

Guide to Credibility Assessment – An Overview

STEPS IN THE ANALYSIS

EXPLANATION

Preparation for the Personal Interview



Before the personal interview the Authority provides information to the Applicant about his or her duty to substantiate the application and guidance on how to do so. This obligation continues throughout the process.

The basic bio data (age, gender, nationality, ethnic origin, physical/mental health, education, social status, religion, urban or rural background, relatives etc.) information may be gathered orally or in a form with assistance from an interpreter where required. It includes the question: "Why are you seeking asylum?" but does not delve into the details of the claim.

The DM familiarizes him/herself with the facts of the application, researches general and specific COI, gathers information on specific aspects of the claim, considers the individual and contextual circumstances of the Applicant, considers any claims made by family members and prepares interview questions.

During the Personal Interview

4	DM'S DUTY TO PROVIDE INFORMATION AND GUIDANCE	At the outset of the personal interview the DM provides information to the Applicant about his or her duty to substantiate the application and guidance on how to do so.
5	DM'S DUTY TO GUIDE THE APPLICANT THROUGH APPROPRIATE QUESTIONING	The DM uses appropriate questions, remains impartial and objective during the interview both in his or her verbal and non-verbal communication.
6	DM'S DUTY TO TAKE INTO ACCOUNT INDIVIDUAL & CONTEXTUAL CIRCUMSTANCES	The DM takes age, gender, cultural and ethnic background, education, social status, sexual orientation and/or gender identity into account in the way questions are put to the Applicant, responses analysed, assessed and interpreted, and follow-up questions phrased.
7	DM'S DUTY TO GATHER EVIDENCE BEARING UPON THE CLAIM	As necessary, the DM uses all means at his or her disposal to gather all relevant evidence bearing on the application, including any supporting evidence.
8	DM'S DUTY TO GIVE THE APPLICANT AN OPPORTUNITY TO COMMENT ON AND EXPLAIN POTENTIAL ADVERSE CREDIBILITY FINDINGS	The DM provides the Applicant with an opportunity to clarify any apparent lack of details, omissions, inconsistencies, and implausibilities. The opportunity to comment on potential adverse credibility findings is maintained throughout the procedure until a decision is made. The DM provides the Applicant with a reasonable opportunity and appropriate time-frame to discharge his or her duty to substantiate the application.

After the Personal Interview: Assessing the Applicant's Statements and Other Evidence

9	ASSESS THE CREDIBILITY OF EACH MATERIAL FACT	In assessing the credibility of each material fact the DM gives due consideration to the credibility indicators in light of the individual and contextual circumstances of the Applicant and the factors affecting the DM's interpretation of the information.
10	DETERMINE WHICH MATERIAL FACTS TO ACCEPT	The Applicant may submit further evidence for consideration by the DM until a decision is made or agree with the DM in relation to forthcoming evidence to allow it to be included in the decision. The DM must consider which material facts to accept, which to reject, and those where an element of doubt remains.
11	CONSIDER WHETHER TO APPLY THE BENEFIT OF THE DOUBT TO EACH REMAINING FACT	When the statements are on the whole coherent, plausible and consistent with COI, grant the benefit of the doubt to those facts for which there is no supporting documentary or other evidence, including COI, or an element of doubt remains.
12	LIST ALL MATERIAL FACTS THAT HAVE BEEN ACCEPTED AND THOSE THAT HAVE BEEN REJECTED	The accepted material facts provide the basis for the analysis that will be made in Stage II when determining whether the Applicant has a well-founded fear or risks serious harm.



The Credibility Assessment – Purpose & Principles

DMs do not have unlimited discretion in the assessment of credibility: they must respect EU fundamental rights and principles, and EU administrative law principles. DMs must work in cooperation with the Applicant [Art.4(1) QD], assess the application on an individual basis taking into account some specific factors [Art.4(3)QD], and accept unsupported facts under certain conditions [Art.4(5)QD]. Applications must be examined and decisions taken individually, objectively and impartially [Art.8(2)APD] with the knowledge of relevant asylum and refugee law standards [Art.8(2)(c)APD] including CJEU, ECtHR and CAT standards, and UNHCR guidance.

