



Media relations
P.O. Box, 9023 St. Gallen

St. Gallen, 13 July 2023

Press Release

regarding judgment D-2337/2021 of 5 July 2023

Asylum: Language analysis for the determination of Tibet origin cannot be faulted

The Federal Administrative Court has evaluated a language assessment procedure for the determination of origin relating to Tibet commissioned by the State Secretariat for Migration. It concludes that the methodology and professional skills of the expert involved cannot be faulted.

If the origin claimed by an asylum seeker is in doubt, the State Secretariat for Migration (SEM) regularly has its internal “Lingua” unit perform a language analysis for the determination of origin. During these “Lingua analyses”, an independent external expert assesses the likelihood that the main place of socialisation is correct as claimed. The tests are based on a linguistic analysis and an assessment of the asylum seeker's knowledge of the country. Given the opposing interests, a Lingua analysis is not fully disclosed to the subject who is instead given the opportunity to comment on a summary of the salient points in awareness of the professional background and qualifications of the expert conducting the analysis. In accordance with settled case law, a Lingua analysis has heightened probatory value when certain requirements are met in terms of specialist qualifications, objectivity and independence of the expert, and material conclusiveness and transparency of the analysis.

Two contradictory analyses

In the case at hand, the asylum seeker claims to come from Tibet. However, the Lingua analysis conducted by expert AS19 (pseudonym) concluded that the asylum seeker was most likely not socialised in the purported region of Tibet, but rather in an exiled Tibetan community outside China. Due to an oversight by the SEM, the Lingua analysis was fully disclosed to the asylum seeker. The latter therefore obtained a counter opinion from Tibetologists. The counter opinion expressed serious objections regarding the Lingua analysis and concluded that the asylum seeker does indeed originate from Tibet. The objections concerned the methodology of SEM's Lingua unit in general, and expert AS19 in particular.

The conclusions of the Federal Administrative Court

In its reference judgment,¹ the Federal Administrative Court concludes that the

¹ This judgment was coordinated by all judges from Divisions IV and VI. It analyses the conditions of the existing situation in a given country and provides a legal assessment which holds not only for this case but for many other proceedings as well.

quality and significance of the Lingua analyses performed by AS19 cannot be faulted in principle. The expert is apparently appropriately qualified, takes their duty of care seriously, and is neutral and independent. Furthermore, the Court finds that – by international comparison – the methodology applied by SEM's "Lingua" unit meets the best standards of language analysis for the determination of origin, and that the unit's employees use their best efforts to perform their analyses in a non-partisan and compliant manner, in accordance with scientific practice. Nevertheless, the fact remains that the probatory value of Lingua analyses must be verified in each individual case.

This judgment is final and may not be appealed to the Federal Supreme Court.

Contact

Rocco R. Maglio

Press secretary

+41 (0)58 465 29 86

+41 (0)79 619 04 83

medien@bvger.admin.ch

About the Federal Administrative Court

Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 351 employees (296.1 FTE) and its 73 judges (65 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 6,500 judgments every year.