European Asylum Support Office

# Judicial practical guide on country of origin information

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

**2018**

SUPPORT IS OUR MISSION

**EASO professional development materials have been created in cooperation with members of courts and tribunals on the following topics:**

- introduction to the Common European Asylum System for courts and tribunals;
- qualification for international protection (Directive 2011/95/EU);
- asylum procedures and the principle of non-refoulement;
- evidence and credibility assessment in the context of the Common European Asylum System;
- Article 15(c) qualification directive (Directive 2011/95/EU);
- exclusion: Articles 12 and 17 qualification directive (Directive 2011/95/EU);
- ending international protection: Articles 11, 14, 16 and 19 Qualification Directive (Directive 2011/95/EU);
- judicial practical guide on country of origin information.

The Professional development series comprises Judicial analyses, Judicial trainers' guidance notes and Compilations of jurisprudence for each topic covered, apart from Country of origin information which comprises a Judicial practical guide accompanied by a Compilation of jurisprudence. All materials are developed in English. For more information on publications, including on the availability of different language versions, please visit www.easo.europa.eu/training-quality/courts-and-tribunals.

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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 fulfil their European and international obligations to give protection to people in need.

Article 6 of the EASO founding regulation (*) 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 was drafted by a working group consisting of the following 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 (United Kingdom).

They were invited for this purpose by the European Asylum Support Office (EASO) in accordance with the methodology set out in Appendix A. 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 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 the Austrian Centre for Country of Origin and Asylum Research and Documentation, Austrian Red Cross; the Danish Refugee Council; and the Swiss Refugee Council. In accordance with the EASO founding regulation, the United Nations High Commissioner for Refugees was invited to express comments on the draft judicial practical guide, and duly did so. All these comments were taken into account. The members of the working group are grateful to all those who made comments, which were very helpful in finalising the guide.

The judicial practical guide will be updated in accordance with the methodology set out in Appendix A.

(*) Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132/11, 29.5.2010, pp. 11-28).

# List of abbreviations

| | |
|---|---|
| Accord | Austrian Centre for Country of Origin and Asylum Research and Documentation, Austrian Red Cross |
| APD (recast) | Directive 2013/32/UE of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) |
| CEAS | Common European Asylum System |
| CJEU | Court of Justice of the European Union |
| CNDA | French National Court of Asylum (Cour nationale du droit d'asile) |
| COI | country of origin information |
| EASO | European Asylum Support Office |
| ECtHR | European Court of Human Rights |
| EJTN | European Judicial Training Network |
| EU | European Union |
| EUAA | European Union Asylum Agency |
| EU+ states | European Union Member States plus Iceland, Lichtenstein, Norway and Switzerland |
| FRA | European Union Agency for Fundamental Rights |
| IARLJ | International Association of Refugee Law Judges |
| NGO | non-governmental organisation |
| OFPRA | French Office for the Protection of Refugees and Stateless People (Office Français de Protection des Réfugiés et Apatrides) |
| PDS | Professional Development Series |
| QD | Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted |
| QD (recast) | Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) |
| Refugee Convention | UN General Assembly, Convention Relating to the Status of Refugees, 28 July 1951 and its Protocol (UN General Assembly, Protocol Relating to the Status of Refugees, 31 January 1967, United Nations) |
| UNHCR | United Nations High Commissioner for Refugees |

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# Preface

The purpose of the *Judicial practical guide on country of origin information* 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. The judicial practical guide seeks to assist judges and decision-makers in ensuring that their use of COI in decision-making complies with the common criteria for qualification for international protection in the recast qualification directive (QD (recast)) ([1]) and the requirements for fairness and effectiveness in the recast asylum procedures directive (APD (recast)) ([2]). In times of 'fake news' and 'post-truth facts' it is all the more important to have a sound methodology for assessing COI.

COI is key to international protection decision-making. A court or tribunal dealing with international protection needs reliable COI to evaluate, inter alia:

- the objective situation in an applicant's country of origin;
- whether an applicant's claim is credible in the light of that objective situation;
- the circumstances that an applicant claims forced him or her to flee his or her country and seek protection;
- the laws and regulations in a country and how they are applied;
- the risk on return;
- whether a state can provide effective protection;
- whether an applicant would not be at risk in a part of a state to which he or she can reasonably be expected to go;
- whether there is evidence that an individual should be excluded from international protection;
- whether there is evidence that a person no longer has need of international protection.

Members of courts and tribunals are now faced with an almost overwhelming amount of information. The judicial practical guide aims to provide an introduction to the use of COI in international protection decision-making in the Member States, and to assist both those with little experience of its application in judicial decision-making and those with more specialist knowledge. It is to be read in conjunction with the additional European Asylum Support Office (EASO) document *Compilation of jurisprudence on country of origin information* from the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR).

([1]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniforms status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 9 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&from=EN).

([2]) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, p. 60 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en).

## Key questions

The present volume aims to provide an overview of COI for members of courts and tribunals in Member States. It strives to clarify the following key issues.

- **What is COI?** (Section 1).
- **How to use COI?** (Section 3.3).
- **When to use COI?** (Section 3).
- **How to assess sources of COI?** (Section 2).
- **How to research COI?** (Section 4).
- **How to ask effective COI questions?** (Section 4).
- **How to refer to COI?** (Section 5.4).
- **How to avoid common pitfalls?** (Section 3.4).
- **How to deal with confidential/anonymous sources?** (Section 2.7).
- **How to ensure fair proceedings when dealing with COI?** (Section 5).
- **How to use COI in particular scenarios?** (Sections 5.4, 5.5, 6.1 and 6.2).

# 1. What is country of origin information?

## 1.1. Definition

In the simplest and most general terms possible, COI refers to information about the country of origin ([3]), or of former habitual residence, of an applicant that is used in procedures for determining claims for international protection ([4]).

More comprehensively, COI can be defined as follows ([5]).

'Country of Origin Information (COI) is information which is used in procedures that assess claims to refugee status or other forms of international protection.

COI supports legal advisors and persons making decisions on international protection in their evaluation of:

- the human rights and security situation;
- the political situation and the legal framework;
- cultural aspects and societal attitudes;
- the humanitarian and economic situation;
- events and incidents;
- [geographical issues]'.

**'To qualify as COI it is essential that the source of the information has no vested interest in the outcome of the individual claim for international protection'** ([6]).

**NB: COI is information; it is not guidance for decision-making.**

Much of the information that is presented as COI is not created with the asylum determination process in mind. 'In practice, COI is drawn from a variety of sources including government bodies, international human rights institutions, domestic and international non-governmental organisations (NGOs), think tanks, the media, academic institutions' ([7]) and, increasingly, social media.

COI is not specifically defined in the Common European Asylum System (CEAS) instruments, although Article 4(3)(a) QD (recast), which refers to '[a]ll relevant facts as they relate to the country of origin' would appear to serve as a definition. It would be very difficult to give a more precise definition due to the variety of material that can be referred to as COI ([8]).

Important remark: **'The term "country information" has a broader meaning referring to information on any country including, for example, countries of transit ([9]), countries designated as responsible for examining an application under the Dublin III Regulation and safe third countries' ([10]).**

This practical guide can also be used for assessing country information.

([3]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniforms status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 9 (http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32011L0095&from=EN).

([4]) EASO training module — *What is country of origin information (COI)?* (v. 4.1 — EN).

([5]) Accord, *Researching country of origin information — Training manual*, p. 12 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

([6]) Ibid. p. 12.

([7]) Immigration Advisory Service, *The use of country of origin information in refugee status determination: Critical perspectives*, May 2009, p. 6 (http://www.refworld.org/docid/4a3f2ac32.html).

([8]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* Section 1.2.5, p. 16.

([9]) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, p. 60 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en).

([10]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* Section 1.2.5, p. 16.

## 1.2. Country of origin information as evidence

'From a legal point of view, COI constitutes evidence in international protection procedures. This is, for instance, reflected in legislation within the European Union' ([11]). The QD (recast) states the following in Article 4(3)(a).

**Table 1: Qualification directive, Article 4(3)(a)**

**Art. 4(3). The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:**

(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied.

And the APD (recast) stipulates the following in Article 10(3)(b).

**Table 2: Asylum procedures directive, Article 10(3)(b)**

**Art. 10(3). Member States shall ensure that decisions by the determining authority on applications for international protection are taken after an appropriate examination. To that end, Member States shall ensure that:**

(b) precise and up-to-date information is obtained from various sources, such as EASO and UNHCR and relevant international human rights organisations, as to the general situation prevailing in the countries of origin of applicants and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decision.

Although COI is a **crucial aid** to support consideration of claims for international protection, **it is not always determinative**. How much it will help decide an individual case will vary depending on a variety of factors, including the extent to which a person's case is based on personal characteristics or circumstances that he or she shares with others and the extent to which such information has been documented ([12]). Once those personal circumstances are determined and a person is accepted as being from a minority or group, such as draft evaders from Eritrea or Yezidis from Iraq, then COI will be of significant assistance in determining risk on return.

The relevance of COI may vary in individual cases. 'Country of origin information alone cannot foresee the range or types of abuses that a particular individual may suffer in a given context' ([13]). As with other types of evidence, the COI relevant to a specific case must be assessed in light of the entirety of the material put before the court or tribunal. In some cases COI may have a direct probative value in regard to an applicant's account, but it will more commonly be an aid to assessing its plausibility and its external consistency ([14]) (see Section 4 'Asking appropriate country of origin information questions').

**It is important to note the difference between evidence and policy advice.** This is because '… policy advice documents, such as for example the Country Policy and Information Notes produced by the United Kingdom Home Office, or UNHCR's Eligibility Guidelines, provide guidance for consistency in asylum decision-making. These documents may contain COI and present an interpretation and evaluation of the situation in a given

([11]) Accord, *Researching country of origin information — Training manual*, p. 21 (https://www.coi-training.net/Researching-Country-of-Origin-Information-COI-Training-manual-ACCORD.pdf).

([12]) EASO training module — *What is country of origin information (COI)?* (v. 4.1 — EN).

([13]) Quoted in IARLJ, *A structured approach to the decision making process in refugee and other international protection claims*, IARLJ/JRTI/UNHCR conference: 'The Role of the Judiciary in Asylum and Other International Protection Law in Asia', Seoul, South Korea, 10-11 June 2016, p. 35, footnote 18 (https://www.iarlj.org/iarlj-documents/general/IARLJ_Guidance_RSD_paper_and_chart.pdf).

([14]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* Section 4.7.3, p. 124.

country or regarding a specific topic' ([15]). The policies determined in the documents 'should not form part of the COI evidence, nor be relied upon in considering the country conditions' ([16]). The distinction between COI products and policy documents should be understood by all parties to the proceedings and in light of their author and stated purpose.

([15]) Accord, *Researching country of origin information — Training manual*, p. 12 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

([16]) Immigration Advisory Service, *The use of country of origin information in refugee status determination: Critical perspectives*, May 2009, p. 42 (http://www.refworld.org/docid/4a3f2ac32.html).

# 2. Sources of country of origin information

## 2.1. Source definition

The term 'source' is used in many different ways. COI researchers will use a precise definition and will distinguish between primary and secondary sources. Others may use wider definitions. For example: suppose you were looking at prison conditions in Ukraine. The Council of Europe conducted an investigation and visited prisons, gathering testimonies. They then produced an original report that is referred to in various reports. These reports are then cited by others. All of these could be referred to as sources, but they each need to be evaluated in different ways ([17]).

'In the context of processing COI, the meaning of the term 'source' can vary depending on the circumstances of its use: it may be used to describe the person or institution providing information or it may be used to describe the information product produced, either by that person or institution, or by others' ([18]).

For the purpose of this practical guide, the various definitions of 'source' as mentioned in the *EASO country of origin information report methodology* ([19]) will be used. These definitions are as follows.

- 'A *source* is a person or institution producing information.
- A *primary source* is a person or institution closely or directly related to (i.e. having first-hand information of) an event, fact or matter.
- An *original source* is the person or institution who documents the event, fact or matter for the first time. The original source can also be the primary source.
- A *secondary source* is the person or institution who/which reproduces the information documented by the original source.
- *Sources of information* are, for example: reports, written press, TV, radio, journals, books, position papers, published statistics, maps, blogs, networking sites.'

Keep in mind that it is important to try to identify the primary source of the information.

A distinction should be made between sources and **information**. **Information** is the basic content or data gathered through specific research, rendering facts or details that provide input on a situation, a person, an event, etc.

An **information carrier** (or, as some organisations call it, **source of information**) is the medium through which the information is transmitted. For example: reports, written press, TV, radio, journals, books, etc. A person who reports something that someone else told him or her is also an information carrier. Databases and the internet are useful ways of accessing sources of information, but are not the actual information carriers themselves ([20]).

