

# QIEE NEWSLETTER

Newsletter of the “Quality Initiative of Asylum Systems in Eastern Europe and South Caucasus” (QIEE)

**APRIL – AUGUST 2017**



QIEE participating countries

## IN THIS ISSUE

- [\[2\] QIEE Achievements and Challenges in the Region](#)
- [\[4\] Judicial Updates – Important Decisions by the Courts in the QIEE Region](#)
- [\[5\] Regional Workshop for Judges](#)
- [\[7\] Regional Workshop on Researching COI and Recommendations for Implementation](#)
- [\[8\] Launch of the COI Library and the COI Platform from MRA in Georgia](#)
- [\[9\] Updates on the Russian Refworld](#)
- [\[9\] Collaboration with EASO](#)
- [\[10\] Regional Conference for Border Officials and Recommendations for Implementations](#)
- [\[12\] On 1 July 2017 a New Law on Refugees in Belarus](#)
- [\[13\] National Activities in Azerbaijan](#)
- [\[15\] Seminar for Judges Working on Asylum Cases was organised in Kyiv, Ukraine](#)
- [\[16\] National Activities in Armenia](#)
- [\[19\] National Activities in Georgia](#)
- [\[20\] Key details about QIEE](#)

# QIEE Achievements and Challenges in the Region

While the participating governments continued working on improving the first instance capacity of RSD procedures, the period from 2015 to the present has also featured a high level of participation and engagement of the judiciary. Judges from the region participated in a number of UNHCR theoretical and practical trainings and conferences for the judiciary at the national and regional level. The judges from the region took active participation in the international refugee law conferences organized by the International Association of Refugee Law Judges (IARLJ) and attended lectures and workshops run by the members of the IARLJ, experienced asylum judges from various EU countries. Additionally, the project has issued a plethora of on-the-job monitoring, development and implementation of quality tools, checklists and standard operating procedures.

As the result of these and other efforts, the courts have started issuing decisions that rule on the merits of the asylum cases as well as on the procedural issues. As indicated in the Table below, the court decisions awarding status, instead of the previously widespread practice of returning cases to the first instance for reworking, have become more common.

## Protection Rate\* — Courts

1 JANUARY - 30 JUNE 2017

	Status Grants	Returned**	Out of Total No of Courts Decisions
<b>Belarus</b>	0	0	28
<b>Armenia</b>	0	3	2
<b>Azerbaijan</b>	0	0	0
<b>Georgia</b>	7	20	74
<b>Moldova</b>	0	1	26
<b>Ukraine</b>	12	57	161

\* Protection rate refers to a conglomerate recognition rate for two kinds of protection status: Complimentary Protection (CP) and Convention Refugee Status (RS)

\*\* Returned to RSD procedure at the first instance authorities or to lower instance

More and more judges became more active and interested in asylum and refugee law. Many of them have joined the International Association of Refugee Law Judges (IARLJ) and have become refugee law trainers in the EASO training courses run by UNHCR in the region.

Similarly, UNHCR has noted an increased interest and engagement of the border officials of the six countries of the QIEE. In the course of the last two years of the project, a number of countries have amended their legislation to allow for a more streamlined procedure of access to territory and referral to the asylum procedure, in line with the international standards. Other QIEE states have developed administrative bylaws and regulations providing for closer cooperation and defining the roles of border officials in the asylum and referral process. Better awareness of the border officials of asylum-related issues is also apparent during various national and regional training events and roundtables.

The aforementioned improvements represent large achieves for the region. At the same time, continued improvement to the asylum process remains needed. From 2014 to applicants from Ukraine represented the majority of asylum-seekers in the region. The majority of them were provided with humanitarian/temporary asylum, thereby increasing the overall recognition/protection rates in the region for that period of time. Following the 2016 drop in applications from Ukrainians seeking asylum in the neighbouring countries, a drop in the recognition rates of the asylum-seekers of other nationalities became obvious in 2016. As shown in the graph below, the trend has improved to some degree in a number of QIEE countries in 2017, but remains worrisome in others. The recognition of nationalities with acute and widespread protection needs, also explicitly provided in the below graph for 2015, 2016 and 2017, such as Syrians, Iraqis, Afghans, Somalis appear disproportionately low in the region. (see *Total Protection Rate chart*).

Furthermore, the backlogs at the first instance level and those with the courts in some of the countries also remain a significant problem. Another remaining issue is that many of the first instance decisions are grounded on little evidence provided by the national security services and lack proper exclusion assessments. The courts are then faced with the difficult task of untangling the reasoning of these first instance decisions and requesting access to the evidence available to the national security services. Access by the courts to information deemed to be classified is often limited. Other times, the information provided by security services is insufficient to substantiate the refusal of protection. Independence of the judiciary in the face of national security is continuously tested throughout the region.

Although we see a positive momentum in the courts of the region, judgements still often times, fall short of providing proper analysis of the

merits and procedural aspects of the applicants' appeals. With important and notable exceptions, the quality of court decisions, although improving gradually, still remains problematic, with some courts still heavily relying on the information contained in the first instance assessments in their judgements, without fully assessing the merits and procedural aspects of the claims in front of them.

At this point in time, it is appropriate to again evaluate the results of the project and determine the most effective way forward. UNHCR would like to invite the QIEE member states, while working on the gaps analysis and implementation plans for each country, to critically assess the current state of affairs, work jointly to address needs for improvement where they exist and produce action plans aimed at addressing these shortcomings.

