



Home Office

**The Home Office response to the Independent Chief Inspector of Borders and Immigration's report:**

**An Inspection of the Home Office's Production and Use of Country of Origin Information**

**April–August 2017**

The Home Office thanks the Independent Chief Inspector of Borders and Immigration for his report. The Home Office accepts four of the seven recommendations; partially accepts one and rejects the other two. These are explained in more detail below.

**1. Adhere to the European Asylum Support Office (EASO) Methodology for Country of Origin Information (COI) products, or publish (on GOV.UK) its own methodology with a clear explanation of where this deviates from EASO and why (in either case, putting an immediate stop to the inappropriate use of the description "policy" in its COI products).**

- 1.1 **Not accepted.**
- 1.2 The Home Office already provides information on its methodology, which is set out in the preface of every country policy and information note (CPIN) which are published on our website: <https://www.gov.uk/government/collections/country-policy-and-information-notes>.
- 1.3 In doing so, the Home Office follows the general principles of COI research and presentation set out in the Common EU Guidelines for Processing COI<sup>1</sup> and the ACCORD Training Manual<sup>2</sup>. In contrast, the purpose of the EASO report methodology is to provide a structure for reports drafted by – or, more commonly, by EU+ Member States drafting on behalf of – EASO<sup>3</sup>. It is not a mandatory approach for those states producing reports in their own national jurisdictions. It is based on the same core principles as UK guidance but we do not accept we need to follow it in every detail or justify departures from it.
- 1.4 Other EASO member countries, for example Belgium<sup>4</sup> and Norway<sup>5</sup>, publish reports that do not follow exactly the format of reports proposed in the EASO report methodology. Their view, like the UK, is that these are guidelines and need not be followed to the letter.
- 1.5 We will review however whether we could incorporate some elements of the EASO recommended approach, such as the inclusion of terms of reference and a bibliography as well as elements of their disclaimer.
- 1.6 We do not accept the contention that the Country Policy and Information Team (CPIT) should not produce “policy” guidance alongside its COI products. It is common practice to produce an analysis of the COI (whether this is called analysis, policy, guidance or a country position), to help hard-pressed caseworkers draw appropriate conclusions from the COI, while respecting that ultimately it is for them to adapt the COI material to the facts of the case before them.
- 1.7 For example, we note that the UNHCR publishes country ‘eligibility guidelines’ which provide guidance on handling country-specific claim types combining COI, analysis and advice. They explain, in the preface, that the purpose of these eligibility guidelines is to ‘[assess] the international protection needs of asylum-seekers’, includes ‘... legal interpretations of the refugee criteria’ as well as recommendations on how applications ‘relate to the relevant principles and criteria of international refugee law<sup>6</sup>.

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<sup>1</sup> Common EU Guidelines for Processing Country of Origin Information (COI), April 2008, <http://www.refworld.org/docid/48493f7f2.html>

<sup>2</sup> Researching Country of Origin Information, 2013 edition, <https://www.coi-training.net/handbook/Researching-Country-of-Origin-Information-2013-edition-ACCORD-COI-Training-manual.pdf>

<sup>3</sup> EASO COI Reports, <https://www.easo.europa.eu/information-analysis/country-origin-information/country-reports>

<sup>4</sup> Cedoca, research unit of the Belgium Office of the Commissioner General for Refugees and Stateless Persons, produces ‘COI focuses’, <http://www.cgra.be/en/country-information>, following the EU Common Guidelines and its own style manual, see <http://www.cgra.be/en/country-information/cedoca>

<sup>5</sup> See the Norwegian COI research body, Landinfo, COI reports <https://landinfo.no/id/168.0>, and explanation of its research methodology <https://landinfo.no/id/20.0>

<sup>6</sup> For example, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Members of Religious Minorities from Pakistan, January 2017, <http://www.refworld.org/publisher,UNHCR,COUNTRYPOS,.5857ed0e4.0.html>

