



Compilation of jurisprudence

Judicial practical guide on country of origin information



*EASO Professional Development Series
for members of courts and tribunals*

2018

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European Asylum Support Office

The European Asylum Support Office (EASO) is an agency of the European Union that plays a key role in the concrete development of the Common European Asylum System (CEAS). It was established with the aim of enhancing practical cooperation on asylum matters and helping Member States fulfill their European and international obligations to give protection to people in need.

Article 6 of the EASO founding regulation ⁽¹⁾ specifies that the agency shall establish and develop training available to members of courts and tribunals in the Member States. For this purpose, EASO shall take advantage of the expertise of academic institutions and other relevant organisations, and take into account the Union's existing cooperation in the field with full respect to the independence of national courts and tribunals.

Contributors

The content of the compilation of jurisprudence, which is to be read in conjunction with the European Asylum Support Office (EASO) *Judicial practical guide on country of origin information* (JPG on COI), has been drafted by a working group consisting of members of courts and tribunals: Barbara Simma (Austria), Walter Muls (Belgium), Barbora Zavřelová (Czech Republic), Isabelle Dely (France), John Stanley (Ireland), Anders Bengtsson (Sweden) and Jeremy Rintoul (the United Kingdom).

They have been invited for this purpose by EASO in accordance with the methodology set out in Appendix A of the JPG on COI. The recruitment of the members of the working group was carried out in accordance with the scheme agreed between EASO and the members of the EASO network of court and tribunal members, including the representatives of the International Association of Refugee Law Judges and the Association of European Administrative Judges.

The working group met on three occasions in April, June and September of 2017 in Malta. Comments on a discussion draft were received from members of the EASO network of court and tribunal members, namely Dr Martin Sebastian Baer (Germany), Judge Ute Blum-Idehen (Germany) and Dr Martin Scheyli (Switzerland). Comments were also received from members of the EASO Consultative Forum, namely Accord, the Danish Refugee Council and the Swiss Refugee Council. In accordance with the EASO founding regulation, the United Nations High Commissioner for Refugees (UNHCR) was invited to express comments on the draft judicial practical guide and the compilation of jurisprudence. All these comments were taken into account. The members of the working group are grateful to all those who have made comments, which have been very helpful in finalising those documents.

Compilation of jurisprudence

The purpose of this compilation of jurisprudence is to provide courts and tribunals in Member States with a helpful aid for dealing with country of origin information (COI) in international protection cases.

Members of courts and tribunals are now faced with an almost overwhelming amount of information. Many jurisdictions have extensive case-law on COI and the use of COI. Whilst this may in many cases be useful and instructive, it would be difficult to make a comprehensive collection of these cases, which would be of practical use. That is why examples of national jurisprudence have not been included in this compilation. You may wish to look at the compilations of jurisprudence of the different EASO judicial analyses. The working group decided to include in this compilation merely jurisprudence from the **Court of Justice of the European Union (CJEU)** and the **European Court of Human Rights (ECtHR)**.