PRINCIPLES & STANDARDS	COMMENTARY	\checkmark
SHARED DUTY	The duty to provide statements and submit documentary or other evidence in support of an application lies in principle with the Applicant. But it is also the DM's duty to cooperate actively with him/her to gather all the information needed. The duty to substantiate the application is shared.	
INDIVIDUAL ASSESSMENT	Credibility assessment must be conducted on an individual basis taking into account the individual and contextual circumstances of the Applicant.	
OBJECTIVE & IMPARTIAL ASSESSMENT	The determination of international protection is not an adversarial process. The credibility assessment must be carried out objectively and impartially. The DM should be aware that his or her own values, prejudices and views, emotional and physical state can all affect the objectivity of his or her assessment and should strive to minimize them.	
EVIDENCE-BASED ASSESSMENT	Whether the DM is accepting or rejecting a fact, his or her must be able to base that decision on evidence. Adverse credibility findings should not be based on unfounded assumptions, subjective speculation, conjecture, stereotyping, intuition, or gut feelings.	
FOCUS ON MATERIAL FACTS	Material facts go to the heart of a claim. Peripheral ones do not. Credibility assessment should focus on material facts that are most significant in the determination of the claim. Adverse credibility findings must be substantial In nature and not relate only to minor matters.	
OPPORTUNITY TO COMMENT ON ADVERSE FINDINGS	Every Applicant has the right to be heard [Art.41 EU Charter]. This includes the right to provide an explanation for or comment on a fact where the DM may have credibility doubts. The DM should give the Applicant a reasonable opportunity to address any issues that may result in adverse credibility findings.	
ASSESSMENT BASED ON ENTIRE EVIDENCE	Credibility assessment must be based on all available relevant Information provided by the Applicant and gathered by the DM, including additional explanations for apparent inconsistencies, omissions, vagueness or implausibilities provided by the Applicant. The DM should not reach conclusions on the credibility of each material fact in isolation.	
CLOSE & RIGOROUS SCRUTINY	Because decisions can involve matters of life and death, each case deserves a close and rigorous review of all the information at hand. The Applicant should be able to present his or her case fully; all the evidence provided must be considered; decisions should be based on all the information available; the DM must dispel any doubts.	
BENEFIT OF THE DOUBT	Because decisions can involve matters of life and death, and because, despite the best efforts of the Applicant and the DM to gather evidence in support of the material facts, there may still be a measure of doubt on some facts, consideration of the principle of the benefit of the doubt is often needed.	
CLEAR FINDINGS & STRUCTURED APPROACH	Credibility assessment determines which facts can be accepted and then will be considered in the well-founded fear of persecution/real risk of serious harm analysis. The principle of the benefit of the doubt allows the DM to arrive at a clear conclusion on whether to accept or reject material facts about which a measure of doubt remains. A structured approach ensures the appropriate application of the relevant standards.	



Gathering the Facts: The Applicant's Duty to Substantiate the Application

Art.4(1) QD states: "Member States **may** consider it the duty of the applicant to submit **as soon as possible** all the elements needed to substantiate the application for international protection."

Art.4(2)QD lists the relevant **elements** needed for the substantiation of the application, which are the "*Applicant's* statements and all documentation at the Applicant's disposal."

Art.4(5)(a) requires that the Applicant make a genuine effort to substantiate the application.

Art.4(5)(b) requires that "a satisfactory explanation regarding any lack of other relevant elements has been given."

THE APPLICANT'S DUTY 'IN PRINCIPLE' TO SUBSTANTIATE THE APPLICATION



EXPLANATION

1. MAKE A GENUINE EFFORT

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2. PROVIDE THE STATEMENTS AND ALL DOCUMENTATION AT THE APPLICANT'S DISPOSAL

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3. SUBSTANTIATE THE APPLICATION AS SOON AS POSSIBLE

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4. PROVIDE A SATISFACTORY EXPLANATION REGARDING ANY LACK OF OTHER RELEVANT ELEMENTS Evidence may be oral or documentary. It includes the statements of the Applicant and oral evidence provided by experts, family members and other witnesses. Evidence may be documentary, incl. written, graphic, digital, visual materials, COI, exhibits (physical objects, bodily scarring) and audio/visual recordings. Evidence includes anything that asserts, confirms, supports, or bears on the relevant facts at issue.

