

***„Forward-looking Risk Assessment
based on Country Information (CI)“***

Barbora Messova

**Seminar on Evidence Assessment in RSD
Procedures**

5th December 2013

Yerevan, Ashot Yerkat Hall

Since 2005

- advocacy for foreigners ' rights in Slovakia**
- legal aid for asylum seekers, refugees, legal counselling, assistance with legal steps, legal representation**
- pro-bono legal aid, legal clinic**

HRL – part time - 6 lawyers, 4 attorneys, 3 coordinators, 1 social worker, volunteers, students

COI researcher

LEGAL AID – Centre for Legal Aid, NGOs, attorney

MOST COMMON GAPS

- *Assessment of past events only*
- *Assessment based on subjective elements, presumptions*
- *Use of outdated CI*
- *Use of too general CI*
- *Use of guidance instead of CI*
- *Lack of confrontation of contradictions, inconsistencies with asylum seeker*
- *Lack of balance of inconclusive CI*
- *Lack of transparency*
- *Distortion of CI*

RSD Material Conditions

REFUGEE – owing to well founded fear of persecution..... is outside of country of origin and unable or unwilling to avail to domestic protection

EXTENDED REFUGEE – compelled to leave the country due to..

EU Asylum Qualification Directive – SUBSIDIARY PROTECTION – there are serious reasons to believe he will face real risk of serious harm (...) upon return

Time issues – PAST HARM, FUTURE RISK of HARM

Determination – in PRESENCE

RSD Procedural Rules

STANDARD of PROOF

BURDEN of PROOF - Qualification Directive Art.4 (1)

DIRECT INDICATION OF WELL-FOUNDEDNESS and REAL RISK – past events which happened to asylum seeker directly

Qualification Directive Art.4 (4): applicant has already been subject to persecution or serious harm, or to direct threats is a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless ...

INDICATION OF WELL-FOUNDEDNESS and REAL RISK – COI – directly events related to asylum seeker, indirectly events which happened in similar situation

RSD Procedural Rules

BENEFIT OF DOUBT

Qualification Directive Art.4 (5): if statements are not supported by documentary or other evidence, those aspects shall not need confirmation when

- (a) a genuine effort to substantiate;***
- (b) all relevant elements at disposal submitted, satisfactory explanation to lacking relevant elements;***
- (c) statements are coherent, plausible, do not counter available specific and general information;***
- (d) applied at the earliest possible time or good reason for not***

AND

- (e) the general credibility of the applicant.***

ASSESSMENT OF CI

LIMITS of CI

if CI is too general...

if CI is silent...

if CI is inconclusive...

CI always leaves room for interpretation.

Remember benefit of doubt.

Back to Slovakia.

CASE STUDY - Albertina

MOST COMMON GAPS

Assessment of past events only

*Assessment based on subjective elements,
presumptions*

Use of outdated CI

Use of too general CI

Use of guidance instead of CI

*Lack of confrontation of contradictions,
inconsistencies with asylum seeker*

Lack of balance of inconclusive CI

Lack of transparency

Distortion of CI

Thank you for your attention.

Barbora (Basha) Meššová

lawyer

Liga za ľudské práva – Human Rights League

messova@hrl.sk