— RPSU

#### TOTAL PROTECTION RATE

	Afghanistan			Iraq			Syria		
	2015	2016	2017	2015	2016	2017	2015	2016	2017
Azerbaijan	0%	42%	0%	–	0%	–	0%	78%	–
Armenia	–	0%	–	87%	6%	100%	100%	91%	100%
Belarus	20%	13%	26%	13%	43%	0%	75%	71%	92%
Georgia	0%	0%	0%	89%	59%	16%	75%	89%	10%
Moldova	60%	18%	–	100%	75%	50%	97%	86%	75%
Ukraine	20%	13%	26%	27%	4%	10%	19%	32%	26%

# JUDICIAL UPDATES

Important Decisions by the Courts in the QIEE Region.

## GEORGIA

In the first half of 2017, several precedent-setting decisions were identified in **Georgian asylum adjudication**:

- An asylum-seeker, who was penalized for illegal entry was found not guilty by one of the regional courts in Georgia. It is one of the positive precedents where non-penalization principle was applied and interpreted by the court in line with Article 31 of 1951 Convention on the Status of Refugees.
- The legality of detention of asylum-seeker was examined by a court taking into account relevant international standards (UNHCR detention guidelines, UN human rights council recommendations) and ECtHR case law. The court emphasized that detention is an *ultima ratio* measure and alternatives to detention are to be seriously considered as potential option in asylum cases. The first asylum-seeker from Sri Lanka was granted humanitarian status directly by the Tbilisi Court of Appeals, whereas the previous practice of the courts of Georgia was to return cases to the first instance body. Even though the asylum authority clearly emphasized in its decision that individual did not meet neither refugee nor humanitarian status criteria, the judges relied upon the COI submitted by the lawyers and overruled the decision. The case did not concern national security grounds and was fully examined by the court on its merits.
- The court has clearly emphasized in three similar Iraqi cases that asylum authority should thoroughly examine the criteria for refugee status for the citizens of Iraq applying for asylum in Georgia rather than examining the grounds for humanitarian protection instead. This reasoning became a ground for partly positive decisions from the courts where the cases were returned back to the administrative authority for reconsideration.

## REPUBLIC of MOLDOVA

Chisinau Court of Appeal's decision concerning an applicant from Ukraine, which represents an important precedent against the background of mass rejections of asylum-seekers from Eastern Ukraine by the Moldovan Bureau for Migration and Asylum (BMA) on the grounds of applicability of internal flight and relocation alternative.

A Ukrainian woman, mother of two children, from Eastern part of Ukraine had appealed to the Chisinau Court of Appeals against the ruling of Chisinau City Court dismissing her appeal against the rejection of the Bureau of Migration and Asylum (BMA) of the Ministry of Internal Affairs. In its decision, the BMA decided that the applicant and her family had an opportunity for internal relocation within Ukraine. In the reasoning of the appeal, the plaintiff indicated that she and her family had suffered as a result of the military actions in Eastern Ukraine, where she was afraid for her and her children's lives. She also indicated that her husband was granted humanitarian protection in Moldova in February 2015 and remains in Moldova. Consequently the plaintiff's husband is located on the territory of the Republic of Moldova, and the plaintiff on the grounds of the established decision was to return to Ukraine with her two minor children, a fact that would not only violate the principle of the family's unity but also the right of the minor children to be raised and educated in a family, the right to maintenance, the right of their father to participate in the education and meetings with the children, etc.

In its decision, the Court of Appeal annulled the decision of the Bureau for Migration and Asylum, overturned the decision of the court of first instance and ordered the first instance court to issue a new decision according to which the plaintiff's demands are admitted.

## QIEE Regional Workshop for Judges



On 13-15 June 2017, more than 20 judges from the former Soviet countries and Western Balkans were gathered in a workshop on Elements of Refugee Law and Evidence Assessment in Asylum Context, organised by UNHCR, within the framework of the Asylum Systems QIEE regional project.

In his opening remarks **Mr. Johannes van der Klaauw**, the UNHCR Regional Representative in the South Caucasus, underlined the important role of the judiciary as the guardian of international and national law. He spoke of challenges associated with preserving the humanitarian, non-political nature, of asylum and addressing national security concerns without undermining refugee protection. He particularly underlined the role of the judiciary in the interpretation and proper application of credibility assessment, forward-looking risk assessment, and notion of persecution by developing a body of progressive case law and contributing to the reform of the relevant legislation.

Justice **Wolfgang Bartz**, President of the Administrative Court of Braunschweig, Germany, made a presentation on the role of the European Regional Courts, i.e. European Court of Human Rights and Court of Justice of the European Union in the field of refugee law and asylum and underlined the importance of the possibility for the national courts to review not only points of law, but also facts, looking into issues of

credibility, COI and making an *ex nunc* examination of the cases. He underlined that hearing the applicant in the court may be particularly useful when assessing the merits of the case.

Participants of the workshop discussed a number of practical and doctrinal issues arising in the context of adjudicating claims related to sexual orientation and religion-based claims. Importance of avoiding findings on credibility based on plausibility only when the findings are not supported by evidence, such as country of origin information, for example, was highlighted. The judgment of the Court of Justice of the European Union in the **A, B, C case** was discussed where the Court stressed that national authorities should not use humiliating material and intrusive and abusive questioning and tests when assessing the asylum claims of persons with diverse sexual orientation and gender identity. Such methods would violate human dignity and be contrary to EU law.

