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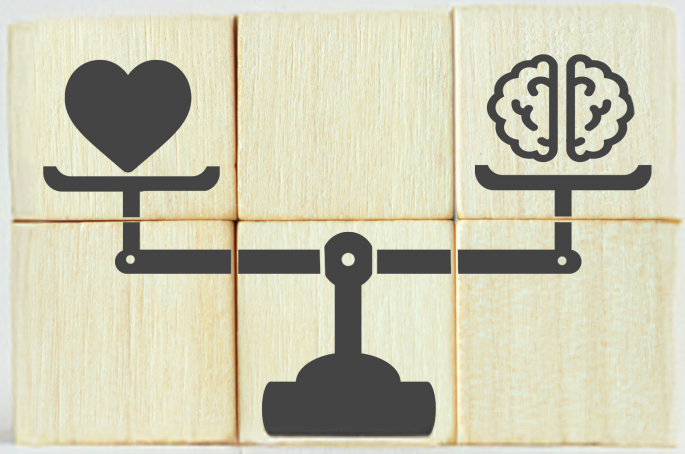
Soft Skills for International Protection Judges



November 2025

EUROPEAN UNION AGENCY FOR ASYLUM

Soft Skills for International Protection Judges

Judicial practical guide

November 2025

On 19 January 2022, the European Asylum Support Office (EASO) became the European Union Agency for Asylum (EUAA). All references to EASO and to EASO products and bodies should be understood as references to the EUAA.

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About the guide

Why was this guide created? The European Union Agency for Asylum (EUAA) supports the Member States of the European Union and the Schengen associated countries in implementing the common European asylum system. As part of this mission, the EUAA develops common standards, guidelines and tools, including support for judges working in the field of international protection.

Through its Courts and Tribunals Network and its pool of judicial experts, the EUAA identified a growing need for guidance on non-legal skills specific to international protection judges. In response, it launched targeted judicial activities, beginning with a 2022 meeting in Malta that focused on judicial skills beyond legal knowledge. This event brought together over 50 participants and featured contributions from judges, trainers and interdisciplinary experts.

Subsequent initiatives explored key themes such as language use in hearings, and in 2024 a pilot workshop was delivered for Greek appeals committee members on hearing applicants in asylum cases. This guide builds on those efforts to support the development of essential judicial skills in the international protection context. These judicial activities highlighted that the complex, multidisciplinary nature of international protection often poses four main challenges for judges and judicial trainers in building their skills.

1. **Identifying relevant skills.** Which specific skills are required for judges in international protection cases and which topics should be prioritised in training?
2. **Limited access to resources.** Key materials on these topics are often unavailable in the local language, making it difficult to access essential knowledge.
3. **Overly academic content.** Much of the existing literature is highly theoretical and written for academic audiences, making it hard to apply in practical judicial contexts.
4. **Need for practical tools.** Even when useful resources exist, it can be challenging to convert them into practical, operational tools tailored to judges and tribunal members.

This guide aims to address these core issues.

How was this guide developed? Building on key findings and the material developed during the activities outlined previously, the staff of the EUAA Courts and Tribunals Sector carried out research and prepared an initial draft. This draft was further developed under the editorial supervision of Judge Julian Phillips, a judicial training expert, an advisory group composed of five experts from the EUAA pool of judicial experts, one representative of the European Judicial Training Network and one representative of the United Nations High Commissioner for Refugees Representation for EU Affairs.

Consultations with the judicial training expert and the members of the advisory group took place in 2024 and the present version was endorsed by all parties involved.

The EUAA would like to extend its thanks to the members of the advisory group, namely Cindy Carroll, Dóra Virág Dudás, Friedrich Benjamin Schneider, Elizabeth Steendijk, Angela Tacea, the European Judicial Training Network and the United Nations High Commissioner for Refugees Representation for EU Affairs. The EUAA would also like to thank the members of the EUAA Courts and Tribunals Network, external experts and members of the pool of judicial experts, who, having expressed interest in the project, were also consulted for general feedback and proposals for additional resources.

Who should use this guide? This guide targets members of courts and tribunals working in the field of international protection with an interest in exploring further the soft skills required to perform their work.

To complement this guide, specific judicial training materials have been developed to provide reference tools for anyone wishing to shape transnational or national training on these crucial aspects of the decision-making process in this highly specialised area of the law. It is also relevant to national judicial training institutions and court administrations.

Furthermore, this guide aims to create awareness of the soft skills specific to international protection judges, with a **practical focus on conducting oral hearings**.

What if, as a judge, I do not conduct oral hearings in this field?

Depending on the national framework, **not all judges will conduct such hearings** and some will work exclusively on paper files. As will be highlighted in the guide (see Chapter 3 'Soft skills in the context of an international protection hearing'), many of the soft skills emphasised throughout will be of interest to you even if you do not conduct hearings.

How to use this guide. The guide provides short, practice-oriented explanations of some of the key soft skills identified. In addition, lists of suggested further reading and audiovisual materials are provided, including links to online resources. The overall objective is to **create awareness and lead decision-makers to explore their skill sets further**, with the goal of supporting quality decisions in line with international law and the EU *acquis*.

