

## Slovenia - Supreme Court of the Republic of Slovenia, 9 May 2012, I Up 215/2012

**Country of Decision:**

Slovenia

**Country of Applicant:**

Iran

**Date of Decision:**

09-05-2012

**Citation:**

I Up 215/2012

**Court Name:**

Supreme Court of the Republic of Slovenia

**Keywords:**

Assessment of facts and circumstances

Country of origin information

Credibility assessment

Well-founded fear

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**Relevant Legislative Provisions:**European Union Law

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**Headnote:**

Establishing that an asylum seeker is unconvincing is a matter of assessing the evidence, which can only take place when reaching a decision. The competent authority for international protection is not obliged to notify the Applicant in advance regarding its assessment of the evidence.

Paragraph 9 of Article 23 of the International Protection Act stipulates that when assessing an application for international protection the Ministry of the Interior (MI) needs to take into account the specific information on the country of origin that is connected exclusively to the matter at hand. This can also include the manner of enforcing laws and other regulations in the country of origin. The fact that the Applicant participated in the protests is indisputable, thus the MI should have obtained specific information on whether Iranian legislation defines participation in

protests and getting involved in a confrontation with security forces as an act that could lead to persecution.

**Facts:**

The MI rejected the Applicant's application for international protection, for he was allegedly unconvincing when describing the events. The MI was also of the opinion that he did not have any problems in the period following the protests and that he will not be recognised as a participant in the protests upon his return to Iran.

The Administrative Court ruled in favour of the appeal against the MI's decision, as, in the opinion of the Court, the Applicant was not acquainted with the reasons why the MI found his statements unconvincing, nor did the MI seek specific information as regards the country of origin or ascertain how the laws are implemented in Iran.

The MI appealed to the Court. According to the MI the issue of whether the Applicant is convincing or not is a part of the evidence assessment, which takes place only when reaching a decision and not during the procedure itself, thus the MI is not obliged to notify the Applicant.

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**Decision & Reasoning:**

According to the Supreme Court, the MI was not required to inform the Applicant that it found certain statements unconvincing, since this is a part of the evidence assessment, which takes place only when reaching a decision.

Nevertheless, the judgment passed by the Administrative Court is appropriate, for it cannot be disputed that the Applicant had taken part in the protests (this can clearly be seen on the recordings) and that some persons were mistreated upon their return to Iran. Therefore, a reasonable fear exists that the Applicant will, due to his participation in the protests, be persecuted upon his return to Iran. The MI wrongfully concluded that the Iranian authorities will not review the footage from the protests, and that even if they chose to do so, the footage is of such poor quality that the Applicant could not be recognized, which is an opinion that is not shared by the Supreme Court.

The MI should assess the specific information on the country of origin, during which it should consider whether the Iranian legislation and regulations stipulate that participating in a protest and confronting the security forces represents an action that could lead to the persecution of the protesters; it should also find out what could happen to such a person.

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**Outcome:**

The Supreme Court dismissed the Appellant's appeal and upheld the contested judgment of the Court of First Instance, thus the matter was referred back to the Ministry of the Interior.

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**Subsequent Proceedings :**

In the fresh procedure for international protection the Applicant's refugee status was recognised by the MI.

**Attachment(s):**



[VS RS - I Up 215-2012.pdf](#)[1]

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**National / Other Legislative Provisions:**

[Slovenia - International Protection Act \(ZMZ\) - Art 23 § 9](#) [2]

[Slovenia - Zakon o splošnem upravnem postopku \(ZUP\) \(General Administrative Procedure Act\) - Art 9](#) [3]

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**Links:**

[1] <https://m.asylumlawdatabase.eu/sites/default/files/aldfiles/VS%20RS%20-%20I%20Up%20215-2012.pdf>

[2] <https://m.asylumlawdatabase.eu/en/taxonomy/term/8093>

[3] <https://m.asylumlawdatabase.eu/en/taxonomy/term/8092>