Challenges of assessing credibility in LGBTI claims and religion-based claims were discussed together with some techniques on how to overcome those such as exhibiting a holistic approach towards details about individual experiences, the applicants' feelings and attitudes, and relationships as well as involving witnesses from the country of origin in religion-based claims in particular. The principle of the benefit of the doubt was exemplified on concrete examples.

A session on COI covered issues of legal relevance of COI in assessing credibility and future risk, research methodology and quality and relevance of COI sources as well as introduced some tools for assessing the quality of COI.

A one-day interactive discussion on evidence assessment facilitated by **Mr. Gabor Gyulai**, Refugee Programme Coordinator at the Hungarian Helsinki Committee and co-author of a [Multidisciplinary training manual on credibility assessment](#) gave an opportunity for an in-depth

overview of the specificities of evidence assessment in asylum cases and the role of the credibility assessment; credibility indicators and their limits; the limits and specificities of human memory and the impact of trauma; linguistic and intercultural barriers in interviewing asylum-seekers and in credibility assessment; the factors influencing the decision-maker, such as mood, professional experience and environment, and personal characteristics; as well as legal standards for a better credibility assessment such as structure, fairness, objectiveness and transparency. The importance of involving a trained expert in cases of applicants, who suffer from post-traumatic stress disorder as well as of resorting to expert evidence when relevant more generally was highlighted.

**Mr. Samuel Bouterche**, Judicial Engagement Coordinator at UNHCR Bureau for Europe presented the main directions of UNHCR's judicial engagement activities, i.e. court interventions, supporting strategic litigation and capacity development of judges and lawyers. An introduction about the role and relevance of the jurisprudence of the European Court of Human Rights was followed by a comprehensive overview of the jurisprudence of the Court as relevant to the principle of non-refoulement, access to territory and asylum procedures, the right to an effective remedy in the asylum context, evidence assessment and assessment of future risk. A particular focus of the discussion

was absolute prohibition of protection against refoulement under Article 3 of the European Convention on Human Rights (e.g. [Saadi v Italy](#)), including where national security considerations exist. Other issues of interest were evidence assessment and the principle of the benefit of doubt ([M.S.S. v Belgium and Greece](#), [F.G. v. Sweden](#) etc.), the scope of the risk assessment, i.e. close and rigorous scrutiny and the role and quality of COI ([Salah Sheekh v. The Netherlands](#)) as well as the positive obligation of the State to assess all potential risks in case of return ([F.G. v. Sweden](#)).

In a concluding session a representative of the European Asylum Support Office (EASO), a UNHCR's partner including in the QIEE project, introduced the [EASO network for members of courts and tribunals](#) as well as professional development activities conducted for judges in the EU and EASO's publications for judges.

The participants had a chance to apply all acquired knowledge and skills during a moot court. They assessed the event as highly effective and expressed an interest in future sessions focusing on different types of persecutory treatment prevalent in different countries as well as the appropriate use of expert evidence in asylum procedures.

— **MARINE ANTONYAN (UNHCR ARMENIA) FOR RPSU**



*Participants of the Regional Workshop for Judges, 15 June 2017*



# UPDATES ON COUNTRY OF ORIGIN INFORMATION (COI)

## Regional Workshop on Researching COI (April 2017)



*COI workshop's facilitators*

The Regional Workshop on COI Research held by the RPSU in April 2017 was the first meeting of the COI research staff since the launch of the Russian Refworld database in 2013. The workshop was designed as a practical skills training with specific presentations on countries of origin of asylum-seekers of key nationalities in the QIEE region. Furthermore, the event was to serve as a launch for a network of COI researchers throughout the region with the purpose of enhancing the regional capacity and support network on COI in Eastern Europe.

During the two-day event in Tbilisi, COI experts from UNHCR Department of International Protection (DIP), Swedish COI Unit Lifos, and MILO of the German BAMF explained the intricacies of COI structures that exist in various parts of the EU. The focus was given to the practical elements on how to build and maintain COI databases, day-to-day functioning of COI

Units and focal points and, of course, to the key function of COI as an important source of evidence in refugee status determination procedures (RSD). COI research methodology was discussed and practical examples of real cases were provided in advance by the countries represented. Presentations on the current situation in Syria, Afghanistan, Yemen, and Somalia were provided by the experts on these countries from UNHCR, German and Swedish asylum authorities.

As the result of the workshop, the participants have agreed to create a unified Russian-language COI researchers network and an online platform for collaboration, exchange of information and experience in the field of COI. Although many of the countries of the region now have separate standing COI Units, or at least a focal point within the first instance authorities, lack of access to quality COI in languages understood by the officials, some of whom may not fluently read English, remains a challenge in many of the countries. Further discussion on the creation of adequate COI units, or structures, with full independence and accessibility by various actors in the asylum procedures will continue. Additionally, the representatives from the six countries unanimously agreed to the following **recommendations** that are currently being implemented by UNHCR.