This guide is by no means intended to be comprehensive and cover all aspects of deciding on international protection cases. Soft skills arise in a variety of aspects of the work of an international protection judge, including research, evidence and credibility assessment, team management or even, for some, in their capacity as judicial trainers. The input received from international protection judges ensures that this publication is anchored in the **realities of their daily work**.

How does this guide relate to national legislation and practice? This is a soft convergence tool. Within the Member States and the Schengen associated countries, there are multiple legal systems and practices working in conjunction with the EU *acquis*.

In some systems, legal representatives may be involved. Some systems deal with protection challenges in an administrative forum outside the judicial process. This guidance must be read and adapted to suit national law and practice.

How does this guide relate to other EUAA tools? This judicial practical guide should be used in conjunction with other available EUAA practical guides and tools, including the EUAA judicial publications ([1]).

The practical guide should be used in conjunction with the EUAA judicial analyses on evidence and credibility ([2]) and on vulnerability ([3]).

All EUAA judicial publications are publicly available online on the EUAA website: https://euaa.europa.eu/asylum-knowledge/courts-and-tribunals.

Understanding the sourcing and referencing in the guide. This practical tool serves as an introduction, rather than a comprehensive publication on the subject at hand. To guide the reader to further explore the topics that are covered, sources and further reading are listed in these dedicated boxes throughout this guide.

Sources and further reading

The boxes contain the most current and relevant sources available online. Other sources are referred to in additional footnotes to the boxes.

Disclaimer

This guide was prepared without prejudice to the principle that only the Court of Justice of the European Union can give an authoritative interpretation of EU law.

([1]) EUAA judicial publications are available in the publications library on the EUAA website (https://euaa.europa.eu/publications?field_category_target_id=15212&language=en&field_geo_coverage_target_id=&field_keywords_target_id=&title=).

([2]) EUAA, 'Judicial analysis on evidence and credibility assessment in the context of the common European asylum system', 2nd edition, *EUAA Judicial Publications for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2023, https://euaa.europa.eu/publications/judicial-analysis-evidence-and-credibility-context-common-european-asylum-system.

([3]) EASO, 'Vulnerability in the context of applications for international protection – Judicial analysis', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2021, https://euaa.europa.eu/publications/judicial-analysis-vulnerability.

Contents

Abbreviations

Abbreviation	Definition
APR	Asylum Procedure Regulation – 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
CJEU	Court of Justice of the European Union
COI	country of origin information
EUAA	European Union Agency for Asylum
EU-OSHA	European Agency for Safety and Health at Work
ILO	International Labour Organization
PTSD	post-traumatic stress disorder
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime

1. Setting the stage: soft skills and judges

1.1. Soft skills in context

It is generally accepted that skills are the abilities and knowledge that enable a person to perform tasks effectively. Skills can be divided into different categories, including hard and soft skills ([4]). Hard skills are understood as technical abilities related to specific tasks or jobs, such as using software, processing a court file or having legal knowledge. They are often learned through formal training or education.

Soft skills, also called behavioural skills, are by contrast associated with non-technical abilities such as communication, time management and problem-solving. Their acquisition and implementation depend on individual characteristics but also on characteristics of the context and the interplay between the two. Soft skills are sometimes called transferable skills because they can be applied in various situations.

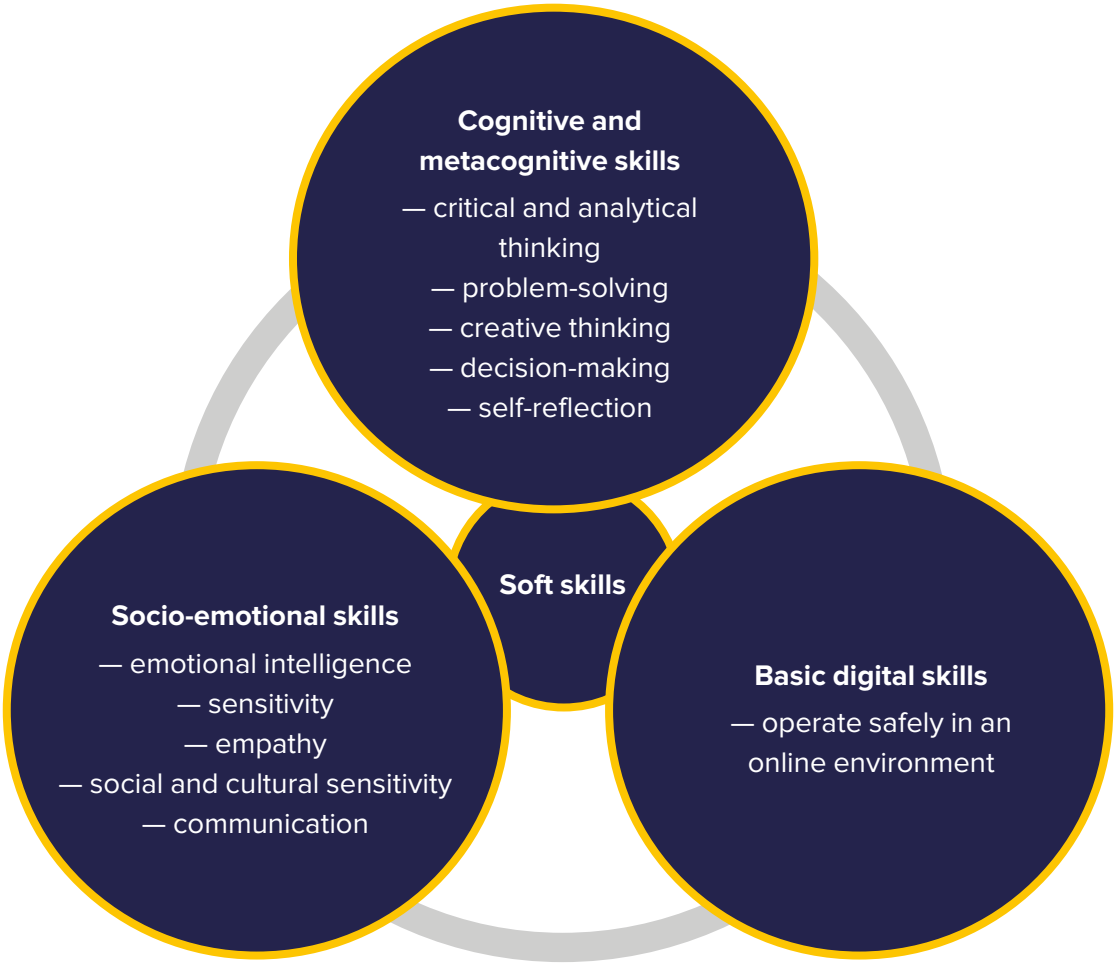
They are also considered personal skills, as they are flexible and unique to each person's personality and approach. Such skills can also be referred to as specific competences that are required to perform certain tasks or actions at work. Skills and competences are not the same as performance, but they are increasingly important in today's work environments.