The Applicant's duty to substantiate the application does not entail a duty to provide documentary or other evidence in support of every relevant fact presented. The Applicant's statements constitute evidence and are capable by themselves of substantiating the application. Some asserted facts are not susceptible to supporting documentary or other evidence.

The DM should not have onerous expectations regarding what documentary or other evidence the Applicant should possess and/or be reasonably able to obtain. The assessment of the 'genuine effort' should take into account the individual and contextual circumstances of the Applicant, including the means at his or her disposal to obtain documentary or other evidence.

The Applicant may be requested, or wish to provide, additional relevant statements or other evidence after the assessment of the evidence begins. The interpretation of 'as soon as possible' needs to be informed by an understanding of the individual and contextual circumstances that may inhibit disclosure of information and affect the possibility to obtain supporting documentary and other evidence. This includes taking into account the circumstances in the country of origin.

The DM should exercise flexibility with regards to time frames, and should interpret time frames with reference to the point when the Applicant is informed in a language his or her understands of the duty to substantiate the application. The DM should be aware that the process of presenting and gathering information and other evidence, as well as the assessment of that information, is not linear and may require the need to obtain additional information relating to relevant facts.

THE ELEMENTS	\square
Age	
Gender	
Identity, nationality(ies), ethnic origin	
Country or origin or place of habitual residence	
Family members	
Education	
Social status	
Rural/urban background	
Religion	
Documentation	
Physical/mental health	
Previous asylum applications	
Reasons for applying for international protection	

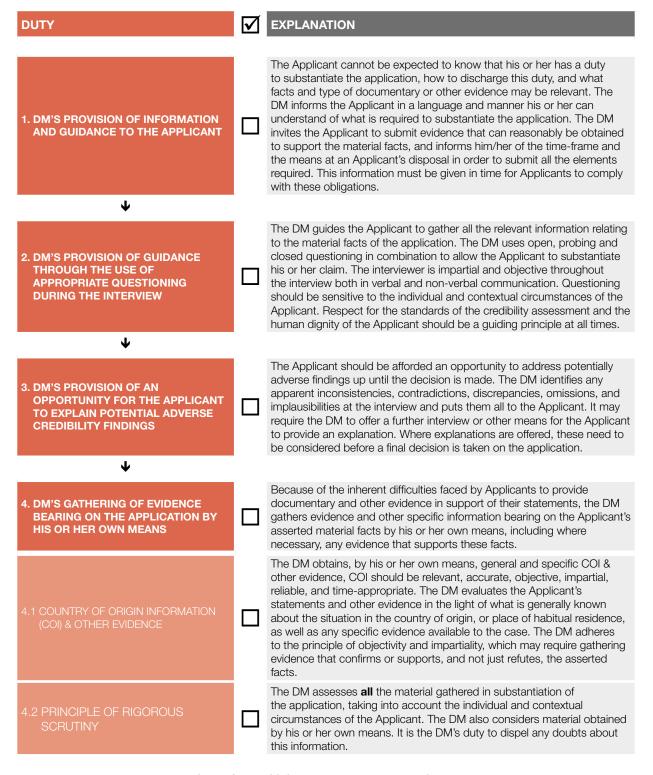


Gathering the Facts: The Decision-Maker's Duty to Cooperate

Article 4 (1) of the EU Qualification Directive states: "In **cooperation** with the Applicant, it is the **duty** of the Member State to assess the relevant elements of the application."

