lassen sie doch nicht erkennen, welche konkreten oder detaillierten Angaben vom Beschwerdeführer zusätzlich zu seiner - keine inneren Widersprüche enthaltenden - Erzählung noch erwartet worden wären. (...) Eine konkrete Auseinandersetzung mit dem Vorbringen des Beschwerdeführers erfolgte nicht. Auch wurde es unterlassen, den realen Hintergrund der vom Beschwerdeführer vorgetragenen Geschichte (Konflikt zwischen Irawo-Ile und Irawo-Owode im Jahr 2004) in die beweiswürdigenden Überlegungen einzubeziehen und die Glaubwürdigkeit der Behauptungen des Beschwerdeführers auch im Vergleich zu den diese Ereignisse betreffenden Berichten zu messen (...).“</i></p> <p>As a result, the FARB's consideration of evidence referring to the FAA's considerations was deemed incomprehensible. Additionally, considering the above described, according to the Court, the FARB had not been allowed to desist from hearing the complainant.</p>
<p><i>Outcome</i></p>	<p>The FARB's decision was repealed for unlawfulness because of violation of procedural rules.</p>