While it is clear that they are key to human interaction, the importance of soft skills in the working environment is increasingly recognised. In one recent attempt to empirically map them ([5]), these skills were clustered into **socio-emotional skills**, **cognitive and metacognitive skills** and **basic digital skills**, as shown in Figure 1.

([4]) See, for example, United Nations Children's Fund (UNICEF), *Global Framework on Transferable Skills*, New York, 2019, https://www.unicef.org/media/64751/file/Global-framework-on-transferable-skills-2019.pdf.

([5]) See also Zahn, E.-M., Schöbel, S., Saqr, M. and Söllner, M., 'Mapping soft skills and further research directions for higher education: A bibliometric approach with structural topic modelling', *Studies in Higher Education*, Vol. 50, Issue 6, 2024, pp. 1055–1075, https://doi.org/10.1080/03075079.2024.2361831; *Social and Legal Studies*, Vol. 16, Issue 3, 2007 (special issue on judgecraft). See, in particular, Moorhead, R. and Cowan, D., 'Judgecraft: An introduction', *Social and Legal Studies*, Vol. 16, Issue 3, 2007, pp. 315–320, https://doi.org/10.1177/0964663907079761.

Figure 1. A map of the soft skills framework



Source: Adapted from International Labour Organization (ILO), *Global framework on core skills for life and work in the 21st century*, Geneva, 2021, https://labordoc.ilo.org/discovery/fulldisplay?context=L&vid=41ILO_INST:41ILO_V2&search_scope=ALL_ILO&tab=ALL_ILO&docid=alma995138892702676.

Beyond definitions and categorisations, being aware that such skills exist and that they have a direct impact on your work as a judge is key.

Sources and further reading

- European Commission for the Efficiency of Justice, 'Breaking up judges' isolation – Guidelines to improve the judge's skills and competences, strengthen knowledge sharing and collaboration, and move beyond a culture of judicial isolation', CEPEJ(2019)15, 6 December 2019, https://rm.coe.int/cepej-2019-15-en-knowledge-sharing/16809939e4.
- UNICEF, *Global Framework on Transferable Skills*, New York, 2019, https://www.unicef.org/media/64751/file/Global-framework-on-transferable-skills-2019.pdf.
- Zahn, E.-M., Schöbel, S., Saqr, M. and Söllner, M., 'Mapping soft skills and further research directions for higher education: A bibliometric approach with structural topic modelling', *Studies in Higher Education*, Vol. 50, Issue 6, 2024, pp. 1055–1075, https://doi.org/10.1080/03075079.2024.2361831.

1.2. Soft skills and judgecraft

When referring to soft skills in relation to judges, it is not uncommon for the term 'judgecraft' to be used, especially with regard to common law systems. It refers, broadly speaking, to how judges do their job, including everything that cannot be found in a book of law, evidence or procedure. This would also include aspects linked to their work surroundings, including the location of the court, bureaucratic pressures in relation to court administration and the management of relationships at work. Judicial behaviour and decision-making are also part of judgecraft.

It is increasingly recognised that judicial training should, in addition to hard skills, incorporate soft skills, otherwise known as judgecraft. The European Commission has, for example, set out a European judicial training strategy ([6]), which aims to consolidate a common European judicial culture based on the rule of law, fundamental rights and mutual trust. The strategy highlights the importance of equipping judicial practitioners – especially early-career judges – with multidisciplinary skills, including judgecraft and non-legal knowledge.

([6]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Ensuring justice in the EU – A European judicial training strategy for 2021–2024, COM(2020) 713 final of 2 December 2020, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52020DC0713.

