



Freedom, Security & Justice:
European Legal Studies

Rivista giuridica di classe A

2025, n. 3

EDITORIALE
SCIENTIFICA



DIRETTRICE

Angela Di Stasi

Ordinario di Diritto Internazionale e di Diritto dell'Unione europea, Università di Salerno
Titolare della Cattedra Jean Monnet 2017-2020 (Commissione europea)
"Judicial Protection of Fundamental Rights in the European Area of Freedom, Security and Justice"

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This focus is the final output of the research project of national interest Migration and Religion in International Law (MiReIL). Research-based Proposals for Inclusive, Resilient, and Multicultural Societies, funded by the Italian Ministry of University and Research and by the European Union – NextGenerationEU in the framework of the “Piano nazionale di ripresa e resilienza (PNRR)”

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CREDIBILITY ASSESSMENT OF RELIGION-BASED ASYLUM CLAIMS FROM A COMPARATIVE PERSPECTIVE

Tarak El Haj *

SUMMARY: 1. Introduction. – 2. Legal Concept of Religion under Asylum Law. – 3. Challenges of Credibility Assessment in the Context of Religion-Based Asylum Applications. – 4. *Sur place* Refugees. – 5. The Criteria behind the Credibility Assessment. 6. Internal Consistency. – 7. External Consistency. - 8. Plausibility. – 9. Conclusions.

1. Introduction

In the contemporary geopolitical context, religious persecution remains a widespread and systemic phenomenon, especially in regions afflicted by political instability, authoritarian governance, or ethno-religious conflict. This persecution manifests through a range of discriminatory practices, including restrictions on religious expression, as well as physical and psychological violence or arbitrary detention, forced displacement, and even killings.¹

According to Eurostat data, in 2024, over 912,000 first-time asylum applications were submitted by non-EU citizens seeking international protection² under the 1951

Double-blind peer reviewed article.

* Post-Doc Research Fellow in European Union Law, LUISS University. E-mail: telhaj@luiss.it.

This paper is part of the final output of the research project of national interest *Migration and Religion in International Law (MiReIL). Research-based Proposals for Inclusive, Resilient, and Multicultural Societies*, funded by the Italian Ministry of University and Research and by the European Union – NextGenerationEU in the framework of the “Piano nazionale di ripresa e resilienza (PNRR) – Missione 4, Istruzione e ricerca – Componente 2: dalla ricerca all’impresa – Investimento 1.1”, Call PRIN 2022 released by DD no. 104 of 2 February 2022 [CUP J53D23005190006 – B53D23010420006].

¹ PEW RESEARCH CENTER, *Government Restrictions on Religion Stayed at Peak Levels Globally in 2022*, 18 December 2024, available at pewrsr.ch/49H5Hva. Despite ongoing efforts at the international levels, according to the report “[...] In 2022, most religious groups analyzed faced harassment in more countries than was the case in 2021. This includes Christians, Muslims, Hindus, practitioners of folk religions, followers of other religions (such as Baha’is, Scientologists, Sikhs, Rastafarians, Zoroastrians and others) and people who are religiously unaffiliated (such as atheists and agnostics)”.

² The number of first-time asylum applications indicates a 13% decrease compared to 2023. The available asylum statistics typically categorize applications by nationality, age, and gender, but do not detail the grounds for seeking asylum, such as religious persecution. See Eurostat, *Asylum and First-time Asylum Applicants by Citizenship, Age, and Sex – Annual Aggregate Data*, available at doi.org/10.2908/MIGR_ASYAPPCTZA.

Geneva Convention on the Status of Refugees (Refugee Convention).³ Among them are individuals and communities fleeing religious persecution and seeking the freedom to practise their beliefs in safety.

These forms of persecution implicate the violation of core human rights,⁴ notably the freedoms of thought, conscience, religion, and expression,⁵ as enshrined in key international and regional legal instruments: the International Covenant on Civil and Political Rights, the European Convention on Human Rights (ECHR), and the Charter of Fundamental Rights of the European Union. Within this normative framework, Art. 1A(2) of the Refugee Convention defines as a refugee any person who, owing to a well-founded fear of being persecuted for reasons of religion, is outside their country of origin and is unable or unwilling to avail themselves of its protection.

The assessment of asylum claims based on religious grounds raises specific challenges, notably in determining whether an applicant's belief or practice qualifies as a religion⁶ and whether their account is credible.⁷ These determinations require adjudicating bodies to engage with deeply personal, and often private, dimensions of an applicant's identity and experience. In particular, credibility assessment emerges as a decisive phase in the procedure, especially in the absence of corroborating evidence.

These practical and interpretive challenges highlight the broader need for a coherent and effective asylum framework across the European Union. While individual credibility assessments are carried out at the national level, they unfold within a broader structural context that often lacks uniformity and solidarity. The Tampere conclusions adopted by the European Council in October 1999 deeply influenced the EU's migration and asylum policies.⁸ The project of a common asylum system is not complete and

³ Convention relating to the Status of Refugees adopted on 28 July 1951, 189 UNTS 137, amended by Protocol relating to the Status of Refugee adopted on 31st January 1966, 606 UNTS 267. See F. CHERUBINI, *Asylum Law in the European Union*, London, 2015; J. C. HATHAWAY, *The Rights of Refugees under International Law*, II ed., Cambridge, 2021; G. S. GOODWIN-GILL, J. MCADAM, *The Refugee in International Law*, IV ed., Oxford, 2021.

⁴ On the intersection between international refugee law and international human rights law, see V. CHETAIL, *Moving Towards an Integrated Approach of Refugee Law and Human Rights Law*, in C. COSTELLO, M. FOSTER, J. MCADAM (eds.), *The Oxford Handbook of International Refugee Law*, Oxford, 2021, pp. 202-223.

⁵ J. WITTE JR, C. GREEN (eds.), *Religion and Human Rights: An Introduction*, Oxford, 2012; H. BIELEFELDT, N. GHANEA, M. WIENER (eds.), *Freedom of Religion or Belief: An International Law Commentary*, Oxford, 2016; M.I. PAPA, G. PASCALE, M. GERVASI (eds.), *La tutela internazionale della libertà religiosa problemi e prospettive*, Naples 2019.

⁶ A. TRANFO, *The Influence of the Religious Factor on the Recognition of International Protection for Asylum Seekers*, University of Milano-Bicocca School of Law Research Paper no. 18-16, September 28, 2018; A. LICASTRO, *La persecuzione per ragioni di fede e il riconoscimento dello status di*, in *Ordine internazionale e diritti umani*, 2022, pp. 38-70.

⁷ For an overview of the theoretical and factual issues underlying the reality of religious persecution see T.J. GUNN, *The Complexity of Religion in Determining Refugee Status*, Roundtable on Religion-Based Refugee Claims, UNHCR and Church World Service, 2002. See also T. J. GUNN, *The Complexity of Religion and the Definition of "Religion" in International Law*, in *Harvard Human Rights Journal*, 2003, pp. 189-215.

⁸ European Union – Council of the European Union (1999). *Presidency Conclusions, Tampere European Council, 15-16 October 1999, 2001/99*. Centred on four pillars, the Tampere 'plan' defined priorities for

continues to suffer from an insufficient solidarity mechanism between Member States, which remains limited also in light of the new measures provided for in the recent Regulation (EU) 2024/1351,⁹ resulting in the need of Member States situated along major migration routes to manage migratory flows by means of bilateral agreements rather than within a common framework. The need for an effective common European asylum system is essential in order to establish uniform and effective standards of protection for refugees, safeguarding their fundamental rights.

