Expert Meeting on Credibility Assessment in Asylum Procedures

8-9 December 2014
The Hague, the Netherlands
Representatives of the EU Member States, the Eastern Partnership countries, academia and international organizations gathered in the Hague to compare practices, experiences and standards within the field of credibility assessment in asylum procedures.

The two-day expert meeting of the Eastern Partnership Panel on Migration and Asylum took place on 8-9 December 2014, and was co-hosted by the Netherlands and Georgia. It provided the participants with an opportunity to review the definition and role of credibility assessment in refugee status determination. The combination of theoretical and practical sessions allowed for dynamic and open discussions in a friendly atmosphere.

Following welcoming remarks by the European Commission, the Dutch Director of Immigration and Naturalization Service and the Georgian Head of the Migration, Repatriation and Refugees Issues Department of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, highlighted the importance of credibility assessment as it represents a cornerstone in the asylum procedures of both the EU MS and its Eastern Partners.

The first day opened with a presentation on the theoretical and legislative framework of credibility assessment which was delivered by UNHCR and the European Commission. The subsequent discussion on the replies to a questionnaire circulated prior to the meeting, allowed participants to get a first impression of different national approaches. As highlighted by IOM, this showed that the theoretical imperatives applicable in credibility assessment in cases concerning protection have been largely harmonized throughout all participating countries. This was welcomed by the European Asylum Support Office (EASO). Following the advice of the Asylum Procedure and Qualification Directives, as well as UNHCR’s recommendations, the countries agreed that credibility needs to be based on an evaluation of a variety of factors ranging from country of origin information to individual circumstances and that the truth rarely can be proven beyond “reasonably leading to believe”.

Following a short break, the EASO presented the newly developed training module on credibility assessments. It presented two concrete case studies to the participants and highlighted the importance of a clear methodology in order to ensure that decisions are fair, and that they take into account the principle of the benefit of the doubt.

The Polish Halina Niec Legal Aid Center and the Armenian School of Advocates demonstrated the crucially important role of non-state actors in the credibility assessment process as they can contribute to build trust with the asylum-seeker and highlight the importance of telling the truth, which ensures that the internal credibility of the claim can be easily assessed. Regarding external credibility, and as demonstrated by Georgia, COI is crucial to support quality and fair decisions on asylum cases. A dedicated unit within the asylum authority can considerably support the access to reliable information.

The second day of the meeting started with a thought-provoking presentation by the University of Amsterdam, highlighting the communication difficulties during the interviews and limitations of the credibility assessment on the one hand, and its absolute necessity in the asylum procedure on the other. The following session touched upon concrete practices and specific methods helping to establish credibility of the claim. The Netherlands showed that if the cases for the linguistic analysis are chosen correctly, the reliability of the assessment is reaching almost 100%, and can serve as a trustworthy source of information about the applicant’s origin.

Ukraine shared its approach to age determination used in cases of unaccompanied minor asylum seekers, underlining the importance of having a multidisciplinary team of experts for comprehensive age assessment. Sweden informed on its methods used when processing LGBT cases, stressing the
sensitivity of this particular group of asylum seekers, and highlighting ways of obtaining information on violations of their rights. The approach suggests focusing more on reflections, reactions, everyday life circumstances and the feelings of the applicant, rather than asking direct questions. Finland closed this session with a presentation on medical assessments in cases related to torture, highlighting that the overall medical condition of the asylum seeker might greatly influence the interview outcomes. Every applicant should therefore be asked on his/her health condition at the beginning of the interview.

The Panel participants also learnt about asylum-related projects implemented by ICMPD under the Prague Process Targeted Initiative.

As a conclusion, the Netherlands, Georgia and Moldova revisited the various steps from credibility assessment to status determination. They all stressed that an individual approach in each case remains crucial.
8 December 2014 – Day 1

Welcome and Opening

Mr. Rob van Lint, Director of the Immigration and Naturalization Service, the Netherlands, welcomed all the meeting participants and highlighted the importance of the credibility assessment for both EU MS and EaP countries, especially taken into account the highest numbers of refugees around the globe since World War II. As a result there is currently an increasing number of people seeking asylum in the EaP region. He stressed that credibility assessment is a first step to refugee status determination, and that the success of this process depends on cooperation between the case worker and the asylum seeker.