Commission communication – Ensuring justice in the EU – A European judicial training strategy for 2021–2024 ([7])

Training in 'judgecraft' is central for the efficiency of justice, the relationship of trust between justice systems and members of the public, and trust between practitioners in cross-border cooperation. Key training topics for judges include judicial conduct, resilience, unconscious bias, case and courtroom management, and leadership.

Therefore, the European Judicial Training Network and national judicial training programmes are integrating more and more judgecraft into their respective curricula, as highlighted in the box below.

Examples of national and European judicial training in judgecraft

'Training trainers to train judgecraft' is one of the courses included in the European Judicial Training Network training catalogues ([8]). The aims of the course include defining the specific meaning of judgecraft in the national context and creating a judgecraft skills matrix that reflects the specific practices of those training the national judiciary.

In the prospectus issued for 2023–2024 by the Judicial College of the United Kingdom (UK) ([9]), the following notably fall under the category of judgecraft:

- the 'Faculty induction seminar', which aims to provide newly appointed coroners and court and tribunal judges with common skills and knowledge at the start of their judicial career that will complement their jurisdiction-specific induction and assist in achieving a fair hearing and a just result in all cases;
- the 'Confident judge' course, which aims to improve the confidence and resilience of judges when faced with challenging situations in courts and tribunals.

In this guide, the terms 'soft skills' and 'judgecraft' are used interchangeably.

([7]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Ensuring justice in the EU – A European judicial training strategy for 2021–2024, COM(2020) 713 final of 2 December 2020, Section 3 'Necessary components of practitioners' training beyond EU law', https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52020DC0713.

([8]) See, for instance, European Judicial Training Network, *2024 Catalogue of Training Activities*, Brussels, 2023, https://ejtn.eu/wp-content/uploads/2023/12/EJTN_catalogue_training_activities_2024.pdf.

([9]) Judicial College of the United Kingdom, *Judicial College Prospectus – 2023–2024*, London, 2023, https://www.judiciary.uk/wp-content/uploads/2023/11/Judicial-College-Prospectus-2023-2024.pdf.

Sources and further reading ([10])

- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Ensuring justice in the EU – A European judicial training strategy for 2021–2024, COM(2020) 713 final of 2 December 2020, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52020DC0713.
- Cahillane, L. and Lynch, C., 'The making of a good judge', *Judicial Selection Procedures in Ireland*, Irish Council for Civil Liberties, Dublin, 2024, pp. 5–10, accessed 10 September 2025, https://www.iccl.ie/wp-content/uploads/2024/12/COMBINED-JAC-REPORT-05.12.24.pdf and https://www.iccl.ie/?s=judicial+selection+procedures.
- Courts and Tribunals Judiciary of the United Kingdom, *Judicial Skills and Abilities Framework – 2025*, London, 2025, accessed 10 September 2025, https://www.judiciary.uk/guidance-and-resources/framework-of-judicial-abilities-and-qualities/ and https://www.judiciary.uk/wp-content/uploads/2025/07/Judicial-Skills-and-Abilities-Framework.pdf.
- Judicial College of the United Kingdom, *Equal Treatment Bench Book*, London, 2025, https://www.judiciary.uk/about-the-judiciary/diversity/equal-treatment-bench-book/.
- For an example of an agenda and course materials on judgecraft, see European Judicial Training Network, 'Seminar on "judgecraft" TM/2019/09', EJTN Portal, accessed 25 August 2025, https://portal.ejtn.eu/Catalogue/EJTN-funded-activities-2019/Seminar-on-Judgecraft—TM201909/#:~:text=Description%3A,but%20aimed%20directly%20at%20judges.

1.3. Soft skills in relation to judicial conduct

Working as a judge entails adhering to a specific set of standards and professional values, which set a reference for proper judicial conduct. These are covered by national frameworks, including oaths, guides on judicial conduct and ethical codes, and they have been codified at the international level.

The Bangalore Principles of Judicial Conduct are 'intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to offer the judiciary a framework for regulating judicial conduct' ([11]) based on the following core values: **independence, impartiality, integrity, propriety, equality of treatment, and competence and diligence**.

([10]) Other sources include National Judicial College of Australia, 'Attaining judicial excellence: A guide for the NJCA', November 2019, https://www.njca.com.au/wp-content/uploads/2023/03/Attaining-Judicial-Excellence.pdf.

([11]) Judicial Integrity Group, 'The Bangalore Principles of Judicial Conduct', Judicial Integrity Group website, accessed 25 August 2025, https://www.judicialintegritygroup.org/the-bangalore-principles.

The Bangalore Principles were initiated by the Judicial Integrity Group, which is:

> *an independent, autonomous, not-for-profit and voluntary entity, owned and driven by its members, all of whom are (or have been) heads of the judiciary or senior judges in their respective countries or at the regional or international level, enjoying independence from the executive, and who share common values and beliefs on the integrity of the judiciary and a determination to deepen and broaden the quality of the administration of justice in appropriate ways* ([12]).

As stated on the Judicial Integrity Group's website, the principles 'define [the meaning of the core values] and elaborate in detail on what kind of conduct is to be expected in concrete terms of the persons concerned to put the respective value into practice' ([13]). Several specific instructions are given under each of the values. In 2007, these principles were supported by further guidance and examples in the 'Commentary on the Bangalore Principles of Judicial Conduct'.