This contribution explores the challenges of assessing credibility in religion-based asylum claims, with a particular focus on the Italian system¹⁰ and comparative insights

the development of both the external and internal dimensions of the Union's migration policy. The four pillars were: (i) partnership with countries of origin, (ii) a common European asylum system, (iii) fair treatment of third-country nationals and (iv) management of migration flows.

⁹ Regulation (EU) no. 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) no. 604/2013, PE/21/2024/REV/1, OJ L, 2024/1351, 22.5.2024. P. DE BRUYCKER, *The New European Solidarity Mechanism: Towards a Fair Sharing of Responsibility between Member States?*, in *Policy Study, Foundation for European Progressive Studies*, Friedrich-Ebert-Stiftung and European Policy Centre, Brussels, 2024; F. BUONOMENNA, *Misure di solidarietà e questioni di effettività nella disciplina contenuta nel regolamento sulla gestione dell'asilo e della migrazione*, in *Quaderni di AISDUE*, 2024, pp. 139-172.

¹⁰ In Italy, the procedure for the recognition of international protection is structured in two phases: an initial administrative stage followed, in the event of an appeal, by a judicial review. The authority responsible for the first assessment of the application is the Territorial Commission for the Recognition of International Protection, a collegial administrative body operating under the Ministry of the Interior. If the Commission issues a negative decision, the applicant may lodge an appeal before the specialized section for immigration and international protection of the ordinary civil court. In this transition, the individual who holds the status of "applicant" in the administrative phase becomes a "claimant" in the judicial proceedings. Although the two procedures differ in their structure and legal framework, both foresee the possibility of hearing the applicant and are, at least in part, based on an assessment of the credibility of the applicant's account. As highlighted by Fabrizio Gallo, the Italian system for the administrative handling of international protection claims presents a number of distinctive features when compared to other European models. In particular, the structure and composition of the decision-making body in Italy differs significantly from those adopted in Germany, France, and the United Kingdom. In Germany and Austria, the authorities responsible for assessing asylum applications – the Bundesamt für Migration und Flüchtlinge (BAMF) and the Bundesamt für Fremdenwesen und Asyl (BFA), respectively – are federal agencies operating under the supervision of the Ministry of the Interior. These agencies are characterized by a decentralized structure, with regional offices handling interviews and issuing decisions. In most cases, the official who conducts the interview is also responsible for the decision, although in Austria these functions may be assigned to different individuals. France follows a centralized model with the Office français de protection des réfugiés et apatrides (OFPRA), a public body under the administrative oversight of the Ministry of the Interior, though formally independent in its decision-making. A similar model is in place in Belgium, where the Commissariat général aux réfugiés et aux apatrides (CGRA) operates as an autonomous body, albeit within a framework of administrative coordination with the relevant ministries. In the United Kingdom, responsibility lies with the Asylum Intake and Casework Directorate, part of the UK Visas and Immigration division of the Home Office. In this model, caseworkers—based in regional offices—manage both the interview and the decision, though not necessarily by the same person. Italy, by contrast, has established a collegial decision-making structure through the Territorial Commissions for the Recognition of International Protection. These bodies include four members: a chairperson from the prefectural administration, a police officer, a representative of UNHCR, and a delegate from local authorities. According to Gallo, this composition, introduced by Law no. 189 of 2002, represents a unique solution in the European context. It introduces a plurality of perspectives within the administrative phase itself, in part compensating for the absence of mandatory legal representation or State-funded legal aid during this stage of the procedure. While other systems rely

from other European States. By examining administrative and judicial practices, as well as relevant case law and international guidelines, this paper aims to identify common pitfalls and propose interpretative approaches that can promote fairness and consistency in decision-making. It also examines how credibility assessments influence the adjudication of such claims in light of the principles derived from EU legislation and case law, particularly from the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR). Although the latter does not have direct jurisdiction over refugee status determination, it has developed a substantial body of case law addressing States' responsibility for exposing individuals to a real risk of serious human rights violations – especially in removal cases involving non-compliant States –under Art. 3 ECHR, where such removal would expose the individual to inhuman or degrading treatment.¹¹

2. Legal Concept of Religion under Asylum Law

The legal concept of religion is fundamental for determining eligibility for international protection. Starting from this premise, it is crucial to examine how this notion has been interpreted in both international law and European Union law, especially considering that the subject matter has historically been shaped by the institutional collaboration of United Nations (including the pivotal work of the UNHCR), the European Union, and the Council of Europe.¹²

However, neither the Refugee Convention nor its *travaux préparatoires* provide a precise definition of religion, leaving significant interpretative discretion to national authorities. The definition of religion is particularly significant, insofar as the interpretative ambiguities left by the Convention may lead to divergent interpretations by Member States and the authorities responsible for determining asylum applications, thus resulting in varying standards of protection. As noted in the 2004 UNHCR Guidelines on International Protection no. 6, this omission has historically posed challenges in delineating the scope of religious protection under asylum law.¹³

on professionalized officials operating within a clearly hierarchical framework, the Italian approach seeks to ensure a form of institutional balance within the decision-making body. The involvement of actors external to the central administration reflects an effort to safeguard the impartiality and quality of the procedure, despite the formal limits on adversarial participation at the administrative level. See F. GALLO, *Audizione e valutazione di credibilità del richiedente davanti alla Commissione territoriale*, in *Questione Giustizia*, 2018, pp. 158-166; I. PONZO, *Looking into Policy Change: How the Italian Asylum Regime Came of Age*, in I. PONZO, M. MARTINIELLO, P. SCHOLTEN (eds.), *Comparative Migration Studies - IMISCOE Research Series*, Cham, 2023, pp. 237-255.

¹¹ European Court of Human Rights, judgment of 7 July 1989, application no. 14038/88, *Soering v. The United Kingdom*, para 91.

¹² D. FERRARI, *The Status of Religious Refugee in International and European Law: The Synergy among United Nations, European Union and the Council of Europe*, in *Vergentis*, 2021, pp. 149-170.

¹³ UNHCR, *Guidelines on International Protection no. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, 28 April 2004, available at www.unhcr.org/media/guidelines-international-protection-no-6-religion-based-refugee-

In 1979, UNHCR developed a practical guide on procedures and criteria for determining refugee status,¹⁴ containing an adherence to a strict concept of religion, focusing on its manifestations, while neglecting other forms of religious expression, such as conscientious objection or private belief.

This restrictive approach was later broadened, most notably through General Comment no. 22 of the UN Human Rights Committee,¹⁵ which recognises religion as encompassing theistic, non-theistic, and atheistic beliefs, and extending to minority or newly emerging religions.

In alignment with this broader view, the 2004 UNHCR Guidelines on religion-based refugee claims¹⁶ define religion not only as belief, but also as identity and way of life. They explicitly include the right not to belong to a religion, the right to adopt atheistic positions, and the observance or rejection of specific religious practices, such as dress codes or dietary rules. This multidimensional concept acknowledges that religious identity can be deeply personal and expressed in diverse ways.