The Court of Justice of the European Union (CJEU) has explained that although *"it is generally for the applicant to submit all elements needed to substantiate the application, the fact remains that it is the duty of the Member State to cooperate with the applicant at the stage of determining the relevant elements of that application."*

THE DECISION-MAKER'S DUTY TO COOPERATE



Beyond Proof – Credibility Assessment in EU Asylum systems Credibility Assessment Checklists <u>http://www.refworld.org/docid/51dd2f0d4.html</u>

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The Credibility Assessment – Factors to Take Into Account

FACTORS AFFECTING THE APPLICANT

Credibility assessment must adhere to certain legal principles and standards. It must be conducted fully taking into account the individual and contextual circumstances of the Applicant. These include his or her personal background (age, nationality, ethnic origin, gender, sexual orientation and/or gender identity, education, social status, religion, cultural and rural/urban background, and state of mental and physical health); his or her past and present experiences of ill-treatment, torture, persecution, harm, or other serious human rights violations; as well as the legal, institutional, political, social, religious, cultural context of his or her country of origin, or place of habitual residence, the human rights situation, the level of violence, and availability of state protection. The DM should cross geographical, cultural, socio-economic, gender, educational and religious barriers, and take account of different individual experiences.

THE LIMITS & VARIATIONS OF HUMAN MEMORY	EXPLANATION
RECONSTRUCTION	The DM should be aware of the wide-ranging variability in people's ability to record, retain, and retrieve memories. Visual, verbal and auditory information is not recorded as an accurate copy of experiences, but is reconstructed at the time of recall. No two reformulations can be identical; some inconsistency is inevitable. Memories change over time, sometimes significantly, and naturally decay, details are forgotten. With rehearsal (talking about the event), some memories can fade, others become distorted and others more vivid.
MEMORIES FOR FACTS, DATES AND OBJECTS	Memory for dates, times, frequency, duration and sequence; proper names; verbatim verbal exchanges; peripheral information; and appearance of common objects is unreliable and may be difficult or impossible to recall. Recall is nearly always reconstructed from inference, estimation and guesswork, and is rarely accurate.
EMOTION AND REMEMBERING	High levels of emotion can impair the encoding of any memory. The recall of autobiographical memory is influenced by mood.
RETELLING	The context in which memories are recalled guides their reconstruction. Memory is influenced by the question eliciting information (closed or open-ended questions) and the way the question is asked. Memories are susceptible to suggestion, more so when the person feels under stress, has low self-esteem, or perceives the interviewer to be critical or negative. There is also variation between information when elicited face-to-face or with self-completing forms.
THE IMPACT OF TRAUMA ON MEMORY & BEHAVIOUR	Those who have suffered traumatic events often display avoidance symptoms; they avoid thinking and talking about the event. They may experience dissociation , at the time of the traumatic event or when recalling it; they cannot remember some or all aspects of the trauma, because (aspects of) the event were not initially encoded. They may display emotional numbing and emotionally detach themselves from the facts they are relating. They may only remember sensory impressions (emotions, sensations, sounds, smells) or flashbacks; only fragments or impressions of the experience may be related. They tend to remember some central details , on which they have focused, at the expense of other peripheral details. Detention may have an impact on the ability to record and retrieve specific details of events. They may rely on general knowledge (schematic memory) about situations in preference to recalling specific painful events.
FEAR & LACK OF TRUST	Applicants may lack trust in authorities or interpreters. Some may hold a genuine belief that their persecutors have wide networks in other countries, incl. the country of asylum. Moreover, they may not wish to disclose certain relevant facts for fear of endangering the lives of relatives, friends or associates. Applicants whose fear relates to gender, SGBV, SOGI or trafficking may fear reprisals by family, community and/or traffickers. Applicants may fear reprisals from agents who arranged their travel and entry.
CULTURAL BACKGROUND & CUSTOMS	Diversity in cultural background influences communication. Understanding and interpreting information is culturally determined. Individual cultural backgrounds influence the delivery and interpretation of information. Failure to recognize the cultural relativity of words , notions and concepts can lead to misunderstanding and flawed credibility assessments. Concepts of time, distance, and location may be culturally relative. Concepts of time may differ from those used in Western society; events may be remembered by reference to seasons, religious holidays, festivals, etc.; and birth dates and anniversaries may not be significant in some cultures. An Applicant's cultural background and norms may affect the way his or her relates their account e.g. a woman may have had a secluded life, little communication with strangers or authorities, or is used to a male relative speaking on her behalf.
EDUCATION	An Applicant's level of formal education may affect his or her ability to articulate the reasons for the application; to respond to questions, incl. general knowledge questions on history, geography, political, socio-economic conditions; and his or her understanding of the context of certain events.