*(Continued on page 6)*



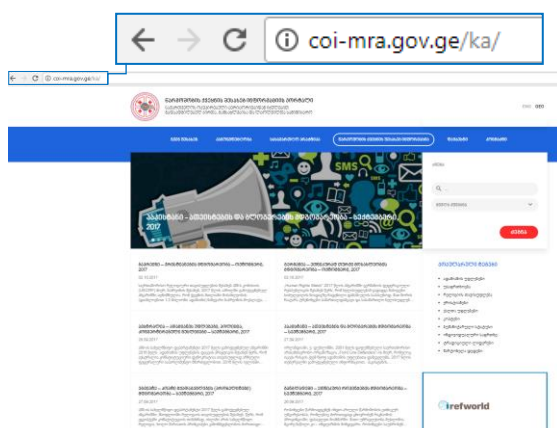
## Recommendations for Implementation

- ☑ Establishment of regional COI experts network for COI researchers at the first instance bodies of the region, NGOs performing COI research and courts.
- ☑ Creation of an online regional COI platform for exchange of opinions, questions and materials for COI practitioners in the region.
- ☑ To develop and deliver additional COI trainings provided by COI focal points and UNHCR (when needed) to the eligibility staff/NGOs/Lawyers and judges in the QIEE countries.
- ☑ To look into the possibility for the participation of the COI focal points from the region in other COI experts meetings in other regions (such as the EASO COI network).
- ☑ To assess the feasibility of improving the mastery of English language among the first instance adjudicators through organisation of English language courses.
- ☑ To develop a regional expert forum composed of local academia, NGOs, etc. for the region, which could be addressed for specific COI queries and methodological issues.
- ☑ Creation of customised google searches for COI in Russian.
- ☑ Continuation of the COI Webinar trainings that will serve as a forum for discussion of particular trends, countries and questions.

*Tbilisi, Georgia  
27 April 2017*

## COI Library and the COI Platform from MRA

On 30 June 2017, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of



Georgia launched its COI library and online portal containing country of origin information on key nationalities of relevance to Georgian asylum system.

The online site is public and is accessible to all state agencies involved in asylum procedures, courts and also for any other interested parties. The launch of such online platform and library for the staff of the asylum authority in Georgia is another step towards improving the access to quality COI in Georgia.

— UNHCR GEORGIA



## Updates on the Russian Refworld



**Credibility Assessment in Asylum Procedures - A Multidisciplinary Training Manual, Volume 2, 2015**  
<http://www.refworld.org.ru/docid/5a40c2e74.html>

**Afghanistan Protection of Civilians in Armed Conflict UNAMA's Annual Report 2016**  
<http://www.refworld.org.ru/docid/597b42ca4.html>

**UNHCR RSD Procedural Standards - Appeal of Negative RSD Decisions**  
<http://www.refworld.org.ru/docid/597f47114.html>

**Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions, 2 December 2016**  
<http://www.refworld.org.ru/docid/589dbe7e4.html>

**UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan, January 2017**  
<http://www.refworld.org.ru/docid/595f8d284.html>

**Relevant Country of Origin Information to Assist with the Application of UNHCR's Country Guidance on Syria: "Illegal Exit" from Syria and Related Issues for Determining the International Protection Needs of Asylum-Seekers from Syria, February 2017**  
<http://www.refworld.org.ru/docid/595f8e9a4.html>

*The indicated links refer to the Russian version of the documents. For the version in English, please open the link and refer to the corresponding link at the top of the page.*

### IN BRIEF

#### Summary of the EASO Events on the Regional and National Level



UNHCR continues enjoying a close relationship with the European Asylum Support Office (EASO). QIEE continues running a series of EASO-developed trainings and enjoys the presence of EASO experts at many of the regional events.

Throughout the reporting period, QIEE has held face-to-face meetings on **Evidence Assessment** in Chisinau, Moldova on

23-24 March 2017, Ukraine on 16-17 May, and in Armenia on 24-25 May 2017.

National trainings on **EASO Interviewing Vulnerable Persons** Module were also organised in Minsk, Belarus on 20-21 April and in Kyiv, Ukraine in March 2017.

A regional train-the-trainers workshop on **EASO Inclusion** Module also took place in Minsk, Belarus in early July 2017 for the 6 countries of the region. Face-to-face meeting on Inclusion, for the first time in Georgian language, was organised in Tbilisi, Georgia on 3-4 August 2017.

## Regional Conference for Border Officials on Access to Territory and Asylum Procedure



The first Regional Conference for Border Officials on Access to Procedure and Identification Mechanisms and a study visit, was held under the auspices of QIEE project, in Chisinau, Moldova on 15-18 May 2018. For the first time during the implementation of the QIEE, the conference was organised exclusively for border officials and gathered almost 40 representatives of border guard services and UNHCR staff of Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine.

The goal of the conference was to look into the role of the border officials in identification of asylum-seekers, providing access to territory and referral to proper procedures for persons in need of international protection and elaboration of a contingency plan in case of the mass influx of the irregular migrants. Additionally, all the participating countries provided an overview of their legislative provisions and administrative regulations pertaining to access to territory and procedure. Experts from UNHCR Bureau for Europe discussed the relevant caselaw of supranational courts in regards to the implementation of the states obligation to prevent refoulement. Additionally, the participants were able to hear about the practice of border officials and police in the context of Belgium and the EU member states presented by Frontex and former Belgian police commissioner on asylum, who is currently training with Frontex, Mr. Dirk Caemlyn.

The participants were reminded of the international principles and UNHCR doctrine in regards to access to territory and procedure, principle of non-refoulement and interrelation of national security and state obligation to uphold and protect the key human rights of every individual, including the right to asylum. The right to access the territory and asylum procedures, non-penalisation for illegal entry and key functions of border officials were discussed in-depth. Specific attention was devoted to the notion of identification and proper care for the most vulnerable amongst the asylum-seekers, as well as handling applicants, who do not explicitly request for asylum.

The event was co-hosted by the Border Police Department of Moldova, who provided detailed presentations of the legal framework of Moldova related to asylum. Participants were particularly interested in the presentation on the tactical exercises of mass influx conducted in Moldova and presented by Ms. Angela Poddubnaia, Head of the Professional Training Directorate at the BPD-Moldova. Colleagues from other countries also shared their best practices, including the close collaboration between UNHCR and Border Police of Georgia in implementation of joint regular border monitoring missions to the international airports and land border crossing areas.

