Case Summary

Country of Decision/Jurisdiction	**United Kingdom**
Case Name/Title	MM (DRC – plausibility) Democratic Republic of Congo
Court Name *(Both in English and in the original language)*	Immigration Appeal Tribunal
Neutral Citation Number	[2005] UKIAT 00019
Other Citation Number	
Date Decision Delivered	27 January 2005
Country of Applicant/Claimant	DRC
Keywords	Credibility
Head Note (Summary of Summary)	This is an appeal to the Immigration Appeal Tribunal on a point of law against a decision of an adjudicator refusing an asylum appeal on credibility grounds.It was contended that the adjudicator had given inadequate reasons for finding that the appellant's account was implausible.
Case Summary (150-500)	The appellant arrived in the UK as an asylum seeker in 2000. His father had been a Colonel in Mobutu's forces, who had defected to Laurent Kabila in 1997. In 1998, he had been ordered to Kisangani to confront rebels, but had been persuaded to switch sides. In 1999, Kabila soldiers had raided the family home and assaulted the family. He had escaped from them, fled to Brazzaville and ultimately to Paris where he was advised that it was safe to apply for asylum in the United Kingdom.
Facts	The adjudicator disbelieved the appellant's account, particularly finding that his escape from the custody of 12 soldiers was implausible. In challenging the adverse credibility findings of the adjudicator, it was contended that too much weight had been put on the appellant's misspelling of the leader of his father's party, that she had ignored other possible explanations for what had happened during the escape, had failed to consider the account in light of the background country evidence, and had failed to assess the appellant's oral evidence.
Decision & Reasoning	The IAT considered the relevance of country information to assessing the plausibility of account, but warned against an approach which suggested that an assessment of plausibility was always a separate stage in the process of assessing credibility, noting that the assessment of credibility itself was not the true or ultimate focus of decision-making in an asylum claim. *15. We turn to our conclusions. First, Mr Toal is right to say that the assessment of credibility may involve an assessment of the plausibility, or apparent reasonableness or truthfulness, of what has been said. This assessment can involve a judgement as to the likelihood of something*

	having happened based on evidence and or inferences. The particular role of background evidence here is that it can assist either way with that process, revealing the likelihood of part or the whole of what was said to have happened actually having happened. It can be of especial help in showing that adverse inferences can be apparently reasonable when based on an understanding of life in this country and yet are less reasonable when the circumstances of life in the country of origin are exposed. This is a problem of which Adjudicators are well aware, and it can exist even where no background material is available to assist. The assessment of plausibility is not however a separate stage in the assessment of credibility but is an aspect which may vary in its importance, from case to case. A story may be implausible and yet may properly be taken as credible; it may be plausible and yet properly not believed. There is a danger in erecting too many stages of reasoning with different tests, as opposed to recognising different aspects of reasoning. This is especially so as credibility, while often decisive, is however not the true or ultimate focus of decision in an asylum or human rights case. 16. *But there is a danger of "plausibility" becoming a term of art, yet with no clear definition or consistent usage. It is simply that the inherent likelihood or apparent reasonableness of a claim is an aspect of its credibility, and an aspect that may well be related to background material, which assists in judging it. This danger is reflected in the comment of Lee J which, with respect, we do not find helpful to us. We do not regard "implausible" or "inherently unlikely" as meaning "beyond human experience or possible occurrence", nor do we regard that latter phrase as the relevant benchmark for an adverse conclusion as to plausibility or credibility.* 17. *Mr Toal is also right to say that an assessment of the oral evidence including cross-examination of a witness, however brief, would often be of value, even necessary at times, to explain why particular findings were made. For example, an absence of evasion or a sequence of changing answers, and the converse, can be usefully and explicitly referred to. This is an element in the assessment of credibility.* The court warned against the use of "demeanour" as a tool for assessing oral evidence. 18. *Where there are aspects of the <u>way</u> in which evidence was given which form part of an Adjudicator's reasoning, is for that Adjudicator to say how and why it did, as part of the reasons for the decision. But it is an area for real caution. Mr Toal disavowed any suggestion that demeanour be used or referred to as a tool in this context. He was right to do so.* 19. *It is the total <u>content</u> of the evidence, including consistency on essentials or major inconsistencies, omissions and details, improbabilities or reasonableness, which does and should found the decision. The <u>way</u> in which the evidence is given, so far as significant at all in this type of case, would normally be reflected in the quality of the <u>content</u> of the evidence. It may confirm a conclusion well founded in the content of the*

	evidence. It would, we think, be very rare that it would properly justify a conclusion which was not sustained by the content of the evidence or its quality. Even evasiveness or the ability to answer questions would be reflected in the quality or content of the evidence – issues would be dealt with satisfactorily or not. The court stated that it was the responsibility of Appellants to recognise the inconsistencies and potential implausibilities in their account, and to provide satisfactory evidence and explanation for them. Where that is not done it is not appropriate to complain that the adjudicator has come to inferences of their own in regard to the inconsistent or implausible parts of the account. *20. We also need to say something about the submission that there were alternative possibilities which could explain away satisfactorily what the Adjudicator found to be wholly improbable. This is a not uncommon approach on appeal, even where that appeal is only on a point of law. First, it is for the Appellant to put forward all the evidence which he can as to what happened. If there are inconsistencies and improbabilities, it is for the Appellant to recognise them and deal with them so far as he can. Usually, and as here, the Appellant will know that his credibility is in issue, even though not all the points relied on by the Adjudicator may feature in the refusal letter. Such points may arise from an Appellant's evidence to the Adjudicator. We have explained the Adjudicator's role in JK (Cote d'Ivoire) [2004] UKIAT 00061 and in WN (DRC) [2004] UKIAT 0213.* *21. Second, if it is said that there was an alternative explanation unfairly overlooked by an Adjudicator because the relevant point was unfairly not raised, it is for the Appellant to provide evidence as to what it was. There is a world of difference between an Appellant's evidence and the speculations of an advocate.* *22. Third, it is a fallacy to suppose that where an Adjudicator has concluded that a story is too improbable to satisfy the lower standard of proof, the conclusion can be shown to be legally erroneous by pointing to alternative inferences even if they may be possible, even reasonable. A conclusion is not legally erroneous because it may fail to contemplate or traverse possibilities not raised for the Adjudicator's consideration. It would need to be a point so obvious that any Adjudicator would reasonably have had it in mind as a reasonable alternative which needed to be dealt with, even though not proffered by the Appellant, in order for the contention even to be arguable.".*
Outcome	On the basis of the principles outlined above,the Tribunal found that the adjudicator had not erred in law in respect of the reasons she gave for disbelieving the appellant's account. Neither the oral evidence, nor the country material, assisted the appellant. No alternative explanations for the actions of the soldiers had been provided by the appellant. The judge was entitled to find the account implausible.