



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	Austria
Case Name/Title	M. v. Federal Asylum Review Board (FARB)
Court Name <i>(Both in English and in the original language)</i>	Supreme Administrative Court (Verwaltungsgerichtshof)
Neutral Citation Number	2001/20/0006
Other Citation Number	
Date Decision Delivered	30/09/2004
Country of Applicant/Claimant	Iran
Keywords	Credibility, manifestly unfounded application, country of origin information;
Head Note (Summary of Summary)	Complaint against refusal to grant refugee status due to manifestly unfounded application.
Case Summary (150-500)	The applicant, an Iranian national, worked at Shiraz University and was summoned and questioned by the police for having attended a students' demonstration in June or July 1999. After having received a second summoning in October 1999, he abandoned his apartment and stayed at different places for several months before he left the country. The complainant feared detention on return to Iran for having ignored a summoning and having left the country illegally. He arrived in Austria on the 12 th of July 2000. The complainant had tried to enter Austria unsuccessfully in 1994.
<i>Facts</i>	<p>The Federal Asylum Agency (FAA) dismissed the application as manifestly unfounded. <i>Inter alia</i>, the FAA sustained its decision on the fact that the complainant initially had stated that he had never been to Austria before, while the FAA had been able to prove that he had tried to enter the country with a counterfeit visa. However, during his second interrogation, the complainant admitted this fact explaining the omission to declare it with fear from a negative impact on his current asylum application.</p> <p>The complainant appealed against this decision, completing his prior statements and objecting to the Agency's consideration of evidence.</p> <p>The FARB decided to follow the FAA's reasoning and additionally assessed contradictions within the complainant's statement regarding details about the police's line of action. The FARB abstained from examination on the complainant's first unsuccessful attempt to enter Austria although he had offered further explanations in his appellation. Finally, the appeal was dismissed without any public hearing of the complainant.</p>
<i>Decision & Reasoning</i>	The Court did not accept the FAA and FARB's reasoning regarding the



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	<p>alleged contradictions as the authorities failed to present knowledge or findings about the "usual" police line of action, which could have been compared to the complainant's statements:</p> <p>"These arguments lack visible and comprehensively presented knowledge on the police's line of action following the countrywide students' demonstrations in July 1999. Already at the moment of enacting the first instance decision (and even more when enacting the second instance decision) it was commonly known that these demonstrations led to a large number of detentions with subsequent releases but also punishments up to the imposition of death sentence. The explanations of the Federal Asylum Agency and the responding authority do not contain one word regarding these occurrences."</p> <p><i>"Diesen Argumenten fehlt (...) als Grundlage ein erkennbares und im angefochtenen Bescheid nachvollziehbar dargestelltes Wissen um das Vorgehen der Polizei im Anschluss an die landesweiten Studentendemonstrationen im Juli 1999. Schon bei Erlassung des erstinstanzlichen (und umso mehr bei Erlassung des angefochtenen) Bescheides war allgemein bekannt, dass diese Demonstrationen zu einer großen Zahl von Festnahmen mit anschließenden Freilassungen, aber auch Bestrafungen bis hin zur Verhängung von Todesurteilen geführt hatten. Die Ausführungen des Bundesasylamtes und der belangten Behörde enthalten kein Wort zu diesen Vorgängen."</i></p> <p>Regarding the fact that the complainant was proven to have initially lied about not having been to Austria before his asylum application, the Court concluded that:</p> <p>"Denial of a prior attempt to enter the country does not have the same weight as perhaps disguise about identity. Such misrepresentation of a topic not directly relevant for the decision on its own cannot be sufficient to deduce the falseness of all information regarding the current reasons for escape via some rule of evidence on the personal credibility of the complainant."</p> <p><i>"Das Abstreiten eines früheren Einreiseversuchs (...) hat nicht das Gewicht etwa einer Täuschung über die Identität (...). Eine solche Falschangabe zu einem für die Entscheidung nicht unmittelbar relevanten Thema kann für sich allein nicht ausreichen, um daraus nach Art einer Beweisregel über die Beurteilung der persönlichen Glaubwürdigkeit des Asylwerbers die Tatsachenwidrigkeit aller Angaben über die aktuellen Fluchtgründe abzuleiten."</i></p>
Outcome	The FARB's decision was repealed for unlawfulness of its contents.