The seminar section of the conference was followed by a day of practical visits to border crossing sites in Moldova, including the Chisinau International Airport and Border Crossing Point "Leuseni". The Head of the Transit Zone area of the Chisinau International Airport escorted the participants on a study visit to the transit zone area. During the visit, the participants were offered an opportunity to observe the databases used by the border police, the practices of the staff involved in document checking at the transit zone and observe the conditions of reception area with temporary housing quarters at the airport. The transit zone staff answered many

questions in regards to the practice and identification methodology of the Moldovan border police. As the result of these discussions, UNHCR and Border Police of Moldova were able to agree upon monitoring modalities that are to ensure prevention of any potential refoulement and further skills and capacity building of the Moldova border police in the border crossing areas.

In conclusion of the two-day conference and study visit, the participants unanimously agreed to a number of recommendations for follow up,

which will be implemented by the RPSU throughout the remainder of 2017 calendar year. Furthermore, the Border Police of Georgia has taken up the initiative and offered to host the next regional training event with a study visit component for border officials. The workshop is scheduled to take place in Batumi, Georgia, where the participants would be able to visit three border crossings: land, air and sea. The event is tentatively scheduled for May 2018.

— RPSU

## Recommendations for Implementation

- Develop of regional database of interpreters familiar with asylum, fluent in local languages, Russian and other relevant foreign languages
- Map of collaboration setups available in the QIEE countries, relevant to border officials working in asylum context
- Develop identification for vulnerable persons tool relevant for the region in Russian language (online and paper version)
- Develop of monitoring mechanisms for identification of trends and tendencies in Russian and local languages (online tool) in the context of access to territory and work of border officials in asylum
- Develop COI checklists/briefs on particular nationalists of concern for use at the border crossing points
- Implement regional training specific to identification and work/interviewing of vulnerable persons for border officials
- Organise regional/national vicarious trauma/burnout prevention trainings for border officials
- Develop a database on relevant legislation and administrative bylaws for the region.

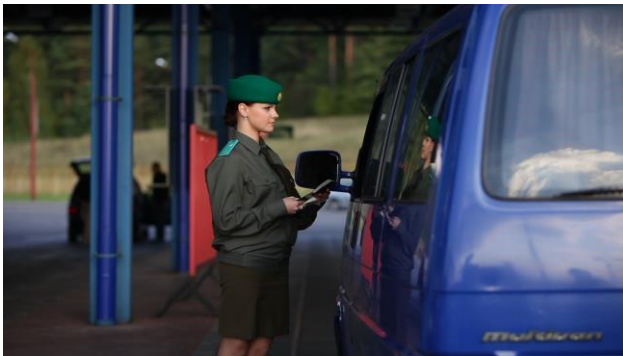
*Chisinau, Republic of Moldova  
17 May 2017*

## A New Law on Refugees Comes into Force in Belarus

ON 1 JULY 2017, THE LAW ON GRANTING OF REFUGEE STATUS, COMPLEMENTARY PROTECTION, ASYLUM AND TEMPORARY PROTECTION TO FOREIGN CITIZENS AND STATELESS PERSONS IN THE REPUBLIC OF BELARUS (THE 2016 LAW ON REFUGEES) CAME INTO FORCE.

This legislative act was adopted in July 2016 and came into force on 1 July 2017. The law-making process started in 2014 and has been conducted with the close involvement of UNHCR in Belarus. Many of UNHCR's proposed amendments were accepted and reflected in the Law on Refugees. When compared to its predecessor, the new Law on Refugees provides more socio-economic rights for recognised refugees and holders of humanitarian status in Belarus. Previously, the availability of medical care to the citizens of the CIS was regulated by the CIS Convention, whereby only emergency medical care was available free of charge to the citizens of the CIS countries present in Belarus. Now, with the adoption of the new law, adult refugees, coming from the CIS countries (in Belarus context it mostly concerns citizens of Ukraine) are now entitled to free of charge routine medical treatment.

Although the new law still retains the possibility of rejecting asylum-seekers based on the availability of safe third country, the law no longer contains specific provisions for rejecting asylum applications as abusive and manifestly unfounded or for reasons "caused by deliberate actions of the asylum-seeker after s/he left the country of his/her origin".



*Belarusian border point*

The new legislation explicitly authorises the border guards to receive the asylum applications at the international border crossing points, including transit zones of the airports. Previously the possibility to accept applications for asylum by the border officials was limited only to those received from foreigners apprehended for illegal residence in Belarus or those illegally crossing into the Belorussian proper or apprehended attempting such a crossing.

In spite of positive developments, the 2016 Law on Refugees still contains certain deficiencies that have to be addressed within the course of future legislative amendments, such as the need for additional safeguards within the procedure for adjudication of the manifestly unfounded claims, application of expedited procedures without proper assessment and safeguards in cases where safe third country concept is invoked. Overall, however, the legislative act is a step in the right direction in refugee protection in Belarus and UNHCR remains actively involved in the development and further implementation of the administrative acts pertaining to the implementation of the new law in the country.

— UNHCR BELARUS

## Workshop on Integration of Refugees in Azerbaijan



*Participants of the Workshop in Baku, 29 June 2017*

A joint UNHCR - ICMPD (International Centre for Migration Policy Development) workshop on integration of refugees with participation of the EU experts was held on 29-30 June 2017, Baku, Azerbaijan. The workshop was organized within the framework of the UNHCR QIEE as well as MOBILAZE Project (Support to the Implementation of the Mobile Partnership with Azerbaijan) of the ICMPD funded by the European Union (EU).

