

RELIGION OR BELIEF-BASED ASYLUM CLAIMS A GOOD PRACTICE GUIDE FOR IMMIGRATION AUTHORITIES

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Introduction

Immigration services are sometimes confronted with asylum applications which include a religion or belief component, for example where an applicant claims a conversion from one religion to another or none. As every human being is endowed with the freedom of thought, conscience and religion, it is usually not the role of any government to discern what religion or belief a person adheres to, and rightly so. Religion or belief-based asylum claims are an exception to this rule.

For the individual asylum seeker, hardly anything is as personal (or important) as their religion or belief. This includes any non-theistic or agnostic worldviews.

We hope that this briefing will increase understanding of religion or belief, the process and impact of a conversion. Finally, we will provide some suggestions for a thorough and fair assessment of conversion claims in asylum procedures, based on best-practices in several European member states.

Any conversion claim should be part of a thorough risk assessment of what would happen in case the applicant would be returned to his or her country of origin. For several countries of origin, conversion could create a serious situation that should be taken into account. Therefore, solid and up to date information about the situation of Freedom of Religion or Belief in any country of origin is key.

Of course, some applicants claim a conversion for the mere sake of a residence permit. At the same time, it is important to understand that, for some converts, their conversion is so sensitive an issue that words to explain it do not always come easy.

Disclaimer: As this briefing paper is written for a broad European audience, there might be elements that might feel redundant to you but that might still be relevant to others.

Religion or Belief

There is no clear definition of what constitutes a religion or belief. The European Court of Human Rights ruled that a conviction or belief “denotes views that attain a certain level of cogency, seriousness, cohesion and importance.”¹

According to CCPR General Comment 22, religion is “not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions.”²

The UNHCR identifies three elements in relation to claims based on religion: religion as belief, religion as identity, and religion as a way of life.³ Doing so, the UNHCR recognises the social aspect (sense of belonging, para 7) of a religion or belief. It also states that just being identified as belonging to a certain religion or belief can create a justified fear of persecution, regardless the depth of one’s convictions (para 9).

Culture

Religion and culture are usually closely linked, especially in cultures with communitarian or tribal characteristics. In such an environment, religion as identity and religion as a way of life are usually more important than religion as belief, the exact doctrine of one’s faith. It is also in these cultures where leaving the tradition can have far reaching consequences for the individual in a way that is hard to grasp for those versed in a highly individualistic culture where religion or belief is a private matter.

Competencies

Given the sensitivities pertaining to religion or belief, conversion, and the neutral role of the state in this regard, religious and sociological experts can be asked for an expert opinion on conversion narratives. Although religion or belief is ultimately a matter of the heart, the opinion of these experts can have huge added value, however, the final decision in any asylum application is a responsibility of the state.

Conversion

The ability to change one’s religion or to have no religion at all is at the heart of religious liberty.⁴ State attempts to prevent people from changing religion by coercion enjoy no legitimacy in international law. Not only so but states are bound to afford converts protection against non-state actors.⁵

James W. Fowler defines conversion (to Christianity) as ‘an ongoing process through which people (or a group) gradually bring the lived story of their lives into congruence with the story of the Christian faith.’ According to Fowler, conversion is the ‘re-writing of our own biographies.’⁶

Lewis R. Rambo discerns seven stages of a conversion process: context, crisis, quest, encounter, interaction, commitment, and consequences.⁷ It is good to realise that a crisis isn’t necessarily a shocking or traumatic event. It can be anything destabilising an individual’s equilibrium that would make them question the status quo and trigger a search for meaning. This can include an encounter with the transcendent e.g. in a vision or dream, or through a supernatural healing.

An essential indicator of a conversion are the changes in the life of a convert.⁸

Conversions can take place in the country of origin, along the road to, or in the country of asylum.⁹ A conversion from one religion or belief to any other or none, is a highly individual and not necessarily well-structured spiritual journey. Character, capacities, and culture are important elements of this journey.

Credibility markers

Conversion is hardly ever a mere intellectual process.

The interview of converts should not focus on factual knowledge but on the applicant’s personal convictions. Many well-educated Iranians are able to learn information about the Roman Catholic or the Lutheran tradition and practices by heart. As a result, they could sail through the interview smoothly and pass any ‘exam’ of the immigration services with flying colours, whether or not they are truly converted. Many illiterate Afghans, however, face the impossible.

The UNHCR warns that “knowledge of a religion may vary considerably depending on the individual’s social, economic or educational background and/or his or her age or sex”¹⁰ and that “detailed knowledge of his or her religion does not necessarily correlate with sincerity of belief” (para 29).