## 2.2. Language

Language is a significant factor regarding access to and evaluation of COI: most members of courts and tribunals depend on translated and/or summarised reports on facts and events, since either the language of a country of origin is not accessible and/or they do not speak the language of major COI reports. The largest quantity of COI and such reporting is available in English ([21]), along with some in French and other

([17]) See *VB and another (draft evaders and prison conditions; Ukraine) (CG)* (2017) UKUT 00079 (IAC) (http://www.bailii.org/uk/cases/UKUT/IAC/2017/79.html).

([18]) European Union (EU), *Common EU guidelines for processing country of origin information (COI)*, April 2008, p. 6, Section 2.1 (http://www.refworld.org/docid/48493f7f2.html).

([19]) EASO, *EASO country of origin information report methodology*, July 2012, p. 8 (https://coi.easo.europa.eu/administration/easo/PLib/EASO_COI_Report_Methodology.pdf).

([20]) EASO training module — *What is country of origin information (COI)?* (v. 4.1 — EN).

([21]) Accord, *Researching country of origin information — Training manual*, p. 29 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

languages, depending on the working languages of NGOs or the work of national COI units. Those units also often provide translations or summaries of important reports in additional languages, mostly in English. EASO as an EU institution provides translations of its major reports into other EU languages; the United Nations High Commissioner for Refugees' (UNHCR) country units sometimes translate UNHCR guidelines or policy papers into official languages of countries of regional offices to facilitate access.

## 2.3. Types of sources

The need to rely upon a variety of COI sources in the assessment of applications for international protection is explicitly provided for in Article 10(3)(b) APD (recast).

Keep in mind that all sources have their own agenda.

Most of the information used in COI research is produced by the types of sources covered below (see Appendix C for selected sources) ([22]).

*International and intergovernmental organisations*

These organisations (e.g. UNHCR, United Nations Security Council, Council of Europe, Economic Community of West African States) publish periodic reports, position papers on certain specific situations, findings of special rapporteurs or human rights experts, background information and much more for many countries of origin. Some EU institutions (e.g. European Parliament, EASO) also publish reports, field reports (from the Parliament's delegations), election observers' reports and position papers on many countries of origin.

*Non-governmental organisations*

Some internationally operating NGOs publish reports and papers on certain specific situations for many countries of origin (e.g. Amnesty International, Human Rights Watch). Other NGOs operate on a national or local level and publish reports on specific situations in their own country (e.g. the Ethiopian Human Rights Council, the Girls Power Initiative in Benin City). Some NGOs (such as the Swiss Refugee Council) provide query responses and reports on fact-finding missions.

*Governmental/state organisations*

Various state institutions publish different types of COI products on the situation in many different countries of origin (see Annex D). Some of these institutions will publish a mixture of policy and COI material. In particular some institutions (such as the Immigration and Refugee Board of Canada) also provide query responses ([23]) and fact-finding mission reports ([24]).

*Judicial organisations*

In some Member States (e.g. France) national courts conduct and/or participate in fact-finding missions that result in published reports ([25]).

*Media sources*

Media sources can be among the most important sources for daily updates on situations in countries of origin. International and national media sources (e.g. international media companies like the BBC, Reuters or Agence France Presse) often publish daily news information on countries of origin and may contain plenty of useful information about political and humanitarian situations.

*Legislative and administrative bodies (in countries of origin)*

([22]) EASO training module — *What is country of origin information (COI)?* (v. 4.1 — EN).

([23]) See for example the queries available on the EASO COI Portal (https://coi.easo.europa.eu/search/results#k=Type=%22Response%20to%20COI%20Query%22).

([24]) See for example the fact-finding mission reports available on the EASO COI Portal (https://coi.easo.europa.eu).

([25]) See for example reports by the French Office for the Protection of Refugees and Stateless People (OFPRA) and the French National Court of Asylum (CNDA): OFPRA–CNDA, *Rapport de mission en République d'Haïti du 26 mars au 7 avril 2017*, (http://www.cnda.fr/content/download/111393/1122479/version/1/file/HTI_OFPRA_CNDA_09.2017_Rapport%20de%20mission_Haiti.pdf); OFPRA–CNDA, *Rapport de mission en République fédérale du Nigeria du 9 au 21 septembre 2016* (https://www.ofpra.gouv.fr/sites/default/files/atoms/files/1612_nig_ffm_sp.pdf).

Institutions such as parliaments or ministries in countries of origin produce and publish the texts of national laws and regulations, such as the criminal code or nationality laws. It must be remembered in this respect that Article 4(3)(a) QD (recast) stresses the necessity of taking into account 'laws and regulations of the country of origin and the manner in which they are applied' in the assessment of applications for international protection.

*Academic sources*

Universities and colleges produce written information relating to their specific fields of interest and expertise. In some jurisdictions it may be possible to consult their experts directly (person to person) in order to answer specific questions on topics not found in their written material.

*Specialised sources (or country-specific and subject-specific sources)*

General reports can result in a good overview of the country situation and provide general information. However, if you need more in-depth knowledge on a certain topic, you may need to consult specialised sources as they may focus on topics that are ignored by other sources. Specialised sources usually have a focused thematic or regional mandate (e.g. European Roma Rights Centre: the situation of Roma in Europe; Syrian Human Rights Committee: the human rights situation in Syria; Eurasianet: a specific region).

*Non-IT-based sources*

Non-IT-based sources such as hardcopy books, magazines and maps also represent very important sources of information. As an example, the UN lists of war criminals and crimes against humanity, which are not all available online but can be found in libraries or other physical archives. Documents from interviews, conferences and seminars should not be forgotten either.

## 2.4. Social media

The New Zealand Country Research Branch defines social media as 'evolving technological tools, by which users create and share news, content and information. The content found on social media sites is often referred to as user-generated content, or UGC' ([26]).

Social media allows a growing number of people to quickly and easily document events and to communicate this information around the world instantly. In recent years, there has been an increase in the volume of information available on social media ([27]).

It is important to bear in mind that social media serve well for sharing and exchanging information. In this regard they can be more like databases than traditional sources of COI ([28]).

Social media present significant dangers. In general, social media are not subject to the same standards of regulation as established information sources. Source assessment is challenging. High visibility and presence in social media are not quality criteria in themselves. Evaluation of the information found will often be difficult. The accuracy of the information available in the platforms will be difficult to verify. For example, on Twitter, not all accounts are verified, and it may be advisable to cross-refer to other sources. Do not overestimate the added value of social media. However, sources from social media should not be excluded or discounted as a potential valuable means to gather information. Social media may be useful in specific contexts, for example when looking for information corroborative of where and when a demonstration took place. Social media can also be helpful for following developments on a certain topic or country ([29]).

([26]) Immigration New Zealand, Country Research Branch, *Country of origin information and social media literature review*, October 2013, p. 1 (https://www.ecoi.net/site/assets/files/1890/crb-country-of-origin-information-and-social-media-executive-summary-october-2013.pdf).

([27]) EASO training module — *What is country of origin information (COI)?* (v. 4.1 — EN).

([28]) Accord, *Researching country of origin information — Training manual*, p. 141 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

([29]) Ibid. p. 141.

**Table 3: Advantages and disadvantages of social media sources** ([30])


- Offer very current information (e.g. on security developments, ongoing elections). New releases are announced on social media by some organisations.
- Facilitate access to information not available elsewhere.
- Enable encounters with new 'regular' sources on specific topics or countries.
- Offer another avenue for finding experts and getting in contact with them.
- Share information easily with colleagues and to collect information together.

- Add to information overload. Researching and filtering the information can be time consuming.
- Allow the use of false identities.
- Allow subjective information and opinions widespread on them.
- The fact that their content is generated by users implies that content can be changed rapidly.
- Platforms often require you to register an account with your identity before you can use them.
- Verification of content on them can be difficult.

There are different types of social media platforms that can be useful to locate COI: social networking sites (e.g. Facebook, LinkedIn, Instagram), weblogs and microblogs (e.g. Twitter), wikis (e.g. Wikipedia), file-sharing sites (e.g. YouTube, Flickr) and location-based services (e.g. Wikimapia, Panoramio). Internet forums and message boards (e.g. Expat Forum) can also contain COI.

Through the fast proliferation of user-generated content, COI research has become more complex due to the increase in the volume of information available. Social media can be used to circulate information, misinformation, appeals and propaganda. This can be done by individuals, NGOs, governments and even terrorist organisations. Social media do not need an intermediary like conventional media; they can directly transmit records and experiences by eyewitnesses and victims of human rights violations.

Information can therefore be immediate and individualised in a way not previously possible with 'traditional' COI sources. Also, the low cost now allows local media and NGOs to communicate widely, unlike in the past. However, abuse and manipulation are possible due to the largely unregulated nature of social media ([31]).

## 2.5. Hierarchy of sources

The question might arise of whether one type of source is more valuable than another. Is there anything like a hierarchy of sources? Do, for instance, media sources have the same value for COI research as UN sources? Does a governmental report have more weight than a paper published by a NGO?

'In this context, it is important to stress that no general hierarchy of sources exists. The usefulness and authority of each source depends in part on the question it is meant to answer — each source should be assessed in its own right and conclusions on the reliability of the source should only be drawn after a thorough source assessment has been conducted' ([32]). It is not possible to state that individual sources will always be more reliable or useful than others. On the general situation of human rights some sources (e.g. international organisations) may be more useful, whereas for information on specific events other sources (e.g. local news agencies or experts) may be more helpful.

([30]) Adapted from a list by Accord. Austrian Red Cross, Austrian Centre for Country of Origin & Asylum Research and Documentation, *Researching country of origin information — Training manual,* pp. 141-142 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

([31]) Immigration New Zealand, Country Research Branch, *Country of Origin Information and Social Media Literature Review*, October 2013, p. 1-2 (https://www.ecoi.net/site/assets/files/1890/crb-country-of-origin-information-and-social-media-executive-summary-october-2013.pdf).

([32]) Accord, *Researching country of origin information — Training manual*, pp. 87-88 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

## 2.6. Databases and search engines

Databases and search engines are not sources per se.

A **source** provides information, a **database** or a **search engine** provides access to sources and allows information to be retrieved, from either the internet or from selected sources.

A **database** presents information from different sources by applying various selection criteria. The content of databases may provide lists of links and may include the original reports or just summaries. Databases are very useful for research because they provide compilations of different sources and information on countries and/or topics. For verification, evaluation and corroboration of material you will have to refer to the primary source. The information on a database has been selected. An example of a database is Ecoi.net, managed by Accord. Ecoi.net contains a vast collection of reports relating to situations in countries of origin, policy documents, and positions and documents relating to international and national legal frameworks. A similar approach is taken by Refworld, managed by UNHCR for the purpose of making COI, refugee case-law and refugee legislation available to all persons involved in decision-making on asylum applications. The EASO COI Portal contains COI products from national COI units and EASO publications.

**Search engines** — systems or programmes dedicated to the search and retrieval of information available on the web — are usually based on an index of several HTML documents, so you can easily locate the document(s) you are searching for. Examples of search engines are Google and Yahoo.

The **Internet Archive** — also known as the Wayback Machine ([33]) — allows the user to search for websites or pages that may have disappeared. This is useful because although decisions refer to COI by reference to a webpage and the date it was accessed, which is good practice, approximately 20 % of web links do not work after 2 years. This may be due to the report being archived.

**Media archives** collect information produced from various media sources and make them easily available to you. Examples of such media archives are WNC, BBC Monitoring, LexisNexis, Factiva and allAfrica.com. They can be a valuable tool, but also quite costly, because a subscription is often required in order to be permitted to search their sites.

## 2.7. Anonymous sources

Sources of information can not, as a general rule, be anonymous and should be named. However, in some cases it may not be possible to name the primary source without putting the person's security at risk; this would be the case if an author who directly contacted a primary source were to publish their details ([34]).

The ECtHR gave guidance when it dealt in *Sufi and Elmi* ([35]) (Somalia) with 'the weight to be attached to country reports which primarily rely on information provided by anonymous sources.'

([33]) See Internet Archive — Wayback Machine (https://archive.org/web).

([34]) EASO, *Country of origin information report methodology*, July 2012, p. 8 (https://coi.easo.europa.eu/administration/easo/PLib/EASO_COI_Report_Methodology.pdf).

([35]) ECtHR, judgment of 28 June 2011, *Sufi and Elmi* v. *the United Kingdom*, applications Nos 8319/07 and 11449/07, para. 219, para. 233 (http://hudoc.echr.coe.int/eng?i=001-105434).

**Table 4: ECtHR — *Sufi and Elmi* (Somalia)**

Text (para. 233): '… 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.'