Table 1 highlights the Bangalore Principles, illustrated with examples of their practical application – taken from the Judicial Integrity Group's 'Commentary on the Bangalore Principles of Judicial Conduct' – that are of direct relevance to international protection judges.

([12]) Judicial Integrity Group, 'The group', Judicial Integrity Group website, accessed 25 August 2025, https://www.judicialintegritygroup.org/the-group.

([13]) Judicial Integrity Group, 'The Bangalore Principles of Judicial Conduct', Judicial Integrity Group website, accessed 25 August 2025, https://www.judicialintegritygroup.org/the-bangalore-principles.

Table 1. The Bangalore Principles of Judicial Conduct in practice

Value 1 – Independence	Value 2 – Impartiality
1.1. A judge shall exercise the judicial function independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.	2.1. A judge shall perform his or her judicial duties without favour, bias or prejudice. 2.2. A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.
Value 3 – Integrity	**Value 4 – Propriety**
3.1. A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer. 3.2. The behaviour and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.	4.1. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities. 4.6. A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.
Value 5 – Equality	**Value 6 – Competence and diligence**
5.1. A judge shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes ('irrelevant grounds'). 5.2. A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds. 5.5. A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy.	6.1. The judicial duties of a judge take precedence over all other activities. 6.3. A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.

Source: Extracted from Judicial Integrity Group, 'Commentary on the Bangalore Principles of Judicial Conduct', March 2007, https://judicialintegritygroup.org/images/resources/documents/BP_Commentary_Engl.pdf.

Some states have adopted the Bangalore Principles, while others have used them to shape their own principles of judicial conduct. Additionally, they have been endorsed, notably, by the United Nations ([14]).

In several European countries, the respective high councils of the judiciary ([15]) have adopted codes of conduct that constitute **soft law instruments**. These codes of conduct guiding judicial behaviour aim to establish a commitment on the part of judges to good conduct both in the exercise of their functions and in the aspects of their private life with repercussions on the functional performance and dignity of the position.

Complying with the Bangalore Principles and codes of conduct largely depends on soft skills, as will become clear in the following chapters. This is the case especially when coping with **bias, language and cultural differences**. For instance, as a result of the value of impartiality, a decision must not be influenced by the fact that an applicant has a religious background different from that of the judge. Only a judge who is culturally sensitive to these differences will be able to avoid incorrect perceptions about the applicant.

In 2024, the European Law Institute published the *ELI–Mount Scopus European Standards of Judicial Independence* ([16]), which reaffirm the Bangalore Principles from a modern European perspective. In particular, the standards set out clear principles to safeguard the judiciary as a cornerstone of democracy and the rule of law. They emphasise judges' independence from political and external pressures, merit-based appointments and promotions, transparent governance, fair and impartial disciplinary systems and high ethical standards adapted to modern challenges such as digitalisation and social media. By strengthening institutional safeguards, promoting public trust and ensuring accountability without undermining autonomy, the standards aim to prevent the political capture of courts, enhance transparency and provide a common European benchmark for judicial reforms and the protection of fundamental rights.

When analysing the concept of **impartiality and judicial independence from the perspective of EU law**, it is important to start by citing the Charter of Fundamental Rights of the European Union. Indeed, in accordance with Article 47, second paragraph, of the charter, 'everyone is

([14]) Judicial Integrity Group, 'The Bangalore Principles of Judicial Conduct', Judicial Integrity Group website, accessed 20 February 2025, https://judicialintegritygroup.org/the-bangalore-principles:

> *The United Nations Social and Economic Council … has invited member States consistent with their domestic legal systems to encourage their judiciaries to take into consideration the Bangalore Principles of Judicial Conduct when reviewing or developing rules with respect to the professional and ethical conduct of the members of the judiciary. The United Nations Office on Drugs and Crime has actively supported it and it has also received recognition from bodies such as the American Bar Association and the International Commission of Jurists.*

See also UN Economic and Social Council Resolution 2006/23, 'Strengthening basic principles of judicial conduct', E/RES/2006/23, 27 July 2006, accessed 20 February 2025, https://www.refworld.org/legal/resolution/ecosoc/2006/en/47016.

([15]) Following, in particular, the Bangalore Principles for Judicial Conduct, the guide on developing and implementing codes of judicial conduct produced by the Global Judicial Integrity Network and various opinions of the Consultative Council of European Judges with reference to ethical principles and rules.

([16]) European Law Institute, *ELI–Mount Scopus European Standards of Judicial Independence*, Vienna, 2024, https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Publications/ELI-Mount_Scopus_European_Standards_of_Judicial_Independence.pdf.

entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law' ([17]).

The European Court of Human Rights interprets the principle of impartiality under Article 6(1) of the European Convention on Human Rights, which ensures a fair trial. Impartiality is understood as 'the absence of prejudice or bias' ([18]) and can be tested through two complementary tests, as follows.

- The **subjective test** examines the personal bias of the decision-maker, ensuring that judges are impartial and do not allow personal prejudices to influence their decisions.
- The **objective test** considers whether the circumstances would lead a reasonable observer to perceive a lack of impartiality. These tests ensure that asylum claims are assessed not only without actual bias but also without any appearance of bias, fostering trust in the fairness of the process.