Compilation of jurisprudence

Court of Justice of the European Union jurisprudence

Court	Case name/reference/date	Key words/relevance/main points
CJEU	<p><i>M.M. v Minister for Justice, Equality and Law Reform, Ireland, Attorney General</i>, Case C-277/11, ECLI:EU:C:2012:744. 22.11.2012</p>	<p>Judgment after a reference for a preliminary ruling from the High Court (Ireland) on Article 4 of the qualification directive. Interpretation of national law in line with EU law and fundamental rights.</p> <p>Paras 65-67:</p> <p>65. Under Article 4(1) of Directive 2004/83/EC, although it is generally for the applicant to submit all elements needed to substantiate the application, the fact remains that it is the duty of the Member State to cooperate with the applicant at the stage of determining the relevant elements of that application.</p> <p>66. This requirement that the Member State cooperate means, in practical terms, that if, for any reason whatsoever, the elements provided by an applicant for international protection are not complete, up to date or relevant, it is necessary for the Member State concerned to cooperate actively with the applicant, at that stage of the procedure, so that all the elements needed to substantiate the application may be assembled. A Member State may also be better placed than an applicant to gain access to certain types of documents.</p> <p>67. Moreover, the interpretation set out in the previous paragraph finds support in Article 8(2)(b) of Directive 2005/85/EC, pursuant to which Member States are to ensure that precise and up-to-date information is obtained on the general situation prevailing in the countries of origin of applicants for asylum and, where necessary, in countries through which they have transited.</p>
CJEU	<p><i>Zuheyir Frayeh Halaf v Darzhavna agentsia za bezhantsite pri Ministerskia savet</i>, Case C-528/11, ECLI:EU:C:2013:342. 30.05.2013</p>	<p>Request for a preliminary ruling concerning the interpretation of Article 3(2) of Council Regulation (EC) No 343/2003:</p> <p>44. As a preliminary point, it should be recalled that documents from the UNHCR are among the instruments likely to enable the Member States to assess the functioning of the asylum system in the Member State indicated as responsible by the criteria in Chapter III of the regulation, and therefore to evaluate the risks to which the asylum seeker would actually be exposed were he to be transferred to that Member State (see, to that effect, <i>N.S. and Others</i>, paragraphs 90 and 91). Those documents are particularly relevant in that assessment in the light of the role conferred on the UNHCR by the Geneva Convention, in consistency with which the rules of European Union law dealing with asylum must be interpreted (see, to that effect, <i>N.S. and Others</i>, paragraph 75, and Case C-364/11 <i>Abed El Karem El Kott and Others</i> [2012] ECR, paragraph 43).</p> <p>[...]</p> <p>47. In the light of the foregoing, the answer to the third question is that the Member State in which the asylum seeker is present is not obliged, during the process of determining the Member State responsible, to request the UNHCR to present its views where it is apparent from the documents of that Office that the Member State indicated as responsible by the criteria in Chapter III of the regulation is in breach of the rules of European Union law on asylum.</p>

European Court of Human Rights jurisprudence

Court	Case name/reference/date	Key words/relevance/main points
ECtHR	<p><i>Chahal v the United Kingdom</i>, Application No 22414/93. 15.11.1996</p>	<p>Paragraph 86. [...] the material point in time must be that of the Court's consideration of the case. It follows that, although the historical position is of interest insofar as it may shed light on the current situation and its likely evolution, it is the present conditions which are decisive.</p>
ECtHR	<p><i>Hilal v the United Kingdom</i>, Application No 45276/99. 6.6.2001</p>	<p>60. In determining whether it has been shown that the applicant runs a real risk, if deported to Tanzania, of suffering treatment proscribed by Article 3, the Court will assess the issue in the light of all the material placed before it, or, if necessary, material obtained proprio motu (see the following judgments: <i>Vilvarajah and Others v the United Kingdom</i>, 30 October 1991, Series A No 215, p. 36, paragraph 107, and <i>H.L.R. v France</i>, 29 April 1997, Reports 1997-III, p. 758, paragraph 37). Ill-treatment must also attain a minimum level of severity if it is to fall within the scope of Article 3, which assessment is relative, depending on all the circumstances of the case.</p>
ECtHR	<p><i>Mamatkulov and Askarov v Turkey</i>, Application Nos 46827/99 and 46951/99. 4.2.2005</p>	<p>67. It is the settled case-law of the Court that extradition by a contracting state may give rise to an issue under Article 3, and hence engage the responsibility of that state under the convention, where substantial grounds have been shown for believing that the person in question would, if extradited, face a real risk of being subjected to treatment contrary to Article 3 in the receiving country. The establishment of such responsibility inevitably involves an assessment of conditions in the requesting country against the standards of Article 3 of the convention. Nonetheless, there is no question of adjudicating on or establishing the responsibility of the receiving country, whether under general international law, under the convention or otherwise. Insofar as any liability under the convention is or may be incurred, it is liability incurred by the extraditing contracting state by reason of its having taken action which has as a direct consequence the exposure of an individual to proscribed ill-treatment (see <i>Soering v the United Kingdom</i>, judgment of 7 July 1989, Series A No 161, p. 35, paragraphs 89-91).</p>
ECtHR	<p><i>Salah Sheekh v the Netherlands</i>, Application No 1948/04. 11.1.2007</p>	<p>136. The establishment of any responsibility of the expelling state under Article 3 inevitably involves an assessment of conditions in the receiving country against the standards of Article 3 of the convention [...]. In respect of materials obtained <i>proprio motu</i>, the Court considers that, given the absolute nature of the protection afforded by Article 3, it must be satisfied that the assessment made by the authorities of the contracting state is adequate and sufficiently supported by domestic materials as well as by materials originating from other, reliable and objective sources, such as, for instance, other contracting or non-contracting states, agencies of the United Nations and reputable non-governmental organisations. [...] it would be too narrow an approach under Article 3 in cases concerning aliens facing expulsion or extradition if the Court, as an international human rights court, were only to take into account materials made available by the domestic authorities of the contracting state concerned without comparing these with materials from other, reliable and objective sources. [...] for instance, other contracting or non-contracting states, agencies of the United Nations and reputable non-governmental organisations. [...] in assessing an alleged risk of treatment contrary to Article 3 in respect of aliens facing expulsion or extradition, a full and ex nunc assessment is called for as the situation in a country of destination may change in the course of time.</p>