# 3. Practical use of country of origin information

**Table 5: Practical use of COI**

COI is essential for an appropriate examination of applications for international protection by determining authorities, and for the **fulfilment of the task of courts and tribunals**.

Courts and tribunals examining facts and points of law will need COI in order to assess the evidence. For courts and tribunals concerned only with **points of law**, it will be important to consider whether the determining authority or court below has applied **proper criteria** in making use of and assessing COI.

COI is furthermore needed at both stages of their respective assessment:

- establishment of past and present circumstances of the applicant first;
- followed by the risk assessment.

## 3.1. Why do you need to use country of origin information?

Members of a court or tribunal assessing the evidence in order to make findings of fact must ensure they apply the legal criteria laid down in CEAS instruments, including, where relevant, Article 4 QD (recast). That applies equally to COI, and the court or tribunal should usually follow the basic procedural requirements in Article 10(3)(a) APD (recast) ([36]), to ensure that 'applications are examined and decisions taken individually, objectively and impartially' ([37]). To do otherwise would prevent the remedy from being effective.

Article 4 QD (recast) requires an examination of the elements of a claim. It relates to the 'assessment of facts and circumstances'. Consistent with what the CJEU said in its judgment in Case C-277/11, *M.M.* v *Minister for Justice, Equality and Law Reform, Ireland, Attorney General* ([38]), that 'assessment' takes place in two separate stages:

1. establishing the factual circumstances which may constitute evidence that supports the application; and
2. the legal appraisal of that evidence which means deciding if, (in the light of the specific facts of a given case), the substantive conditions for the grant of international protection are met'.

## 3.2. Where is country of origin information needed?

COI is needed or useful in a variety of contexts in the assessment of international protection. It helps a decision-maker to become familiar with a **general political and/or socioeconomic situation** in a country of origin and/or with **recent developments in conflict areas**. See the following table for examples.

([36]) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, p. 69 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=EN).

([37]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* Section 4.7.3. p. 120.

([38]) CJEU, judgment of 22 November 2012, *M.*, Case C-277/11, EU:C:2012:744, para. 64 (http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d2dc30d6f3e160b1850a4c8098eb8a388440fb52.e34KaxiLc3qMb40Rch0SaxyMahf0?text=&docid=130241&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=7920).

**Table 6: Becoming familiar with the situation of the country**

| | |
|---|---|
| **Familiar with a general political and/or socioeconomic situation and/or recent developments in conflict areas.** | • A general knowledge of the players involved in the war in Syria supports a rapid understanding of issues possibly arising with applicants from various different areas of origin within the country. |
| | • The claims of corruption related to the presidential election in Somalia in spring 2017 taint reports on increasing state control and structure and an evaluation of effective protection by state actors. |
| | • The documentation and situation of the different categories of Palestinians from the region and their legal status within the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) helps in a prima facie assessment of their claims. |

Of course, individual claims always need to be assessed on their concrete merits; a general knowledge only facilitates an initial evaluation.

COI **assists in evaluating the credibility and/or plausibility** ([39]) of an applicant's account. See the following table for examples.

**Table 7: Assisting with the evaluation of the credibility and plausibility**

| | |
|---|---|
| **Assists in evaluating the credibility and/or plausibility of an applicant** | • COI helps a decision-maker put an applicant's account of his or her fear of persecution into context. |
| | • COI enables decision-makers to see whether an applicant's account of a procedure, a practice or a lack of protection is documented in COI and thus also helps the applicant to substantiate his or her account. |
| | • Applicants very often find themselves in a situation where they have to make a fear of persecution credible to a decision-maker without having access to proof or other independent means to support their story. COI depicting a situation or practice that supports an applicant's story therefore helps the decision-maker in evaluating the credibility of an applicant and the plausibility of an account. |

COI can also help **evaluate a specific individual account** by providing the following, for example.

([39]) For detailed analysis of the important issues of credibility and/or plausibility please see EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* Part 4: Specific principles and standards applicable to evidence and credibility assessment.

**Table 8: Evaluating a specific individual account**

| | |
|---|---|
| **Specific individual account** | • Information on how Nigerian women are drawn into the trafficking organisations (e.g. parties involved, ways of coercion used, the 'Juju' practice, the role of family members). |
| | • Information on how the process of recruitment to a militia works and who is usually targeted for forced recruitment. |
| | • Information on how and when female genital mutilation is practised in a specific country or area and how the community reflects on the practice. |
| | • Reports on ways of punishment for opposition members. |
| | • Information on the role of family members in the support of rebels in Chechnya, but also in the punishment strategy of the Kadyrov regime. |
| | • Information on discrimination against particular ethnic or religious minorities. |

**COI is an important means of assessing risk of persecution or serious harm on return to an applicant's country of origin.** It can help in the identification of the following, for example.

**Table 9: Assessing risk on return**

| | |
|---|---|
| **Risk of persecution or serious harm on return to an applicant's country of origin** | • Legal provisions and the factual application of criminal prosecution of lesbian, gay, bisexual, transgender, intersex and queer/questioning persons. |
| | • Legal provisions and the factual application of the death penalty, the existence of a moratorium or other practices. |
| | • Situations arising under Article 15 (b) QD (recast), such as prison conditions. |
| | • Information on (civil) war and its consequences for civilians. |

**In a case where an account of a prior persecution has been deemed credible, information on a change of situation that would render a repeated persecution unlikely is necessary to be able to evaluate the question of granting refugee status** (see Article 4(4) QD (recast)). Such information might relate to the following, for example.

**Table 10: Taking into account a prior persecution that has been deemed credible, repeated persecution that will evaluate the question of granting refugee status**

| | |
|---|---|
| **Account of a prior persecution has been deemed credible, information on a change of situation that would render repeated persecution unlikely is necessary to be able to evaluate the question of granting refugee status** | • Control situation in Mogadishu, Somalia. |
| | • Control situation in Syria in the course of the civil war. |
| | • Control situation in the Central African Republic. |

**COI can help in the understanding of factors that might create a risk on return beyond those originally responsible for the person leaving the country in the first place.** Such matters might relate to the following, for example.

**Table 11: Understanding factors that might create a risk on return** ([40]) ([41])

| | |
|---|---|
| **Understanding factors that might create a risk on return beyond those originally responsible for the person leaving the country in the first place** | • An illegal exit from Uzbekistan can lead to a disproportionate punishment upon return (ECtHR, judgment of 18 December 2012, *F.N. and others v. Sweden*, application No 28774/09). |
| | • Or, if the case concerns active opposition activities against the authorities in the country of origin undertaken in the host country. |

**COI is also needed to evaluate an internal protection alternative** ([42]) **by providing clarification on matters** including the following.

**Table 12: Evaluating an internal protection alternative**

| | |
|---|---|
| **To evaluate an internal protection alternative** | • The presence of security forces. |
| | • Accessibility and safety of travel routes (e.g. from Kabul to Kandahar, Afghanistan). |
| | • Living conditions in Kabul. |
| | • The situation of internally displaced persons in the Kurdistan regional government area, Iraq. |
| | • The kind of people fleeing from Boko Haram in Nigeria and neighbouring countries. |

([40]) See for example, in this context, ECtHR, judgment of 18 December 2012, *F.N. and others* v. *Sweden*, application No 28774/09 (http://hudoc.echr.coe.int/eng?i=001-115396).

([41]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniforms status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 21.12.2011, p. 14 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&from=EN).

([42]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniforms status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 15 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&from=EN).

## 3.3. Evaluating country of origin information

Because members of courts and tribunals need to use COI in the assessment of applications for international protection they must be able to evaluate to what extent COI material can be relied upon. This is important where there is overabundant and potentially conflicting information.

Members of courts and tribunals have to assess the COI provided by COI researchers or by the parties before they decide the case. Judicial checklists can help to make a proper assessment ([43]).

In assessing the weight to be attached to COI, the ECtHR has restated in its case-law ([44]) 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.

The following concise questions might prove useful in the context of this practical guide to evaluate information. They can assist in deciding how much weight to attach to particular COI.

**Table 13: COI questions**

| | |
|---|---|
| **COI questions** | 1. Is the source independent? |
| | 2. Is the source reliable? |
| | 3. Is the source objective? |
| | 4. What is the author's reputation? |
| | 5. Is the methodology sound? |
| | 6. Are the conclusions consistent? |
| | 7. Are other sources used as corroboration? |
| | 8. Is the COI relevant and adequate? |
| | 9. Is the COI up to date and/or temporally relevant? |

For a detailed analysis, see *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis* ([45]). For more detailed information on how these questions are applied in national jurisprudence, see Appendix F: the French and UK courts set out the approach to COI in great detail. The Upper Tribunal in the United Kingdom, for example, issues 'country guidance' judgments.

Properly researching reliable COI is difficult, sensitive and requires training and experience. Knowledge of the countries and/or regions in question and, preferably, original language skills are useful. Members of courts and tribunals doing their own COI research should keep this in mind.

([43]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis*, p. 130.

([44]) ECtHR, *Saadi* v. *Italy*, No 37201/06 (fn. 175, para. 143 (http://hudoc.echr.coe.int/eng?i=001-85276); ECtHR, *NA* v. *the United Kingdom*, No 25904/07, fn. 175, para. 120 (http://hudoc.echr.coe.int/eng?i=001-87458); ECtHR, judgment of 28 June 2011, *Sufi and Elmi* v. *the United Kingdom*, applications Nos 8319/07 and 11449/07, para. 230 (http://hudoc.echr.coe.int/eng?i=001-105434); ECtHR, *JK and Others* v. *Sweden*, op. cit., fn. 90, para. 88 (http://hudoc.echr.coe.int/eng?i=001-165442).

([45]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis*.

## 3.4. Warnings

Determining risk on return is a matter for the members of courts and tribunals: **COI is a means to that end**.

Reliable COI has its limits ([46]). Usually it is difficult, or even mainly impossible, to collect information on an individual's circumstances in countries of origin. It is important to note that personal data and data that enable authorities in countries of origin to identify an applicant must not be transmitted to such authorities (see also Section 4).

Depending on the country of origin, it might be difficult, for example, to check whether someone was arrested on a particular day or applied for documents at a local authority.

Care may need to be taken in assessing whether what appears to be evidence from many sources **is in fact from just one source**. It can happen that several thematic or annual reports in fact rely on one common source. This is known as 'round-tripping': information being quoted differently in several sources but that has referred in fact to a single original source or information ([47]).

**Research possibilities in a country of origin are also restricted.** 'Persons of trust' employed by diplomatic missions or embassies in countries of origin can in some cases help collect information or verify an account of an applicant. Their reports are considered evidence in the proceedings. However, such persons and their methods cannot usually be supervised. When assessing such information, consideration must be given to the unique situation of such information gathering and the impossibility of verification. Also, the requirement to keep the identity of an applicant confidential to protect him or her and his or her family members must be kept in mind when cooperating with a 'person of trust' in a country of origin.

Although **social media**, peer media, grass-roots/citizen journalism, blogs and such can help to provide additional information and personal accounts of events, the lack of supervision of the sources involved must be considered when assessing the information and placing it into the wider context (see Section 2.3).

It is important to make sure to obtain a thorough overview of existing and available sources and reports/information to enable an independent and objective assessment of the information ([48]). For that reason, do not stop the research or assessment of COI merely when information that supports a particular point of view is found.

In the case of countries such as Afghanistan or Iran there is a huge amount of material available on the internet from many sources. It is easy in such circumstances to become overloaded by information. It can help to use the criteria of the COI questions listed above to narrow down the relevant information.

The **fact that reports on certain accounts are unavailable does not necessarily mean that those situations/events did not happen**. For example there may be a lack of witnesses, an oppressive media regime in a certain country, a period of unrest and chaos, cultural taboos or lack of reporting abroad. Such matters need to be taken into account because they can restrict or delay reporting. Equally, fact-finding teams may have not visited particular areas because there was a lack of resources or a lack of time, or for security reasons, or because an area could not be reached. For example, inspection teams from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment do not visit every detention centre in a country when conducting a periodic survey.

Beware of unreliable translations, and cases in which a decision-maker is working in a language in which limited COI is available. Such limitations should be kept in mind when evaluating the COI. With a language-related limitation of access to a variety of sources, the ability to exercise some control over the use of

([46]) Accord, *Researching country of origin information — Training manual*, Section 2.1.3. 'Accuracy and currency', p. 34 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

([47]) See European Union, *Common EU guidelines for processing country of origin information (COI)*, April 2008 (http://www.refworld.org/docid/48493f7f2.html).

([48]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* Section 4.3.2, p. 76.

sources and the requirement to corroborate important information with several different sources ([49]) might also be limited.

There is no common standard for transcriptions from one script to another, which may frequently result in different spellings.