Equality, as laid down in Articles 20 and 21 of the Charter of Fundamental Rights of the European Union and Article 14 of the European Convention on Human Rights, prohibits discrimination and guarantees equal treatment, ensuring that all asylum seekers, regardless of race, religion or origin, receive fair consideration.

Being aware of soft skills in relation to judicial conduct, including impartiality, is paramount, as they can affect how international protection standards are applied in each case.

Sources and further reading ([19])

- Bogdan, D., 'Ethics and judicial integrity under the Bangalore Principles', *RAIS Journal for Social Sciences*, Vol. 7, Issue 2, 2023, pp. 50–54, https://doi.org/10.5281/zenodo.10161416.
- Canadian Judicial Council, *Ethical Principles for Judges*, Ottawa, 2021, https://cjc-ccm.ca/sites/default/files/documents/2021/CJC_20-301_Ethical-Principles_Bilingual%20FINAL.pdf.

([17]) Charter of Fundamental Rights of the European Union (OJ C 326, 26.10.2012, p. 391, ELI: http://data.europa.eu/eli/treaty/char_2012/oj).

([18]) European Court of Human Rights, judgment of 23 April 2015, *Morice* v *France*, No 29369/10, ECLI:CE:ECHR:2015:0423JUD002936910, para. 73, https://hudoc.echr.coe.int/eng?i=001-154265; see also European Court of Human Rights, judgment of 15 October 2009, *Micallef* v *Malta*, No 17056/06, ECLI:CE:ECHR:2009:1015JUD001705606, paras 93–99, https://hudoc.echr.coe.int/eng?i=001-95031.

([19]) Other sources include Bwalya, L. 'The Bangalore Principles of Judicial Conduct: Judges as arbitrators', *Alternative Dispute Resolution*, Vol. 9, No 4, 2021, pp. 38–56; Danish Judges' Association, 'Ethical principles for judges', 24 October 2014, https://www.dommerforeningen.dk/english/ethical-principles-for-judges/; Judicial Council of Ireland, 'Guidelines for the judiciary on conduct and ethics', 4 February 2022, https://judicialcouncil.ie/assets/uploads/documents/Guidelines%20for%20Judicial%20Conduct%20and%20Ethics.pdf; Norwegian Courts Administration, 'Ethical principles for Norwegian judges', 1 October 2010, https://www.domstol.no/globalassets/upload/internasjonalt/ethical-principles-for-the-proper-conduct-of-norwegian-judges.pdf; UN, 'Code of conduct for the judges of the United Nations Dispute Tribunal and the United Nations Appeals Tribunal', https://www.un.org/es/internaljustice/pdfs/Code_judges_(EN).pdf.

- Council of Europe, European Charter on the Statute for Judges, DAJ/DOC(98) 23, 1998, https://rm.coe.int/090000168092934f.
- Council of Europe: Committee of Ministers, Recommendation of the Committee of Ministers to member states on judges: Independence, efficiency and responsibilities (adopted by the Committee of Ministers on 17 November 2010 at the 1 098th meeting of the ministers' deputies), CM/Rec(2010)12, 17 November 2010, https://search.coe.int/cm?i=09000016805afb78.
- EASO, 'Judicial analysis – Asylum procedures and the principle of *non-refoulement*', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2018, pp. 131–141, https://euaa.europa.eu/publications/judicial-analysis-asylum-procedures-and-principle-non-refoulement.
- European Law Institute, *ELI–Mount Scopus European Standards of Judicial Independence*, Vienna, 2024, https://www.europeanlawinstitute.eu/fileadmin/user_upload/p_eli/Publications/ELI-Mount_Scopus_European_Standards_of_Judicial_Independence.pdf.
- International Association of Judges: European Association of Judges, Judges' Charter in Europe, 1993, https://www.iaj-uim.org/iuw/wp-content/uploads/2013/01/Statuto-Giudice-EAJ.pdf.
- International Criminal Court, *Code of Judicial Ethics*, ICC-BD/02-03-22, The Hague, 2022, https://www.icc-cpi.int/sites/default/files/2022-10/A5-09.Code%20of%20Judicial%20Ethics-EN-v.3.pdf.
- Judicial Integrity Group, 'The Bangalore Principles of Judicial Conduct', Judicial Integrity Group website, accessed 25 August 2025, https://www.judicialintegritygroup.org/the-bangalore-principles.
- Judicial Integrity Group, 'Commentary on the Bangalore Principles of Judicial Conduct', March 2007, https://judicialintegritygroup.org/images/resources/documents/BP_Commentary_Engl.pdf.
- Mak, E., Graaf, N. and Jackson, E., 'The framework for judicial cooperation in the European Union: Unpacking the ethical, legal and institutional dimensions of "judicial culture"', *Utrecht Journal of International and European Law*, Vol. 34, Issue 1, 2018, pp. 24–44 (see in particular pp. 31–33), https://doi.org/10.5334/ujiel.452.

2. From concepts to reality: defining a judicial skill set specific to international protection judges

A judicial skill set comprises tangible and intangible elements essential for fair and effective decision-making. Tangible skills include case knowledge, communication abilities, listening skills and the interpretation of body language. Intangible factors, such as personality traits, also significantly influence judicial performance. These can include positive attributes as well as challenges such as impatience, poor listening skills, lack of preparation, bias, prejudgement or stereotyping.