Mr. Irakli Kokaia, Ministry of Internally Displaced Person from the Occupied Territories, Accommodation and Refugees, Head of Migration, Repatriation and Refugees Issues Department, Georgia, thanked the Netherlands for its cooperation and meeting organization, as well as underlining the high relevance of the topic. Credibility assessment is one of the essential elements of the asylum procedure, and country of origin information (COI) plays a great role in this procedure in Georgia. The newly created separate COI unit considerably facilitates the process of credibility assessment.

Mr. Robert Rybicki, DG HOME, European Commission, greeted the participants and speakers of the meeting and thanked the host and co-host. He went through the agenda for the upcoming two days and wished everyone a productive meeting and interesting discussions.

Session I. General Overview to Credibility Assessment
Facilitator: European Commission

Ms. Mohbuba Choudhury, UNHCR, United Kingdom, opened the session with a presentation on the theoretical framework of the credibility assessment. Credibility assessment is an initial stage of the decision-making process, which consists of gathering and examining available evidence, as well as determining what information can be accepted. Credibility assessment is often of crucial importance due to absence of witnesses, difficulties to obtain documentary evidence, the general nature of the COI, limited guidelines and the fact that the applicant’s statements may be the only source of information. EU legislation provides general principles and standards for the credibility assessment procedure, promoting a shared duty to substantiate the claim, as well as stressing the importance of an individual, objective, impartial and evidence-based assessment. The standard of proof for a credibility assessment is much lower than for a criminal investigation, and so the benefit of the doubt remains a key principle. Decision makers have to focus on the material facts and apply credibility indicators such as sufficiency of details, internal consistency, consistency with other available information and plausibility. A structured approach to credibility assessment should be applied in order to limit the subjectivity of the process. UNHCR has published its report “Beyond Proof” on EU state practices of credibility assessment in asylum claims, which offers a thorough overview.

Please see the presentation “Credibility Assessment: Theoretical Framework”

Ms. Ioana Patrascu, DG Home Affairs, European Commission, presented an overview of the key issues of the credibility assessment in Europe, focusing on the existing EU directives and court decisions. Assessment of credibility is a core component of the asylum procedure and a complex process influenced by both the applicant and the decision maker. Despite common EU standards for the procedure, credibility assessment is approached differently in the EU MS. Establishing a common system is therefore a main challenge and priority for the EU today. National authorities have to make sure that the general situation, individual position, personal circumstances, as well as fundamental rights and principles of the EU legal framework are taken into account in the credibility assessment procedure. The principles of effectiveness and of a good administration should also be applied. The EU MS may put the burden of proof on the applicant, but nevertheless acknowledge that this is a shared
duty. The applicant has a duty to cooperate, while the authority should use the benefit of a doubt principle where applicable and pay attention to the nature of memory and the risk of case workers getting “used to the same stories”. Although an asylum application should be submitted at the earliest possible time, late submission could not serve as a sole reason for rejecting the claim.

Ms. Marina Schramm, International Organization for Migration, Ukraine, delivered a presentation on the discussion paper, which was prepared prior to the meeting and was based on questionnaires disseminated among the participating countries. A total of 16 countries provided their input. Please see the presentation “Credibility Assessment in Asylum Procedures: National Approaches and Practices in the EU and EaP Countries”

Discussion
The presentations and discussions touched upon international and national practices existing in EU MS and EaP countries within the sphere of credibility assessment. Moldova elaborated on the new provisions related to the credibility assessment introduced into the national legislation, including a separate article on the benefit of the doubt. Moldova also added that it has a separate COI unit, as well as an arrangement with Romania, through which it can obtain additional information upon request. During the discussion of interpretation during the interview process, Finland drew attention to its video conference system used for this purpose in cases when the interpreter cannot be present at the place of the interview.