Court	Case name/reference/date	Key words/relevance/main points
ECtHR	<p><i>Saadi v Italy</i>, Application No 37201/06. 28.2.2008</p>	<p>131. To that end, as regards the general situation in a particular country, the Court has often attached importance to the information contained in recent reports from independent international human rights protection associations such as Amnesty International, or governmental sources, including the United States State Department (see, for example, <i>Chahal</i>, cited above, paragraphs 99-100; <i>Muslim v Turkey</i>, No 53566/99, paragraph 67, 26 April 2005; <i>Said v the Netherlands</i>, No 2345/02, paragraph 54, 5 July 2005; and <i>Al-Maayad v Germany</i> (dec.), No 35865/03, paragraphs 65-66, 20 February 2007). At the same time, it has held that the mere possibility of ill-treatment on account of an unsettled situation in the receiving country does not in itself give rise to a breach of Article 3 (see <i>Vilvarajah and Others</i>, cited above, paragraph 111, and <i>Fatgan Katani and Others v Germany</i> (dec.), No 67679/01, 31 May 2001) and that, where the sources available to it describe a general situation, an applicant's specific allegations in a particular case require corroboration by other evidence (see <i>Mamatkulov and Askarov</i>, cited above, paragraph 73, and <i>Muslim</i>, cited above, paragraph 68).</p> <p>143. In the present case the Court has had regard, firstly, to the reports of Amnesty International and Human Rights Watch on Tunisia (see paragraphs 65-79 above), which describe a disturbing situation. The conclusions of those reports are corroborated by the report of the United States State Department (see paragraphs 82-93 above). In particular, these reports mention numerous and regular cases of torture and ill-treatment meted out to persons accused under the 2003 Prevention of Terrorism Act. The practices reported — said to be often inflicted on persons in police custody with the aim of extorting confessions — include hanging from the ceiling, threats of rape, administration of electric shocks, immersion of the head in water, beatings and cigarette burns, all of these being practices which undoubtedly reach the level of severity required by Article 3. It is reported that allegations of torture and ill-treatment are not investigated by the competent Tunisian authorities, that they refuse to follow up complaints and that they regularly use confessions obtained under duress to secure convictions (see paragraphs 68, 71, 73-75, 84 and 86 above). Bearing in mind the authority and reputation of the authors of these reports, the seriousness of the investigations by means of which they were compiled, the fact that on the points in question their conclusions are consistent with each other and that those conclusions are corroborated in substance by numerous other sources (see paragraph 94 above), the Court does not doubt their reliability. Moreover, the government has not adduced any evidence or reports capable of rebutting the assertions made in the sources cited by the applicant.</p>
ECtHR	<p><i>NA v the United Kingdom</i>, Application No 25904/07. 17.7.2008</p>	<p>119. In this connection, the Court recalls the principles recently set out in <i>Saadi v Italy</i>, cited above, paragraphs 128-133, that in assessing conditions in the proposed receiving country, the Court will take as its basis all the material placed before it or, if necessary, material obtained proprio motu. It will do so, particularly when the applicant — or a third party within the meaning of the Article 36 of the convention — provides reasoned grounds which cast doubt on the accuracy of the information relied on by the respondent government. The Court must be satisfied that the assessment made by the authorities of the contracting state is adequate and sufficiently supported by domestic materials as well as by materials originating from other reliable and objective sources such as, for instance, other contracting or non-contracting states, agencies of the United Nations and reputable non-governmental organisations (see <i>Salah Sheekh</i>, cited above, paragraph 136; <i>Garabayev v Russia</i>, No 38411/02, paragraph 74, 7 June 2007, ECHR 2007 (extracts)). As regards the general situation in a particular country, the Court has often attached importance to the information contained in recent reports from independent international human rights protection organisations such as Amnesty International, or governmental sources, including the United States State Department (see <i>Saadi v Italy</i>, cited above, paragraph 131).</p> <p>120. In assessing such material, consideration must be given to its source, in particular its independence, reliability and objectivity. In respect of reports, the authority and reputation of the author, the seriousness of the investigations by means of which they were compiled, the consistency of their conclusions and their corroboration by other sources are all relevant considerations (see <i>Saadi v Italy</i>, cited above, paragraph 143).</p>