Additionally, a judge's capacity to navigate external factors is crucial. These factors include time pressure, heavy workloads, repetitive tasks or cases and frequent exposure to human suffering, all of which are inherent to their professional environment. A judge's personal background, including experiences, cultural influences and gender, also shapes their perspective and approach to their role.

In the context of an international protection case – especially, as will be seen in the later chapters of this guide, in the context of hearings – there will often be human interaction between individuals of different cultural, social and educational backgrounds. The judge and the applicant will be from different regions and countries of the world. Very often, the judge and the applicant will use different languages to communicate, and, for this, they will require an interpreter. In addition, owing to the nature of the proceedings, the judge will be interacting with individuals with a high probability of vulnerability.

Broadly speaking, the need to make use of specific competences derives from factors inherent to the working environment, to the interaction with the applicant (and others present at the hearing) and to you, as a judge working in the field of international protection.

Through some of the key concepts that make the work of international protection judges so unique, this section highlights the relevant soft skills to be considered and their potential impact on the examination of a case.

2.1. Recognising biases and strategies to fight them

2.1.1. Introduction to bias in the context of the judiciary

Bias is an inevitable part of human decision-making, affecting judgements, actions and perceptions. In judicial settings, biases can significantly influence the fairness of decisions, particularly in emotionally and politically sensitive cases such as asylum hearings. Bias can stem from upbringing, ingrained beliefs, personal experiences, media and social environments.

It is characteristic of human thinking, and bias affects all our actions and decisions. Being completely unbiased is impossible.

This section explores different types of bias, how they might materialise in the context of an international protection appeal and some resources to mitigate them.

(a) Mapping biases

Definition of bias

For the purpose of this guide, bias is understood as any form of prejudice, preconceived notion or undue influence – whether conscious or unconscious – that affects the impartiality of decision-making in the asylum process ([20]).

Aside from the general definition, bias in the judicial process, particularly in asylum cases, can generally be divided into two key clusters: **conscious and unconscious biases**.

Conscious and unconscious biases stem from deeply ingrained stereotypes or societal influences based on factors such as race, gender or socioeconomic background. Judges may hold explicit biases they are aware of or implicit biases that affect their decisions without their conscious awareness.

Table 2 lists and defines some of the different types of bias, which frequently overlap in practice. A specific example is provided for each type of bias. Most types of bias can be either conscious or unconscious.

Table 2. Types of bias

Type	Definition	Example
Conscious bias	Conscious prejudice based on race, gender, ethnicity, etc.	A judge distrusts asylum seekers from a specific region, leading to discriminatory decisions
Unconscious bias	Unconscious bias that influences decisions without the individual's awareness	A judge unconsciously associates certain ethnic groups with dishonesty, affecting their credibility judgement

([20]) Murphy, N., 'Types of bias', CPD Online College website, 14 May 2025 (10 November 2021), accessed 20 February 2025, https://cpdonline.co.uk/knowledge-base/safeguarding/types-of-bias; Nugent, D. C., 'Judicial bias', *Cleveland State Law Review*, Vol. 42, Issue 1, 1994, pp. 1–59, https://engagedscholarship.csuohio.edu/clevstlrev/vol42/iss1/10; Kang, J., Bennett, M., Carbado, D., Casey, P., Dasgupta, N. et al., 'Implicit bias in the courtroom', *UCLA Law Review*, Vol. 59, Issue 5, 2012, pp. 1124–1186, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2026540; Breger, M. L., 'Making the invisible visible: Exploring implicit bias, judicial diversity, and the bench trial', *University of Richmond Law Review*, Vol. 53, Issue 4, 2019, pp. 1039–1083, https://scholarship.richmond.edu/cgi/viewcontent.cgi?article=3264&context=lawreview.

Type	Definition	Example
Identity bias	Personal characteristics such as age, gender or ethnicity affect judgement	A judge sympathises with individuals who share their background or characteristics
Ideology bias	Personal, political or philosophical beliefs influence decision-making	A judge's scepticism towards immigration leads them to view asylum claims more critically, or a judge's scepticism towards the national authority leads them to view asylum claims more favourably
Cultural bias	The interpretation of information is influenced by standards characterising one's cultural background	A judge may dismiss the applicant's fear of harmful spirits, as they are considered irrational in Western culture
Religious bias	Bias based on a person's religious beliefs or practices	A judge who follows religion A believes their religion is superior to religion B, leading them to dismiss the cultural or moral significance of the applicant's actions justified by religion B
Gender bias	Judgements based on stereotypical views about gender roles and characteristics	A female applicant involved in activism is viewed as less vulnerable, affecting the protection ruling
Racial or ethnic bias	Prejudice based on race or ethnicity	A judge views asylum seekers from a certain ethnic group with more scepticism
Socioeconomic bias	Bias based on an individual's socioeconomic background	A judge struggles to relate to the hardships experienced by an applicant from a different socioeconomic background
Cognitive bias	Mental shortcuts or tendencies that distort judgement and decision-making. These biases influence how information is processed, how evidence is interpreted and how decisions are ultimately reached. Cognitive biases can affect any part of the asylum decision-making, from the initial perception of a case to the final decision	A judge's perception of events in a certain country is inaccurate due to a misunderstanding of or misinformation in media reporting