Such an approach is more consistent with the multilevel conception of religious freedom underlying the principal instruments of international human rights protection. The legal notion of religion in asylum law cannot be confined to institutional or officially recognized faiths. Within the broader framework of international human rights protection, Art. 9 ECHR and Art. 10 of the EU Charter of Fundamental Rights safeguard freedom of thought, conscience, and religion, including the right not to adhere to any belief. This conceptual framework encompasses both individual and collective dimensions of religious expression and applies irrespective of whether a specific cult or denomination is recognized or prohibited by the country of origin. In this sense, the notion of religion under asylum law reflects a dynamic and pluralist understanding of faith, one that transcends formal institutional boundaries and focuses on the individual dimension of belief. The European Union has incorporated this broader understanding of religion into its legal framework through Directive 2004/83/EC,¹⁷ which was recast by Directive 2011/95/EU (Qualification Directive),¹⁸ introducing common minimum

claims-under-article-1a-2. See P. PUOTI, *La definizione di “religione” Tra dottrina, prassi convenzionale e giurisprudenza internazionale e interna*, in *I diritti dell'uomo: cronache e battaglie*, 2021, pp. 257-296.

¹⁴ UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection*. The Handbook was first published in 1979 and re-issued in 1992, 2011 and 2019.

¹⁵ CCPR, *General Comment no. 22: Art. 18 (Freedom of Thought, Conscience or Religion)*, 30 July 1993, CCPR/C/21/Rev.1/Add.4.

¹⁶ *Guidelines on International Protection: Religion-Based Refugee Claims under Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06, 28 April 2004. See F. PÉREZ-MADRID, *Asylum in Case of Religious Persecution*, in M. LUGATO (ed.), *International Religious Freedom and the Global Clash of Values*, Turin, 2015, pp. 77-87.

¹⁷ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, implemented in Italy by means of the Legislative Decree no. 251 of November 19th, 2007.

¹⁸ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the

standards of harmonization for Member States with regard to the recognition of refugee protection and providing a definition of “religion” in line with the broad interpretation set forth in the aforementioned 2004 UNHCR Guidelines.¹⁹

In particular, Art. 10(1)(b) of the Qualification Directive provides a definition of the grounds for persecution, and in relation to religion states that this term includes “the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief”. These are the various forms of expression of religious freedom falling under the notion of religion, which must be protected by Member States when assessing the existence of a case of persecution on religious grounds for the purposes of granting international protection.

The CJEU has further clarified that this is a non-exhaustive list, and national authorities must interpret it in light of the Charter of Fundamental Rights, particularly Art. 10, which protects both the *forum internum* (internal belief) and *forum externum* (external manifestation).²⁰

In the leading case *Y and Z*,²¹ the CJEU ruled that protection cannot be denied merely because the applicant could avoid persecution by refraining from public religious expression. Such a view would undermine the essence of religious freedom.²²

In parallel, the concept of “act of persecution” also plays a crucial role. Although not defined in the Refugee Convention, references to persecution as a threat to “life or freedom” appear under its Arts. 31 and 33. The CJEU has clarified that only violations

content of the protection granted (recast). From 1st July 2026 the Qualification Directive will be replaced by Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14 May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU. On the main changes introduced by Regulation 2024/1347 in respect of the Qualification Directive, see S. AMEDEO, *Norme applicabili in materia di regolarizzazioni*, in *Quaderni di AISDUE*, 2024, pp. 243-282.

¹⁹ The legal basis of the aforementioned directives was originally enshrined in Art. 63 of the Treaty establishing the European Community (TEC), which was later repealed and replaced by Art. 78 of the Treaty on the Functioning of the European Union (TFEU), providing for the Union’s competence to develop a common policy on asylum, in compliance with the Refugee Convention.

²⁰ Court of Justice of the European Union, judgment of 4 October 2018, *Fathi*, case C-56/17, para. 90.

²¹ Court of Justice of the European Union, judgment of 5 September 2012, *Y and Z v Bundesrepublik Deutschland*, joined cases C-71/11 and C-99/11. In this case, concerning two Pakistani nationals who applied for asylum in Germany alleging that they were forced to leave their country of origin due to their membership of the Muslim Ahmadiyya community, the Court was called upon to address, among other questions, whether “Article 9(1)(a) of the Directive is to be interpreted as meaning that any interference with the right to religious freedom that infringes Article 10(1) of the Charter may constitute an ‘act of persecution’ within the meaning of that provision of the Directive and whether a distinction must be made between the ‘core areas’ of religious freedom and its external manifestation”.

²² Court of Justice of the European Union, *Y and Z*, cit., para. 62: “For the purpose of determining, specifically, which acts may be regarded as constituting persecution within the meaning of Article 9(1)(a) of the Directive, it is unnecessary to distinguish acts that interfere with the ‘core areas’ (‘forum internum’) of the basic right to freedom of religion, which do not include religious activities in public (‘forum externum’), from acts which do not affect those purported ‘core areas’”.

of religious freedom that are sufficiently serious – those that breach non-derogable rights under Art. 15(2) ECHR – can constitute acts of persecution under Art. 9(1)(a) of the Qualification Directive. This interpretive approach ensures that protection extends to serious violations of core religious rights, reinforcing the principle that both private belief and public expression are integral to the right to asylum.²³

Recent Italian case law has further expanded this understanding, refining the scope of religious freedom for the purposes of international protection and affirming that this right also encompasses the freedom to practise non-institutional, minority, or even prohibited forms of worship.²⁴ Accordingly, persecution may arise not only from acts of private individuals but also from legislative, administrative, or judicial measures that restrict or penalize the exercise of such beliefs.

This case law development underscores the inherently personal and subjective nature of religious conviction, which cannot be reduced to formal membership in a recognized church or to public manifestations of worship. It also implies that the assessment of persecution must go beyond the formal legality of the religious movement in the country of origin, taking into account the practical restrictions imposed by state authorities on its adherents. As the Court observed, limitations on religious practice must be examined in light of their legality, necessity, and proportionality, consistent with the pluralist rationale of contemporary human rights law.

3. Challenges of Credibility Assessment in the Context of Religion-based Asylum Applications

The 1951 Refugee Convention does not establish specific rules of evidence or procedural standards for assessing asylum applications. This absence leaves broad discretion to Member States and leads to considerable variation in evidentiary practices

²³ By examining the Italian legislation, it is possible to find that Legislative Decree no. 251 of 2017 – who is the main instrument for the transpositions of the Qualification Directive in Italy, provides at Art. 7, first para., the requirements for the qualification of a certain conduct as act of persecution. In particular, act of persecution shall be (a) sufficiently serious, by their nature or frequency, to constitute a serious violation of rights fundamental human rights, in particular the rights for which any derogation is excluded, pursuant to Art. 15 ECHR; or, alternatively, (b) constitute the sum of several measures, including violations of human rights, the impact of which is sufficiently severe to have an effect on the person similar to that referred to in (a). The second para. of the same provision provides a non-exhaustive list of acts which may constitute act of persecution. According to Art. 7, second para. of Italian Legislative Decree no. 251 of 2017, act of persecution includes: a) acts of physical or mental violence, including acts of sexual violence; b) legal, administrative, police, and/or judicial measures that are discriminatory in themselves or implemented in a discriminatory manner; c) prosecution or punishment that is disproportionate or discriminatory; d) denial of judicial redress resulting in a disproportionate or discriminatory punishment; e) prosecution or punishment for refusal to perform military service in a conflict where performing military service would include crimes or acts falling under the exclusion clauses as defined in Art. 12 of the same Legislative Decree; and f) acts of a gender-specific or child-specific nature.