The objective of the workshop was to build the capacity of the local authorities through creating a platform to share the diverse and successful experience of EU countries and provide expertise in developing a road map for integration of refugees in Azerbaijan.

International experts such as, Ms. Beatrice Bernotiene, Development Specialist of the Institute of Advanced Society in Lithuania, and Mr. Martin Vysna, Integration Manager at the Migration and Integration Department of Migration Office of the Ministry of Interior of the Slovak Republic, shared the integration experience of their respective countries during the workshop. Key discussions were facilitated by the mentioned experts and presentations on the current refugee integration policies and local integration assistance programs were also delivered by specialists from UNHCR and State Migration Service.

The main purpose of the workshop was to develop inter-ministerial relations to promote the refugee integration system in Azerbaijan. It is expected that after this two day workshop, government representatives will be able to compare solutions for the various problems in the field of integration of refugees and apply more advanced methods within the framework of the inter-ministerial working group.

— UNHCR AZERBAIJAN

## QIEE National Activities in Azerbaijan

TRAINING ON GUIDELINES ON INTERNATIONAL PROTECTION #12 FOR THE STAFF OF THE STATE MIGRATION SERVICE



In April 2017, UNHCR-Baku organised a one day training for the staff of the State Migration Service of Azerbaijan on **Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions.**

The purpose of the training was to promote consistency in the interpretation and application of the provisions of the Guidelines No.12 and provide the relevant guidance to the national asylum authority for assessing claims related to the situations of armed conflict and violence. The training session was facilitated by Mr. Peter Stockholder, the Senior Regional RSD Officer and Head of the Regional Protection Support Unit.

The training was provided for the staff of the State Migration Service involved in the refugee status determination procedures, including personnel from the RSD Department, relevant staff of the Main Department for Organizational Control, the Law Department, the International Cooperation Department, and relevant staff from the Detention Centres for Illegal Migrants in Baku and Yevlakh cities.

The participants discussed the application of the UNHCR Guidelines on International Protection No. 12 to national RSD procedures. The State Migration Service appreciated expressed appreciation for the training as a good step toward the improvement of the capacity of their relevant staff. It was highlighted that the practical skills obtained from the training are useful in assisting progress toward having the national asylum systems match international standards.

## Seminar for Judges Working on Asylum Cases, Kyiv, Ukraine



*Participants of the Seminar for Judges in Kyiv, Ukraine, 20 April*

The Seminar was organised on 20-21 April in Kyiv and attended by the 25 judges of all three instances of administrative courts from 11 regions of Ukraine (circuit, appellate courts and Higher Administrative court). The event was organised with the support of the International Association of Refugee Law Judges (IARLJ) and featured presentations by three European judges, members of IARLJ: Ms. Katelijne Declerck, President of IARLJ, Belgium, Mr. Sebastiaan de Groot, First Instance Court of Haarlem, Netherlands, Prof. Dr. Boštjan Zalar, Senior High Court Judge, Administrative Court of the Republic of Slovenia.

The seminar also provided an opportunity for the Ukrainian judges to better understand the value and workings of IARLJ.

The vast experience of the trainers, who have been practicing asylum law in their respective

EU was particularly appreciated by the Ukrainian judges in attendance. All of the participants highly praised the practical exercises and moot court and highlighted the importance of such trainings in Ukraine.

The Deputy Head of the Higher Administrative Court, Mr. Smokovych, who has already attended many QIEE events and is one of the developers of the judicial asylum practice in Ukraine has made a number of important points in the opening of the Seminar. Among other, he stated that: the judges should develop and use the quality checklists when considering asylum cases; emphasized the shared burden of proof; stressed the need to analyse COI by judges themselves. He also urged his colleagues to remember that there is nothing in the Ukrainian legislation prohibiting the judges to take decision obliging SMS to grant status.

— UNHCR UKRAINE

## QIEE National Activities in Armenia

ROUNDTABLE DISCUSSION ON ARTICLE 31 OF THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES IN YEREVAN



On 18 April 2017 the UNHCR Representation in the Republic of Armenia organized and facilitated a roundtable discussion on the non-penalization clause of the 1951 Refugee Convention. The main purpose of the event was to further raise awareness of the criminal law judges of Armenia on the international obligations stemming from Article 31 of the 1951 Refugee Convention, to provide guidance on key aspects of the clause subject to interpretation, as well as share international practices and relevant jurisprudence of the European Court of Human Rights.

Nine judges representing the Criminal Chamber of the Court of Cassation of Armenia and Court of General Jurisdiction of Kentron and Nork-Marash communities of Yerevan as well as First Deputy Head of the Judicial Department of Armenia and four UNHCR staff participated in the roundtable. Given the role of the Court of Cassation in ensuring uniform application of the law and the issues existing in practice with respect to interpretation of Article 329(3) of the Criminal Code of Armenia, which incorporates the non-penalization clause in the national law, participation of the vast majority of the judges of the Criminal Chamber of the Court of Cassation was particularly important.

In the opening remarks, Mr. Serzhik Avetisyan, Chairman of the Criminal Chamber of the Court of Cassation, underlined the importance of ensuring that asylum-seekers are not subjected

to criminal prosecution/liability and detention because of illegal entry. He noted the need to further build the capacity and knowledge of judges in this area to ensure interpretation of the relevant provisions of the national legislation in accordance with international obligations under Article 31 of the 1951 Refugee Convention. In the meantime options for further legislative reform and a precedent-setting case ruled upon by the Court of Cassation should be explored.

