



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	Ireland
Case Name/Title	IR v (1) Minister for Justice, Equality and Law Reform; (2) the Refugee Appeals Tribunal
Court Name <i>(Both in English and in the original language)</i>	High Court
Neutral Citation Number	[2009] IEHC 353
Other Citation Number	N/A
Date Decision Delivered	24/07/2009
Country of Applicant/Claimant	Belarus
Keywords	Credibility; Evidentiary assessment; Relevant documentation
Head Note (Summary of Summary)	Appeal against lower Tribunal's assessment of credibility, with reference to its assessment of supporting documentation. This is the leading Irish case on credibility generally, in the asylum context. The Court draws on a line of previous authority and outlines the principles.
Case Summary (150-500)	<p>The applicant was refused asylum by the State, and subsequently by the Refugee Appeals Tribunal. Both decisions turned wholly on credibility. His claim was refused by the State on credibility grounds, including: (i) lack of knowledge about the political party he claimed to be involved with; (ii) the fact that the supporting documents he produced "cannot be verified." The applicant appealed to the Refugee Appeals Tribunal, and lost, also on credibility grounds: namely, lack of knowledge about the relevant political party, and politics in Belarus in general.</p> <p>The Court stated that it could not interfere with the Tribunal's assessment of the credibility of the applicant's own account, as it was not perverse or irrational (para. 21-22). However, the Court found that the Tribunal's assessment of the (extensive) supporting documents was 'fundamentally flawed', in that the Tribunal had not referred to any of it, save a catch-all phrase "<i>The Tribunal has considered all the relevant documentation...</i>" The Court held that the Tribunal erred by failing to consider what was included in the original contemporaneous documentary evidence – there is a duty to objectively weigh all evidence into the balance (para.28).</p>
<i>Facts</i>	The applicant is a national of Belarus and arrived in the State in 2006, and immediately claimed asylum on grounds of political persecution. He had been a member of the Belarus Popular Front (BPF) and attended a rally in 2003, at which he was beaten up by police. He was arrested and detained at a second rally in 2005, and was imprisoned for 15 days for distributing BPF leaflets. A third rally in 2005 resulted in a prison sentence of 6 months, during which time he was subjected to severe violence. He fled the country



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	<p>with his girlfriend after she wrote and published an article (for which he had taken the photos). Her home was raided and the couple went into hiding, and fled the country.</p>
<p><i>Decision & Reasoning</i></p>	<p>The Court listed 10 principles relevant to the exercise of assessing credibility:</p> <p><i>"... it seems to the Court that the following principles might be said to emerge from that case law as a guide to the manner in which evidence going to credibility ought to be treated and the review of conclusions on credibility to be carried out:</i></p> <p>[...]</p> <p>3) <i>There are two facets to the issue of credibility, one subjective and the other objective. An applicant must first show that he or she has a genuine fear of persecution for a Convention reason. The second element involves assessing whether that subjective fear is objectively justified or reasonable and thus well founded.</i></p> <p>4) <i>The assessment of credibility must be made by reference to the full picture that emerges from the available evidence and information taken as a whole, when rationally analysed and fairly weighed. It must not be based on a perceived, correct instinct or gut feeling as to whether the truth is or is not being told.</i></p> <p>5) <i>A finding of lack of credibility must be based on correct facts, untainted by conjecture or speculation and the reasons drawn from such facts must be cogent and bear a legitimate connection to the adverse finding.</i></p> <p>6) <i>The reasons must relate to the substantive basis of the claim made and not to minor matters or to facts, which are merely incidental in the account given.</i></p> <p>7) <i>A mistake as to one or even more facts will not necessarily vitiate a conclusion as to lack of credibility provided the conclusion is tenably sustained by other correct facts. Nevertheless, an adverse finding based on a single fact will not necessarily justify a denial of credibility generally to the claim.</i></p> <p>[...]</p> <p>9) <i>Where an adverse finding involves discounting or rejecting documentary evidence or information relied upon in support of a claim and which is prima facie relevant to a fact or event pertinent to a material aspect of the credibility issue, the reasons for that rejection should be stated.</i></p> <p>10) <i>Nevertheless, there is no general obligation in all cases to refer in a decision on credibility to every item of evidence and to every argument advanced, provided the reasons stated enable the applicant as addressee, and the Court in exercise of its judicial review function, to understand the substantive basis for the conclusion on credibility and the process of analysis or evaluation by which it has been reached."</i></p> <p>The Court drew a distinction between cases where the applicant relied wholly on their oral account, and cases where there was objective corroboratory</p>



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	<p>material, finding that in the latter case there was a duty to weigh the evidence as a whole, and for that analysis to be explained:</p> <p><i>"The Court accepts that there may well be cases in which an applicant relies partly on oral assertions, partly on documents, and partly on country of origin information and in which the decision-maker has sound reason to conclude that the oral testimony is so fundamentally incredible that it is unnecessary to consider whether the documents are authentic and whether the conditions in the country of origin are such that the claim could be plausible. The decision-maker in such a case is finding that what the applicant asserts simply did not happen to him. In the present case, however, the situation is materially different because the adverse finding of credibility is effectively based on the Tribunal member's premise as to the level of knowledge to be expected and the apparent lack of that knowledge, while the documents have the potential to establish that specific events did happen and happened to the applicant. It is this which gives rise to the need for the whole of the evidence to be evaluated and the analysis to be explained."</i> (para.29)</p> <p>The Court explained that while there is no requirement for a decision-making body to list every piece of evidence before it, that proposition is valid only where the additional evidence in question (i.e. the evidence not mentioned) is <u>ancillary</u> to the substantive finding (para. 30).</p> <p>The Court also held (in line with other cases) that the UNHCR Handbook provides "authoritative guidance" on the approach to be taken to evaluating asylum claims generally (para. 7).</p>
<p><i>Outcome</i></p>	<p>Appeal allowed.</p>