- 1.8 The Upper Tribunal (UT) of the Immigration and Asylum Chamber takes a similar approach when producing ‘country guidance’ determinations. The UT has commented *‘It is entirely legitimate of the Home Office to issue not just Country of Origin information but also policy and operational guidance setting out the position of the UK government’* and to do so on ‘*a regular basis so that caseworkers can make decisions based on the latest evidence.*<sup>7</sup>
- 1.9 While EASO does not currently produce policy guidance alongside its COI products (reflecting the differing approaches of the Member States), it has proposed that a COI report should undertake ‘analysis’, the purpose of which is *‘to help the target audience to process the information in a relevant and objective way and put it into a context that helps them to draw informed conclusions relevant to their tasks’* (section 2.6)<sup>8</sup>.
- 1.10 We do not accept the ICIBI’s view that the structure and format of CPINs are not compatible with the UK’s obligations under the Refugee Convention because they are intended, or lead, to predetermined outcomes without consideration of a case’s individual facts (para 3.18, p9-10). CPINs state whether a person making a claim is, in general, likely or unlikely to qualify for protection. However, all CPINs state in their preface that they provide general guidance and that each case must be considered on its individual merits; none of them tell a decision maker what decision they must make. This position is also repeatedly made in the ‘Policy Guidance’ sections which has links to the relevant Asylum Policy Guidance. They also include examples of where that determination may vary based on the person’s individual circumstances, such as their background, profile or activities. It is clear from the report that this message is clear to Home Office staff (para 9.20, p43).
- 1.11 We are aware that international COI guidelines caution against including policy with COI and have responded to this concern and the IAGCI recommendation of May 2016 by making the distinction between COI and policy very clear.
- 1.12 Although the Home Office does not agree that the CPINs use the word “policy” inappropriately, we recognise that the term may be misinterpreted and to avoid any possible ground for confusion we will make it clear that this part of the CPIN provides an analysis of the COI.

## **2. Move (and rename) the Country Policy and Information Team (CPIT) under the management of UK Visas and Immigration Directorate (UKVI), so that it is better aligned with its principal Home Office ‘customers’ (better able to understand and meet their needs, including for particular COI, for training in understanding and using of COI, and in when and how to conduct independent research).**

- 2.1 **Not accepted.**
- 2.2 We agree that CPIT must understand its customers’ requirements and respond accordingly. To this end, we accept the need to improve feedback loops.
- 2.3 However, we do not accept that this would justify moving CPIT to UKVI. First, it is not UKVI’s job to produce research and would distract from their focus on running the asylum case working operation. Second, it would not of itself result in a better relationship with caseworkers: the CPIT team is based in Croydon while caseworkers are in different locations.

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<sup>7</sup> See paragraph 8, MST and Others (national service – risk categories) Eritrea CG [2016] UKUT 443 (IAC), <http://www.bailii.org/uk/cases/UKUT/IAC/2016/443.html#para4>

<sup>8</sup> See section 2.6 of the EASO COI Report Methodology, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/asylum/european-asylum-support-office/coireportmethodologyfinallayout\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/asylum/european-asylum-support-office/coireportmethodologyfinallayout_en.pdf)

- 2.4 Third, we need to ensure the integrity of CPIT's products and guard against any perceived risk of capture by decision-making teams. The EU Common Guidelines observe '*the need to meet the criteria of objectivity and impartiality should also be understood as implying that, whenever possible, the processing and the production of COI should be kept independent from the decision-making process....*' (section 1.2)<sup>9</sup>. They also reference an earlier UNHCR paper on the production of COI, specifically on the issue of the credibility and independence of the COI producer, which highlighted this need and the steps that can make this possible<sup>10</sup>.
- 2.5 Finally, UKVI is not CPIT's only customer. There are also significant users in other areas such as Immigration Enforcement teams.
- 2.6 Therefore, our view is that CPIT should remain in the part of the Home Office which is responsible for providing the tools – such as policy, guidance and analysis – to support decision makers across the border, immigration and citizenship system. CPIT will continue to work closely with colleagues in UKVI to build upon the feedback loops which the Chief Inspector's report identified (e.g. to better understand the needs of its target audience). CPIT will also need to ensure that it similarly engages with other business areas that use its products and services.
- 2.7 In terms of training, as the Home Office explained in its response to the Chief Inspector's parallel "*inspection of the Home Office's Asylum Intake & Casework*", we are reviewing the training package that is provided to those in AIC, as well as the structures and capacity of those who provide the training.
- 2.8 On re-naming the team, we will review this in line with the revision of the CPINs set out under recommendation 1.

