

Инициатива качества
систем убежища

в Восточной Европе и на Южном Кавказе



Asylum Systems
Quality Initiative

in Eastern Europe and the Southern Caucasus

**Credibility Assessment in Refugee Status
Determination
UNHCR Training
Baku, Azerbaijan
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OBJECTIVES

- To appreciate the principles of credibility assessment
- To be aware of the difficulties in assessing credibility in a RSD context
- To understand when to apply the benefit of the doubt principle

TRUE OR FALSE

1. Experienced EOs can always tell if someone is not telling the truth.
2. An applicant who lies about one part of his refugee claim is probably lying about everything.
3. To show that something is credible is to show that it is true.

CREDIBILITY – A CRUCIAL BUT DIFFICULT ASPECT OF RSD

“Asylum cases pose thorny challenges in evaluating testimony. Applicants regularly tell horrific stories that, if true, show past persecution and a risk of worse to come. . . . Most claims of persecution can be neither confirmed nor refuted by documentary evidence.... How is an immigration judge to sift honest, persecuted aliens from those who are feigning?”

- Chief Judge Frank H. Easterbrook, United States Court of Appeals, Seventh Circuit, in *Mitondo v. Mukasey*, 523 F.3d 784, 788 (2008).

WHAT IS MEANT BY CREDIBILITY ASSESSMENT?

“The process of gathering relevant information from the applicant, examining in light of all the information available ... and determining whether the statements of the applicant can be accepted for the purposes of qualification for refugee and/or subsidiary protection status.”

-UNHCR, Beyond Proof: Credibility Assessment in EU Asylum Systems, May 2013 at 27

UNHCR NOTE ON CREDIBILITY

“Credibility is established where the applicant has presented a claim which is coherent and plausible, not contradicting generally known facts, and therefore is, on balance, capable of being believed.”

Therefore – To show a statement is credible does not mean that it is true!

BENEFIT OF THE DOUBT

Not possible for an applicant to prove every aspect of the claim

Should be given benefit of the doubt where applicant has made genuine effort to substantiate his/her story and examiner is satisfied as to applicant's general credibility

Applicant's statements are coherent and plausible and do not run contrary to generally known facts

ECtHR ON BENEFIT OF THE DOUBT

The extent to which benefit of the doubt applies, the Court accepts a certain degree of inconsistency in the statements and documents submitted by the applicant, as long as his basic story [is] consistent throughout the proceedings and that uncertainties do not undermine the overall credibility of his story.

- *R.C. v. Sweden*, 2010

CREDIBILITY – GENERAL PRINCIPLES

1. Significant credibility issues must be put to the applicant so that the applicant has a chance to explain.
2. The credibility assessment should take place after the interview taking all information into consideration.
3. Negative credibility findings must go to the core of the refugee claim.

MATERIAL FACTS

Facts that relate to the core of the refugee claim

Key Questions:

- Why did the applicant leave his country of origin?
- Why is he unwilling or unable to return?

FACTORS BEARING ON CREDIBILITY

1. Contradictions and inconsistencies
2. Omissions
3. Implausibilities
4. Vague testimony
5. Demeanour

REVIEW OF CREDIBILITY AT INFORMATION GATHERING STAGE

Pre- interview –

- Note credibility issues so they are raised at interview

Interview –

- Develop trusting relationship so applicant will be forthcoming

REVIEW OF CREDIBILITY AT INFORMATION GATHERING STAGE

Interview (continued) –

- Do not be too quick to confront
- Keep challenges neutral
- Leave room to “come clean”
- Three steps:
 1. Identify the credibility issues
 2. Ask applicant about it
 3. Give applicant a chance to explain

AFTER THE INTERVIEW – ELIGIBILITY ASSESSMENT

Part 1 – Credibility Assessment:

1. Identify material facts
2. Apply credibility indicators to material facts:
 - Sufficiency of detail and specificity
 - Consistency of oral and written facts asserted by the applicant
 - Consistency with other witnesses
 - Plausibility

WHAT ARE THE MATERIAL FACTS OF THE FOLLOWING CASE BASED ON POLITICAL OPINION?

1. Applicant joined XXX political party in 2003
2. Applicant became party secretary of local district
3. XXX Political party was banned in 2005
4. Applicant married in 2004
5. Applicant jailed for political activities 2008-2012
6. Applicant is a mechanical engineer
7. After he was released from jail, applicant joined secret cell of the party and helped distribute flyers critical of the government
8. In 2013 several members of banned XXX party were arrested for anti-government activities
9. Applicant flew to Azerbaijan by way of Frankfurt where he spent 2 hours in the transit zone

Credibility Assessment

When assessing consistency consider applicant's explanations for inconsistencies.

Be prepared to explain why the applicant's explanations are acceptable or not.

ASSESSMENT OF CREDIBILITY- EXAMPLE

The applicant gave two different accounts of his arrest. When asked to explain, he stated that he was arrested so many times that he got confused. However, he referred to only one arrest in his statement and repeated that he had been arrested only once when interviewed. He had no explanation for this discrepancy. There is insufficient evidence that he was arrested.

ASSESSMENT OF CREDIBILITY- EXAMPLE

The applicant was seemingly inconsistent about when she was arrested saying at one point that it was in March and, later in the interview, stating that it was at New Year. She explained that Iranian New Year was in March and that reasonably explains why she was referring to both New Year and March. It is accepted that she was arrested in March.

CREDIBILITY ASSESSMENT – MAKE FINDINGS

After applying credibility indicators to material facts, decide what facts to accept or reject.

Consider whether it is appropriate to apply benefit of doubt principle.

THREE OPTIONS

1. On the whole and on balance, material facts accepted as presented
2. There were some credibility problems but material elements accepted.
3. Lack of credibility on material elements – material facts rejected

ELIGIBILITY ASSESSMENT

Part 1 – Credibility Assessment

Part 2 – Legal Assessment

Apply elements of the refugee definition to the facts that have been accepted

THANK-YOU FOR YOUR ATTENTION

Questions?