Court	Case name/reference/date	Key words/relevance/main points
ECtHR	<p><i>M.S.S. v Belgium and Greece</i>, Application No 30696/09. 21.1.2011</p>	<p>358. In the light of the foregoing, the Court considers that at the time of the applicant's expulsion the Belgian authorities knew or ought to have known that he had no guarantee that his asylum application would be seriously examined by the Greek authorities. They also had the means of refusing to transfer him.</p>
ECtHR	<p><i>Sufi and Elmi v the United Kingdom</i>, Application Nos 8319/07 and 11449/07. 28.11.2011</p>	<p>230. In assessing the weight to be attributed to country material, consideration must be given to its source, in particular its independence, reliability and objectivity. In respect of reports, the authority and reputation of the author, the seriousness of the investigations by means of which they were compiled, the consistency of their conclusions and their corroboration by other sources are all relevant considerations (<i>Saadi v Italy</i> [GC], No 37201/06, paragraph 143, ECHR 2008 and <i>NA v the United Kingdom</i>, cited above, paragraph 120).</p> <p>231. The Court also recognises that consideration must be given to the presence and reporting capacities of the author of the material in the country in question. In this respect, the Court observes that states (whether the respondent state in a particular case or any other contracting or non-contracting state), through their diplomatic missions and their ability to gather information, will often be able to provide material which may be highly relevant to the Court's assessment of the case before it. It finds that the same consideration must apply, <i>a fortiori</i>, in respect of agencies of the United Nations, particularly given their direct access to the authorities of the country of destination as well as their ability to carry out on-site inspections and assessments in a manner which states and non-governmental organisations may not be able to do.</p> <p>232. The Court appreciates the many difficulties faced by governments and NGOs gathering information in dangerous and volatile situations. It accepts that it will not always be possible for investigations to be carried out in the immediate vicinity of a conflict and, in such cases, information provided by sources with first-hand knowledge of the situation may have to be relied on. The Court will not, therefore, disregard a report simply on account of the fact that its author did not visit the area in question and instead relied on information provided by sources.</p> <p>233. That being said, where a report is wholly reliant on information provided by sources, the authority and reputation of those sources and the extent of their presence in the relevant area will be relevant factors for the Court in assessing the weight to be attributed to their evidence. The Court recognises that where there are legitimate security concerns, sources may wish to remain anonymous. However, in the absence of any information about the nature of the sources' operations in the relevant area, it will be virtually impossible for the Court to assess their reliability. Consequently, the approach taken by the Court will depend on the consistency of the sources' conclusions with the remainder of the available information. Where the sources' conclusions are consistent with other country information, their evidence may be of corroborative weight. However, the Court will generally exercise caution when considering reports from anonymous sources which are inconsistent with the remainder of the information before it.</p> <p>234. In the present case the Court observes that the description of the sources relied on by the fact-finding mission is vague. As indicated by the applicants, the majority of sources have simply been described either as 'an international NGO', 'a diplomatic source', or 'a security advisor'. Such descriptions give no indication of the authority or reputation of the sources or of the extent of their presence in southern and central Somalia. This is of particular concern in the present case, where it is accepted that the presence of international NGOs and diplomatic missions in southern and central Somalia is limited. It is therefore impossible for the Court to carry out any assessment of the sources' reliability and, as a consequence, where their information is unsupported or contradictory, the Court is unable to attach substantial weight to it.</p>