The Credibility Assessment – Factors to Take Into Account

FACTORS AFFECTING THE APPLICANT (CONTINUED)

GENDER	Gender defines identities, status, roles, responsibilities, and power relations among members of a society. Gender roles are socially constructed; they vary across and within societies and cultures, and according to age, religion, ethnic and social origin; they evolve to respond to changes. Gender roles influence the attitudes, behaviour, roles, and activities of males and females; they usually involve inequality and a power imbalance between women and men. Gender roles affect male and female experiences of persecution and serious harm and their asylum claims. The DM should assess an account in the context of an Applicant's gender, intersected with his or her age, culture, religion, family, and socio-economic status, and refrain from conclusions based on stereotypical, superficial, erroneous or inappropriate perceptions of gender.
SEXUAL ORIENTATION AND/OR GENDER IDENTITY (SOGI)	Some LGBTI Applicants may have had to conceal their SOGI to avoid ill-treatment leading to feelings of self-denial, anguish, shame, isolation, self-hatred and psychological harm; they may not initially disclose the real grounds for the application. They may have suffered ill-treatment, discrimination, harassment, and marginalization; gender norms may make it difficult to discuss these. LGBTI Applicants in the process of coming to terms with their SOGI may change their claim during the process. Their experiences are influenced by their cultural, economic, family, political, religious and social context; this influences the way his or her expresses his or her SOGI. The DM should not base credibility assessment on superficial understanding of LGBTI Applicants' experiences, or erroneous/stereotypical assumptions.
STIGMA AND SHAME	Stigma, shame, fear of rejection by family and community may inhibit disclosure. Gender-based violence survivors are often held morally culpable for the act, which is culturally unacceptable and shameful. They may suffer trauma, self-blame, shame, memory loss and distortion. Stigma may also account for lack of documentary or other evidence e.g. of incident reports, COI.
OTHER FACTORS	Age, social status, profession, religion and beliefs, rural or urban background, etc.

FACTORS AFFECTING THE DECISION-MAKER

The objectivity and impartiality principal requires an approach to the credibility assessment that minimizes subjectivity. The DM should be aware that subjectivity can materialize through:

DM'S THINKING PROCESSES	If the DM has decided on a conclusion, his or her is more likely to believe the evidence that supports that conclusion, even if it is unsound. A concept, known as the halo effect, is a tendency whereby the DM risks either believing or not believing everything. The halo effect increases the weight of first impressions, and subsequent information may be treated as irrelevant.
DM'S INDIVIDUAL & CONTEXTUAL CIRCUMSTANCES	The DM should not approach credibility assessment from his or her own background and life experiences ("what would I, or someone I know do in this situation?"). The DM should be aware of the influence of his or her own educational background. The DM should not be influenced by his or her views of what is plausible or not. The DM should be aware of the tendency to believe statements because they are linked by logic or associated to beliefs his or her holds.
DM'S STATE OF MIND	The DM should not start with scepticism or a refusal mind-set, which may prejudice and distort the credibility assessment. The DM should not feel personally annoyed or irritated when his or her considers the Applicant has lied. Awareness is the antidote to subjectivity.
DM'S POLITICAL, SOCIETAL AND INSTITUTIONAL CONTEXT	The DM should be aware of the influence that societal, political, institutional contexts that are geared towards preventing irregular immigration may have on his or her mind-set and attitudes. The DM should remember that the objective is protection and must uphold fundamental rights.
REPETITIVE NATURE OF THE TASK	Because of the repetitive nature of the task, the DM may tend to categorize applications into generic case profiles with assumptions regarding credibility.
CASE- HARDENING, CREDIBILITY FATIGUE, EMOTIONAL DETACHMENT, STRESS AND VICARIOUS TRAUMA	Routine exposure to accounts of torture, violence, or ill-treatment can take a psychological toll. Disbelief is a coping strategy but may undermine objectivity and impartiality. Emotional detachment may translate into disbelief and a reluctance to engage with the applicant's account.



The Credibility Indicators

Credibility assessment refers to the process of gathering relevant information from the Applicant; examining it in the light of all the information available to the DM; and determining whether and which of the statements and other evidence relating to material elements of the claim can be accepted. These accepted facts may then be taken into account in the analysis of the well-founded fear of persecution and real risk of serious harm.