### **3. Carry out a thorough and open needs analysis for Country of Origin Information (COI), involving both Home Office 'customers' and external stakeholders, and use the results to 'right-size' CPIT and resource it appropriately, and to establish effective ongoing feedback mechanisms.**

- 3.1 **Partially accepted.**
- 3.2 CPIT carried out a thorough review of business needs prior to the establishment of the team in 2013 and, as we explained to the inspection team, we have, through mechanisms such as the Country Policy Steering Group, Virtual Litigation Teams and regular conversations with operational and policy teams, a good understanding of what the increased demands for CPIT's products and services are.
- 3.3 We will consult again within BICS to re-evaluate this and use this exercise as an opportunity to further develop the existing feedback loops. As the Home Office explained in its response to the Chief Inspector's parallel "*inspection of the Home Office's Asylum Intake & Casework*", we have improved the feedback loops in the asylum system so that asylum Decision Makers get more regular information from Home Office Presenting Officers about the quality of decisions and why they might be overturned on appeal. CPIT are also going to be included in these discussions so that they can contribute to, and benefit from, this mechanism. A newly-launched country officer network will augment this.
- 3.4 We are already open to comments by external stakeholders. For example, the IAGCI has occasionally made suggestions (e.g. Atheists in Bangladesh, statelessness) and there is a link to the CPIT inbox in the Preface to all CPINs, but we have never received requests for particular products from an external stakeholder.

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<sup>9</sup> <http://www.refworld.org/docid/48493f7f2.html> , and see for examples of their COI 'focuses'.

<sup>10</sup> UNHCR, Country of Origin Information: Towards Enhanced International Cooperation (paras 49-50), February 2004, <http://www.refworld.org/docid/403b2522a.html>

- 3.5 Ultimately COI and CPINs are intended for use by Home Office caseworkers so we do not accept the need to consult external stakeholders formally though we are content to reach out to them.
- 3.6 The demand for COI and CPINs is almost limitless, whereas the Home Office has to operate within tight resource constraints and prioritise. We accept that the process of agreeing our forward work programme with UKVI and other HO users should be made more explicit and proactive. However, we do not accept some of the criticisms used to justify the call for greater resources. For example, in highlighting examples of CPINs that have not been updated on a two-year cycle, it overlooks those which have been updated much more frequently (for any of the reasons outlined in paras 8.17–8.40, p32–36, of the report) – the Home Office has updated seven CPINs at least three times since original publication, including fast-changing situations like the security situation in Iraq and Afghanistan, and a further 20 that have been updated at least twice since original publication. The Chief Inspector also criticises the fact-finding mission to Eritrea. This was in fact an example of CPIT responding to a business need, given the escalating number of Eritrean asylum claims which it was appropriate for us to carry out. There is also no reference to the other fact-finding missions conducted in 2016 and 2017 (to Sudan, Bangladesh and Sri Lanka).
- 3.7 The Home Office accepts that it might be helpful to make it clear when a CPIN has been reviewed and found not to need updating, for example where the country situation is unchanged, so that it is clear that the CPIN is current.

