



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	United Kingdom
Case Name/Title	Gheisari v Secretary of State for the Home Department (16 December 2004)
Court Name <i>(Both in English and in the original language)</i>	Court of Appeal
Neutral Citation Number	[2004] EWCA Civ 1854
Other Citation Number	
Date Decision Delivered	16 December 2004
Country of Applicant/Claimant	Iran
Keywords	Credibility
Head Note (Summary of Summary)	Appeal to the Court of Appeal on a point of law. The appellant argued that the adjudicator, in dismissing his asylum appeal, had failed to provide adequate reasons as to why he agreed with the authorities that his account was incredible. The Court of Appeal upheld the adjudicator's determination, with some guidance to first instance judges as to the correct approach to the process of reasoning in cases where allegations are made that an account is incredible.
Case Summary (150-500)	The appellant claimed asylum on 28 May 2002 shortly after clandestinely entering the United Kingdom from Iran. His claim was that, having been born into a Muslim family and having converted to Zoroastrianism, the country's pre-Islamic religion, he had been arrested by the secret police and treated brutally before escaping. He feared a repetition or worse if he were to be returned.
<i>Facts</i>	The asylum application was refused by the Secretary of State in the first instance administrative procedure due to the applicant's lack of credibility, particularly in respect of his account of his escape from the police. The actions of his friends in helping him to escape were found implausible. His appeal to an adjudicator was refused on the same basis, the adjudicator adding only, <i>'that his account did not have a 'ring of truth'</i> . The Immigration Appeal Tribunal found the reasoning to be adequate, a decision upheld by the Court of Appeal but with some concerns as to the process of reasoning undertaken by the adjudicator.
<i>Decision & Reasoning</i>	The authorities had found the account had been incredible for the following reasons, <i>"You claim you were arrested on 10/5/02 and held for a few hours before you managed to escape. You claim the authorities returned you to your home blindfolded and handcuffed. When asked why the authorities would return</i>



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	<p><i>within a few hours of your arrest, you replied to intimidate your relatives. The Secretary of State takes the view that the authorities would not concern themselves with your relatives. Furthermore, the Secretary of State does not believe your friends and neighbours, armed with weapons and 'special scissors' attacked officials, placing themselves in potential danger of arrest in order to help you escape from custody. He does not believe that your friends and neighbours were gathered outside your home, armed with weapons and 'special scissors' on the off chance you would return with the authorities to intimidate your relatives."</i></p> <p>The adjudicator upheld the Secretary of State's decision stating only,</p> <p><i>"I have been unable to accept the appellant's evidence as to what he claims was the persecution he was subjected to in Iran prior to his departure. His evidence lacks the ring of truth."</i></p> <p>In its decision, the Court of Appeal found,</p> <p><i>"12...The adjudicator is there to make his or her own evaluation of the possibility it does not have to be a probability that the account given by the appellant, odd or farfetched though it may appear, is essentially truthful. Exactly the same is the case where the applicant tells a story of linear likelihood. Its anterior probability is not a guarantee of its veracity. In both classes of case the adjudicator, like a jury, has in my judgment a two stage inquiry to conduct. First, how inherently probable or improbable is the account? Secondly, may it, though inherently improbable, be true or, though inherently probable, be untrue?"</i></p> <p><i>"13. As to the odd circumstances in which the appellant claimed then to have escaped, it was the adjudicator's task to appraise what evidence there was, to appraise the individual who was giving it and to say whether it might be true. Its inherent improbability was no doubt enough to explain the Secretary of State's initial decision, but it was not exhaustive of what the adjudicator had to determine. The Immigration Appeal Tribunal took the view that this gap was closed by the adjudicator's adoption of the Secretary of State's reasons. But if the Secretary of State's reasons are no more than an expression of natural incredulity, this is insufficient".</i></p> <p><i>"21...What would be wrong would be to say, -- and I agree with Sedley LJ, -- that because evidence is inherently unlikely it inevitably follows that it is wrong. An unlikely description may, upon a consideration of the circumstances as a whole, including the judge's assessment of the witness and any explanations he gives, be a true one".</i></p>
<p><i>Outcome</i></p>	<p>The appeal against the decision of the adjudicator to uphold the decision of the Secretary of State to refuse asylum was refused.</p>