Azerbaijan stressed that although subsidiary protection status does not exist in the national legislation, the cases qualifying for it are transferred to the UNHCR, which in turn can grant subsidiary protection. EASO mentioned that although we today know a lot about the practice of credibility assessment, not much guidance is yet available. Mr. Peter van Krieken mentioned that asylum seekers are often taught and prepared to say what is expected from them. He also stressed that COI often relies on the UNHCR as the primary source of information, omitting human rights committees’ reports. UNHCR agreed that there are cases when the system is abused as a lot of information is open and available for asylum seekers. Applicants may take advantage of this. EASO also confirmed that adding elements to the story in order to make it more plausible does occur. The case worker then has to filter this out and keep in mind that this does not necessarily mean that the whole story is not credible. In this regard Azerbaijan drew attention to cases where applicants submit their claims after longer periods of time spent in the country as a way to extend their stay when the visa is not valid any more.

Session II. Interactive Session
Facilitator: European Asylum Support Office

Mr. Francois Bienfait, European Asylum Support Office, lead the interactive sessions on credibility and evidence assessment. He presented core elements of the EASO Training Curriculum and EASO Quality Matrix, supplementing theoretical concepts with practical exercises in the group work. Proper evidence assessment is crucial, as the decision will be made based on it. This process may be subject to such challenges as differences in obtaining evidences, differences in legal traditions in the EU MS, national variations of the scope of the asylum process, standards of proof, risks for the future, and particularly serious consequences. The EASO Quality Tool on Evidence Assessment consists of checklists for use in the daily work, guidance on brief and specific further information, references to the existing legal frameworks, templates. The three steps of the approach include gathering information, credibility assessment and risk assessment. The gathering information stage incorporates identification of the material facts, application of the burden of proof, and collection of pieces of evidence. The credibility assessment step includes linking the evidence to each material fact, assessing statements of the applicant, assessing the documents, considering individual and circumstantial factors that could lead to distortions, determining the facts to be accepted, applying the benefit of the doubt when facts are uncertain. The risk assessment step analyses the well-founded fear of persecution, applies Article 4(3)
QD, and applies the standard of proof. Please see the presentation “EASO Training and Quality: A Structured Approach to Evidence Assessment”

Session III. Preparing the Asylum Applicant, Cooperation with NGOs
Facilitator: the Netherlands

Ms. Katarzyna Przybyslawska, President of the Halina Niec Legal Aid Center, Poland, focused on the role of civil society in the asylum procedure and credibility assessment. There are thirteen centers for asylum seekers in Poland, and the NGO visits these centers in order to provide legal information and legal assistance to the applicants. Due to the fact that many applicants abscond the asylum procedure and that there are many repeated cases, Poland has the highest rates of denials in the EU. Initial credibility assessment is de facto performed by the Border Guard Service, as they decide on the credibility of the asylum seeker and deny or allow entry into the country. Asylum seekers often do not reveal important information, which questions their credibility. Accordingly they are often denied entrance. NGOs are often the most experienced agencies in providing legal assistance and establishing objective and truthful information in such cases and there is a need for a control mechanism of the actions taken against persons at the border. The challenges faced by the civil society representatives involved in asylum cases include limited resources, language barriers, psychological training, stress and burnout, own assessments of credibility and dilemma of ethical considerations versus legal privileges. Please see the presentation “Credibility Assessment in RSD Procedure - the Role of NGOs”

Mr. Artak Gevorgyan, Deputy Head of the School of Advocates, Armenia, presented the lawyers and advocates’ view on the credibility assessment. The legislative framework for the pre-trial and trial proceedings in asylum cases in Armenia is based on the 1951 Refugee Convention, Universal Declaration of Human Rights, Constitution of Armenia and Law on Advocacy. In Armenia refugees, unlike the asylum seekers, are provided with free advocate services from the public defender’s office. Lawyers have to use every possible opportunity to strengthen the asylum claim, as well as inform the asylum seeker on ways to increase the credibility of their claims. Advocates often face the dilemma of having to decide between taking the potentially falsified case and providing assistance to the asylum seeker who really needs it. Please see the presentation “Credibility Assessment and the Role of Advocates”

