Assessing the Credibility of Asylum Claims: EU and UK Approaches Examined

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Introduction

To be recognised as a refugee it is necessary for the asylum claimant to demonstrate that they have a well-founded fear of persecution for one of the convention reasons. This test is usually broken down into two principal components: the subjective element of whether the claimant fears persecution and the objective element of whether there are reasonable grounds for believing that the subjective fear of persecution is objectively well-founded. While much legal analysis has been devoted to the legal tests governing the determination of refugee status (e.g. the meaning and application of “persecution”, “membership of a particular social group” and the “internal flight alternative”), the majority of claims are determined on their individual factual circumstances. If an individual making an asylum or human rights claim cannot persuade the decision-maker that their claim is properly to be regarded as credible, then they are unlikely to be recognised as a refugee or as a person otherwise in need of international protection; the application of legal tests are therefore rendered largely redundant. As the United Kingdom Immigration Appeal Tribunal has explained, “[f]indings of credibility are one of the primary functions of the . . . [asylum decision-maker] . . . , since they lead to the establishment of much of the factual matrix for the determination of the case. In some cases, but by no means all, the issue of credibility may be the fulcrum of the decision as to whether the claim succeeds or fails.”¹ In short, credibility is at “the core of the asylum process.”²

The task of assessing credibility raises a number of questions of crucial importance to the determination of asylum and human rights claim. What is credibility? Why is credibility so important to the determination of asylum and human rights claims? What difficulties are involved in the assessment of credibility and how should decision-makers approach the task? In addressing these questions, this paper

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