Court	Case name/reference/date	Key words/relevance/main points
ECtHR	<p><i>Hirsi Jamaa and Others v Italy</i>, Application No 27765/09. 23.2.2012</p>	<p>116. In determining whether it has been shown that the applicant runs a real risk of suffering treatment proscribed by Article 3, the Court will assess the issue in the light of all the material placed before it, or, if necessary, material obtained proprio motu (see <i>H.L.R. v France</i>, cited above, paragraph 37, and <i>Hilal v the United Kingdom</i>, No 45276/99, paragraph 60, ECHR 2001-I). In cases such as the present one, the Court's examination of the existence of a real risk of ill-treatment must necessarily be a rigorous one (see <i>Chahal v the United Kingdom</i>, 15 November 1996, paragraph 96, <i>Reports</i> 1996-V).</p>
ECtHR	<p><i>J.K. and Others v Sweden</i>, Application No 59166/12. 4.6.2015</p>	<p>88. In assessing the weight to be attached to country material, the Court has found in its case-law that consideration must be given to the source of such material, in particular its independence, reliability and objectivity. In respect of reports, the authority and reputation of the author, the seriousness of the investigations by means of which they were compiled, the consistency of their conclusions and their corroboration by other sources are all relevant considerations (see <i>Saadi v Italy</i>, cited above, paragraph 143; <i>NA v the United Kingdom</i>, cited above, paragraph 120; and <i>Sufi and Elmi v the United Kingdom</i>, cited above, paragraph 230).</p> <p>89. The Court also recognises that consideration must be given to the presence and reporting capacities of the author of the material in the country in question (see <i>Sufi and Elmi v the United Kingdom</i>, cited above, paragraph 231). The Court appreciates the many difficulties faced by governments and NGOs gathering information in dangerous and volatile situations. It accepts that it will not always be possible for investigations to be carried out in the immediate vicinity of a conflict and, in such cases, information provided by sources with first-hand knowledge of the situation may have to be relied on (see <i>Sufi and Elmi v the United Kingdom</i>, cited above, paragraph 232).</p> <p>90. In assessing the risk, the Court may obtain relevant materials proprio motu. This principle has been firmly established in the Court's case-law (see <i>H.L.R. v France</i>, cited above, paragraph 37; <i>Hilal</i>, cited above, paragraph 60; and <i>Hirsi Jamaa and Others v Italy</i> [GC], No 27765/09, paragraph 116, ECHR 2012). In respect of materials obtained <i>proprio motu</i>, the Court considers that, given the absolute nature of the protection afforded by Article 3, it must be satisfied that the assessment made by the authorities of the contracting state is adequate and sufficiently supported by domestic materials as well as by materials originating from other reliable and objective sources such as, for instance, other contracting or non-contracting states, agencies of the United Nations and reputable non-governmental organisations (see <i>F.G. v Sweden</i>, cited above, paragraph 117, quoted at paragraph 84 above). In its supervisory task under Article 19 of the convention, it would be too narrow an approach under Article 3 in cases concerning aliens facing expulsion or extradition if the Court, as an international human rights court, were only to take into account materials made available by the domestic authorities of the contracting state concerned, without comparing these with materials from other reliable and objective sources (see <i>Salah Sheekh</i>, cited above, paragraph 136).</p> <p>96. The Court notes that it is the shared duty of an asylum seeker and the immigration authorities to ascertain and evaluate all relevant facts of the case in the asylum proceedings. Asylum seekers are normally the only parties who are able to provide information about their own personal circumstances. Therefore, as far as the individual circumstances are concerned, the burden of proof should in principle lie on the applicants, who must submit, as soon as possible, all evidence relating to their individual circumstances that is needed to substantiate their application for international protection. This requirement is also expressed both in the UNHCR documents (see paragraph 6 of the UNHCR <i>Note on burden and standard of proof in refugee claims</i> and paragraph 196 of the UNHCR <i>Handbook and guidelines on procedures and criteria for determining refugee status</i>, both referred to in paragraphs 53-54 above) and in Article 4, paragraph 1, of the EU qualification directive, as well as in the subsequent case-law of the CJEU (see paragraphs 47 and 49-50 above).</p>

