



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee
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Case Summary

Country of Decision/Jurisdiction	Ireland
Case Name/Title	Z v (1) Minister for Justice, Equality and Law Reform; (2) James Nicholson sitting as the Appeals Authority; (3) Ireland; (4) the Attorney General
Court Name <i>(Both in English and in the original language)</i>	Supreme Court
Neutral Citation Number	[2002] IESC 14 (1 March 2002)
Other Citation Number	[2002] 2 IR 135, [2002] 2 ILRM 215
Date Decision Delivered	01 March 2002
Country of Applicant/Claimant	Russia
Keywords	Credibility, Manifestly Unfounded Application
Head Note (Summary of Summary)	This is primarily a case about the “manifestly unfounded” procedure in Irish law; however it also expressly acknowledges (at the highest level of the Irish Court system) that the UNHCR Handbook is to be considered relevant guidance when assessing refugee claims, generally.
Case Summary (150-500)	This case is authority for the general legal principle that the burden of proof lies on the person submitting a claim for asylum, however this duty is 'shared' with the person assigned to examine such a claim. There is no requirement that an oral hearing on appeal is necessary in all cases (including “manifestly unfounded” cases). The UNHCR Handbook provides relevant guidance, generally.
<i>Facts</i>	<p>The applicant was a 53 year old Russian national who arrived in Ireland in 1999 and claimed asylum. His background was that he had been attacked while working in Chechnya and held captive for one year. The Russian authorities did not assist him during this time, and brought criminal charges against him for surrendering his weapon to the Chechnyan paramilitaries, among other things. He also experienced ill-treatment on account of (i) his Jewish religion / ethnicity and (ii) his history of involvement with the Communist party.</p> <p>The applicant was interviewed by the State and his case deemed to be “manifestly unfounded”. He was denied an oral appeal hearing as a result. His appeal was considered on the papers by the Refugee Appeals Tribunal and refused. After lodging an unsuccessful judicial review, the applicant was given leave to appeal to the Supreme Court solely on the narrow question of whether the failure to provide an oral hearing in a case deemed “manifestly unfounded” was unconstitutional.</p>
<i>Decision & Reasoning</i>	The Court held that there was no requirement to provide an oral hearing in



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	<p>all cases. (The Court did not grapple with the question of whether the decision to subject this case to the "manifestly unfounded" procedure was unlawful, as leave to appeal this point was refused by the High Court.)</p> <p>The UNHCR Handbook was deemed by the Court to provide relevant interpretive guidance: "<i>The learned trial judge held, correctly in my view, that it was appropriate for him to have regard to the Handbook on Procedures and Criteria for Determining Refugee Status published by the Office of the United Nations High Commission for Refugees.</i>"</p> <p>Paragraphs 37-42 of the Handbook were cited, including the following key passages on credibility:</p> <p><i>"41. Due to the importance that the definition attaches to the subjective element, an assessment of <u>credibility</u> is indispensable where the case is not sufficiently clear from the facts on record. It will be necessary to take into account the personal and family background of the applicant, his membership of a particular racial, religious, national, social or political group, his own interpretation of his situation, and his personal experiences - in other words, everything that may serve to indicate that the predominant motive for his application is fear...</i></p> <p><i>42. As regards the objective element...A knowledge of conditions in the applicant's country of origin - while not a primary objective - is an important element in assessing the applicant's <u>credibility</u>..."[underlining added]</i></p>
<p><i>Outcome</i></p>	<p>Appeal dismissed</p>