Mr. Christoph Bierwirth, UNHCR Representative in Armenia, emphasized that the non-penalization clause of the 1951 Refugee Convention is the translation into refugee law of the general principle of law that a lower ranking right may be violated to protect a higher ranking right, with due regards paid to proportionality considerations. The Representative acknowledged legitimate security concerns that States may have, in particular in the sensitive geopolitical situation of Armenia. The safeguards embedded in refugee law, such as exclusion clause and exceptions to the principle of non-refoulement, are to ensure that these concerns are properly addressed, while avoiding a perception that all refugees are a [potential] security threat.

During the session on the scope of application of the non-penalization clause, the participants discussed common issues raised in the cases when interpreting the elements of the clause, such as 'coming directly', 'without delay', 'good cause', 'penalty'. The second session was devoted to the state practice with respect to application of the non-penalization clause and detention of asylum-seekers (including holding of asylum-seekers in temporary holding centres or in a special zone at airports for the purpose of verification of identity/nationality, completion of formalities etc. The participants discussed maximum periods of detention allowed by law; incorporation of the non-penalization clause in national legislation and interpretation in national case law, including interpretations to the effect



that the scope of application of the principle also covers asylum-seekers and not only recognized refugees. It was also noted that many of its concepts, such as ‘without delay’, are flexible enough to be interpreted on a case-by-case basis with due regard to the individual circumstances of the case etc. The third session of the day was devoted to the relevant jurisprudence of the European Court of Human Rights, in particular to the cases on the protection afforded to asylum-seekers under international law (*Amuur v. France*), and obligations stemming from prohibition of refoulement under Article 3 of ECHR (*M.S.S v. Belgium and Greece*) and as relevant for interpretation of the element of ‘coming directly’ of Article 31 of the 1951 Refugee Convention.

Among the issues that were of interest to the participants were circumstances under which a restriction of liberty may amount to a deprivation

of liberty. Additionally, they were most interested to discuss further the grounds under which detention may be necessary in an individual case, that are generally in line with international law, namely public order, public health and national security; and mechanisms for and challenges in addressing legitimate security concerns in cases with suspicious profile/experience.

Participants agreed on the importance of continuous dialogue and experience exchange in this area to make sure that judiciary is well-equipped to effectively implement its role to safeguard the fundamental rights of asylum-seekers and refugees in the criminal justice system.

— UNHCR ARMENIA

## SEMINAR ON STANDARDS GOVERNING ADJUDICATION OF ASYLUM CLAIMS FOR JUDGES

The UNHCR Representation in the Republic of Armenia jointly with GIZ (the German Federal Enterprise for International Cooperation) Program "Legal Approximation towards European Standards in the South Caucasus" organized and co-facilitated a seminar for judges on the standards governing adjudication of asylum claims, with GIZ's kind financial support. Thirty one judges, representing the Civil and Administrative Chamber of the Court of Cassation, Administrative Court of Appeals and Administrative Court, took part in the seminar.

Following the opening remarks by UNHCR, which mentioned the recent decisions of the courts in Georgia where national security concerns were invoked, the GIZ introduced the main topics of the seminar, namely **(i)** the nature of the powers of the asylum authority when adjudicating asylum claims, i.e. discretionary v. non-discretionary; **(ii)** the type of the claim that is the most appropriate to be submitted by asylum-seekers; **(iii)** the power of the courts to establish the

facts; and **(iv)** addressing national security concerns. The Chairman of the Civil and Administrative Chamber of the Court of Cassation of Armenia underlined the interest of the judiciaries in the topic of refugee law, particularly noting the areas of the scope of the power of the courts to examine cases ex officio; sources of evidence; and addressing national security concerns.

The Seminar commenced with an overview of UNHCR mandate and judicial engagement activities of UNHCR that encompass interventions before national and regional courts, development of guidelines and policy materials, as well as third party interventions and amicus curia briefs before the courts. The German experts noted that according to the Law of Armenia on Refugees and Asylum, UNHCR is authorised to have a role in judicial proceedings. Moreover, the role of UNHCR is particularly important in Armenia, given that other state structures, such as the Ministry of Foreign Affairs do not have the same capacity and are as active

in this area, as they are, for example, in Germany.

The German experts reconfirmed that the power to adjudicate refugee claims is a non-discretionary power, whereby the courts have the power to examine the cases on their merits. This approach, with some exceptions of cases invoking exclusion triggers, raises the effectiveness of the decision-making process.

During the interactive discussions and case studies the importance of credibility assessment and forward looking assessment were emphasised. The participants looked at the standards for a better credibility assessment such as structure, fairness, objectiveness, and transparency. The group particularly focused on the need to confront the applicant with any inconsistencies or lack of evidence, giving him/her the possibility to respond and explain, as well as importance of avoiding findings based on implausibility only. The jurisprudence of the European Court of Human Rights (ECtHR) was used to explain the role of the country of origin information and the duty of the State to dispel any doubts if the applicant has made all reasonable efforts to substantiate the claim, as well as the principle of the benefit of the doubt. Possibilities for institutionalized cooperation of



*Joint UNHCR and GIZ Program seminar, 3 July 2017*

the Armenian judges with their colleagues in Germany on COI exchange was considered. Sensitivities in questioning techniques, expert evidence and eligibility for international protection in sexual violence-related refugee claims followed in the agenda with a particular focus on consideration of compelling grounds arising out of severe past persecution as a

ground for refugee status in such cases. Additionally possibility of future harm arising from previous sexual violence as ground for refugee status was highlighted.