Court	Case name/reference/date	Key words/relevance/main points
ECtHR	<p><i>F.G. v Sweden</i>, Application No 43611/11. 23.3.2016</p>	<p>98. The Court notes that, as far as the evaluation of the general situation in a specific country is concerned, a different approach should be taken. In respect of such matters, the domestic authorities examining a request for international protection have full access to information. For this reason, the general situation in another country, including the ability of its public authorities to provide protection, has to be established proprio motu by the competent domestic immigration authorities (see, <i>mutatis mutandis</i>, <i>H.L.R. v France</i>, cited above, paragraph 37; <i>Hilal</i>, cited above, paragraph 60; and <i>Hirsi Jamaa and Others</i>, cited above, paragraph 116). A similar approach is advocated in paragraph 6 of the abovementioned note issued by the UNHCR, according to which the authorities adjudicating on an asylum claim have to take 'the objective situation in the country of origin concerned' into account <i>proprio motu</i>. Similarly, Article 4, paragraph 3, of the qualification directive requires that 'all relevant facts as they relate to the country of origin' are taken into account.</p> <p>117. In cases concerning the expulsion of asylum seekers, the Court does not itself examine the actual asylum applications or verify how the states honour their obligations under the Geneva Convention relating to the status of refugees. Its main concern is whether effective guarantees exist that protect the applicant against arbitrary <i>refoulement</i>, be it direct or indirect, to the country from which he or she has fled. By virtue of Article 1 of the convention the primary responsibility for implementing and enforcing the guaranteed rights and freedoms is laid on the national authorities. The machinery of complaint to the Court is thus subsidiary to national systems safeguarding human rights. This subsidiary character is articulated in Articles 13 and 35, paragraph 1, of the convention (see <i>M.S.S. v Belgium and Greece</i> [GC], No 30696/09, paragraphs 286-287, ECHR 2011). The Court must be satisfied, however, that the assessment made by the authorities of the contracting state is adequate and sufficiently supported by domestic materials as well as by materials originating from other reliable and objective sources such as, for instance, other contracting or third states, agencies of the United Nations and reputable non-governmental organisations (see, among other authorities, <i>NA v the United Kingdom</i>, No 25904/07, paragraph 119, 17 July 2008).</p>
ECtHR	<p><i>Regner v the Czech Republic</i>, Application No 35289/11. 19.9.2017</p>	<p>The applicant complained of the unfairness of administrative proceedings in which he had been unable to have sight of decisive evidence regarded as classified information and made available to the courts by the defendant.</p> <p>148. The Court reiterates, moreover, that the entitlement to disclosure of relevant evidence is not an absolute right either. In criminal cases it has found that there may be competing interests, such as national security or the need to protect witnesses at risk of reprisals or keep secret police methods of investigation of crime, which must be weighed against the rights of the party to the proceedings. However, only measures restricting the rights of a party to the proceedings which do not affect the very essence of those rights are permissible under Article 6, paragraph 1. For that to be the case, any difficulties caused to the applicant party by a limitation of his or her rights must be sufficiently counterbalanced by the procedures followed by the judicial authorities (see, <i>mutatis mutandis</i>, <i>Fitt v the United Kingdom</i> [GC], No 29777/96, paragraph 45 with other references, ECHR 2000-II, and <i>Schatschaschwili v Germany</i> [GC], No 9154/10, paragraph 107, ECHR 2015).</p> <p>149. In cases where evidence has been withheld from the applicant party on public interest grounds, the Court must scrutinise the decision-making procedure to ensure that, as far as possible, it complied with the requirements to provide adversarial proceedings and equality of arms and incorporated adequate safeguards to protect the interests of the person concerned (see <i>Fitt</i>, cited above, paragraph 46).</p>

