



# KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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## Case Summary

Country of Decision/Jurisdiction	<b>Ireland</b>
Case Name/Title	Imafu v (1) Minister for Justice, Equality and Law Reform; (2) Refugee Appeals Tribunal; (3) Ireland; (4) Attorney General
Court Name <i>(Both in English and in the original language)</i>	High Court
Neutral Citation Number	[2005] IEHC 416
Other Citation Number	N/A
Date Decision Delivered	09/12/2005
Country of Applicant/Claimant	Nigeria
Keywords	Credibility
Head Note (Summary of Summary)	This decision is concerned with the relevance of objective country information to the assessment of credibility.
Case Summary (150-500)	<p>The applicant's appeal against refusal of asylum was dismissed by the Tribunal because of her demeanour, which was considered to be hesitant and evasive, as well as her 'failure to make efforts to substantiate her claim'. The applicant was granted leave to appeal the latter finding, as well as the Tribunal's failure to consider the objective country material.</p> <p>As to the question of considering credibility in the absence of country information: the judgement diminishes the principle – well established in English law – that an assessment of credibility must not take place in a vacuum, but must be placed within the context of the country conditions. This judgment waters this principle down by stating that there are some "exceptional" cases (such as the instant case) where there is no need to have any reference to country information, whatsoever.</p> <p>On the question of the applicant's alleged failure to substantiate her case, the Court confirms that there is no such onus – it is one that is shared with the Tribunal itself. Thus this itself could not be a valid reason for rejecting the appeal (however it was not the only reason in this case, so the Tribunal's decision was upheld).</p>
<i>Facts</i>	The applicant was a Nigerian national who was trafficked into prostitution in Italy, and then claimed asylum in Ireland. She was refused asylum at first instance, and appealed. The Refugee Appeals Tribunal found her not to be credible. The applicant appealed to the High Court and was given leave to appeal by a High Court judge on three grounds, all of which were later dismissed at the substantive hearing.



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<i>Decision &amp; Reasoning</i>	<p>The Court cited the English case of <u>Horvath</u> [1999] INLR 7, which held categorically that no assessment of credibility could take place in isolation from the context of the objective background evidence. The Court stated that while this was “correct” it was not an absolute rule. There are “exceptional” cases (such as the instant case) where the Tribunal can adequately assess credibility in isolation from country information:</p> <p><i>“In my view, the decision in Horvath, and of David Pannick QC in Ahmed could not be extended to mean that in every case, no matter how unbelievable the applicant is found to be on the ‘pure credibility’ issue, the Tribunal Member must indulge in a pointless exercise, namely looking at amounts of country of origin information to the effect that women are trafficked abroad from Nigeria and that if they return they may be prosecuted for an offence. Such information, especially given the finding in respect of which leave was refused as to credibility, could not add anything of <u>real</u> relevance with a capacity to influence the assessment of overall credibility in the present case...”</i></p> <p>The Court also considered the question of whether the applicant is required to substantiate her case. The Court held that there is no such burden on the applicant – there is a shared onus on the Tribunal to also seek to substantiate a story (which in many cases will be in any event difficult):</p> <p><i>“While there is obviously an onus on an applicant to substantiate her story in so far as she can, it can in many cases be difficult to do so in any documentary way given the circumstances in which many persons leave their country of origin. The onus in these cases is however one which is shared with the Tribunal, and it follows that simply because the applicant has failed to substantiate her story in the opinion of the Tribunal, she is not necessarily to be disbelieved, since the Tribunal itself would share the task of substantiation to an extent. There would have to be other grounds for disbelieving the applicant, and being satisfied as to lack of credibility.”</i></p> <p>The Court felt that the Tribunal’s reasoning requiring substantiation was peripheral to the main finding on credibility, which withstood the applicant’s criticisms, so overall the decision was upheld.</p>
<i>Outcome</i>	Appeal dismissed.