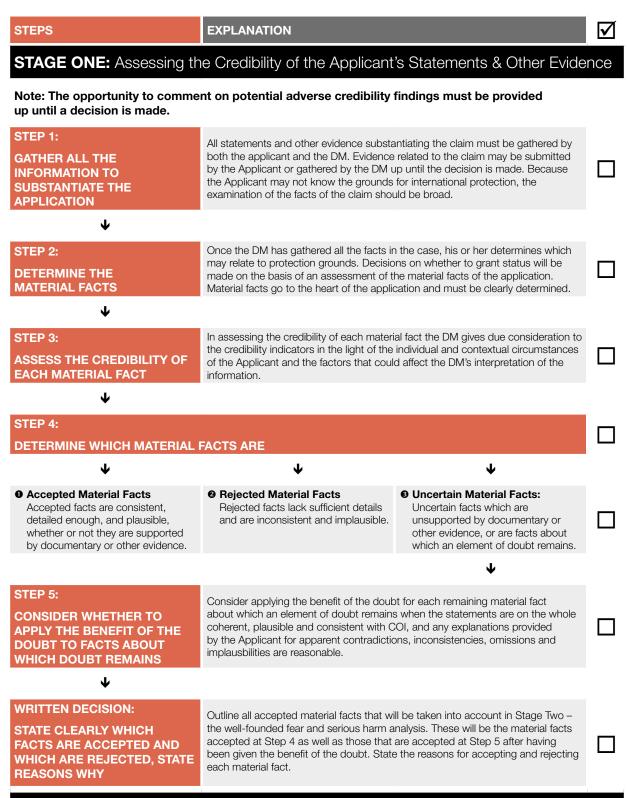
Applications must be examined and decisions taken individually, objectively and impartially, but there is no infallible and fully objective means to assess the credibility of the material facts presented by the Applicant. To minimize subjectivity, credibility indicators should be used. No one indicator is a certain determinant of credibility or non-credibility. DMs must be aware of the assumptions that underlie each indicator, and understand the factors and circumstances that can render them inapplicable and/or unreliable in an individual case (see Factors Affecting Credibility Assessment).

CREDIBILITY INDICATORS	EXPLANATION
SUFFICIENCY OF DETAIL & SPECIFICITY	The DM must assess if the level and nature of the detail provided by the Applicant is reasonable and indicative of a genuine personal experience by someone with the Applicant's individual and contextual circumstances (age, gender, region of origin, education, etc.).
INTERNAL CONSISTENCY	'Internal consistency' relates to consistency within an interview, or within the written and oral statements by the Applicant, or between the statements and documentary or other evidence submitted by the Applicant. It requires a lack of discrepancies, contradictions, and variations in the information provided.
CONSISTENCY OF APPLICANT'S STATEMENTS WITH INFORMATION PROVIDED BY FAMILY MEMBERS OR WITNESSES	Consistency in the facts presented by the Applicant with any statements made by dependants, other family members or witnesses may be considered an indicator of credibility.
CONSISTENCY OF APPLICANT'S STATEMENTS WITH AVAILABLE SPECIFIC AND GENERAL INFORMATION INCLUDING COI	The DM must assess the credibility of the material facts presented by the Applicant against what is generally known about the situation in the country of origin or place of habitual residence; accurate, independent and time- appropriate COI; available specific information; or other expert evidence (medical, anthropological, language analysis, document verification reports).
PLAUSIBILITY	'Plausibility' relates to what seems reasonable, likely or probable. The DM must be careful not to base a credibility finding on subjective assumptions, preconceptions, conjecture and speculation, but rather on independent, objective, reliable and time-appropriate evidence.



A Structured Approach to Credibility Assessment

International protection determinations are conducted with a two-stage approach. Stage one is the gathering of relevant information, the identification of the material facts of the application and the determination of whether and which of the Applicant's statements and other evidence can be accepted. Stage two is the analysis of the well-founded fear of persecution and real risk of serious harm.



STAGE TWO: The Well-Founded Fear and Serious Harm Analysis