Mohammad

محمد

**Can be written in several different ways in English, such as:**

*Mohammad*

*Mohamed*

*Mohammed*

**The same can apply to:**

*places;*

*names;*

*organisations.*

***Do not leap to conclusions if there is a discrepancy.***

Calendars vary also, for example 1 January 2000 according to the Gregorian calendar would be 24 Ramadan 1420 in the Islamic calendar, 11 Dey 1378 in the Persian calendar, 11 Dalwa 1378 in the Afghan calendar and 22 Takhsas 1992 in the Ethiopic calendar. The use of different calendars can have implications for the assessment of the dateline of the applicant's story.

Bear in mind that **many institutions, titles and hierarchies** do not have direct translations and can be rendered differently in different sources, yet the same institution or title is meant. This may often be because the institution is unique to a specific country and may not have an equivalent elsewhere. Examples include the *hukou* registration system in China, the *hawala* banking in some Muslim societies and military ranks in different countries.

([49]) Accord, *Researching country of origin information — Training manual*, Section 2.1.3. 'Accuracy and currency', p. 34 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

# 4. Asking appropriate country of origin information questions

An asylum application always gives rise to certain questions. COI can assist in answering these questions. The following principles can be found in the major manuals on the subject ([50]).

The formulation of questions relevant for COI research depends on the circumstances of the case at hand. Sometimes you will need information of a general nature to build an overall picture of the situation in a country. At other times you will need quite detailed case- or topic-specific information in order to gain an understanding of a crucial element of a case or to verify the credibility of the applicant. You should make sure that the information you seek is relevant to the decision in the individual case.

When formulating research questions, it is important to have the applicant in mind. Is the applicant a man, a woman or a child? Is the applicant a healthy person or somebody who suffers from an illness? Are there specific vulnerabilities? Are your questions gender sensitive?

The question you will ask almost always fits into one of these categories:

- protection-related questions;
- credibility questions.

**Protection-related questions** are connected to the substance of the asylum claim. The purpose of asking this type of question is to help assess the potential risk an applicant faces in his or her country of origin.

These questions can relate to the applicant's fear of being persecuted on asylum grounds (race, religion, nationality, membership of a particular social group or political opinion).

Such questions can also relate to the consideration on the part of members of courts or tribunals of whether an applicant is eligible for subsidiary protection under the QD (recast). The assessment should indicate whether there is a real risk of an applicant suffering serious harm in the form of the death penalty or execution; or torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or serious and individual threats to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict.

The questions can also relate to assessment of the sufficiency of protection in an applicant's country of origin or whether the option of internal relocation may be open to the applicant.

**Credibility questions** can be useful to help prepare for a hearing and, at a later stage, to corroborate details of the applicant's testimony. For members of courts and tribunals with investigative competence, this type of question aims to find out facts about the applicant's country or region of origin. For example, you might ask the following.

- What are the names of the main streets in Aleppo and what are the prominent buildings and attractions there?
- What are the names of the opposition parties in the country of origin?
- What colour are the police uniforms in the region of origin?

The way you ask a question can influence what kind of information can be gathered. Questions that are too specific or too general are inappropriate, as are leading or manipulative questions. Also, as noted above, remember that several spellings of names of organisations and/or persons can exist and that misspellings of names, places or groups can hinder the finding of results.

The real strength of COI lies in gathering facts about the general situation in a country of origin rather than checking details regarding an applicant´s personal background. COI is therefore more likely to be of assistance in gathering relevant information when using questions regarding the general situation. An obvious exception to this is of course if the applicant is a person with a high profile in his or her country of origin.

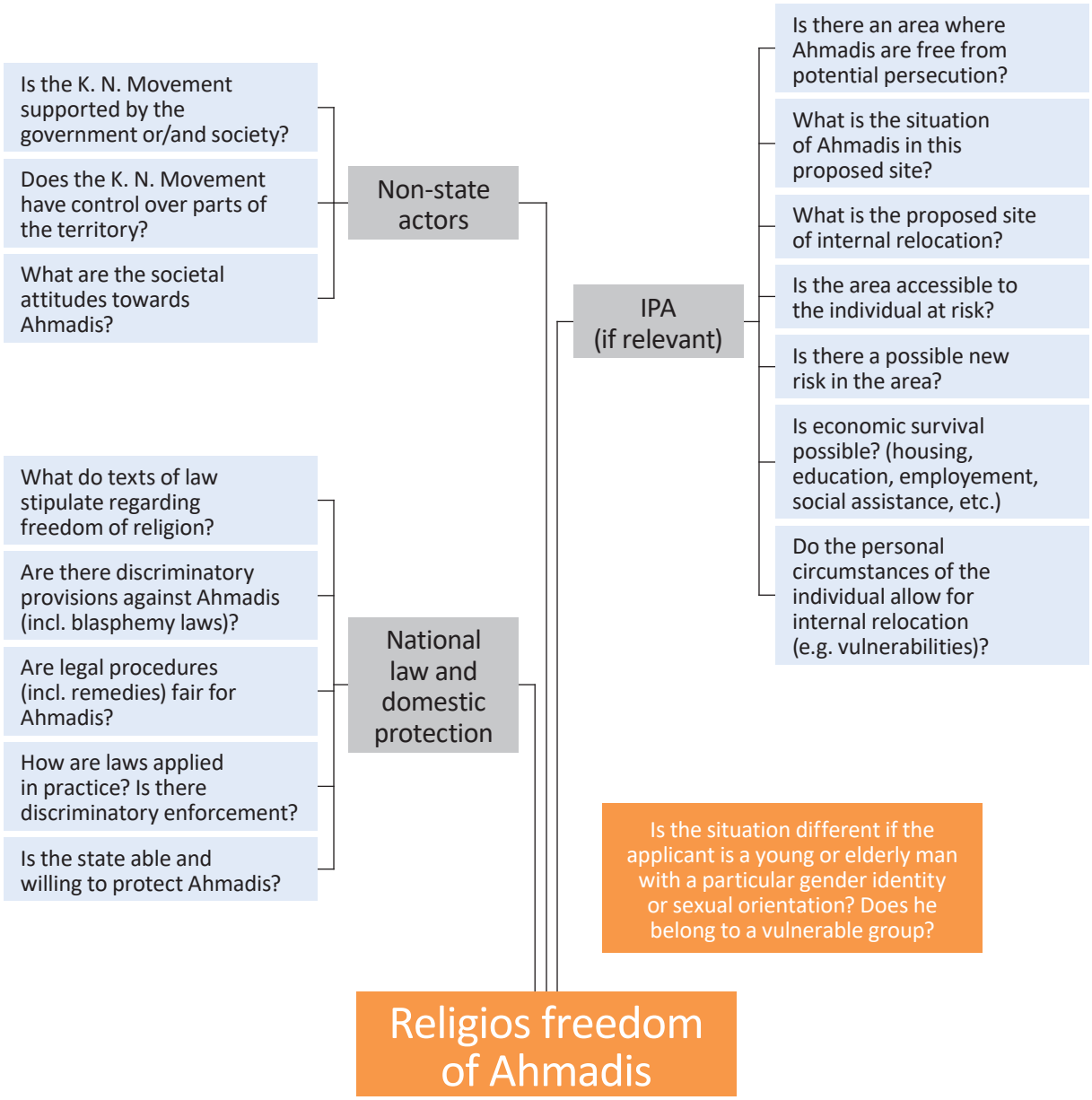
([50]) These manuals can be found listed in Appendix B.

All types of research are guided by questions. The formulation of a research question is the first step when approaching a research task. Visualising questions can help you to prepare for your COI research.

You can organise your questions by drawing a simple tree structure. It is helpful to put the main question in the trunk and the research issues in the branches. From these branches twigs sprout containing detailed research questions.

Example of a research tree: 'A man from Pakistan claims he is in need of international protection because he belongs to a religious group called Ahmadis. He fears he might face serious harm by the Khatme Naby'wat Movement that targets Ahmadis in Pakistan, claiming that they are apostates. This organisation states its aims are in accordance with the Pakistani legal framework, in particular the laws against blasphemy' ([51]). The issues in this scenario can be organised using a research tree, as in the following example from Accord.

**Table 14: Research tree from the Accord training manual** ([52])




([51]) Accord, *Researching country of origin information — Training manual*, Section 3.3.1. 'Religion', p. 61 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

([52]) Accord, *Researching country of origin information — Training manual*, Section 3.3.1. 'Religion', p. 61 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

# 5. Procedural issues and sharing the information

## 5.1. Standard of proof

The QD (recast) does not prescribe a standard of proof required for a fear to be considered well-founded. It is notable that the CJEU, in its judgment in *Y and Z* ([53]), clarified that when assessing whether an applicant has a well-founded fear of being persecuted, the competent authorities are required 'to ascertain whether or not the circumstances established constitute such a threat that the person concerned may **reasonably** fear, in the light of his individual situation, that he will in fact be subject to acts of persecution' ([54]).

It should be borne in mind also that the CJEU, in its judgment in Case C-277/11, *M.* ([55]), prescribed two-stage analysis for the assessment of international protection and that the standard of proof relating to the first stage (establishing the facts and circumstances, which may constitute evidence that supports the application) may differ amongst the jurisdictions.

For more details, see Section 3.1.

## 5.2. Burden of proof

According to general legal principles on the law of evidence, the burden of proof lies on the person who makes the assertion. Article 4(1) QD (recast), however, does not refer to there being a burden of proof on an applicant, only that Member States may consider that it is the duty of the applicant to substantiate the application. Reference to a burden of proof is not necessarily a helpful concept. The CJEU does not use the word 'proof' in connection with Article 4(1) QD (recast), but in Case C-277/11, *M.*, makes it clear that the applicant's duty is to submit all elements needed to substantiate the application for international protection ([56]).

The duty to cooperate as defined in Article 13(1) APD (recast) does not refer to COI. However, applicants are free to submit COI they deem relevant for their application.

Where exclusion under Article 12(2) QD/Article 1F Refugee Convention is being considered, the standard of proof is that of 'serious reasons for considering' that the person comes within the provisions in question. This requires credible and reliable information ([57]). However, bear in mind that when dealing with exclusion the burden shifts to the Member State.

If considering these issues, please consult the EASO judicial analysis on exclusion ([58]). The same applies to ending international protection ([59]).

## 5.3. Equality of arms

Fair procedures require the respect of the principle of **equality of arms** of the parties concerned in asylum proceedings ([60]). 'When the court or tribunal decides to rely on country information that was not previously

([53]) CJEU, judgment of 5 September 2012, *Y and Z*, C-71/11 and C-99/11, EU:C:2012:518, para. 76 (http://curia.europa.eu/juris/document/document.jsf?text=&docid=126364&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=373237).

([54]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* Section 1.2.5. p. 16.

([55]) CJEU, judgment of 22 November 2012, *M.*, Case C-277/11, EU:C:2012:744, para. 64 (http://curia.europa.eu/juris/document/document.jsf;jsessionid=9ea7d2dc30d6f3e160b1850a4c8098eb8a388440fb52.e34KaxiLc3qMb40Rch0SaxyMahf0?text=&docid=130241&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=7920).

([56]) Ibid. para. 65.

([57]) UNHCR, *Guidelines on international protection No 5: Application of the exclusion clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 4 September 2003, HCR/GIP/03/05 (http://www.refworld.org/docid/3f5857684.html), paras. 34-36.

([58]) EASO, *Exclusion: Articles 12 and 17 qualification directive (2011/95/EU) — A judicial analysis*, January 2016 (https://www.easo.europa.eu/sites/default/files/public/Exclusion%20Final%20Print%20Version.pdf).

([59]) EASO, *Ending international protection: Articles 11, 14, 16 and 19 qualification directive — A judicial analysis*, December 2016, (https://www.easo.europa.eu/sites/default/files/Ending%20International%20Protection_Articles%2011_14_16%20and%2019%20QD%20EASO%20Judicial%20Analysis%20FINAL.pdf).

([60]) Charter of Fundamental Rights of the European Union, OJ C 364, 18.12.2000, p. 20 (http://www.europarl.europa.eu/charter/pdf/text_en.pdf); Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, p. 69 in conjunction with p. 74 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en).

taken into account by the determining authority it is essential to assess its public accessibility and its level of relevance to the case. These factors may entail different levels of obligation regarding the communication of such information to the parties' ([61]).

## 5.4. References/citing country of origin information sources in decisions

Sources of information used by a court or tribunal must always be transparent in their decisions ([62]); the only exception to this rule relates to security concerns.

The requirement that the decisions of courts and tribunals on applications for international protection should be sufficiently reasoned requires that they should make explicit which sources of information have been relied upon in the assessment of the merits of the appeal. This will be necessary insofar as the rationale of the judgment relies on the evaluation of conditions prevailing in the country of origin.