²⁴ See Italian Court of Cassation, Civil Section I, Judgment no. 11700 of 30 April 2024, and T. EL HAJ, *Credibilità dei richiedenti asilo per motivi religiosi*, in *ADiM Blog, Osservatorio della Giurisprudenza*, February 2025.

and credibility assessments across jurisdictions. Yet, the core requirement for international protection remains the presence of a “well-founded fear of being persecuted”, which must be convincingly demonstrated.

Under Art. 4(1) of the Qualification Directive, Member States may expect asylum applicants to submit, as soon as possible, all elements necessary to substantiate their claim, including relevant declarations and supporting documentation. However, this obligation is counterbalanced by the duty of cooperation imposed on national authorities, which must assist applicants in establishing the relevant facts. The CJEU has interpreted this duty broadly, emphasising that authorities must play an active role in gathering and evaluating evidence.²⁵

Where, as often in religious asylum cases, applications rest primarily on the applicant’s personal narrative and lack corroborative evidence, the determining authority must assess the credibility of the applicant’s account. Art. 4(5) of the Qualification Directive outlines five cumulative criteria under which an applicant’s statement may be accepted even in the absence of supporting documentation (so-called benefit of the doubt): (a) genuine effort to substantiate the application; (b) submission of all available evidence, or satisfactory explanation for its absence; (c) internal and external consistency of the statements; (d) timely submission of the application, or good cause for delay; and (e) overall credibility of the applicant.

The CJEU addressed the interpretation of this standards in the *MM* case,²⁶ holding that authorities cannot reject an application without first giving the applicant a meaningful opportunity to present their case. This obligation includes the collection and assessment of relevant elements supporting the asylum application.

In that specific instance – concerning an application for subsidiary protection following the refusal to grant refugee status – the conduct of the Irish asylum authority was found to have breached the duty of cooperation. The authority had confined itself to a summary rejection based on pre-existing information, without giving the applicant the opportunity to be heard. This procedural failure constituted a clear violation of the applicant’s right to present their account, as emphasised by the CJEU in its ruling.

²⁵ According to the case law of the Court of Justice of the European Union, even in instances where the asylum seeker has not previously been subjected to persecution or serious threats thereof, the requirement of a “well-founded fear of persecution” may still be satisfied if, considering the applicant’s personal circumstances, it can reasonably be concluded that, upon return to the country of origin, the individual would engage in religious practices exposing them to a real risk of persecution. In particular, the Court pointed out that this assessment is not undermined by the possibility that the applicant might abstain from such practices. See. Court of Justice of the European Union, *Y and Z*, cit., paras. 79-80.

²⁶ CJEU, Judgment of 22 Nov 2012, *MM*, C-277/11, EU:C:2012:744, para. 66.

Similarly, under Art. 46(3) of Directive 2013/32/EU²⁷ (now replaced by Regulation (EU) 2024/1348)²⁸ courts reviewing decisions on asylum applications are required to conduct a comprehensive and *ex nunc* examination of both factual and legal elements.

This procedural safeguard reinforces the integral connection between the first-instance administrative stage and the subsequent judicial review, ensuring continuity and fairness throughout the process. In this framework, the personal interview assumes a pivotal role as a core evidentiary mechanism, essential to safeguarding the applicant's right to be heard and enabling a meaningful evaluation of credibility.²⁹

Credibility, unlike persecution itself, is not an element of refugee status but a functional standard of proof.³⁰ Its centrality is heightened in asylum proceedings, where evidentiary limitations are intrinsic and determining authorities must play an active role in fact-finding. The importance of a rigorous and fair credibility assessment is especially pronounced in religion-based applications, given the deeply personal and often unverifiable nature of religious belief.

In this context, adherence to best practices developed by the European Union Agency for Asylum (EUAA)³¹ and UNHCR³² is essential. Therefore, the evaluation of the applicant's credibility is a central point in the assessment of religious asylum applications, especially considering the risks posed by applications intended to circumvent immigration regulations in the absence of the necessary grounds for obtaining refugee status.³³ The guidelines promote consistency and fairness in decision-making and help safeguarding fundamental rights in proceedings that are exceptional within the broader landscape of immigration law.

Despite significant harmonization efforts, national discretion remains a defining feature of the international protection regime, resulting in divergent interpretations and different standards of protection across Member States.³⁴

²⁷ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L 180, 29.6.2013, p. 60–95.

²⁸ Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, PE/16/2024/REV/1, OJ L, 2024/1348, 22.5.2024.

²⁹ Italian Supreme Court, Civil Division I, Judgment no. 21584 (7 October 2020, hearing 17 September 2020); Italian Supreme Court, Civil Division I, Order no. 18311 (25 June 2021).

³⁰ A. DI MURO, *Individuazione dei fatti materiali ed analisi di credibilità nella valutazione delle domande di protezione internazionale. Indicazioni e prospettive dai documenti dell'Alto Commissariato delle Nazioni Unite per i rifugiati*, in Scuola Superiore della Magistratura (ed.), *Il diritto dell'immigrazione*, Rome, 2022, p. 23.

³¹ The European Union Agency for Asylum (EUAA) entered has been established by Regulation (EU) 2021/2303, replacing and succeeding to the European Asylum Support Office (EASO), becoming a full-fledged agency with a broadened and enhanced mandate in relation to asylum and immigration.

³² The refugee agency of the United Nations (UN) was established on 14 December 1950 by the UN General Assembly with the mandate to lead and coordinate international action to protect refugees and resolve refugee problems worldwide, and to safeguard the rights and well-being of refugees.

³³ M. KAGAN, *Refugee Credibility Assessment and the 'Religious Imposter' Problem*, in *Vanderbilt Journal of Transnational Law*, 2010, pp. 1179-1233.

³⁴ B. BURSON, *Refugee Status Determination*, in C. COSTELLO, M. FOSTER, J. MCADAM (eds.), *The Oxford Handbook*, cit., pp. 569-588, according to which "[t]he development of the Common European Asylum System has contributed to greater harmonization at the regional level, with the Court of Justice of the

4. *Sur place* Refugees

The assessment of credibility becomes particularly complex in the case of *sur place* refugees.³⁵ The complexity of credibility assessments is further heightened in cases involving *sur place* or so-called “bootstrap” refugees. *Sur place* refugees are individuals whose fear of persecution arises after leaving their country of origin, for instance due to conversion, political activism, or other post-departure developments.³⁶ By contrast, bootstrap refugees are those who deliberately engage in conduct abroad to build up a basis for asylum, thereby complicating the credibility analysis.

As established in the case law of the CJEU and reflected in the Qualification Directive, the credibility of an applicant for international protection must be assessed through a comprehensive and individualised evaluation, taking into account both subjective and objective elements.³⁷ This approach is especially nuanced in cases where the grounds for persecution emerge only after the applicant has left their country of origin.

In these situations, the timing of the individual’s conversion or adoption of a persecuted religion plays a central role, particularly when it occurs after arrival in the host country. Such post-arrival developments can raise questions about the genuineness of the applicant’s religious beliefs. Where conversion is invoked as a basis for protection, authorities often scrutinise whether it reflects a sincere shift in personal belief or a strategic attempt to obtain legal status. This concern is especially pronounced in cases involving countries where apostasy is criminalised,³⁸ amplifying the stakes of returning to the country of origin.

