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”Power of the judge vis-à-vis new facts that happened after examination of the claim by the administrative authority".

I. Introduction

This paper is based on the national reports sent by members of the IARLJ Asylum Procedures Working Party: John Bouwman (The Netherlands), Allan Mackey and Maya Bozovik (New Zealand), Gaëtan de Moffarts (Belgium), Judith Putzer (Austria), Robert Néron (Canada). Polish input is based on my own experience. The paper reflects also standards deriving from the European Union legislation, European Convention on Human Rights (hereafter: ECHR) and the case law of both European Courts - the Court of Justice of the European Union (hereafter Court of Justice) and the European Court of Human Rights (hereafter ECtHR).

The discussed topic has particular importance for those legal systems in which a judicial review of legality of the administrative decision is carried out by a judge in view of the law and facts that were in place at the moment of issuing this decision by the government agency. The concept of judicial control of legality of the administrative acts in such legal systems prevents a party from submitting new facts or fresh evidence at the judicial level of the procedure. It is also worth reminding that, as a general rule, under EU Law, it is not required from the administrative court to repeat fact-finding process while reviewing the

lawfulness administrative decision[1]. Thus, *prima facie*, limitation of the judge's role seems to be allowed. However, a more thorough examination of the problem may lead us to the quite opposite conclusion as to the refugee determination procedure. The Court of Justice in expulsion cases concerning nationals of other Member States and the European Court of Human Rights deciding in the context of art. 13 ECHR (right to an effective remedy) together with art. 3 ECHR (prohibition of torture) shed a different light on the new evidence and facts before an administrative court judge.

In this report a brief account of the national reports is presented. The details of the respective national systems can be found in the Appendix that contains the national reports. The role of a judge is discussed with the reference to the facts or evidence that happened or were presented to a judge after the decision had been taken by the administrative agency but before judicial procedure was completed. The basic question is whether the new facts or evidence can be taken into account and what terms by a judge who is making his assessment of the claim or reviewing an administrative decision. Thus, this topic is limited to the problems related to one procedure in which there is more than one tier. The assumption is that the procedure is not finally completed (it is before the judicial scrutiny). If the procedure is finally completed, new facts and evidence make grounds for a new application or justify reopening the procedure that has been already completed. The topic of repeated applications based on the new facts or evidence is an independent problem that would require separate deliberation and discussion. Although in a couple of the national reports it was also included, the question of subsequent application is not presented in my paper. It deserves holding an autonomous debate in the future among the Members of the Working Party and discussing (a) whether a new procedure may be initiated and on what

[1] See more: Y.E. Schuurmans, Review of Facts in Administrative Law Procedures; A European Community Law Perspective, "Review of European and Administrative Law" 2008, vol. 1 pp.. 12-13 and the judgement of the European Court of Justice of 21 January 1999, case 120 /97 *Upjohn*, § 32-37.

terms as a result of such new facts or evidence bearing in mind that assessment of the claim has been lawfully and finally completed; (b) reopening the previous procedure vis-à-vis subsequent new procedure; and (c) how different the procedural situation of an asylum seekers in the subsequent procedure instituted on the grounds of new facts or evidence.

II. Judicial v. Administrative phase of the refugee procedure.

Usually, there are two stages of the procedure in asylum cases. At the first stage the claim for refugee status is decided by the administration (such as the Ministry, a government agency, a specially established central or local administrative authority) and the procedure is of "non judicial character". At the second stage the procedure is of judicial character. The administrative procedure is more likely to have an inquisitorial character and the judicial one is rather adversarial. At the administrative phase the government agency is not a party to the procedure but a decision maker whereas at the judicial phase of the procedure the government agency is simply a party to the procedure, equally with the asylum seeker. The judicial procedure may aim at assessing the claim and be de novo procedure or may be reviewing (controlling) the decision taken by the government agency.