#### **4. Review the user requirements for the UK Visas and Immigration (UKVI) “transformation programme” and ensure that these capture the data needs of CPIT, including asylum nationality and basis of claim.**

- 4.1 Accepted.
- 4.2 CPIT will discuss with the owners of the transformation programmes in UKVI and IE the scope for including its data needs.
- 4.3 In addition, as explained to the inspection team, we had bid for (and have now been successful in obtaining) funding from the Asylum, Migration and Integration Fund, to undertake detailed analysis of claim trends in asylum casework and to identify gaps in our existing COI, which we can supplement through more targeted research, including fact-finding missions. We are in the process of recruiting for that dedicated role within CPIT.

#### **5. Review, formalise and seek ministerial approval for the use of an external consultancy to provide quality assurance of draft Country of Origin Information (COI) products.**

- 5.1 Accepted.
- 5.2 The involvement of external partners in reviewing our draft products has been constructive and helpful. We agree to review the need for an external consultancy, seek Ministerial views and, if approved, formalise the relationship.

#### **6. Explore with UNHCR whether a marker can be attached to CPIT’s superseded Country of Origin Information (COI) products on Refworld.org to show that there is a more up to date product on GOV.UK.**

- 6.1 Accepted.

- 6.2 While we send copies of our documents to RefWorld, we do not control the maintenance of their website. However, we have contacted the UNHCR team responsible for RefWorld to ensure out of date documents are flagged as such or not used.

## 7. Produce and maintain a risk register covering Country of Origin Information (COI) production and use

### 7.1 Accepted.

- 7.2 We have produced a draft risk register which we will review at the Country Policy Steering Group, to capture and report on the main risks associated with COI production and use. We will use this risk register on an ongoing basis as part of managing our work.

- 7.3 However, in this context the ICIBI's report referenced various 'risks' or issues that the Home Office disagrees with. These relate to the provision of medical information under MedCOI; learning from litigation; and the extent to which CPIT follows Home Office Legal Advisor's advice.

- 7.4 On MedCOI, the ICIBI's report notes:

*'... COI users identified a risk that CPIT's access to specialist medical information could be reduced or lost because of the rising costs of the MedCOI subscription service and the UK's planned departure from the EU. From the evidence provided to inspectors, if CPIT were to lose access to the MedCOI service it would impact heavily on those business areas dealing with Article 3 (Human Rights) claims. Such claims to remain in the UK based on the claimant's medical condition(s) can attract media attention, and poorly informed decisions could damage the Home Office's reputation, quite apart from any harm they may cause to the claimant.'* (para 3.13, p9)

- 7.5 The provision of medical information under MedCOI is being transferred from its current providers, the Dutch and Belgian immigration authorities, to EASO. This is to take place over the next three years (to 2020). Both the medical information request service and the response database will be free at the point of use for member states, including the UK, during this period and, as currently planned, afterwards. We have already raised with EASO the possible consequences for the UK of leaving EASO and the EU, and whether there will be scope to access MedCOI, including by paying for medical information, after the UK leaves the EU. We will continue to monitor the impact of the UK leaving the EU and take mitigating action if necessary when it is clearer what the consequences will be for our access to MedCOI.
- 7.6 On learning from litigation, the ICIBI's view appears to be based on one particular case – LC (Albania) – which remained listed as a country guidance case on the Upper Tribunal's website long after it had been set aside. It is not reflective of CPIT's general response to country guidance cases. There have been around 20 country guidance cases promulgated since April 2014, in response to which we updated 15 corresponding CPINs in three months or less; and 11 of those within one month.
- 7.7 On CPIT acceptance of HOLA legal advice, having reviewed the examples supplied to the inspection team, and based on the knowledge of CPIT, we have been unable to identify any case where CPIT published a CPIN which included any content that conflicted with or contradicted Home Office legal advice. There have been circumstances where, after careful consideration, CPIT conclude that HOLA's advice on drafting does not clarify the guidance, but that is very different from the implication that CPIT acts contrary to Home Office legal advice.