Session IV. COI and Document Analysis
Facilitator: Georgia

Ms. Nino Meskhi, Deputy Head of Migration of the Repatriation and Refugees Issues Department, Ministry of Internally Displaced Person from the Occupied Territories, Accommodation and Refugees, Georgia, briefed the participants on the separate Georgian COI unit, which was created in January 2014 as one of the benchmarks of the Visa Liberalization Action Plan. Currently the unit has three employees who have undergone the EASO training. The unit collects, analyzes, updates and sends the COI to the status determination officers. The COI unit collects information from a variety of sources (mostly from the Internet) including media archives, specialized sources, specific COI data bases, global search engines, maps and online books. If needed, the unit can address the MFA, different experts and libraries, academia. The accuracy of the provided information is cross-checked with different available sources. In July 2014, the Standard Operation Procedures for the COI unit were developed, though they have not yet been approved. With the creation of the new structural COI unit, the efficiency of the institutions dealing with asylum cases has significantly increased. Please see the presentation “Unit for Provision of the Asylum Seekers’ Country of Origin Information”

Discussion
After the presentation the meeting participants discussed whether there are separate COI units in any other EaP states and, if not, which databases are used for obtaining COI. Azerbaijan reported that it
lacked such a unit, and informed that Refworld database is widely used in when COI is requested. **Sweden** mentioned its open COI database ([http://lifos.migrationsverket.se/](http://lifos.migrationsverket.se/)) used by the Swedish Migration Board, while **the Netherlands** highlighted the COI reports prepared by the Ministry of Foreign Affairs. **Poland** briefed on the legal assistance provided by NGOs that are often funded by the EU and cooperate with UNHCR. **Armenia** drew attention to the trainings each advocate has to go through in order to provide assistance to the asylum seekers.

### 9 December 2014 – Day 2

#### Session V. Reflection
Facilitator: the Netherlands

**Ms. Nienke Doornbos**, Assistant Professor in Sociology of Law at the Law Department, University of Amsterdam, the Netherlands, in her presentation raised the question of whether credibility is possible as such, based on the research conducted in five asylum centers in the Netherlands. Communication during the asylum interviews is often problematic, but, at the same time, it is absolutely necessary in order to establish credibility. Not only can it be problematic due to multilingual and multicultural aspects, but also because this institutional communication is taking place in a bureaucratic context. The question-answer structure of the interview and the asymmetric power structure may also negatively impact the communication. The implications of the mentioned factors result in the following: The applicants often perceive the interview as an exam, feeling embarrassed, whereas the case worker is in charge of the process; the answers of the applicant might not always fit the frames of the interview; interpreters sometimes fail to stay impartial or do not translate the information properly. Credibility cannot always be established through contradiction techniques used, as inconsistency does not necessarily mean lack of credibility. Communication problems are surmountable in the multicultural environment when neutrality, patience, a safe atmosphere, open questions and open minds are in place. *Please see the presentation “Is Credibility Assessment Possible?”*

**Discussion**

**The Netherlands** highlighted that in order to achieve objectivity, all caseworkers go through trainings and a lot of effort is put into finding the most qualified interpreters. Open questions and an unbiased attitude is encouraged. **Finland** stressed that credibility should be differentiated from the concept of objective truth.