The European Union Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (hereafter: P.D. or Procedures Directive) allocates examining the claims at the first level to the "determining authority". The determining authority is "*any quasi-judicial or administrative body in a Member State responsible for examining applications for asylum and competent to take decisions at first instance in such cases*" (Article 2 (e) PD). The Council Directive 2005/85/EC in the motive 27 of the Preamble makes a link between the basic principles of the European Law and requirement of two levels of the asylum procedure. In the

motive 27 we read that it reflects a basic principle of the European Law that the decisions taken on an application for asylum and on the withdrawal of refugee status are subject to an effective remedy before a court or tribunal within the meaning of Article 234 of the Treaty (now art. 267 Treaty on the functioning of the European Union, hereafter TFUE). The Court of Justice of the European Union in one of its judgements (Great Chamber, Case C-210/06 Cartesio Oktató és Szolgáltató bt) reminded that in order to determine whether the body making a reference is a 'court or tribunal' for the purposes of Article 234 EC, a number of factors are taken into account, such as whether the body is established by law, whether it is permanent, whether its jurisdiction is compulsory, whether its procedure is *inter partes*, whether it applies rules of law and whether it is independent (paragraph 55 and the case law cited). In this judgement we also read the following:

56 With regard to the inter partes nature of the proceedings before the national court, Article 234 EC does not make reference to the Court subject to those proceedings being inter partes. None the less, it follows from that article that a national court may make a reference to the Court only if there is a case pending before it and if it is called upon to give judgment in proceedings intended to lead to a decision of a judicial nature (see to that effect, inter alia, Case C-182/00 Lutz and Others [2002] ECR I-547, paragraph 13 and the case-law cited).

57 Thus, where a court responsible for maintaining a register makes an administrative decision without being required to resolve a legal dispute, it cannot be regarded as exercising a judicial function. Such is the case, for example, where it decides an application for registration of a company in proceedings which do not have as their object the annulment of a measure which allegedly adversely affects the applicant (see to that effect, inter alia, Lutz and Others, paragraph 14 and the case-law cited).

III. Brief accounts of the national reports.

3.1. New Zealand

In accordance with the Immigration Act 2009, the first instance refugee status decision-making authority is the Refugee Status Branch (RSB) and appeals against decisions of the RSB are determined by the Immigration and Protection Tribunal (hereafter: Tribunal). Against the determination of the Tribunal the party may, with the leave of the High Court, appeal to the High Court on points of law. Against the High Court judgement the appeal on points of law is possible to the Court of Appeal, with the leave of this Court. Beyond that appeal, parties can apply for leave to appeal to the Supreme Court.

The Tribunal proceeds de novo. Paragraph 17.2 of the Tribunal's Practice Note 2/2010 sets out that the Tribunal "will make a decision on the facts as found at the date of determination of the appeal". This rule indicates that the Tribunal can take into account new information as long as it is filed before the date of the actual determination of the case. Although traditionally the role of a court in a judicial review proceeding is not to undertake a "broad reappraisal of the factual findings of the Tribunal", there is also a new approach emerging. In the case *Isak v Refugee Status Appeals Authority*[2] the High Court admitted a document that was never brought to the attention of the Tribunal. The Supreme Court in the case Attorney-General (Minister of Immigration) v Tamil X & Anor [3] upheld the judgement of the Court of Appeal which remitted the case on the inclusion clause only. As a result of the judgement of the Supreme Court, the Tribunal was to reconsider whether the respondent is a refugee under the inclusion clause of the Refugee Convention. The issue of whether the respondent was excluded under the Convention was considered settled by the

[2] [2010] NZAR 535
[3] Attorney-General (Minister of Immigration) v Tamil X & Anor [2010] NZSC 107.

Court of Appeal. **Allan Mackey** and **Maya Bozovik** made the following conclusions:

> *"New Zealand's legislative framework enables judges to abide by the general principles of judicial review and/or appeals on material error of law. This in turn allows the courts to give deference to the expertise of the specialist Tribunal. However, recent trends do indicate the possibility of consideration of new facts after the initial examination."*

3.2. The Netherlands.

In accordance with the new wording (since 1 July 2010) of the Article 83 Aliens Act 2000 the Dutch court responsible for considering appeals in asylum matters takes into account: (a) facts and circumstances brought to the court's attention after the contested decision was issued (b) changes in policy made public after the contested decision was issued. It is irrelevant for the court whether the appellant could have mentioned these facts and circumstances earlier. The conditions (art. 83(2-4) Aliens Act) for considering new facts and circumstances are the following: (1) they have to be relevant, (2) considering will not be contrary to due process or causes unacceptable delay in deciding the case, (3) new facts and circumstances should be presented immediately or within a given period of time determined by the court, unless the due process precludes or disposal of the case will be unacceptably delayed. In the opinion of **John Bouwman** judges "do not often make use of these boundaries to deny the appellant a decision on the new data".