Accordingly, adherence to a religion known to be persecuted in the applicant’s home country may be perceived by adjudicators as potentially instrumental rather than genuine. In refugee law, the freedom to convert must be understood in relation to the existence of a well-founded fear of persecution, distinguishing it from the general right

European Union now able to provide, on referral, an advisory opinion as to the correct interpretation of the refugee definition in the EU Qualification Directive. Nevertheless, even in this regional system, as asylum processes remain national, many divergences in outcomes and treatment of refugees persist”. See also C. COSTELLO, M. MOUZOURAKIS, *The Common European Asylum System: Where Did It All Go Wrong?*, in M. FLETCHER, E. HERLIN-KARNELL, C. MATERA (eds.), *The European Union as an Area of Freedom, Security and Justice*, Abingdon, 2017, pp. 263–288.

³⁵ UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, reissued February 2019, HCR/1P/4/ENG/REV.4, p. 131.

³⁶ According to paras. 94-96 of the UNHCR’s *Handbook on Procedures and Criteria for Determining Refugee Status*, a person becomes a refugee ‘sur place’ in two situations: (i) due to circumstances arising in his country of origin during his absence; or (ii) as a result of his own actions, such as associating with refugees already recognized, or expressing his political views in his country of residence.

³⁷ See Art. 4 of the Qualification Directive.

³⁸ U. BERLIT, H. DOERIG, H. STOREY, *Credibility Assessment in Claims based on Persecution for Reasons of Religious Conversion and Homosexuality: A Practitioners Approach*, in *International Journal of Refugee Law*, 2015, p. 649 ff.; D. FERRARI, *Lo status di rifugiato religioso nelle fonti del diritto internazionale: le nuove frontiere delle libertà dello spirito*, in *Stato, Chiese e pluralismo confessionale*, 2017, p. 21.

to religious freedom. Thus, the causal link between the act of conversion and the risk of persecution must be carefully examined.

The UNHCR and the ECtHR have consistently emphasised that *sur place* conversions should not be presumed insincere. Rather, it is the responsibility of the determining authorities to evaluate the credibility and contextual plausibility of such claims through careful and fair procedures.³⁹

The well-known case *F.G. v. Sweden*, brought before the ECtHR, concerned an Iranian national who, after applying for asylum in Sweden on political grounds, converted to Christianity.⁴⁰ The applicant's initial asylum application was based on political persecution. Nevertheless, following his religious conversion in the host country, he supplemented his application by invoking his adherence to Christianity. In support of this claim, he submitted a statement from a Baptist pastor attesting to his integration into the church community. However, both the Swedish Migration Board and the Migration Court dismissed the asylum application on the grounds that the applicant's allegations of political and religious persecution were not deemed credible, and therefore did not establish a well-founded risk of persecution upon return to his country of origin.

The case was subsequently brought before the ECtHR. While the ECtHR initially rejected the application for lack of evidence that the Iranian authorities were aware of the conversion, the Grand Chamber overturned the decision, holding that the domestic proceedings had failed to adequately assess the authenticity of the applicant's conversion. The ECtHR affirmed that, where States are aware of facts suggesting a risk to expose the asylum seeker to treatment in violation of Arts. 2 and 3 of the ECHR, they are obliged to examine the claim thoroughly. This obligation derives from the absolute nature of the rights involved and requires States to actively investigate and consider all relevant evidence in the determination process.

In cases involving *sur place* religious conversion, the credibility assessment tends to revolve around the notion of authenticity, frequently shifting the focus from factual coherence to an appraisal of the applicant's inner convictions and spiritual integrity.⁴¹ This elevation of standards in *sur place* applications carries the risk of distorting the protective function of the asylum system, as it implicitly transforms the procedure into an exercise in determining religious orthodoxy. Such a development risks conflating legal and theological domains and may ultimately result in the exclusion of individuals who face genuine risks of persecution, based not on how they act or are perceived in their country of origin, but on their ability to articulate religious belief in a manner that aligns with the adjudicator's normative expectations.

³⁹ D. FERRARI, *The Status of Religious Refugee*, cit., p. 163.

⁴⁰ European Court of Human Rights, Grand Chamber, judgment of 23 March 2016, application no. 43611/11, *F.G. v. Sweden*.

⁴¹ I. BLUMGRUND, *Credibility Assessment of Religious Conversion in the Asylum Process: A Theological Analysis*, in *Nordic Journal of Theology*, 2023, pp. 125-152.

However, it should be emphasised that assessing the authenticity of religious belief, identity or lifestyle is not always necessary. As clarified in the UNHCR Guidelines (para. 31): “[l]ess formal knowledge may also be required of someone who obtained a particular religion by birth and who has not widely practised it.” and even “No knowledge is required where a particular religious belief or adherence is imputed or attributed to a claimant”.

Furthermore, the way persecutors perceive an individual’s religious identity plays a decisive role, yet it is frequently overlooked. Even when authorities doubt the genuineness of someone’s conversion or claimed affiliation, persecutors may continue to view that person as a member of a particular faith. As a result, the risk of persecution hinges not only on the person’s true beliefs but also on how their religion is perceived by others, underscoring the need to assess vulnerability based on perceived, rather than actual, religious adherence.

A comparative analysis conducted by UNHCR on the practices adopted in Denmark, Norway, and Sweden⁴² reveals significant divergence in how *sur place* conversion-based applications are assessed at the appellate level.

In Denmark, the Refugee Appeals Board adopts a document-focused approach, in which decisive evidentiary weight is frequently accorded to evidentiary elements like baptism certificates, pastoral letters, and photographs. However, explicit country-of-origin risk assessments are cited in only a minority of cases, and the credibility of a *sur place* conversion is often undermined when the applicant’s initial asylum application based on a different ground was previously rejected, with the consequent risk of creating a cumulative bias effect, whereby later applications are tainted by earlier findings of incredibility.⁴³

In Norway, the Immigration Appeals Board applies a more threshold-based test, requiring the conversion to appear “reasonably plausible”. National guidance further instructs determining authorities to exercise increased scepticism in cases involving Afghan converts, raising concerns over the use of nationality-specific assumptions and their compatibility with individualised assessment standards, such as church statements or baptismal videos.⁴⁴

By contrast, Sweden adheres to a narrative-driven model, placing primary emphasis on the applicant’s personal account and introspective explanation of their conversion journey. While external evidence and doctrinal knowledge are considered, they serve primarily a corroborative function. Nevertheless, a marked tendency persists to subject *sur place* converts to higher scrutiny, particularly when the religious claim emerges only after an initial refusal.⁴⁵

⁴² UNHCR, *Nordic Asylum Practice in relation to Religious Conversion: Insights from Denmark, Norway and Sweden*, in *Legal and Protection Policy Research Series*, PPLA/2023/02, Geneva, 2023.

⁴³ *Ibid.*, para. 3.

⁴⁴ *Ibid.*, para. 4.

⁴⁵ *Ibid.*, para. 5.

Across jurisdictions, these contrasting evidentiary frameworks – document-centred in Denmark, plausibility-based in Norway, and experiential in Sweden – reflect divergent national legal cultures and result in substantively different outcomes for similarly situated applicants. As the UNHCR report underscores, harmonisation efforts remain essential to ensure that the credibility of *sur place* converts is not assessed through shifting benchmarks, but in accordance with the shared normative core of international protection: the risk of persecution upon return, regardless of how or when that risk arose.