#### Session VI. Establishing Credibility Related to the Grounds of Persecution
Facilitator: the Netherlands

**Ms. Nino Meskhi**, Deputy Head of Migration of the Repatriation and Refugees Issues Department, Ministry of Internally Displaced Person from the Occupied Territories, Accommodation and Refugees, Georgia, described the credibility assessment in terms of the refugee status determination procedure. In Georgia the decision of whether to register a person as an asylum seeker should be made within five days after the application is submitted, whereas the overall procedure of granting the refugee status takes up to six months. Credibility assessment of material evidence supporting the claim constitutes a separate part within the structure of the RSD assessment. Generally, all relevant information provided by the applicant is being assessed and evaluated according to well-established standards (internal consistency of verbal and written information including submitted documentation, consistency of the information with available COI, plausibility, sufficiency of the detail and specificity). Applicants are able to comment on the contradictions that are identified by the case workers during the case review. All applicants are given the opportunity to provide explanations before the decision maker makes the analysis, and they have the right to appeal in court.
**Ms. Tina Cambier-Langeveld**, Immigration and Naturalization Service, the Netherlands, in her presentation highlighted how the language analysis can be used in credibility assessment relating to the nationality and ethnicity. A language analysis establishes which languages the applicant speaks, and this can help the caseworker establish the applicant’s origin. This is useful in cases where the actual origin/ethnicity is unknown or uncertain. The language analysis uses all existing information about the language and it should preferably be conducted by native speakers and experts. The linguist carries a great responsibility to safeguard the quality of the assessment and the interpretation. The language analysis report can be used in court, though not as an evidence, but as an expert opinion. This method has its limitations and is most helpful when the applicant comes from an area where clear language differences exist and when he/she has lived there for a long time. If the cases for the analysis are properly selected, the reliability of the method can reach up to 100 percent. Please see the presentation “Language Analysis”.

**Ms. Dina Gud**, Hebrew Immigrant Aid Society (HIAS) Ukraine, shared age assessment practices applied in Ukraine while determining age in cases of unaccompanied minor asylum seekers. The number of unaccompanied minor asylum seekers in Ukraine has been increasing in recent years. According to Ukrainian legislation, certain legal assistance and aid from the children services is provided strictly to persons less than 18 years of age. Accordingly, when the age is questioned, the interest of the child is not always considered as he/she may be treated as an adult. The new age assessment procedure was introduced in Ukraine in December 2013. The assessment is initiated based on the request form the State Migration Service. The multidisciplinary commission preforms the assessment. It consists of experts including speech therapists, psychologists, psychiatrist and doctors. The core element and the novelty of the newly introduced age determination procedure is the psychological assessment. The procedure has two stages: In the first stage the psychological assessment is performed, and if it concludes that the person is a child no further assessments are required. If not, the second stage of the procedure (medical assessment) is launched. Please see the presentation “Age Assessment in Ukraine”.

**Ms. Barbro Bolinder**, Swedish Migration Board, Sweden, presented the Swedish approach to credibility assessment in LGBT asylum cases. The case law and UNHCR guidelines state that one cannot demand that a person renounces or hides his/her sexual orientation. LGBT-specialists participate in the interview. There is also a specific internal instruction concerning the interviews and assessments of the future risk for persons who claim protection based on their sexual orientation. The method used for the LGBT cases focuses on the support of the assessment of future risk. It includes the following steps: Assessment of the risk of persecution based on sexual orientation, assessment of available COI, establish whether the applicant was persecuted at home, assess the need of protection, and assess the option of state protection in the country of origin. The method comes from the UK Supreme Court judgment of July 2010. A couple of guiding court cases from Sweden were presented. Please see the presentation “Reliability and Credibility in LGBT Case”.

**Discussion**

**Azerbaijan** enquired regarding the officially approved guidelines or procedures for performing the language assessment. The **Netherlands** responded that there is a list of languages and a description of the cases suitable for language analysis.

The **Netherlands** raised the questions concerning the background of the LGBT specialists. **Sweden** replied that they are immigration officers who went through specific trainings. **Italy** asked about the number of rejected LGBT cases, whereupon **Sweden** replied that it is really difficult to deny LGBT cases. Accordingly, the majority of them get the status. **Finland** elaborated on the “Difference, Stigma, Shame and Harm” (DSSH) method used in LGBT cases, focusing more on the life, reactions, reflections and feelings of the asylum seeker in order to determine his/her belonging to the LGBT group.