Judges raised their concerns with respect to several decisions of the Administrative Court of Appeals whereby the Court has instructed the Administrative Court to take measures to verify the copies of verdicts presented by applicants, noting, in particular, concerns with respect to violating the principle of confidentiality when trying to implement the instruction. A clarification was received from the Administrative Court of Appeals that the instruction of the Court implies undertaking all possible measures to assess the presented documents as evidence and to form a certain position about those and not necessarily confirming their authenticity by all means. Reference was made to the ECtHR judgment in the case of [M.A. v. Switzerland](#) where the ECtHR addressed a similar situation and made conclusions based on relevant COI put in context of the statements of the applicant. Possibilities of resorting to the assistance of the diplomatic representations in the country of origin – based on their knowledge of the country of origin -- were discussed emphasizing the absolute prohibition of sharing any information with the country of origin and the importance of ensuring that the relevant diplomatic or consular office shares this understanding.

On national security cases, the experts from Germany briefly explained the practice in camera examination by specialized personnel of claims involving sensitive information. Given the interest, the issue will be discussed more extensively during the upcoming national events to be organized by UNHCR in cooperation with the International Association of Refugee Law Judges (IARLJ) within the auspices of the project.

A checklist for reviewing the legitimacy of an administrative act on asylum claims was presented to the participants. All parties assessed the discussions as effective and expressed willingness to continue the dialogue.

— UNHCR ARMENIA

## QIEE National Activities in Georgia

### ROUNDTABLE DISCUSSION FOR MIA, MOC AND PSDA ON LAW OF GEORGIA ON INTERNATIONAL PROTECTION



The UNHCR Regional Representation in the South Caucasus organized a roundtable discussion for the Migration Department (MD) of the Ministry of Internal Affairs of Georgia (MIA), Public Service Development Agency (PSDA) and trainers of the MIA Academy and Penitentiary and Probation Training Centre (PPTC) of the Ministry of Corrections (MOC) on 21 April 2017, in Tbilisi, Georgia. The main purpose of the roundtable was to familiarize the participants with the newly adopted Law of Georgia on International Protection, provide information on by-laws establishing new regulations and standards for

asylum procedures and provide an opportunity for the participants to clarify with the asylum authority the technical aspects related to the detention and referral of asylum-seekers. The roundtable discussion was facilitated by UNHCR staff.

### REGIONAL SOUTH CAUCASUS TRAINING ON CREDIBILITY ASSESSMENT, TBILISI, GEORGIA

On 12-13 June 2017, the UNHCR Regional Representation in the South Caucasus organized the Regional Training on Credibility Assessment for the RSD adjudicators, partner NGOs, state and private lawyers and Ombudsman institutions.

The main goal of the training was to increase the knowledge of participants on issues related to credibility assessment, which is the core element of the asylum adjudication. Training also gave the participants an opportunity to discuss some of the challenges and practices in their respective countries related to credibility assessment.

The training was conducted by Mr. Gabor Gyulai, Refugee Programme Director and International training expert at the Hungarian Helsinki Committee, editor and co-author of the well-known publication - [Credibility Assessment in Asylum Procedures – a multidisciplinary training manual](#).








The training was interactive and majority of participants were actively engaged in the discussions of different case studies.

— UNHCR GEORGIA

## Key details about QIEE

The Quality Initiative of Asylum Systems in Eastern Europe and South Caucasus (QIEE) project is being implemented by UNHCR in the six countries of Eastern Europe since 2013. The project is one way of implementing the UNHCR core mandate of monitoring the asylum systems and engaging in capacity building to assist the countries in meeting and maintaining the international standards on asylum. To achieve its goals the project implements capacity building initiatives focusing on access and fairness of the asylum procedure, legal aspects of refugee law and, practical skills related to refugee status determination (RSD) case processing and training on country of origin information (COI). The project also provides Russian language COI and assists with the development of quality assurance tools.

### Participating Countries

-  Armenia
-  Azerbaijan
-  Belarus
-  Georgia
-  Moldova
-  Ukraine

### Tree pillars of the QIEE

Improving the ability to correctly identify, use and analyse COI remains one of the three pillars of the QIEE. QIEE focused on the development of COI tools from its onset, with the launch of Russian language COI database (Russian Refworld). During the first phase of the project, the participating governments initiated the creation of COI research units or focal points within the administrative first instance authorities of their countries. The availability of Russian-language materials and internal government structures mandated with providing COI research resulted in the wider use of better quality COI and overall improved the quality of COI utilized in the RSD procedures.

The project is coordinated by the Regional Protection Support Unit (RPSU) part of the UNHCR Bureau for Europe (BE), located in Tbilisi, Georgia (*see contact details on page 21*).

**CONTACT US**

**Regional Protection Support Unit  
UNHCR, Bureau for Europe**

2a, Kazbegi Avenue, 0160 Tbilisi, Georgia  
Tel.: +995 32 238 62 03  
Email: [geotbrpsu@unhcr.org](mailto:geotbrpsu@unhcr.org)

[www.refworld.org.ru/qiee.html](http://www.refworld.org.ru/qiee.html)

 [www.facebook.com/UNHCRQIEE](http://www.facebook.com/UNHCRQIEE)

**UNHCR**  
P.O. Box 2500  
1211 Geneva 2

[www.unhcr.org](http://www.unhcr.org)