3.3. Belgium

The commissioner-general for refugees and stateless (hereafter commissioner-general) is the first instance administrative authority for asylum cases. Appeals against decisions made by the commissioner-general go to the Council for Aliens Appeals (hereafter CAA). The appeal in asylum cases is a full appeal

concerning facts and law. The procedure is in writing. The parties (asylum seeker or commissioner-general) may give oral comments at the court session. The asylum seeker will only be asked questions by the judge "*if this is necessary*"[4]. **Gaëtan de Moffarts** made the following observations about the Belgium procedure:

> *New facts are only admissible under certain conditions as determined by the Aliens Law. New arguments that were not mentioned in the written appeal by the appellant or Nota from the commissioner-general are not admissible*[5]*.New facts may be invoked in the written appeal if the parties prove they could not invoke them during the administrative procedure*[6].
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> *The CAA may take into account any new fact even contrary to art. 39/60 of the Aliens Law notified by the parties even at the court session if they are supported by the case file, prove with certainty the founded or unfounded character of the appeal and prove they could not invoke them earlier in the procedure*[7]*. These conditions apply cumulatively.* (….). *The Constitutional Court gave a binding interpretation of the abovementioned article 39/76. They should be interpreted in the sense that they do not limit the full appeal competence of the CAA*[8]*. A full appeal competence of the CAA means that the CAA has the same competence of appreciation as the commissioner-general and must re-examine the case fully.* (….). *The mention that new facts should be supported by the case file means that new facts should not be taken into account if they do not relate to the asylum claim and the fear mentioned during the administrative examination*[9]*. The commissioner-general can actualize the information he has used to take his decision if the conditions of article 39/76 are met*[10]*. A*

[4] Art. 14, Procedure of the CAA, royal decree 21 December 2006.
[5] Art. 39/60, Aliens Law.
[6] Art. 39/76, §1, second section, Aliens Law.
[7] Art. 39/76, §1, third section, Aliens Law.
[8] Constitutional Court, 27 May 2008, nr. 81/2008, B.30.
[9] Constitutional Court, 27 May 2008, nr. 81/2008, B.29.6.
[10] Council of State (admissibility Cassation), 28 January 2011, nr. 6482.

recent judgment of the CAA in general assembly allows new facts even without examination of the conditions of article 39/76 of the Aliens Law considering the defense rights if they are useful for the arguments developed in the written appeal or Nota by the commisioner-general answering the written appeal[11]*. This has broadened the possibility for the parties to present all kinds of documents to the CAA, for instance Country of Origin Information.*

3.4. Austria

The Federal Asylum Office is the first instance administrative authority responsible for asylum claims. Against its negative decision a complaint may be lodged with the Asylum Court. Against a decision of the Asylum Court a complaint may be lodged only with the Constitutional Court. A complaint with the Constitutional Court is only admissible if the decision of the Asylum Court *prima facie* violates provisions of the constitutional law. The Constitutional Court is bound to the facts found by the Asylum Court (at the time of the Asylum Courts decision). Article 40 of the Asylum Act (2005) contains specific norms with regard to new facts or means of evidence. New facts and means of evidence may only be brought forward before an Asylum Court if :

- the factual situation on which the decision of the asylum office was based has been substantially changed (after the decision was taken), or
- the procedure before the asylum office was incorrect, or
- the applicant did not have access to means of evidence or facts at the time before the decision of the asylum office was taken, or
- the applicant (by individual grounds) was not able to bring forward means of relevant evidence or facts at the first instance stage.

Judith Putzer underlined that in Austrian practice, these provisions are applied in a restrictive way:

[11] CAA, 24 June 2010, nr. 45.395, 45.396, 45.397.