The reasoning in a judgment includes an examination of the factual and legal issues at the heart of the dispute. Where an application is rejected the decision must contain reasons in fact (including COI) and in law ([63]). When examining COI, objections to the evidence need to be addressed, especially in terms of its admissibility. The weight of factual evidence likely to be relevant for the resolution of the dispute will also be considered.

The COI used and referred to in judgments should not be too general, and should be relevant. It should always reflect the individual circumstances of the asylum seeker.

Examples of effective ways to cite COI are as follows ([64]).

| | |
|---|---|
| **General citation** | 'Name of the source (author and/or institution) |
| | Title of the publication |
| | Date of the publication (additionally, if applicable, period covered) |
| | Page(s) or paragraph(s) or section heading of the specific piece of information |
| | Internet link (URL) with date of access (for documents published on the internet)' |
| **Article in journals** | 'name of the journal |
| | title of the article |
| | volume number' |

The citation should be precise enough to allow the document to be identified. Hence, it should contain mention of its author or source, full title, date of publication and, if available, reference number ([65]).

([61]) EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* Section 4.8.4.1 p. 136.

([62]) The term 'judgment' is used to also describe quasi-judicial decisions.

([63]) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, p. 69 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en).

([64]) Accord, *Researching country of origin information — Training manual*, p. 170 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

([65]) See Council of State (France), 10 July 2017 M. N. No 400593 C. (https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000035163349&fastReqId=1340092730&fastPos=1).

## 5.5. Using sources that cannot be disclosed

Sometimes there will be a need to consider confidential data. 'Whilst this may raise difficulties about the accuracy of the informant's material, the weight to be attached to the information may be greater if the reason for anonymity is explained or if it is possible to assume that the publisher of the report is an organisation of sufficient probity to ensure the source will have been checked insofar as it is possible to do so. But, subject to exceptions of this kind, generally COI may only be viewed as reliable if it is in the public domain and transparent as to its authorship' ([66]).

Using public information ensures that the information is open to review, verification, or examination by the applicant for international protection, experts and the public at large. Information based on confidential sources may have limited value because of the difficulty of verifying that information.

While the importance of COI being publicly accessible is recognised, 'the positions on using and producing restricted information may differ from country to country' ([67]).

Generally, an applicant is entitled to access COI on his or her file in the same way he or she is entitled to access any information on his or her file. There are exceptions however ([68]):

**Table 15: Article 23(1) APD — Scope of legal assistance and representation**

'Member States shall ensure that a legal adviser or other counsellor admitted or permitted as such under national law, who assists or represents an applicant under the terms of national law, shall enjoy access to the information in the applicant's file upon the basis of which a decision is or will be made.

Member States may make an exception where disclosure of information or sources would jeopardise national security, the security of the organisations or person(s) providing the information or the security of the person(s) to whom the information relates or where the investigative interests relating to the examination of applications for international protection by the competent authorities of the Member States or the international relations of the Member States would be compromised. In such cases, Member States shall:

(a) make access to such information or sources available to the authorities referred to in Chapter V; and

(b) establish in national law procedures guaranteeing that the applicant's right of defence are respected.

In respect of point (b), Member States may, in particular, grant access to such information or sources to a legal adviser or other counsellor who has undergone a security check, insofar as the information is relevant for examining the application or for taking a decision to withdraw international protection.'

The International Association of Refugee Law Judges (IARLJ) refers to two standards in this regard ([69]): the information or sources must be available to judges in the adjudication process ([70]); and national law procedures must guarantee the applicant's rights to defence ([71]).

([66]) IARLJ, *A structured approach to the decision making process in refugee and other international protection claims*, IARLJ/JRTI/UNHCR conference: 'The Role of the Judiciary in Asylum and Other International Protection Law in Asia', Seoul, South Korea, 10-11 June 2016, pp. 43-44 (https://www.iarlj.org/iarlj-documents/general/IARLJ_Guidance_RSD_paper_and_chart.pdf).

([67]) Accord, *Researching country of origin information — Training manual*, p. 37 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

([68]) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, p. 74 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en).

([69]) IARLJ, *Due process standards for the use of country of origin information (COI) in administrative and judicial procedures* (10th World Conference, 2014), para. 12 (https://www.iarlj.org/images/stories/Tunis_conference/WPPapers/COI.pdf).

([70]) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, p. 74 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en).

([71]) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, p. 74 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en).

# 6. Particular assessments

Preliminary remark: please read this section together with the notes on procedural issues and sharing information in Section 5 of this guide.

## 6.1. Assessing exclusion

COI typically will be of crucial importance in determining whether any of the grounds of exclusion apply. The Council of Europe has acknowledged that:

> 'One of the most appropriate ways for national authorities to obtain "clear and credible information" that someone falls under the exclusion clauses is a proper recourse to reliable and relevant country of origin information. Indications that a person has committed an act that falls under Article 1 F (a) to 1 F (c) [([72])] can be deduced from the information in the country of asylum or by an international tribunal, from credible confession by the asylum seekers or from former legitimate conviction or penal prosecution. On the contrary, no such indications could be deduced from information based on hearsay or mere suspicion' ([73]).

Article 12(2) QD adopts the language of the grounds for exclusion in Article 1F of the Refugee Convention. In determining whether a person ought to be excluded on these grounds, COI may provide important information on crimes against peace, war crimes or crimes against humanity ([74]); serious non-political crimes and the extent of any alleged political objective relating to those crimes ([75]); and acts contrary to the purposes and principles of the United Nations ([76]) that may have occurred in the person's country of origin or a relevant third country. COI may also assist in ascertaining whether the person in question instigated or participated in the commission of the crimes in question ([77]). Particular care should be taken when considering COI in this context that the information in question in fact relates to the applicant, and that the sources are reliable.

COI may be useful in assessing statements by the applicant, or verifying a conviction of a crime by a foreign court.

The same principle applies to Article 17(1) QD ([78]), which provides grounds for exclusion from eligibility for subsidiary protection.

## 6.2. Assessing ending of international protection

Up-to-date COI will be vital where cessation is proposed because the circumstances in connection with which the person in question was recognised as a refugee or was granted subsidiary protection are said to have ceased to exist ([79]). When analysing COI in this context, it is important to consider COI that was relevant at the time the risk was found before considering the current situation, as a comparison will need to be undertaken.

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([72]) The bases on which a person may be excluded from the benefits of refugee status are set out in Article 12 of Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 9 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&from=EN) and closely follow the grounds for exclusion in Articles 1D, E and F of the Refugee Convention.

([73]) Council of Europe, Committee of Ministers, Recommendation Rec(2005) 6 of the Committee of Ministers to member states on exclusion from refugee status in the context of Article 1 F of the Convention relating to the Status of Refugees of 28 July 1951, 23 March 2005 (https://rm.coe.int/16805db5c6).

([74]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniforms status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 9 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&from=EN).

([75]) Ibid. p. 17.

([76]) Ibid. p. 17.

([77]) Ibid. p. 17.

([78]) Ibid. p. 18.

([79]) Ibid. pp. 16-18.

In applying this ground for cessation, Member States must have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded ([80]). This provides a threshold to be reached in order to demonstrate that this ground for cessation applies. The burden of proof shifts to the Member State in respect of this ground. Where circumstances in the country of origin may have changed and cessation of refugee status is considered, the 'burden rests on the country of asylum to demonstrate that there has been a fundamental, stable and durable change in the country of origin' ([81]). A similar ground for cessation applies in respect of a change of circumstances which led to the granting of subsidiary protection status, to which the above principles apply ([82]).

([80]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniforms status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 9, p. 17 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&from=EN).

([81]) UNHCR, *Guidelines on international protection No 3: Cessation of refugee status under Article 1C(5) and (6) of the 1951 Convention relating to the Status of Refugees (the 'ceased circumstances' clauses)*, 10 February 2003, HCR/GIP/03/03, para. 25(ii) (http://www.refworld.org/docid/3e50de6b4.html).

([82]) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniforms status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011 p. 9 (http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0095&from=EN).

# Appendix A — EASO methodology for professional development activities for members of courts and tribunals

## Background and introduction

Article 6 of the EASO founding regulation ([83]) (hereinafter 'the regulation') 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 EU's existing cooperation in the field with full respect to the independence of national courts and tribunals.

With the purpose of supporting the enhancement of quality standards and harmonisation of decisions across the EU, and in line with its legal mandate, EASO provides for twofold training support that includes developing and publishing professional development materials and organising professional development activities. With the adoption of this methodology EASO aims to outline the procedures that will be followed for the implementation of its professional development activities.

In undertaking these tasks EASO is committed to following the approach and principles outlined in the field of EASO's cooperation with courts and tribunals as adopted in 2013 ([84]). Following consultation with the EASO network of courts and tribunal members, amendments have been made to this methodology so that it better reflects developments that have occurred in the meantime.

## Professional Development Series (formerly curriculum)

**Content and scope —** In line with the legal mandate provided by the regulation, and in cooperation with courts and tribunals, it was established that EASO will adopt a professional development curriculum aimed at providing courts and tribunal members with a full overview of the CEAS. Following discussions during the Annual Coordination and Planning Meeting of the EASO network of court and tribunal members in December 2014 and thereafter, the point was raised that the term 'curriculum' did not accurately reflect the scope of the materials to be developed, nor did it properly accommodate the particular requirements of the target group. Consequently, having consulted with members of the network, the nomenclature used was amended. In the future, reference will be made to the **EASO Professional Development Series** for members of courts and tribunals (hereafter: **PDS**). This series will consist, inter alia, of a number of **judicial analyses**, which will be accompanied in turn by **judicial trainers' guidance notes**. The former will elaborate on substantive aspects of the subject matter from the judicial perspective, while the latter will serve as a useful tool for those charged with organising and conducting professional development or training meetings.

The detailed content of the curriculum (as it then was, now series) and the order in which the chapters will be developed were established following a needs-assessment exercise conducted in cooperation with the EASO network of courts and tribunals (hereinafter 'the EASO network'), which presently comprises EASO national contact points in the Member States' courts and tribunals, the CJEU, the ECtHR and the two judicial bodies with whom EASO has a formal exchange of letters — the IARLJ and the Association of European Administrative Judges. In addition, other partners including UNHCR, the European Union Agency for Fundamental Rights (FRA), the European Judicial Training Network (EJTN) and the Academy of European Law are also to be consulted as appropriate. The outcome of the exercise will also be reflected in the annual work plan adopted by EASO within the framework of its planning and coordination meetings. Taking into consideration the needs communicated by the EASO network, EU and national jurisprudential developments, the level of divergence in the interpretation of relevant provisions and developments in the field, training materials will be developed in line with structure agreed with the stakeholders.

([83]) Regulation 439/2010/EU of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office, OJ L 132, 29.5.2010, p. 11 (http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:132:0011:0028:EN:PDF).

([84]) *Note on EASO's cooperation with Member States' courts and tribunals*, 21 August 2013.

In the meantime, a number of events have occurred that have created the need for a reassessment of both the list of chapters and the order in which they ought to be dealt with. Among others, work has been started, and in some cases completed, on certain chapters (subsidiary protection — Article 15(c) QD, exclusion, ending international protection and qualification for international protection). In addition, other chapters that were included on the original list have since been set aside for completion within the framework of a contract concluded between EASO and IARLJ-Europe for the provision of professional development materials on certain core subjects ([85]). This was done with a view to accelerating the process for the development of the materials and is being conducted with the involvement of the members of the EASO network, who are afforded an opportunity to comment on drafts of the materials being developed. In light of these developments there is a need for a reassessment of this methodology. In an effort to increase oversight of the manner in which the remaining chapters will be dealt with, and to provide a more reliable roadmap for the future, a reassessment exercise was carried out in the autumn of 2015, whereby members of the EASO network of court and tribunal members provided an opinion on the order in which chapters were to be developed.

## Completed thus far

- *Article 15(c) qualification directive (2011/95/EU).*
- *Exclusion: Articles 12 and 17 qualification directive (2011/95/EU).*
- *Ending international protection: Articles 11, 14, 16 and 19 qualification directive (2011/95/EU).*

## Completed by IARLJ-Europe within the framework of a contract with EASO

- *Introduction to the Common European Asylum System (CEAS) for courts and tribunals — A judicial analysis.*
- *Qualification for international protection (Directive 2011/95/EU) — A judicial analysis.*
- *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis*.
- *Asylum procedures and the principle of* non-refoulement *— A judicial analysis*.

## Remaining chapters to be developed

- Detention in the context of the CEAS.
- Vulnerability in international protection cases.
- Legal standards for the reception of applicants for international protection: reception conditions directive (2013/33/EU).
- The substantive content of international protection, including access to rights and to an effective remedy, as well as fundamental rights.