5. The Criteria behind the Credibility Assessment

As early as the 1992 edition of the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status, a foundational set of credibility indicators was delineated. These indicators were intended to provide guidance for those conducting interviews during the administrative phase of asylum procedures, as well as for judges presiding over any subsequent appeal proceedings. The core criteria identified at this stage - which were later integrated into both European⁴⁶ and national legislation⁴⁷ - comprised internal consistency (referring to the coherence and lack of contradiction within the applicant's own account), external consistency (assessing the alignment of the applicant's narrative with available country of origin information and other relevant evidence), and plausibility (evaluating whether the events and circumstances described are logical and believable).

Building upon this initial framework, a further criterion focusing on the level of detail and specificity provided by the applicant was subsequently recognized and added as an important element in credibility assessments.⁴⁸ This evolution reflects a growing recognition of the nuances involved in evaluating asylum claims and the need for a comprehensive approach to determining the genuineness of an applicant's fear of persecution.

Despite the common underlying principles and guidelines stemming from the EU and UNHCR, the evaluation of the abovementioned criteria varies across EU Member States, due to differing national legal traditions and administrative practices. The UNHCR actively promotes a harmonized approach to credibility assessment within the EU by providing training, issuing guidance, and conducting research aimed at identifying and addressing inconsistencies. In particular, the UNHCR report *Beyond Proof: Credibility Assessment in EU Asylum Systems* (hereinafter *Beyond Proof Report*)⁴⁹ and the EUAA guidelines recommend a holistic and culturally sensitive methodology, acknowledging that trauma, cultural distance, or spiritual transformation

⁴⁶ See Art. 4.5(c), Qualification Directive.

⁴⁷ See Art. 3, para. 5, of the Legislative Decree no. 251 of 2017.

⁴⁸ DI MURO A., *Individuazione dei fatti materiali*, cit., pp. 34 ff.

⁴⁹ UNHCR, *Beyond Proof: Credibility Assessment in EU Asylum Systems*, 2013.

may affect an applicant's ability to provide consistent or detailed testimony. However, the level of training and specific guidance offered to those assessing asylum claims differs across Member States, which may influence how internal consistency is interpreted and applied in practice. Furthermore, national case law often develops its own standards and interpretative approaches to these criteria.

Against this backdrop, some scholars have raised concerns regarding the scientific reliability of the standard indicators used to assess credibility. In particular, Noll challenges the validity of criteria such as internal consistency, plausibility, and richness in detail, pointing to numerous studies in psychology and traumatology that have questioned their evidentiary value, highlighting the cognitive difficulties associated with trauma, the limitations of autobiographical memory, and the risks linked to the interpretation of non-verbal behaviour, suggesting that such indicators are not only empirically fragile but may also produce distorted or unjust outcomes.⁵⁰ These critiques cast doubt on the assumption that conformity with such criteria necessarily indicates truthfulness, and highlight the importance of applying them with caution and in context. The following sections briefly consider the criteria that seem to be most problematic in the context of religion based asylum applications, namely internal consistency, external consistency and plausibility.

6. Internal Consistency

The criterion of internal consistency pertains to the statements made by the applicant regarding the relevant facts underlying the application. As stated in *Beyond Proof Report*, internal consistency refers to “a lack of discrepancies, contradictions, and variations in the material facts asserted by the applicant”. The rationale behind this criterion lies in the assumption that the coherence of an applicant's statements is an indicator of their truthfulness, since it is more likely that inconsistencies will arise in the case of false or fabricated accounts. The assumption that genuine claims should be rich in detail is shared in various jurisdictions.

In Germany, this is linked to the *Undeutsch hypothesis*, a psychological theory that posits content-related differences between accounts based on actual experience and those based on fabrication. Real experiences can be recalled from memory, whereas invented accounts rely on general knowledge and often omit minor or incidental details. Empirical research carried out by Baade and Gölz, shows that German courts frequently rely on this theory, treating internal consistency and richness in detail as markers of truth. However, the authors caution against relying on behavioural cues such as demeanour or eye contact, which are both culturally biased and scientifically unreliable.

⁵⁰ G. NOLL, *Credibility, Reliability, and Evidential Assessment*, in C. COSTELLO, M. FOSTER, J. MCADAM (eds.), *The Oxford Handbook*, cit., pp. 609-614.

The study also notes that courts often fail to consider factors like trauma or cross-cultural misunderstandings that can affect the applicant's narrative.⁵¹

In the United Kingdom, national guidelines place particular emphasis on internal consistency as a key component of credibility assessment. The evaluation of this criterion involves verifying the coherence of the applicant's oral and written statements and any supporting documents, ensuring alignment among them while allowing for relevant contextual factors. Discrepancies should be explored during the interview, and statements should be cross-checked with those of family members or witnesses. The guidelines emphasise the need to distinguish between major inconsistencies – relating to core facts – and minor discrepancies, which should not automatically undermine credibility. They also caution against over-reliance on potential sources of error such as mistranslations, transliteration issues, or culturally specific terminology, particularly in sensitive claims involving armed groups or LGBTQI+ individuals. Furthermore, they highlight those differences in calendar systems, such as the use of the Islamic calendar in Afghanistan or Iran, may account for apparent contradictions in dates.⁵²

These considerations underscore the inherent complexity of evaluating internal consistency in asylum proceedings. They reveal how credibility assessments must navigate a delicate balance between identifying genuine indicators of reliability and recognising the many reasons why a coherent narrative may be difficult to articulate. This complexity becomes even more pronounced in religion-based claims, where the subjective and personal nature of belief, combined with cultural distance and linguistic mediation, can obscure the coherence of the applicant's narrative.

A recent psycho-legal review has drawn attention to the specific complexities associated with credibility assessments in religion-based applications, many of which revolve around the internal consistency of the applicant's account. These complexities arise not only from the deeply personal and subjective nature of religious belief, but also from a range of psychological and structural factors that can distort the perceived coherence of an applicant's narrative. Determining authorities may be influenced by cognitive biases, stress, and procedural pressures, while the role of interpreters, essential in most asylum proceedings, introduces further potential for miscommunication or distortion.⁵³

⁵¹ See B. BAADE, L. GÖLZ, *An Empirical Analysis of Credibility Assessment in German Asylum Cases*, in *German Law Journal*, 2023, pp. 310-341. See also the following publication mentioned in the abovementioned contribution: J. SHAW, L. ÖHMAN, P. VAN KOPPEN, *Psychology and Law: The Past, Present, and Future of the Discipline*, in *Psychology, Crime & Law*, 2013, pp. 643-647.

⁵² UNITED KINGDOM HOME OFFICE, *Assessing Credibility and Refugee Status in Asylum Claims Lodged on or After 28 June 2022*, (updated 28 September 2023), available at: www.gov.uk/government/publications/considering-asylum-claims-and-assessing-credibility-instruction (accessed 25 May 2025).

⁵³ For an analysis of the psycho-legal issues in credibility assessments of asylum claims based on religion see H. SELIM, J. KORKMAN, P. NYNÄS, E. PIJATANNIEMI, J. ANTIFOLK, *A Review of Psycho-Legal Issues in Credibility Assessments of Asylum Claims Based on Religion*, in *Psychiatry, Psychology and Law*, 2022. See also A. MEMON, *Credibility of Asylum Claims: Consistency and Accuracy of Autobiographical Memory Reports Following Trauma*, in *Applied Cognitive Psychology*, 2012, pp. 677-679.