“First, Art 40 of the Asylum Act in principle is directed „against“ the applicant but not hindering the Asylum Court from ascertaining the facts ex officio. As regards „objective“ issues, such as COI, but also individual facts, the Court is even bound by general administrative law, to establish the material truth. This might include conducting an oral hearing.

Second, The Court is bound (by general administrative law) to fully control the decision of the asylum office with regard to either violations of procedural rules or incorrect legal conclusions, irrespective of any „new“ argumentation (concerning facts or means of evidence) brought forward in the complaint. Thereby, it might be necessary to conduct an oral hearing, eg if the first instance procedure did not include a correct, extensive and conclusive ascertainment of all underlying facts. Within the course of an oral hearing, no restrictions apply concerning new facts or new means of evidence. This means in practice, that the whole case might be argued and discussed anew.

Third, according to jurisprudence of the Constitutional Court, Art 40 (especially its para 4) has to be interpreted (vis-a-vis the applicant) in a very restrictive sense. The Court found (in a decision concerning a „Dublin“ case), that the provision only applies in case that the applicant via his/her complaint tries to prolongue/extend the procedure in an abusive way. In the specific case, the Court found that it was not „abusive“ when the applicant tried to demonstrate the fact that he felt his personal safety at risk in the concerned „Dublin state“ by including COI documents in the complaint; the „new“ material facts had to be part of the decision. With regard to Art 40 para 4, Austrian jurisprudence also found that one has to bear in mind the fact that an asylum seeker might in his/her specific situation be hindered by psychological grounds to bring forward all relevant facts at the beginning of the procedure. Again, it was argued that Art 40 had to interpreted in a narrow sense.

3.5. Canada

Under the current appeal system that is in place, no new evidence can be admitted on appeal when a decision of the Immigration and Refugee Board of Canada (IRB) has been granted leave for judicial review to the Federal Court or on a certified question to the Federal Court of Appeal. However, under the new Balanced Refugee Reform Act (BRRA), the IRB will have a Refugee Appeal Division (RAD), to conduct an "internal appeal" of its decisions on refugee protection, that will allow for the admission of new evidence and an appeal hearing to be held in certain circumstances. **Robert Néron** in his final conclusions made a point : **"***the fact that appeals in most cases are to be based on the record, evidence presented to the RAD by the subject of the appeal must qualify as new evidence and oral hearings—though allowed in some circumstances—are severely restricted strongly indicates a commitment to effect true reform that efficiently provides protection to those in need and deters others with fraudulent or otherwise unfounded claims from claiming refugee protection in Canada*."

3.6. Poland

First instance administrative decision made by an Aliens Office may be subject of complaint to the second instance administrative authority – the Refugee Board. The Regional Administrative Court in Warsaw carries out full judicial review (points of law and facts) over the decision taken by the Refugee Board. The Court admits new evidence (however, limited to the documents only). New evidence, if admitted by the court, may justify quashing an administrative decision and remitting the case to the administration. The court's judgement is based on the facts that existed at the time the second instance administrative decision was issued (decision taken by the Refugee Board). In case the factual situation changes, the court cannot react and the only possibility for the party is

to institute a new proceeding and file a new application with the first instance agency (Aliens Office). Against the judgement of the Regional Court a cassation may be brought to the Supreme Administrative Court and this court controls facts and law but within the limits of the points included in the cassation.

IV. Standards deriving from the European Courts and the EU directives

4.1. Expulsion of the EU nationals

The problem of new facts and fresh evidence before a judge in expulsion cases was discussed in two judgements of the European Court of Justice. Both of them refer to the Council Directive 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health[12]. Although the Council Directive 64/221/EEC is not in force any more[13] I find some thoughts in both judgements particularly relevant to the discussed topic.

In the joined cases *Orfanopoulos and Oliveri*[14] the Court of Justice deliberated the question of fresh evidence before a national court and the changing of facts after a final administrative decision. The Court of Justice explained that Article 3 of Council Directive 64/221/EEC precludes a national practice whereby the national courts may not take into consideration, in reviewing the lawfulness of the expulsion of a national of another Member State, factual matters which occurred after the final decision of the competent authorities which may point to the cessation or the substantial diminution of the present threat which the

[12] OJ, English Special Edition, 1963-1964, p. 117

[13] This Directive was repealed by the Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ, L 158)

[14] judgement of 29 April 2004, joined cases C-482/01 and C-493/01, Georgios Orfanopoulos and Others v. Land Baden-Württemberg and Raffaele Oliveri v. Land Baden-Württemberg.

conduct of the person concerned constitutes to the requirements of public policy. That is so, above all, if a lengthy period has elapsed between the date of the expulsion order and that of the review of that decision by the competent court.