## Involvement of experts

**Drafting teams —** The PDS will be developed by EASO in cooperation with the EASO network through the establishment of specific working groups (drafting teams) for the development of each chapter of the PDS, with the exception of those chapter being developed under the auspices of the contract concluded with IARLJ. The drafting teams will be composed of experts nominated through the EASO network. In line with EASO's work programme and the concrete plan adopted at the annual planning and coordination meetings, EASO launches calls for experts for the development of each chapter.

Calls are sent to the EASO network specifying the scope of the chapter to be developed, the expected timeline and the number of experts that will be required. EASO national contact points for members of courts and tribunals are then invited to liaise with national courts and tribunals for the identification of experts who are available and are interested in contributing to the development of the chapter.

([85]) These core subjects consist of judicial analyses on introduction to the CEAS; evidence and credibility assessment; and asylum procedures.

Based on the nominations received, EASO shares with the EASO network a proposal for the establishment of the drafting team. This proposal will be drawn up by EASO in line with the following criteria.

1. Should the number of nominations received be equal to or below the required number of experts, all nominated experts will automatically be invited to take part in the drafting team.
2. Should the number of nominations received exceed the required number of experts, EASO will carry out a motivated preselection of experts. The preselection will be undertaken as follows.
   - EASO will prioritise the selection of experts who are available to participate throughout the whole process, including participation in all expert meetings.
   - Should there be more than one expert nominated from the same Member State, EASO will contact the focal point and ask him or her to select one expert. This will allow for wider Member State representation in the group.
   - EASO will then propose the prioritisation of court and tribunal members over legal assistants or rapporteurs.
   - Should the nominations continue to exceed the required number of experts, EASO will make a motivated proposal for selection that takes into account the date when nominations were received (earlier ones would be prioritised), along with EASO's interest in ensuring broad regional representation.

EASO will also invite UNHCR to nominate one representative to join the drafting team.

The EASO network will be invited to express their views and/or make suggestions on the proposed selection of experts within a maximum period of 10 days. The final selection will take into account the views of the EASO network and confirm the composition of the drafting team.

**Consultative group —** In line with the regulation, EASO will seek the engagement of a consultative group for each set of PDS material developed, composed of representatives from civil-society organisations and academia.

For the purpose of establishing the consultative group, EASO will launch calls for expression of interest addressed to the members of the EASO Consultative Forum and other relevant organisations, experts or academics recommended by the EASO network.

Taking into consideration the expertise and familiarity with the judicial field of the experts and organisations who respond to the call, along with the selection criteria of the EASO Consultative Forum, EASO will make a motivated proposal to the EASO network that will ultimately confirm the composition of the group for each chapter.

FRA will be invited to join the consultative group.

## PDS development

**Preparatory phase —** Prior to the initiation of the drafting process EASO will prepare a set of materials, including but not restricted to the following.

1. A bibliography of relevant resources and materials available on the chapter.
2. A compilation of EU and national jurisprudence on the chapter to be published as a separate document — PDS *Compilation of jurisprudence*.

Along with the EASO network of court and tribunal members ([86]), the consultative group will play an important role in the preparatory phase. For this purpose, EASO will inform the consultative group and the EASO network of the scope of the chapter and share a draft of the preparatory materials, together with an invitation to provide additional information that is deemed of relevance to the development. This information will be reflected in the materials that will then be shared with the respective drafting team.

([86]) UNHCR will also be consulted.

**Drafting process —** EASO will organise at least two (but possibly more where necessary) working meetings for each set of PDS development. In the course of the first meeting, the drafting team will:

- nominate one or more coordinators for the drafting process;
- develop the structure of the chapter and adopt the working methodology;
- distribute tasks for the drafting process;
- develop a basic outline of the content of the chapter.

Under the coordination of the team coordinator, and in close cooperation with EASO, the team will proceed to develop a preliminary draft of the respective chapter.

In the course of the second meeting, the group will:

- review the preliminary draft and agree on the content;
- ensure the consistency of all parts and contributions to the draft;
- review the draft from a didactic perspective.

Where necessary, the group may propose to EASO the organisation of additional meetings to further develop the draft. Once completed, the draft will be shared with EASO.

**Quality review —** EASO will share the first draft completed by the drafting team with the EASO network, UNHCR and the consultative group that will be invited to review the materials with a view to assisting the working group in enhancing the quality of the final draft.

All suggestions received will be shared with the coordinator of the drafting team, who will coordinate with the drafting team to consider the suggestions made and prepare a final draft. Alternatively, the coordinator may suggest the organisation of an additional meeting to consider the suggestions when these are particularly extensive or would considerably affect the structure and content of the chapter.

On behalf of the drafting team, the coordinator will then share the chapter with EASO.

**Updating process —** EASO will contract a service provider in capacity to conduct a regular review of a judicial character of the existing PDS and to recommend updates to be implemented where necessary, in full consideration of the specialised nature of the information to be provided and of the need to ensure the utmost respect for the independence of national courts and tribunals.

## Implementation of the Professional Development Series

In cooperation with the EASO network members and the EJTN, EASO will support the use of the PDS by national courts and national training institutions. EASO's support in this regard will involve:

**Judicial trainers' guidance notes —** Guidance notes serve as practical reference tools for judicial trainers and provide assistance with regard to the organisation and implementation of practical workshops on the PDS. In line with the same procedure outlined for the development of the different chapters composing the PDS, EASO will establish a drafting team to develop a judicial trainers' guidance note. It is established practice that this drafting team may include one or more members of the drafting team that was responsible for drafting the judicial analysis on which the guidance note will be based.

**Workshops for national judicial trainers —** Furthermore, following the development of each chapter of the PDS, EASO will organise workshops for national judicial trainers that provide an in-depth overview of the chapter, along with the methodology suggested for the organisation of workshops at national level.

**Nomination of national judicial trainers and preparation of the workshop.** EASO will seek the support of at least two members of the drafting team to support the preparation and facilitate the workshop. EASO will select the judicial trainers through the judicial trainers' pool of the EASO network, taking into account the selection committee's suggestions.

**Selection of participants.** EASO sends an invitation to the EASO network for the identification of a number of potential judicial trainers with specific expertise in the area who are available and interested in organising workshops on the PDS at the national level. Should the nominations exceed the number specified in the invitation, EASO will make a selection that prioritises broad geographical representation and the selection of those judicial trainers who are more likely to facilitate the implementation of the PDS at national level. Where necessary, and in line with its work programme and the annual work plan, as adopted within the framework of EASO's planning and coordination meetings, EASO may consider organising additional workshops for judicial trainers.

**National workshops —** In close cooperation with the EASO network and relevant judicial training institutions at the national level, EASO will promote the organisation of workshops at the national level. In doing so EASO will also support the engagement of court and tribunal members who contributed to the development of the PDS or participated in EASO's workshops for judicial trainers.

## EASO's advanced workshops

EASO will also hold an annual advanced workshop on selected aspects of the CEAS with the purpose of promoting practical cooperation and judicial dialogue among court and tribunal members. EASO will further organise high-level events on a biennial basis in cooperation with the CJEU, the ECtHR and judicial associations.

**Identification of relevant areas —** EASO's advanced workshops will focus on areas with a high level of divergence in national interpretation or areas where jurisprudential development is deemed relevant by the EASO network. In the context of its annual planning and coordination meetings, EASO will invite the EASO network, along with UNHCR and members of the consultative group, to make suggestions for potential areas of interest. Based on these suggestions, EASO will make a proposal to the EASO network, which will finally take a decision on the area to be covered by the following workshop. Whenever relevant, the workshops will lead to the development of a chapter of specific focus within the PDS.

**Methodology —** For the preparation of the workshops EASO will seek the support of the EASO network, which will contribute to the development of the workshop methodology (e.g. case discussions, moot court sessions) and the preparation of materials. The methodology followed will determine the maximum number of participants for each workshop.

**Participation in EASO's advanced workshops —** Based on the methodology, and in consultation with the judicial associations, EASO will determine the maximum number of participants at each workshop. The workshop will be open to members of EU and national courts and tribunals, the EASO network, the EJTN, FRA and UNHCR.

Prior to the organisation of each workshop, EASO will launch an open invitation to the EASO network and the abovementioned organisations specifying the focus of the workshop, the methodology, the maximum number of participants and the registration deadline. The list of participants will ensure a good representation of court and tribunal members and prioritise the first registration request received from each Member State.

## Monitoring and evaluation

In developing its activities EASO will promote an open and transparent dialogue with the EASO network, individual court and tribunal members, UNHCR, members of the consultative group and participants in EASO's activities, who will be invited to share with EASO any views or suggestions that could improve the quality of its activities.

Furthermore, EASO will develop evaluation questionnaires that will be distributed at its professional development activities. Minor suggestions for improvement will be directly incorporated by EASO, which will inform the EASO network of the general evaluation of its activities in the context of its annual planning and coordination meeting.

On an annual basis, EASO will also provide the EASO network with an overview of its activities, along with relevant suggestions received for further developments, which will be discussed at the annual planning and coordination meetings.

## Implementing principles

- In undertaking its professional development activities, EASO will take due regard of EASO's public accountability and the principles applicable to public expenditure.
- EASO and the courts and tribunals of the EU+ states (the European Union Member States plus Iceland, Lichtenstein, Norway and Switzerland) will have joint responsibility for the professional development series. Both partners will strive to agree on the content of each of its chapters so as to ensure the 'judicial auspices' of the final product.
- The resulting chapter will be part of the PDS, including copyright and all other related rights. As such, EASO will update it when necessary, and will fully involve the courts and tribunals of the EU+ states in the process.
- All decisions relating to the implementation of the PDS and the selection of experts will be undertaken by agreement of all partners.
- The drafting, adoption and implementation of the PDS will be undertaken in accordance with the methodology for professional development activities available to members of courts and tribunals.

Grand Harbour Valletta, 18 January 2018

# Appendix B — List of manuals

## (Training) manuals

Accord, *Researching country of origin information — Training manual*, 2013 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

Other language versions (Japanese, Russian, Spanish) and a German summary version are also available (https://www.coi-training.net/researching-coi).

EASO, *Trainer's manual module on country of origin information*, 2014.

UNHCR has developed (in cooperation with Accord) an e-learning course on COI. It takes about 4 hours to work through the course. It is available free of charge after registering online (https://www.disasterready.org). After registration, search for 'country of origin information' in the search field (https://ready.csod.com/client/disasterready/default3.aspx?lang=en-US).

# Appendix C — Selected sources of country of origin information

## Collections of material/databases

**Asylum Information Database** (managed by the European Council on Refugees and Exiles and other partners): a collection of relevant information (asylum procedures, living and prison conditions, etc.) from 20 EU Member States plus Switzerland, Serbia and Turkey, of particular interest in 'Dublin' proceedings (http://www.asylumineurope.org).

**EASO COI Portal** (https://coi.easo.europa.eu).

**ECOI.net** (Accord): an extensive collection of information and reports from various sources (http://www.ecoi.net).

**Refworld.org** (UNHCR): an extensive collection of various materials from diverse sources, including selected jurisprudence (http://www.refworld.org).

## International sources

**Council of Europe** (http://www.coe.org), in particular reports by the Commissioner for Human Rights (https://www.coe.int/en/web/commissioner), reports by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (http://www.coe.int/en/web/cpt/home) and reports by Action against Trafficking in Human Beings (http://www.coe.int/en/web/anti-human-trafficking).

**EASO:** COI reports on various countries of origin (https://www.easo.europa.eu/information-analysis/country-origin-information/country-reports).

**United Nations:** various UN organisations, such as the Secretary-General (http://www.un.org/sg), the Security Council (http://www.un.org/en/sc/documents), the Human Rights Council (e.g. annual reports and resolutions: http://www.ohchr.org/EN/HRBodies/HRC/Pages/Documents.aspx) and further bodies dealing with human rights (easily accessed via the OHCHR website: http://www.ohchr.org).

Some UN organisations are of particular interest in proceedings for international protection, such as UNHCR (http://www.unhcr.org), the UN Office for the Coordination of Humanitarian Affairs (http://www.unocha.org), UNRWA (http://www.unrwa.org) and the UN Development Programme (http://www.undp.org).

## Governmental sources

**Canada:** the Immigration and Refugee Board of Canada provides national documentation packages and responses to information requests in English and French (http://www.irb-cisr.gc.ca).

**Denmark:** the Danish Immigration Service provides reports of fact-finding missions, including in English (https://www.nyidanmark.dk/en-us/publications/SearchPublications.htm?SearchType=publications&SubType=Fact-Finding%20Report).

**France:** the website of the French National Court of Asylum allows access to some fact-finding mission reports in French (http://www.cnda.fr/Ressources-juridiques-et-geopolitiques/Les-rapports-de-mission-pays).