**Ms. Hanne Rimpiläinen**, Finnish Immigration Service, Finland, presented the Finnish practices of using medical evidence to examine claims of torture in asylum cases. Systematic medical examinations for screening purposes are carried out within 2 weeks after the applicant has registered his/her claim. An
additional medical check may be carried out only if the applicant agrees to this. The quality and value of the issued medical certificates varies. The medical reports available before the interview help to adjust the special needs of the applicant. Moreover, a medical report may also be requested after the interview. A traumatized applicant may not be able to tell a coherent story, so it should therefore be evaluated in light of the medical evidence. It should be noted that traumatic events may also have taken place after the applicant left the country of origin, including in the country where the asylum procedure takes place. The benefit of the doubt principle may be applied with a lower threshold if there are signs of PTSD or severe depression. Please see the presentation “Medical Evidence with Regard to Torture”

Session VII. From Credibility Assessment to Status Determination
Facilitator: Georgia

Ms. Irina Safronova, International Centre for Migration Policy Development (ICMPD), reported on the Prague Process (PP) initiatives on asylum and international protection. The Pilot Project 4 “Quality and training the asylum process: The European Asylum Curriculum” focused on the long-term and sustainable training programme that influences the quality of work in the asylum process. As a result, more than 100 persons were trained, and guidelines on trainings were introduced in the asylum process. The Pilot Project 7 “Quality in Decision-Making in the Asylum Process” will focus on advanced seminars and learning through the casestudy sessions on evidentiary assessments, due process and jurisprudence. One of the expected outcomes of the project is the development of guidelines for seminars and case study sessions on asylum and international protection. Please see the presentation “Pilot Project 4 & Pilot Project 7 on Asylum and International Protection”

Discussion
Moldova highlighted the usefulness of the Pilot Project 4, whereas Italy mentioned its further plans to participate in the inclusion module. Sweden shared the interest in trainings from the EaP countries while implementing the project.

Mr. Peter van der Horst, Immigration and Naturalization Service, the Netherlands, presented the various stages of the asylum procedure, from credibility assessment to status determination. The first stage is assessing credibility from material evidence to reasons to leave the country. The qualification phase deals with plausibility of presumptions based on credible statements and future fear of returning home, as well as its reasoning. The actual status determination stage evaluates whether the plausible presumptions have enough weight to qualify for protection. The prospects for effective protection in the country of origin, and whether it was asked for/was not received should also be considered, as well as the possibility of staying/moving elsewhere in order to be safe. Overall, the assessment of the claim could be divided into three steps: Credibility of the asylum claim, plausibility of the presumptions, and test if the consequential reasons. All cases are different, and for some the need of protection is clear from the beginning.

Ms. Natalia Guma, Head of Asylum and Statelessness Directorate of the Ministry of Internal Affairs, Moldova, in her presentation highlighted specifics of the credibility assessment in Moldova. There are national instructions available on the structure of the asylum decision, guidelines on interviewing techniques and guidelines on handling vulnerable groups in place. The two types of asylum procedures, ordinary and accelerated, are represented in Moldova with a possibility to grant one of the four forms of protection (refugee status, humanitarian protection, temporary protection and political asylum). The credibility assessment is performed in accordance the five indicators (sufficient detail; internal consistency; consistency of the claim with information provided by family members; consistency with COI; and plausibility). The challenges faced during the credibility establishing process include lack of interpreters, limited resources, no local NGOs dealing with COI. All training opportunities are very much
appreciated. *Please see the presentation “Credibility Assessment in Asylum Process in the Republic of Moldova”*

**Closing Session**
Facilitator: European Commission

Mr. Robert Rybicki, DG HOME, European Commission, thanked everyone for the dynamic discussions, overall interest in the topic and good organization. Although EU MS and EaP countries are at different stages in their processes of handling issues of migration and asylum, the credibility assessment remains highly relevant for both. He also highlighted that the Panel is a platform for the exchange of opinions and practices, so hosting one of the meetings may be very beneficial for states.

Ms. Liesbeth Bos, Migration Policy Department of the Ministry of Security and Justice, the Netherlands, thanked all the participants and underlined that although the credibility assessment is a challenging task, meetings such as this one contribute to the improvement of the quality of asylum decisions.

Ms. Nino Meskhi, Deputy Head of Migration of the Repatriation and Refugees Issues Department, Ministry of Internally Displaced Person from the Occupied Territories, Accommodation and Refugees, Georgia, thanked everyone for raising important topics that are relevant for all, and also used the opportunity to invite everyone to the Panel meeting in Tbilisi in 2015.

*All presentations mentioned in this report, as well as all the material related to the meeting, can be found at the Panel website www.eapmigrationpanel.org*