In the second judgement , the lack of possibility of referring by the national court in the immigration cases to the up-to-date factual and legal situation was also considered in the case *Dörr and Ünal*[15]. The Court of Justice deliberated on the appeal limited to the legality of the measure ending the right of residence of the claimant in the light of article 9 (1) of the Council Directive 64/221/EEC and came to the conclusion that national legislation should permit nationals of other Member States an appeal that meets the requirements of sufficiently effective protection[16].

Both judgements leads us to one conclusion. For expulsion of EU nationals the Court of Justice requires judicial scrutiny beyond reviewing the legality at the time decision is taken. In the *Orfanopoulos and Oliveri* case, and this approach seems to shared in the case *Dörr and Ünal* , it was clearly stated that new facts and fresh evidence have to be taken into account by a judge reviewing decisions on expulsions.

4.2. EU Refugee Directives

The 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 (hereafter: Qualification Directive, or QD) does not answer the question whether new facts and fresh evidence must be admitted by a judge. However, it requires under Article 4 (3) (a) QD, that all

[15] judgement of the Court of Justice of 2 June 2005, C-36/03 Georg Dörr v. Sicherheitsdirektion für das Bundesland Kärnten, and Ibrahim Ünal v. Sicherheitsdirektion für das Bundesland Vorarlberg.
[16] See paragraphs 47, 53, 57 of the case Dörr and Ünal, C-36/03

relevant facts as they relate to the country of origin at the time of taking a decision on the application should be taken into account[17]. Although within the meaning of Article 4(3)(a) QD decision on the application should is a primary decision, the wording of this provision might leave some ambiguities, since the decision on application is indirectly taken at any level of the procedure.

The problem of new facts and fresh evidence before a judge has not been clearly regulated in the Procedures Directive. From the Procedures Directive we only learn that Member States shall ensure that applicants for asylum have the right to an effective remedy before a court or tribunal (art. 39(1) PD and the recital 27 in the Preamble to the PD). The effectiveness of the remedy, also with regard to the examination of the relevant facts, depends on the administrative and judicial system of each Member State seen as a whole (recital 27 to the PD). It means that the Procedures Directive does not settle the problem of new facts and fresh evidence before a judge since it leaves this question to the member states. This approach is in line with the concept of the so called procedural autonomy of the Member States explained already in the *Rewe* case. According the procedural autonomy as it was explained in the *Rewe case*: " "Applying the principle of cooperation (…) it is the national courts which are entrusted with ensuring the legal protection which citizens derive from the direct effect of the provisions of community law In the absence of Community rules on this subject, it is for the domestic legal system of each Member States to designate the courts having jurisdiction and to determine the procedural conditions governing actions at law intended to ensure the protection of the rights which citizens have from the direct effect of a Community Law. It being understood that such conditions

[17] Article 4 (3) (a) QD: 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;

cannot be less favourable than those relating to similar actions of a domestic nature" [18].

4.3. Case law of the ECtHR.

In the Strasbourg case law the material date was explained for assessing the risk in case of the removal of an alien. The ECtHR has repeated on many occasions *that with regard to the material date, the existence of the risk must be assessed primarily with reference to those facts which were known or ought to have been known to the Contracting State at the time of expulsion. However, if the applicant has not yet been extradited or deported when the Court examines the case, the relevant time will be that of the proceedings before the Court*[19]. It is evident from the last sentence of the Court's statement that in order to ensure an effective protection by a national judge (required under art.13 ECHR), a judge must examine the risk of return (removal, expulsion) in the light the facts that exist at the moment of deciding a case by a judge. Pondering over historical facts (that existed when a decision of administrative authority was taken) while assessing the risk of return is of no use if an asylum seeker is still in the country of refuge. The very fact that an administrative decision was lawful (as to facts and the law) at the moment of its issuing by the government agency is not helpful a year or so when a judge is to decide whether an unsuccessful applicant for refuge status is to be expelled as a result of the judge's decision. It goes without saying that past events have their own significance and are very relevant for the Court if the deportation has already been enforced. However, it is not the case if an asylum seeker is only facing it. What additionally we can learn from the Strasbourg case law is that in order to assess the risk the Court in Strasbourg itself establish facts and examines the evidence In the case *Saadi* the ECtHR