In practice, adjudicators often rely on the applicant's familiarity with religious doctrine or their participation in recognisable religious practices as proxies for sincerity. Yet such indicators have proven to be unreliable markers of genuine belief, particularly in contexts where conversion may reflect an intimate and non-verifiable transformation. The psycho-legal literature therefore advocates for open-ended, narrative-based interview techniques that are better equipped to accommodate cultural diversity and individual variations in the expression of faith. This approach aims to minimise ethnocentric assumptions and foster a more context-sensitive evaluation of the applicant's credibility.

These psychological and systemic factors shed light on the intricate web of variables that can compromise the internal coherence of an applicant's narrative. Among these, the role of interpreters emerges as particularly crucial. Interpreters play a pivotal role in asylum proceedings, acting as the communicative bridge between applicants and decision-makers. Given that most applicants do not speak the host country's language, the accurate and complete transmission of their narrative depends on the quality of interpretation. The Austrian QUADA project has shown that interpretation in asylum interviews often suffers from a lack of standardised training, especially for rarer languages, leading to errors and distortions that may introduce inconsistencies unrelated to the applicant's actual account.⁵⁴

The *Beyond Proof Report* stresses that internal consistency should not be applied rigidly. Inconsistencies can, in some cases, be consistent with a credible narrative, particularly when they stem from trauma, memory challenges, or cultural distance. Thus, minor contradictions should not automatically be interpreted as indicators of fabrication.⁵⁵

In Italy, the approach to internal consistency is reflected in judicial practice. Determining authorities as well as judges in judicial review proceedings are expected to identify and raise any contradictions during hearings, allowing applicants to respond. When contradictions remain unresolved, determining authorities and judges must assess whether they undermine credibility in whole or only in part. Italian Supreme Court rulings have endorsed a segmented evaluation, distinguishing between core and marginal elements. Credibility should not be denied solely on the basis of inconsistencies concerning secondary aspects, especially when the main facts appear plausible. The duty of the judge and the administrative authority extends beyond passive reception; they are expected to play an active role in the evidentiary process, including acquiring updated COI (country of origin information).⁵⁶

⁵⁴ A. BERGUNDE, S. PÖLLABAUER, *Curricular Design and Implementation of a Training Course for Interpreters in an Asylum Context*, in *Translation & Interpreting*, 2019, pp. 1-21. On the role of the interpreter in asylum proceeding see also O. FURMANEK, *Interpreting and Religion*, in L. GAVIOLI, C. WADENSJÖ (eds.), *The Routledge Handbook of Public Service Interpreting*, London, 2023, pp. 121-137, and S. PÖLLABAUER, *Research on Interpreter-Mediated Asylum Interviews*, *ivi*, pp.140-154.

⁵⁵ UNHCR, *Beyond Proof*, cit., pp.149-160.

⁵⁶ See the following decisions of the Italian Court of Cassation: Section VI - 1, Order no. 26921 of 14 November 2017; Section VI – 1 Order no. 19716 of 25 July 2018; Labour Section, Order no. 10 of 4

The Italian Supreme Court of Cassation has consistently affirmed that the assessment of an asylum seeker's credibility must not rely on subjective impressions, intuitive judgments, or generic doubts. Instead, it must follow an objective, structured, and legally codified procedure, as mandated by Art. 3(5) of Legislative Decree no. 251/2007, which implements Art. 4(5) of the Qualification Directive. In a case concerning a Chinese national claiming persecution for her adherence to the Evangelical Christian faith, the Court of Cassation overturned the decision of the Appellate Court, which had rejected the applicant's credibility based on vague concerns regarding the coherence and specificity of her statements and on the fact that she had obtained a tourist visa despite alleging persecution. The Supreme Court found that such reasoning failed to consider the applicant's explanations and relevant COI and disregarded the procedural safeguards that govern the credibility assessment process.⁵⁷

A significant methodological clarification was provided, distinguishing internal and external consistency as complementary stages of the credibility assessment.⁵⁸ The Court held that when internal consistency is lacking due to serious contradictions, further factual inquiry is unnecessary; conversely, when the narrative appears coherent, the judge must ex officio verify its plausibility by consulting reliable and updated COI. This interpretative approach contributes to reducing arbitrariness and reinforces the rational and transparent structure of credibility assessment.

This interpretive approach underscores the centrality of an evidence-based and legally guided analysis in the Italian system. It also contrasts sharply with the findings of recent empirical research on German case law, which reveals that Art. 4(5) of the Qualification Directive plays no substantive role in credibility determinations, owing to the specific features of German asylum law.⁵⁹

It is worth noting that, in the practice, inconsistencies in the applicant's account often arise from statements made at different stages of the procedure.⁶⁰ As highlighted, in the Italian context particular caution should be exercised with respect to the so-called C3 form, completed during the initial phase of the procedure before the Territorial Commissions.⁶¹ As a result, statements made at this early stage should not be afforded the same evidentiary weight as those made before the judicial authorities competent to review negative decisions, given the stronger procedural safeguards available during the judicial phase. A comparable distinction is made explicitly in Dutch legislation, which draws a clear line between statements made to the authority responsible for examining

January 2021; Labour Section, Order no. n. 11910 of 12 April 2022, First Section no. 28214 of 28 September 2022 and no. 36790 of 15 December 2022.

⁵⁷ See Italian Court of Cassation, First Section, Order no. 9858 of 13 April 2023.

⁵⁸ See Italian Court of Cassation, Civil Section I, Judgment no. 25468 of 29 August 2022.

⁵⁹ B. BAADE, L. GÖLZ, *An Empirical Analysis*, cit.

⁶⁰ In Italy, respectively the interview conducted by the Territorial Commissions, the administrative body tasked with receiving the initial application, and the statements in the court proceedings.

⁶¹ L. MINNITI, *La valutazione di credibilità come strumento di valutazione della prova dichiarativa. Ragioni e conseguenze*, in *Questione Giustizia*, 2020, p. 38.

asylum applications and those given to other bodies, excluding the latter from the credibility assessment.⁶²

The *Beyond Proof Report* also notes systemic concerns in the use of COI, such as overreliance on generalised information, failure to specify the sources used, or selective citation to support negative decisions. In some cases, references to “public sources” were vague and lacked a demonstrable link to the applicant’s claims, undermining the transparency of the reasoning process.⁶³

These shortcomings highlight the importance of a transparent and contextualised use of COI, particularly when assessing claims of religious persecution. In this regard, Italian case law – especially judgments of the Court of Cassation – have consistently clarified that, where an applicant alleges a fear of religion-based persecution, courts must conduct a concrete and detailed assessment of the situation in the country of origin, including the presence of religiously motivated tensions and restrictions.⁶⁴

7. External Consistency

The criterion of external consistency pertains to the degree of correspondence between the applicant’s account and information obtained from reliable external sources, including COI, medical or psychological reports, and other pertinent documentation. COI refers to verifiable data on political, social, and human rights conditions in the applicant’s country of origin, and serves to determine whether the reported risk of persecution is consistent with the broader context. These sources typically include reports from international organisations, governmental bodies, and reputable media outlets.