**Germany:** the Milo Database allows access to some COI material (https://milo.bamf.de/milop/livelink.exe?func=ll&objId=2000&objAction=browse&sort=name).

**Netherlands:** the *Ambtsberichten* provide useful information used by judges and other decision-makers; some are published in English (https://www.rijksoverheid.nl/documenten?trefwoord=&periode-van=&periode-tot=&onderdeel=Alle+ministeries&type=Ambtsbericht).

**Norway:** Landinfo provides COI in Norwegian, with selected reports available in English (http://www.landinfo.no/id/2214.0).

**Sweden:** Lifos publishes some COI reports in English (http://lifos.migrationsverket.se).

**United Kingdom:** the Home Office provides country policy and information notes on various countries of origin (https://www.gov.uk/government/collections/country-policy-and-information-notes).

**United States:** the Department of State publishes yearly reports in English, for example country reports on human rights practices (https://www.state.gov/j/drl/rls/hrrpt/index.htm) or on religious freedom (https://www.state.gov/j/drl/rls/irf/index.htm).

## Non-governmental sources

**Amnesty International:** provides documents on particular countries (https://www.amnesty.org/en/countries).

**Atlas of Torture:** a project by the Ludwig Boltzmann Institute of Human Rights, this website provides an overview of the situation of torture and ill treatment around the world (http://www.atlas-of-torture.org).

**Bertelsmann Stiftung Transformation Index:** provides reports on the development of democracy, economy and politics in developing and transformation countries (https://www.bti-project.org/en/home/).

**Freedom House:** provides periodic reports on political rights and liberties, on nations in transit and on other special subject matters (https://freedomhouse.org/reports).

**Human Rights Watch:** provides reports on various subject matters (https://www.hrw.org/publications).

**Internal Displacement Monitoring Centre:** focuses on internal displacement and provides country profiles, global reports and a database on the subject (http://www.internal-displacement.org).

**International Crisis Group:** produces detailed analyses and policy advice relating to conflicts and potential conflict situations around the world (https://www.crisisgroup.org/latest-updates/reports-and-briefings).

**International Federation for Human Rights:** comprises 184 organisations from 112 countries and denounces human rights violations (https://www.fidh.org/en).

**International Lesbian, Gay, Bisexual, Trans and Intersex Association:** the website provides information on the legal and societal situation of LGBTI persons in many countries (http://ilga.org/).

**Reporters Without Borders:** this is an independent NGO with consultative status in the United Nations, Unesco, the Council of Europe and the Organisation Internationale de la Francophonie. They issue press releases and reports about the state of freedom of information throughout the world and how it is being violated (https://rsf.org/en).

**Swiss Refugee Council**: this Swiss NGO publishes thematic COI reports, mainly in German and French (https://www.fluechtlingshilfe.ch/herkunftslaender.html; https://www.osar.ch/pays-dorigine.html).

**World Organisation Against Torture:** publishes reports focusing on the situation of human rights defenders and, jointly with the International Federation for Human Rights, the annual report of the Observatory for the Protection of Human Rights Defenders (http://www.omct.org).

## Media sources

For links to local media see the country profiles provided by the BBC, with media outlets listed and linked where possible (http://news.bbc.co.uk/2/hi/country_profiles/default.stm).

# Appendix D — Bibliography

Accord, *Researching country of origin information — Training manual*, 2013 (https://www.coi-training.net/site/assets/files/1021/researching-country-of-origin-information-2013-edition-accord-coi-training-manual.pdf).

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EASO, *Evidence and credibility assessment in the context of the Common European Asylum System — A judicial analysis,* 2017.

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IARLJ, *A structured approach to the decision making process in refugee and other international protection claims,* IARLJ/JRTI/UNHCR conference: 'The Role of the Judiciary in Asylum and Other International Protection Law in Asia', 10-11 June 2016 (https://www.iarlj.org/images/Seoul/flyer_for_IARLJ_website.pdf).

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Immigration New Zealand, Country Research Branch, *Country of origin information and social media literature review*, October 2013 (https://www.ecoi.net/site/assets/files/1890/crb-country-of-origin-information-and-social-media-executive-summary-october-2013.pdf).

UN High Commissioner for Refugees (UNHCR), *Guidelines on international protection No 5: Application of the exclusion clauses: Article 1F of the 1951 Convention relating to the Status of Refugees*, 2003 (http://www.refworld.org/docid/3f5857684.html).

# Appendix E — Legal provisions and recitals

## Qualification directive (2011/95/EU) (recast)

**Recital (4)**

The Geneva Convention and the Protocol provide the cornerstone of the international legal regime for the protection of refugees.

**Recital (12)**

The main objective of this Directive is, on the one hand, to ensure that Member States apply common criteria for the identification of persons genuinely in need of international protection, and, on the other hand, to ensure that a minimum level of benefits is available for those persons in all Member States.

**Recital (23)**

Standards for the definition and content of refugee status should be laid down to guide the competent bodies of Member States in the application of the Geneva Convention.

**Recital (37)**

The notion of national security and public order also covers cases in which a third-country national belongs to an association which supports international terrorism or supports such an association.

**Article 4(3)(a)**

3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:

(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied.

**Article 8(2)**

2. In examining whether an applicant has a well-founded fear of being persecuted or is at real risk of suffering serious harm, or has access to protection against persecution or serious harm in a part of the country of origin in accordance with paragraph 1, Member States shall at the time of taking the decision on the application have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the applicant in accordance with Article 4. To that end, Member States shall ensure that precise and up-to-date information is obtained from relevant sources, such as the United Nations High Commissioner for Refugees and the European Asylum Support Office.

**Article 11**

**Cessation**

1. A third-country national or a stateless person shall cease to be a refugee if he or she:

(a) has voluntarily re-availed himself or herself of the protection of the country of nationality; or

(b) having lost his or her nationality, has voluntarily re-acquired it; or

(c) has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or

(d) has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution; or

(e) can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality; or

(f) being a stateless person, he or she is able, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.

2. In considering points (e) and (f) of paragraph 1, Member States shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded.

3. Points (e) and (f) of paragraph 1 shall not apply to a refugee who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

**Article 14**

**Revocation of, ending of or refusal to renew refugee status**

1. Concerning applications for international protection filed after the entry into force of Directive 2004/83/EC, Member States shall revoke, end or refuse to renew the refugee status of a third-country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body if he or she has ceased to be a refugee in accordance with Article 11.

2. Without prejudice to the duty of the refugee in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his or her disposal, the Member State which has granted refugee status shall, on an individual basis, demonstrate that the person concerned has ceased to be or has never been a refugee in accordance with paragraph 1 of this Article.

3. Member States shall revoke, end or refuse to renew the refugee status of a third-country national or a stateless person if, after he or she has been granted refugee status, it is established by the Member State concerned that:

(a) he or she should have been or is excluded from being a refugee in accordance with Article 12;

(b) his or her misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of refugee status.

4. Member States may revoke, end or refuse to renew the status granted to a refugee by a governmental, administrative, judicial or quasi-judicial body, when:

(a) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present;

(b) he or she, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that Member State.

5. In situations described in paragraph 4, Member States may decide not to grant status to a refugee, where such a decision has not yet been taken.

6. Persons to whom paragraphs 4 or 5 apply are entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31, 32 and 33 of the Geneva Convention in so far as they are present in the Member State.

**Article 16**

**Cessation**

1. A third-country national or a stateless person shall cease to be eligible for subsidiary protection when the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required.

2. In applying paragraph 1, Member States shall have regard to whether the change in circumstances is of such a significant and non-temporary nature that the person eligible for subsidiary protection no longer faces a real risk of serious harm.

3. Paragraph 1 shall not apply to a beneficiary of subsidiary protection status who is able to invoke compelling reasons arising out of previous serious harm for refusing to avail himself or herself of the protection of the country of nationality or, being a stateless person, of the country of former habitual residence.

**Article 17**

**Exclusion**

1. A third-country national or a stateless person is excluded from being eligible for subsidiary protection where there are serious reasons for considering that:

(a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he or she has committed a serious crime;

(c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;

(d) he or she constitutes a danger to the community or to the security of the Member State in which he or she is present.

2. Paragraph 1 applies to persons who incite or otherwise participate in the commission of the crimes or acts mentioned therein.

3. Member States may exclude a third-country national or a stateless person from being eligible for subsidiary protection if he or she, prior to his or her admission to the Member State concerned, has committed one or more crimes outside the scope of paragraph 1 which would be punishable by imprisonment, had they been committed in the Member State concerned, and if he or she left his or her country of origin solely in order to avoid sanctions resulting from those crimes.

**Article 19**

**Revocation of, ending of or refusal to renew subsidiary protection status**

1. Concerning applications for international protection filed after the entry into force of Directive 2004/83/EC, Member States shall revoke, end or refuse to renew the subsidiary protection status of a third-country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body if he or she has ceased to be eligible for subsidiary protection in accordance with Article 16.

2. Member States may revoke, end or refuse to renew the subsidiary protection status of a third-country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if after having been granted subsidiary protection status, he or she should have been excluded from being eligible for subsidiary protection in accordance with Article 17(3).

3. Member States shall revoke, end or refuse to renew the subsidiary protection status of a third-country national or a stateless person, if:

(a) he or she, after having been granted subsidiary protection status, should have been or is excluded from being eligible for subsidiary protection in accordance with Article 17(1) and (2);

(b) his or her misrepresentation or omission of facts, including the use of false documents, was decisive for the granting of subsidiary protection status.

4. Without prejudice to the duty of the third-country national or stateless person in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his or her disposal, the Member State which has granted the subsidiary protection status shall, on an individual basis, demonstrate that the person concerned has ceased to be or is not eligible for subsidiary protection in accordance with paragraphs 1, 2 and 3 of this Article.

**Asylum procedures directive (2013/32/EU) (recast)**

**Recital (49)**

With respect to the withdrawal of refugee or subsidiary protection status, Member States should ensure that persons benefiting from international protection are duly informed of a possible reconsideration of their status and have the opportunity to submit their point of view before the authorities can take a reasoned decision to withdraw their status.

**Recital (50)**

It reflects a basic principle of Union law that the decisions taken on an application for international protection, the decisions concerning a refusal to reopen the examination of an application after its discontinuation, and the decisions on the withdrawal of refugee or subsidiary protection status are subject to an effective remedy before a court or tribunal.

**Article 2(o)**

**Definitions**

For the purposes of this Directive:

[…]

'withdrawal of international protection' means the decision by a competent authority to revoke, end or refuse to renew the refugee or subsidiary protection status of a person in accordance with Directive 2011/95/EU;

**Article 10(3)(b)**

3. Member States shall ensure that decisions by the determining authority on applications for international protection are taken after an appropriate examination. To that end, Member States shall ensure that:

[…]

(b) precise and up-to-date information is obtained from various sources, such as EASO and UNHCR and relevant international human rights organisations, as to the general situation prevailing in the countries of origin of applicants and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions.

**Article 44**

**Withdrawal of international protection**

Member States shall ensure that an examination to withdraw international protection from a particular person may commence when new elements or findings arise indicating that there are reasons to reconsider the validity of his or her international protection.

**Article 45**

**Procedural rules**

1. Member States shall ensure that, where the competent authority is considering withdrawing international protection from a third-country national or stateless person in accordance with Article 14 or 19 of Directive 2011/95/EU, the person concerned enjoys the following guarantees:

(a) to be informed in writing that the competent authority is reconsidering his or her qualification as a beneficiary of international protection and the reasons for such a reconsideration; and

(b) to be given the opportunity to submit, in a personal interview in accordance with Article 12(1)(b) and Articles 14 to 17 or in a written statement, reasons as to why his or her international protection should not be withdrawn.

2. In addition, Member States shall ensure that within the framework of the procedure set out in paragraph 1:

(a) the competent authority is able to obtain precise and up-to-date information from various sources, such as, where appropriate, from EASO and UNHCR, as to the general situation prevailing in the countries of origin of the persons concerned; and

(b) where information on an individual case is collected for the purposes of reconsidering international protection, it is not obtained from the actor(s) of persecution or serious harm in a manner that would result in such actor(s) being directly informed of the fact that the person concerned is a beneficiary of international protection whose status is under reconsideration, or jeopardise the physical integrity of the person or his or her dependants, or the liberty and security of his or her family members still living in the country of origin.

3. Member States shall ensure that the decision of the competent authority to withdraw international protection is given in writing. The reasons in fact and in law shall be stated in the decision and information on how to challenge the decision shall be given in writing.

4. Once the competent authority has taken the decision to withdraw international protection, Article 20, Article 22, Article 23(1) and Article 29 are equally applicable.