There are many differences, not only between religion or belief groups, but even within these communities, regardless whether they are well-established or more recently formed. Without a profound understanding of these differences, it might be quite difficult to understand the spiritual

journey of the applicant and therefore to strike a fair judgment.

Interview

Conversion is a highly personal journey and judging the credibility of an individual testimony can be quite a daunting task, not only for immigration officials but even for religious professionals. The interview with an applicant should not be about testing knowledge about certain facts, but about the impact the claimed conversion has on the individual's life style. What difference does the new religion or belief make in daily life? That's why the aim should be to engage in a conversation on the role of faith and the conversion journey rather than to interrogate the applicant on doctrinal details, dates, times and places. The latter may be important to corroborate the story. However, it is good to realise that stress and trauma can seriously impact one's recollection of events.¹¹

Although one can expect the claimant to do their best to speak the truth, according to paragraph 199 of the UN Handbook, "Untrue statements by themselves are not a reason for refusal of refugee status."¹² Karen Musalo lists a number of court rulings in cases where applicants lied on some aspects of their story but where the judge decided that the core facts of the claim were still credible.¹³

It is important to know what questions to ask, but this in itself is not sufficient guarantee for a just assessment. The interpretation of the answers given is equally important. In weighing the credibility of the answers, one should take one's own ontology into account. Inadvertently, one's own understanding of religion or belief, and of conversion processes can influence the interpretation of the answers.¹⁴ The UNHCR Guidance 6 rightfully observes that "what may seem trivial to an outsider may be central to the claimant's beliefs."¹⁵ It therefore advises that "decision-makers need to be objective and not arrive at conclusions based solely upon their own experiences, even where they may belong to the same religion as the claimant. General assumptions about a particular religion or its adherents should be avoided." (para 27c)

In the end, the test remains whether the applicant would have a well-founded fear of persecution on a Convention ground if returned.¹⁶ As Article 33 of the UN Refugee Convention 1951 puts it: "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."¹⁷

Translation

In many cases, the interview between the immigration official and the applicant will involve a translator. The translator/interpreter should be fully qualified for both the native language of the interview and of the interviewee. In addition, the translator should have sufficient religious literacy and knowledge of the practices and jargon used in various religious communities. A standard dictionary of terminology used in a wide variety of faith groups and belief communities could be helpful.¹⁸

The process of conversion can be quite a rough journey and the response from family and friends can be extremely traumatic. Therefore, sharing about the experiences might be painful. Moreover, the formal setting of the interview that might have life-long impact on the applicant, might add further pressure to an already stressful event. Therefore, it is crucial that the interviewee trusts both the interviewer and the translator to let him or her share their story in sufficient detail. Rightly or wrongly, if the interpreter belongs to the religion that the asylum seeker has left, then they may feel intimidated. Care should be taken to reassure them.

Religious diversity

Freedom of Religion or Belief is an individual human right. However, believers often form groups to organise teaching, to worship (sing), to study their holy Scriptures, and to perform certain rituals like baptism and the Eucharist or Holy Communion. There is a wide variety in well-established churches like the Roman Catholic church, the Anglican Church, Methodists, and other Protestant Denominations. In addition, there are what may be newer groups in a particular country like Seventh Day Adventists and Pentecostals. None of these groups are homogeneous monoliths. There is a lot of diversity of practices and opinions within these groups, especially within the well-established churches.

Religion or belief is about more than just doctrine. Fellowship with other believers, often called brothers or sisters, is also an important aspect of religion as a way of life. For a convert, the faith community can be a substitute for the family he or she lost in the conversion process. Therefore, the choice for a religious community is hardly ever based on doctrine alone. It is also about a sense of belonging and a loyalty to the person who introduced them to the community. As a result, new converts may have difficulties explaining why they joined a particular group, or what is the difference between this group and any other church or parish in the neighbourhood.

Summary

- Conversion from one religion to another or to none can provoke violent responses from the authorities and the family and therefore can be a ground for refugee protection.
- Stress and trauma linked to persecution and/or the flight out of the country can impact one's memory. Facts and sequence of events can be forgotten or remembered incorrectly as a result.
- Conversion is a process that goes through different stages. It is unrealistic to expect detailed factual knowledge about the new faith. The emphasis for the interview should be on the journey of faith and on changes in opinion and behaviour.
- Trust in the immigration official and the translator is crucial for an applicant to open up and share his or her story. The immigration officials should aim for a conversation rather than an interrogation.
- Religions or beliefs are no monolithic blocks and various expressions will all have their own jargon and specific rites and rules. Both the interviewer and the translator should have good knowledge of the peculiarities of the different religious strands and cultures and the language used therein.