[18] judgements of the European Court of Justice: of 16 December 1976 r., C- 33/76 Rewe-Zentralfinanz Eg et Rewe-Zentral AG v. Landwirtschaftskammer fuer das Saarland, European Court Reports 1976 Page 01989. This ruling has been very often reiterated in the subsequent judgements of the Court, paragraph 5.
[19] For example, *Saadi v. Italy*, judgement of the Grand Chamber of 28 February 2008 , § 133.

took a view that *in determining whether substantial grounds have been shown for believing that there is a real risk of treatment incompatible with Article 3, the Court will take as its basis all the material placed before it or, if necessary, material obtained proprio motu* (§ 128 of the judgement). This statement makes guidelines for those national systems in which by definition the role of the administrative courts as to collection of the evidence and direct evaluation of its credibility is limited.

V. Conclusions

The national reports lead us to the conclusion that the power of the first instance judge in the asylum procedure vis-à-vis new facts and fresh evidence varies. On one hand, the Immigration and Protection Tribunal in New Zealand proceeds *de novo*, so all relevant facts and evidence can be taken into account, on the other hand, the Regional Administrative Court in Poland practically does not establish new facts or admits new evidence since it exercises judicial review in the light of the facts that existed at the moment a final administrative decision was issued. Similarly, in Canada under the new Balanced Refugee Reform Act only the Refugee Appeal Division conducting "internal review " at the Immigration and Refugee Board of Canada will admit new evidence and no new evidence can be admitted on appeal during the judicial review. It seems there is no problem in admitting new evidence or considering new facts by a Dutch judge as long as a judge does not find that doing so it is contrary to due process or causes an unacceptable delay in deciding the case or the party is in delay with submitting new evidence. Clearly in the Netherlands much depends on the judges' discretion and judicial practice seems to be crucial. In Belgium the Council for Aliens Appeals, as a general rule, admits new evidence and considers new facts if they are invoked in the written appeal and it can be proved that they could not be invoked them during the administrative procedure. However, it is interesting to note that the restrictiveness of this rule has been actually diminished due to

the judicial interpretation. In Austria, several restrictions on presenting new evidence or consideration of new facts have been imposed. Since the conditions of admitting new evidence or consideration of the new facts are formulated in the words that leave much discretion (for example, “factual situation has been substantially changed”, “ability for bringing forward relevant evidence or facts”) again much depends on the judges’ approach. Bearing in mind the possibility of acting by an Austrian judge *ex officio* it seems that the judicial activism is compelling.

The possibility for considering new facts and admitting fresh evidence is more limited at the higher judicial instances. It seems to be a part of a general rule that the higher in the judicial hierarchy the court is placed the less factual assessment of the case is carried out and more legal questions are debated. In the European context it does not seem to be the problem since neither ECHR nor EU directives require two judicial instances in asylum claims. However, in the EU context any limitations concerning admitting new evidence or considering new facts by a first instance judge may be considered debatable. An effective remedy for an alien who faces expulsion must include the possibility to challenge the administrative decision in the light of the up- to- date situation in the country of origin. There is no effective judicial remedy if a judge relies on historical facts. Therefore, it is decisive to establish the current – at the moment of the court’s deliberation and passing a judgement - situation in the country of origin.

Appendix: National reports

1. Austria - Judith Putzer, Asylum Court, Vienna
2. Belgium - Gaëtan de Moffarts, Council for Aliens Appeals
3. Canada - Robert Néron, Refugee Protection Division,
3. New Zealand - Allan Mackey and Maya Bozovik, Immigration and Protection Tribunal
4. The Netherlands - John Bouwman, District court Zwolle-Lelystad,
5. Poland - Jacek Chlebny, Supreme Administrative Court