5. By way of derogation from paragraphs 1 to 4 of this Article, Member States may decide that international protection shall lapse by law where the beneficiary of international protection has unequivocally renounced his or her recognition as such. A Member State may also provide that international protection shall lapse by law where the beneficiary of international protection has become a national of that Member State.

**Article 46**

**The right to an effective remedy**

1. Member States shall ensure that applicants have the right to an effective remedy before a court or tribunal, against the following:

(a) a decision taken on their application for international protection, including a decision:

(i) considering an application to be unfounded in relation to refugee status and/or subsidiary protection status;

(ii) considering an application to be inadmissible pursuant to Article 33(2);

(iii) taken at the border or in the transit zones of a Member State as described in Article 43(1);

(iv) not to conduct an examination pursuant to Article 39;

(b) a refusal to reopen the examination of an application after its discontinuation pursuant to Articles 27 and 28;

(c) a decision to withdraw international protection pursuant to Article 45.

2. Member States shall ensure that persons recognised by the determining authority as eligible for subsidiary protection have the right to an effective remedy pursuant to paragraph 1 against a decision considering an application unfounded in relation to refugee status.

Without prejudice to paragraph 1(c), where the subsidiary protection status granted by a Member State offers the same rights and benefits as those offered by the refugee status under Union and national law, that Member State may consider an appeal against a decision considering an application unfounded in relation to refugee status inadmissible on the grounds of insufficient interest on the part of the applicant in maintaining the proceedings.

3. In order to comply with paragraph 1, Member States shall ensure that an effective remedy provides for a full and *ex nunc* examination of both facts and points of law, including, where applicable, an examination of the international protection needs pursuant to Directive 2011/95/EU, at least in appeals procedures before a court or tribunal of first instance.

4. Member States shall provide for reasonable time limits and other necessary rules for the applicant to exercise his or her right to an effective remedy pursuant to paragraph 1. The time limits shall not render such exercise impossible or excessively difficult.

Member States may also provide for an *ex officio* review of decisions taken pursuant to Article 43.

5. Without prejudice to paragraph 6, Member States shall allow applicants to remain in the territory until the time limit within which to exercise their right to an effective remedy has expired and, when such a right has been exercised within the time limit, pending the outcome of the remedy.

6. In the case of a decision:

(a) considering an application to be manifestly unfounded in accordance with Article 32(2) or unfounded after examination in accordance with Article 31(8), except for cases where these decisions are based on the circumstances referred to in Article 31(8)(h);

(b) considering an application to be inadmissible pursuant to Article 33(2)(a), (b) or (d);

(c) rejecting the reopening of the applicant's case after it has been discontinued according to Article 28; or

(d) not to examine or not to examine fully the application pursuant to Article 39,

a court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State, either upon the applicant's request or acting *ex officio*, if such a decision results in ending the applicant's right to remain in the Member State and where in such cases the right to remain in the Member State pending the outcome of the remedy is not provided for in national law.

7. Paragraph 6 shall only apply to procedures referred to in Article 43 provided that:

(a) the applicant has the necessary interpretation, legal assistance and at least one week to prepare the request and submit to the court or tribunal the arguments in favour of granting him or her the right to remain on the territory pending the outcome of the remedy; and

(b) in the framework of the examination of the request referred to in paragraph 6, the court or tribunal examines the negative decision of the determining authority in terms of fact and law.

If the conditions referred to in points (a) and (b) are not met, paragraph 5 shall apply.

8. Member States shall allow the applicant to remain in the territory pending the outcome of the procedure to rule whether or not the applicant may remain on the territory, laid down in paragraphs 6 and 7.

9. Paragraphs 5, 6 and 7 shall be without prejudice to Article 26 of Regulation (EU) No 604/2013.

10. Member States may lay down time limits for the court or tribunal pursuant to paragraph 1 to examine the decision of the determining authority.

11. Member States may also lay down in national legislation the conditions under which it can be assumed that an applicant has implicitly withdrawn or abandoned his or her remedy pursuant to paragraph 1, together with the rules on the procedure to be followed.

Besides these general requirements, reference to COI appears in other provisions of the directives, i.e. when it comes to evidentiary requirements (Article 4(5)(c) QD), designation of safe countries of origin (Article 37(3) APD) and procedures for the withdrawal of international protection (Article 45(2)(a) APD).

In light of the recent attempts at EU level to strengthen and, first and foremost, harmonise the practices of Member States in the application of the determination criteria, the current proposals for regulations of the European Parliament and of the Council amending the QD and the APD with a view to COI will be examined.

The many new tasks of the planned European Union Asylum Agency (EUAA) ([87]) will include drafting and regularly updating reports and other documents providing for information on countries of origin at EU level, and coordinating efforts among Member States to engage in and develop a common analysis of the situation in third countries of origin (Article 2(1)(e) and (f) of the proposal for an EUAA Regulation). The agency is supposed to become a centre for gathering relevant, reliable, accurate and up-to-date information on the countries of origin of persons applying for international protection ([88]). It will also make use of all relevant sources of information, manage and further develop a portal for gathering information on countries of origin and develop a common format and methodology, including terms of reference (Article 8 of the proposal for an EUAA Regulation). Article 9 of the proposal for an EUAA Regulation provides for the establishment of networks among Member States on COI. And to foster convergence in applying the assessment criteria the agency will coordinate efforts among Member States to engage in and develop a common analysis providing guidance on the situation in specific countries of origin. Member States will be required to take that common analysis into account, without prejudice to their competence for deciding in individual applications. Member States will submit to the agency monthly information on decisions taken in relation to applicants originating from third countries subject to the common analysis (Article 10 of the proposal for an EUAA Regulation).

The proposal for a Qualification Regulation ([89]) then envisages that Member States' authorities, when assessing applications for international protection or when reviewing a status, should take particular account of the information, reports, common analysis and guidance on the situation in countries of origin developed at EU level by the agency and the European networks on COI in accordance with Articles 8 and 10 of the proposal for an EUAA Regulation (Article 7(3) and Article 17(2)(b) as regards subsidiary protection; Article 11(2)(b) and Article 21 of the proposal for a Qualification Regulation as regards subsidiary protection).

Finally, the proposal for a Common Procedure Regulation refers to the use of COI and, with a view to further convergence, provides for example that a determining authority shall, when examining an application, take all relevant, accurate and up-to-date information relating to the situation prevailing in the country of origin of the applicant into account, as much as the common analysis of the country of origin information as referred to in Article 10 of the proposal for an EUAA Regulation (Article 33(2)(b) and (c) of the proposal for a Common Procedure Regulation). The courts and tribunals dealing with appeals shall, through the determining authority, the applicant or otherwise, have access to the general information referred to in Article 33(2)(b) (Article 53(4) of the proposal for a Common Procedure Rgulation).

([87]) See European Commission, *Proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and Repealing Regulation (EU) No 439/2010, COM(2016) 271*.

([88]) See the proposal for a Common Procedure Regulation: European Commission, *Regulation of the European Parliament and of the Council establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, COM(2016) 467*.

([89]) See the proposal for a Qualification Directive: European Commission, *Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents - COM (2016) 466*.

# Appendix F — Examples from jurisprudence

How the checklists are used is best seen in cases where courts have given guidance to general or specific issues. As an illustration, see the following examples from two leading judgments of the French National Court of Asylum (CNDA).

The checks will seldom appear in the final draft of the judgment. When the COI relied upon has been collected *proprio motu* by the tribunal, it is implicit that its conformity with the abovementioned criteria has been scrutinised beforehand.

In the case of a prominent judgment in which the general situation in a country is evaluated in order to set a common framework of analysis for applications and appeals lodged by nationals of that country (a 'country guidance'-type decision), it will be necessary to refer to various different kinds of sources. In the following example, the CNDA ([90]) intended to define the general level of risk to which the population of Tamil origin in Sri Lanka was exposed in the current context of Maithripala Siresena's presidency (December 2016). After noting that the sources relied upon were freely available to the public (criterion 3 of the IARLJ's checklist ([91])), the court enumerated them following a specific order: UN reports; reports from government agencies; reports from NGOs.

## UN reports

**United Nations Human Rights Council**

*Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Sri Lanka,* 8 July 2016; *Promoting reconciliation, accountability and human rights in Sri Lanka*, 28 June 2016; *Preliminary observations and recommendations of the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment on the official joint visit to Sri Lanka — 29 April to 7 May 2016*, 7 May 2016.

**United Nations Economic and Social Council**

*Consideration of reports submitted by States parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights — Sri Lanka*, 4 February 2016.

## Government agencies

**US Department of State**

*2015 report on international religious freedom — Sri Lanka*, 10 August 2016.

*Country report on terrorism 2015 — Chapter 2 — Sri Lanka*, 2 June 2016.

*Country report on human rights practices 2015 — Sri Lanka*, 13 April 2016.

**UK Home Office**

*Country information and guidance Sri Lanka: Tamil separatism*, August 2016.

**Swiss State Secretariat for Migration**

*Focus Sri Lanka*, 5 July 2016.

([90]) CNDA GF 8 December 2016 Mme K. No 14027836 C+ (http://www.cnda.fr/content/download/79455/742937/version/1/file/CNDA%20GF%208%20décembre%202016%20Mme%20K.%20No%2014027836%20C%2B.pdf).

([91]) IARLJ, *Judicial criteria for assessing country of origin information (COI): a checklist*, 2006 (https://www.iarlj.org/images/stories/working_parties/guidelines/udicial_Criteria_a_checklist_COI_2006.pdf).

## NGOs

Amnesty International, *Sri Lanka. Les victimes doivent être au cœur des initiatives en faveur de la justice, de la vérité et des réparations*, 29 August 2016.

Amnesty International, *Amnesty international report 2015/16 — Sri Lanka*, 24 February 2016.

Human Rights Watch, 'Sri Lanka', in *World report 2016*, 27 January 2016.

International Crisis Group, *Jumpstarting the reform process*, 18 May 2016.

International Truth & Justice Project Sri Lanka, *Silenced: survivors of torture and sexual violence in 2015*, January 2016.

All the reports cited are relevant to the subject matter (criterion 8) and temporally relevant at the time the judgment is passed (criterion 9). They all emanate from sources with an established reputation (criterion 4) and deal comprehensively (criterion 8) with the human rights situation in the country, albeit from different perspectives.

It must be underlined that the judgment does not contain any extract from or citation of the actual content of the reports. This operation may be described as a process in which the asylum judge appropriates the COI and expresses his or her understanding of the material relied upon. The fact that material emanating from several different types of sources is examined allows furthermore compensation of the consequences of possible shortcomings concerning a particular COI element (connected in particular with criterion 6).

In a recent case ([92]), the grand chamber of the CNDA undertook to assess the general situation of Nigerian women who were victims of trafficking. The court chose here to rely on two reports: the 2015 EASO COI report *Nigeria — Sex trafficking of women* ([93]) and the December 2016 OFPRA–CNDA report of a joint fact-finding mission to Nigeria ([94]). The judgment also cites a June 2016 trafficking in persons report on Nigeria from the US Department of State ([95]). Compared to the previous case, the sources relied upon here are much more asylum specific. EASO and UNHCR are the only bodies explicitly mentioned as providers of country information in the QD (recast) (Article 8(2)) and the APD (recast) (Article 10(3)(b)). Moreover, the EASO report cited above targets the very subject that the CNDA is dealing with.

The 2016 fact-finding mission in Nigeria aimed at gathering in-depth information related to particular issues arising in Nigerian applications for international protection. Its material scope is thus broader than the highly subject-specific EASO report, but is equally asylum oriented.

In these two examples, the reports relied upon, notwithstanding their differences in nature and scope, are used with the same intention of setting the general framework against which the need for international protection for a certain category of applicants will be assessed.

([92]) CNDA GF 30 March 2017 Mme F. No 16015058 R (http://www.cnda.fr/content/download/96447/929953/version/2/file/CNDA%20GF%2030%20mars%202017%20Mme%20F.%20n%C2%B016015058%20R.pdf).

([93]) EASO, *EASO country of origin report — Nigeria — Sex trafficking of women*, 2015 (https://www.easo.europa.eu/sites/default/files/public/BZ0415678ENN.pdf).

([94]) OFPRA–CNDA, *Rapport de mission en République fédérale du Nigeria du 9 au 21 septembre 2016* (https://www.ofpra.gouv.fr/sites/default/files/atoms/files/1612_nig_ffm_sp.pdf).

([95]) US Department of State, 'Nigeria', in *Trafficking in persons report — June* 2016 (https://www.state.gov/j/tip/rls/tiprpt/countries/2016/258834.htm). For a different approach on a similar issue, see HD (trafficked women) Nigeria CG (2016) UKUT 454 (IAC) (http://www.bailii.org/uk/cases/UKUT/IAC/2016/454.html).

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