

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 - Belarus

29 October 2013

OBJECTIVES

- To appreciate the principles of credibility assessment
- To be aware of the difficulties in assessing credibility in a RSD context
- To develop a framework to assess credibility

DECISION-MAKING IN THE REFUGEE CONTEXT

The process of reducing uncertainty and doubt about an applicant's story to allow a reasonable choice to be made as to granting or rejecting the application for protection

REFUGEE DETERMINATION - TWO PART PROCESS

1. Information gathering

- Case Preparation
- RSD Interview

2. Eligibility assessment and Decision

- Analysis of Information (**credibility assessment** and legal analysis)
- Write decision with reasons

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?

WHAT ARE THE **MATERIAL FACTS** IN THE FOLLOWING CASE? The applicant claims persecution by the government based on political activities and fears that he will be arrested again.

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 Belarus by way of Frankfurt where he spent 2 hours in the transit zone

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 in the case plan so they are raised at interview

- Interview – Address important credibility problems:
 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 taking into account the particular circumstances of the applicant:
 - Sufficiency of detail and specificity
 - Consistency of oral and written facts asserted by the applicant
 - Consistency with other witnesses
 - Plausibility

DEAL WITH EACH CREDIBILITY ISSUE IN LOGICAL SEQUENCE

1. State the credibility issue
2. State the applicant's explanation
3. Decide whether you accept or reject the explanation
4. Provide reasons for your decision
5. State a conclusion

ASSESSMENT OF CREDIBILITY- EXAMPLE

The applicant gave two very 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. Therefore, there is insufficient credible evidence that he was arrested.

ASSESSMENT OF CREDIBILITY- EXAMPLE

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

CLASSIFY THE MATERIAL FACTS

- Accepted as credible
- Rejected as not credible
- Material facts for which an element of doubt remains
 - Is it appropriate to apply the benefit of the doubt principle?

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

APPLICATION OF BENEFIT OF THE DOUBT

No COI was found about the prison where the applicant said she was held. However, it is noted that the prison was allegedly located inside the emergency zone where the press is not permitted to enter. In all other respects the applicant's statements were generally consistent and detailed and therefore the benefit of the doubt will be extended to her and it is accepted that she was imprisoned.

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

FINALIZE CREDIBILITY ASSESSMENT BY LISTING ACCEPTED FACTS

These are the facts that will be used in the legal analysis to decide if the applicant has a well-founded fear of persecution for a Convention reason.

If you do not find that the applicant meets the refugee definition, the facts are the same ones you will apply to decide if the applicant meets the requirements for complementary protection.

THANK-YOU FOR YOUR ATTENTION

Questions?