Court	Case name/reference/date	Key words/relevance/main points
	[...]	<p>155. Accordingly, the Supreme Administrative Court considered, having regard to the need to preserve the confidentiality of the classified documents, that their disclosure could have had the effect of disclosing the intelligence service's working methods, revealing its sources of information or leading to attempts to influence possible witnesses. It explained that it was not legally possible to indicate where exactly the security risk lay or to indicate precisely which considerations underlay the conclusion that there was a security risk, the reasons and considerations underlying the authority's decision originating exclusively in the classified information. Accordingly, there is nothing to suggest that the classification of the documents in question was carried out arbitrarily or for a purpose other than the legitimate interest indicated as being pursued.</p> <p>159. The Court acknowledges that the intelligence service's report, which served as a basis for the decision revoking the applicant's security clearance, had been classified in the lowest category of confidentiality, namely, the 'restricted' category (see paragraphs 15 and 38 above). However, it considers that that fact did not deprive the Czech authorities of the right not to disclose the contents to the applicant. It can be seen from the Supreme Administrative Court's case-law, although it postdates the judgment in the present case (see paragraph 65 above), that, contrary to the applicant's submission, Law No 412/2005, and particularly Section 133(3) of that law, is applicable to any information classified as confidential and not limited to data of a higher degree of confidentiality. Accordingly, the application of Section 133(3) of Law No 412/2005 by the domestic courts does not appear to be arbitrary or manifestly unreasonable.</p> <p>160. Nonetheless, it would have been desirable — to the extent compatible with the preservation of confidentiality and effectiveness of the investigations concerning the applicant — for the national authorities, or at least the Supreme Administrative Court, to have explained, if only summarily, the extent of the review they had carried out and the accusations against the applicant. In that connection the Court notes with satisfaction the positive new developments in the Supreme Administrative Court's case-law (see paragraphs 63-64 above).</p> <p>161. Having regard to the proceedings as a whole, to the nature of the dispute and to the margin of appreciation enjoyed by the national authorities, the Court considers that the restrictions curtailing the applicant's enjoyment of the rights afforded to him in accordance with the principles of adversarial proceedings and equality of arms were offset in such a manner that the fair balance between the parties was not affected to such an extent as to impair the very essence of the applicant's right to a fair trial.</p> <p>162. Consequently, there has been no violation of Article 6, paragraph 1 of the convention.</p>

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