Said criterion is based on the assumption that a credible narrative should not contradict trustworthy and up-to-date information about the applicant’s country of origin. This is expressly enshrined in Art. 4(5)(c) of the Qualification Directive, which affirms that a lack of supporting documentation does not undermine credibility when “the applicant’s statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the applicant’s case”.

While European legislation endorses external consistency as a key element in assessing credibility, the *Beyond Proof Report* warns against a rigid or overly formalistic application of this criterion. It underlines the limits of COI – such as incompleteness, outdatedness, or a lack of specificity – and emphasises that the absence of corroborating evidence should not, by itself, be interpreted as a lack of credibility. This is particularly relevant in cases involving persecution, marginalisation, or trauma, as is often the case in religion-based asylum applications, where individual experiences – such as

⁶² Dutch Council of State 7 March 2012, (201007907/1/V3) JV2012/184; LJN: BV9262. UNHCR, *Beyond Proof*, cit., p. 156.

⁶³ UNHCR, *Beyond Proof*, cit., pp. 173-175.

⁶⁴ See Art. 4 of the Qualification Directive.

clandestine worship, conversion in secret, or repression by non-state actors – frequently fall outside the scope of standardised or officially documented reports. In such contexts, the absence of corroborating COI should not be construed as evidence of a lack of credibility, but rather as a reflection of the limitations inherent in the available sources of information.

With regard to external consistency, the importance has been stressed of distinguishing between inconsistencies related to specific circumstances – such as a particular historical event in the country of origin – and those concerning general background information, including customs, religious practices, or administrative norms. While COI carries significant weight in assessing concrete factual claims, a more measured approach is required when dealing with broader contextual elements.⁶⁵

In Italy, the Court of Cassation has consistently addressed the use of COI, specifying that when an asylum seeker alleges a fear of being subjected to religiously motivated persecution in their country of origin, courts must undertake an assessment of the internal situation of that country.⁶⁶ This assessment must include an explicit examination of the existence of religiously motivated tensions. Such evaluation is not undermined by the fact that the applicant has not sought protection from local or State authorities against such a persecution.⁶⁷

8. Plausibility

International practice has long recognised that the plausibility criterion, in the context of assessing applications for international protection, is one of the most questionable indicators and the one most susceptible to arbitrary or purely subjective evaluations. As noted, the UNHCR – echoing concerns raised by numerous participants at the 2015 Expert Roundtable – endorses a strictly narrow interpretation of implausibility, limited to assertions that are scientifically impossible or extremely unlikely according to the laws of physics.⁶⁸

This restrictive understanding of implausibility is further supported by national case law. The Italian Court of Cassation has clarified that, in matters of international protection, plausibility or reasonableness assessments must be grounded in reliable and relevant country of origin information.⁶⁹ Such assessments cannot be based on what

⁶⁵ L. MINNITI, *La valutazione di credibilità*, cit., pp. 30 ff.

⁶⁶ See *inter alia* Italian Court of Cassation, Civil Section VI, Judgment no. 10202 of 10 May 2011. See M. ACIERNO, M. FLAMINI, *Il dovere di cooperazione del giudice, nell'acquisizione e nella valutazione della prova*, in *Diritto, immigrazione e cittadinanza*, 2017, pp. 1-21.

⁶⁷ In this regard, see Italian Court of Cassation, Section I, no. 28974/2019, concerning a case where the appellant declared having fled Bangladesh – a Muslim-majority country and his country of origin – due to persecution on account of his Hindu faith.

⁶⁸ A. DI MURO, *Individuazione dei fatti*, cit., p. 42.

⁶⁹ Italian Court of Cassation, Labour Section: order no. 11910 of 12 April 2022 and order no. 6738 of 11 March 2021.

appears plausible, credible or reasonable from the perspective of the determining authority or judge, or of an average European citizen. Rather, plausibility must be evaluated in light of the conditions prevailing in the applicant's country of origin and the specific context of the applicant, including factors such as gender, age, education, and cultural background.

9. Conclusions

Although this contribution offers only a limited comparative analysis, it reveals substantial divergences in how European States approach the credibility assessment of religion-based asylum claims. These divergences pertain not only to the interpretation and application of core evaluative criteria – such as internal and external consistency, plausibility, and the authenticity of *sur place* conversions – but also to the broader procedural and evidentiary frameworks within which such assessments are conducted.

Far from indicating a structural failure of the asylum system, these discrepancies highlight the pressing need for further harmonisation and the adoption of more consistent, evidence-based, and context-sensitive practices. While the UNHCR and the EUAA guidelines offer authoritative benchmarks, their domestic implementation remains uneven. The analysis of national case law, particularly recent rulings by the Italian Court of Cassation, demonstrates that credibility can be assessed rigorously without undermining fairness, provided that adjudicators engage actively in the fact-finding process, rely on up-to-date and specific COI, and distinguish carefully between core and marginal inconsistencies. By contrast, both in administrative proceedings and in first and second instance judicial decisions, one often encounters flawed or overly formalistic approaches – such as reliance on stereotypical expectations, insufficient contextualisation of the applicant's narrative, or failure to adequately explore apparent inconsistencies – thus underscoring the importance of consistent judicial oversight and targeted procedural reform.

A particularly critical, yet frequently underestimated, factor in this context is the role of interpreters. In the majority of religion-based claims, interpretation is essential for applicants to communicate deeply personal experiences, beliefs, and identity. Inadequate or untrained interpretation – especially for less widely spoken languages – can distort meaning, introduce inconsistencies, and severely compromise the fairness of the assessment. As empirical studies and expert guidelines confirm, ensuring culturally competent, neutral, and professionally trained interpretation services is not ancillary but central to a fair and accurate asylum process.

The evaluation of credibility in *sur place* conversion cases continues to present substantive and procedural difficulties. Diverging evidentiary approaches – ranging from documentary verification to plausibility reasoning or narrative coherence – frequently lead to inconsistent outcomes for applicants in comparable situations. This fragmentation risks undermining the protective rationale of refugee law. The heightened scrutiny often directed at religious claims made after departure from the country of

origin may, in practice, shift the focus from protection to an implicit inquisition into theological authenticity or doctrinal conformity: an approach that is at odds with the pluralistic and subjective conception of religious belief embedded in both international and EU law.

Credibility assessment in religion-based asylum claims must therefore accommodate the inherently personal, cultural, and evolving nature of religious identity. It must also be anchored in legal rigour and procedural fairness, avoiding stereotypes or unconscious bias. To that end, clearer and more harmonized evidentiary standards, improved training for decision-makers and interpreters, and stronger inter-State coordination are urgently needed. This is essential in order to reinforce the legitimacy, coherence, and rights-based orientation of the international protection regime in Europe, especially in light of the human rights involved in such claims.

ABSTRACT: This article examines the challenges of credibility assessment in religion-based asylum claims, focusing on the Italian system and offering a comparative overview of selected European jurisdictions. It analyses the application of key criteria – internal and external consistency, plausibility, and the authenticity of *sur place* conversions – highlighting divergences in interpretation and procedural safeguards across Member States. The paper also explores the crucial role of interpreters in safeguarding the fairness of proceedings. It argues for further harmonisation and effective implementation of EU and UNHCR guidelines to secure the fundamental rights enshrined in EU law and the ECHR, particularly given the personal and often unverifiable nature of religious belief.

KEYWORDS: asylum – refugees – religion grounds – credibility assessment – *sur place* conversions.