Recommendations

- Immigration officials, interpreters, and representatives of various faith or belief communities are kindly recommended to put together a dictionary of various dogmatic and religious terms, practices, and festivals.
- Immigration services are kindly recommended to establish an internal helpdesk for religion or belief related questions. Immigration officials are to be encouraged to contact this helpdesk when dealing with a religiously motivated asylum application.
- The internal helpdesk should have a comprehensive and current picture of the Freedom of Religion or Belief situation and of the faith and belief communities present in the various countries of origin. This should include the national, regional, or local peculiarities of these communities.
- Immigration services are kindly recommended to establish an advisory council consisting of expert representatives of a wide variety of religion or belief communities. The advisory council can help immigration services

with interpreting the testimony of the applicant. In addition, representatives of the council can have an independent and more in-depth conversation with the applicant to get their assessment of the conversion story. These expert opinions should be added to the dossier and taken into account for the final decision.¹⁹

- All interviews with the applicant should be recorded and these recordings should be included in the dossier. All those involved might benefit from occasional joint reviews of some of these recordings to assess the quality of the questions, the translation, and the interpretation of the answers. Representatives of the internal helpdesk and of the advisory council could be invited to these sessions as well.

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Bibliography

- ¹ Case of Campbell and Cosans v. The United Kingdom, Application number 7511/76, 7743/76, 25 February 1982, para 36.
- ² CCPR General Comment 22: Article 18 (Freedom of Thought, Conscience or Religion), Human Rights Committee, 30 July 1993, CCPR/C/21/Rev.1/Add.4, para 2.
- ³ UNHCR 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, 28 April 2004, HCR/GIP/04/06, para 5.
- ⁴ Freedom to change one's religion as the acid test of religious freedom, Heiner Bielefeldt, in Islam and Christianity, Journal of the Institute of Islamic Studies, nr 1/2018 (page 41).
- ⁵ Idem, page 43.
- ⁶ Becoming Adult, Becoming Christian, James Fowler, Jossey-Bass; Revised edition, November 1, 1999.
- ⁷ Understanding Religious Conversion, Lewis Ray Rambo, Yale University Press, October 25, 1995.
- ⁸ Conversion – a Fascinating Phenomenon, Reinhard Strähler in Islam and Christianity, Journal of the Institute of Islamic Studies, nr 1/2018 (page 27).
- ⁹ Those who converted after they have fled their country of origin are called refugees "sur place". Same rules apply to those who converted in their country of origin, and those who converted later on, however, the latter might be met with some suspicion and more thorough interrogation.
- ¹⁰ See footnote 3, para 28.
- ¹¹ E.g. <https://time.com/3625414/rape-trauma-brain-memory/>
- ¹² Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, UNCHR, Geneva, Reissued February 2019, para 199.
- ¹³ Claims for Protection Based on Religion or Belief: Analysis and Proposed Conclusions. UNHCR Legal and Protection Policy Research Series, Karen Musalo, 2002, footnote 343 on page 54.
- ¹⁴ The research and documentation department of the Dutch Ministry of Justice and Security (WODC) reported about this in their memorandum 2019-2, see <https://www.wodc.nl/onderzoeksdatabase/2968-onderzoek-geloofwaardigheid-verzoeken-bekeerlingen-en-lhbt-ers.aspx> (with a summary in English)
- ¹⁵ See footnote 3, para 16.
- ¹⁶ Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, UNCHR, Geneva, Reissued February 2019, para 35.
- ¹⁷ Convention and protocol relating to the status of refugees, UNHCR, Geneva, December 2010, article 33.
- ¹⁸ This dictionary should go well beyond the main Christian denomination(s) of a particular nation.
- ¹⁹ See also: Claims for Protection Based on Religion or Belief: Analysis and Proposed Conclusions. UNHCR Legal and Protection Policy Research Series, Karen Musalo, 2002, Proposed Conclusion 12 on page 55.

The Evangelical Alliance was originally created in London in 1846. A number of founding members were representing European countries. The European Evangelical Alliance (EEA) was founded in 1951. The EEA exists to foster unity and evangelical identity and provide a voice and platform to 23 million European evangelical Christians. The mission of the EEA is to CONNECT for com-mon purpose, EQUIP for integral mission and REPRESENT with a united voice. It is a grassroots movement from all Protestant traditions present in 36 European countries. The Brussels office of the EEA promotes active citizenship of its constituency and represents it to the European Institutions.

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