Type	Definition	Example
Affect heuristic	Decisions are influenced by emotions rather than objective facts	A judge feels sympathy for an applicant, leading to a more favourable ruling
Affinity bias	Favouring individuals who share similar experiences or backgrounds	A judge views an applicant with a similar educational background as more credible
Anchoring bias	Over-reliance on the first piece of information encountered	Pre-hearing information negatively influences the judge's perception of the applicant
Attribution bias	Attributing behaviour to internal characteristics rather than external factors	Nervousness during a hearing is interpreted as dishonesty rather than stress
Confirmation bias	Focusing on information that confirms pre-existing beliefs, ignoring contrary evidence	A judge overlooks favourable evidence in favour of inconsistencies that confirm initial doubts about credibility
Contrast effect	Judging a case in comparison to others rather than on its own merits	After hearing a credible asylum claim, a judge becomes increasingly sceptical of subsequent claims based on similar facts
Framing effect	Decisions are influenced by how information is presented rather than its content	A question framed as 'Why did you change religion despite knowing the risks?' assumes that changing religion was a risky and potentially reckless decision
Horns or halo effect	Letting one positive or negative trait influence overall judgement	A rude applicant is judged as lacking overall credibility due to their behaviour in the hearing
Overconfidence bias	Overestimating one's ability to remain unbiased, leading to unrecognised errors	A judge believes they are immune to bias, overlooking potential mistakes in their judgement

Sources and further reading ([21])

- Colaicovo, I., 'Not just the facts: Adjudicator bias and decisions of the Immigration and Refugee Board of Canada (2006–2011)', *Journal on Migration and Human Security*, Vol. 1, Issue 4, 2013, pp. 122–147, https://doi.org/10.1177/233150241300100401.
- Glyniadaki, K., 'Deciding on asylum dilemmas: A conflict between role and person identities for asylum judges', *Journal of Ethnic and Migration Studies*, Vol. 50, Issue 12, 2024, pp. 2879–2898, https://doi.org/10.1080/1369183X.2024.2311645.
- Herlihy, J., Jobson, L. and Turner, S., 'Just tell us what happened to you: Autobiographical memory and seeking asylum', *Applied Cognitive Psychology*, Vol. 26, Issue 5, 2012, pp. 661–676, https://doi.org/10.1002/acp.2852.
- Murphy, N., 'Types of bias', CPD Online College website, 14 May 2025 (10 November 2021), accessed 20 February 2025, https://cpdonline.co.uk/knowledge-base/safeguarding/types-of-bias.
- Neitz, M. B., 'Socioeconomic bias in the judiciary', *Cleveland State Law Review*, Vol. 61, Issue 1, 2013. pp. 138–165, https://engagedscholarship.csuohio.edu/cgi/viewcontent.cgi?article=1399&context=clevstlrev.
- Nikolopoulou, K., 'What is cognitive bias? Definition, types and examples', Scribbr website, 14 January 2025 (11 November 2022), accessed 20 February 2025, https://www.scribbr.com/research-bias/cognitive-bias/.
- Nugent, D. C., 'Judicial bias', *Cleveland State Law Review*, Vol. 42, Issue 1, 1994, pp. 1–59, https://engagedscholarship.csuohio.edu/clevstlrev/vol42/iss1/10.
- Perera, A., 'Halo effect in psychology: Definition and examples', Simply Psychology website, 7 September 2023, accessed 20 February 2025, https://www.simplypsychology.org/halo-effect.html.
- Selim, H., Korkman, J., Nynäs, P., Pirjatanniemi, E. and Antfolk, J., 'A review of psycho-legal issues in credibility assessments of asylum claims based on religion', *Psychiatry, Psychology and Law*, Vol. 30, Issue 6, 2023, pp. 760–788, https://doi.org/10.1080/13218719.2022.2116611.
- The Decision Lab, 'Why do we compare everything to the first piece of information we received?', The Decision Lab website, accessed 20 February 2025, https://thedecisionlab.com/biases/anchoring-bias.

([21]) Other sources include Australian Law Reform Commission, 'Without fear or favour: Judicial impartiality and the law on bias', *ALRC Reports*, No 138, Brisbane, 2021, https://www.alrc.gov.au/publication/ji-report-138/; Dahl, M., Patel, D. N. and Hall. M. E. K., 'The dogma within? Examining religious bias in private Title VII claims', *Journal of Empirical Legal Studies*, Vol. 18, Issue 4, 2021, pp. 742–764, https://doi.org/10.1111/jels.12298; Verhaeghe, L., Jacobs, M. and Maryns, K., 'Discursive tensions of credibility and performance in assessing lesbian refugee claims for international protection', *Journal of International Migration and Integration*, Vol. 24, 2023, pp. 769–790, https://doi.org/10.1007/s12134-023-01009-9; Zisakou, S., 'Credibility assessment in asylum claims based on sexual orientation by the Greek Asylum Service: A deep-rooted culture of disbelief', *Frontiers in Human Dynamics*, Vol. 3, 2021, pp. 1–15, https://doi.org/10.3389/fhumd.2021.693308.

2.1.2. How can I mitigate bias?

Judges play a critical role in ensuring fair and unbiased decisions. Here are several practical strategies that can help judges recognise and overcome bias at a personal level.

- **Recognise the existence of bias**
  - **Why is it important?** The first step in addressing bias is acknowledging that it exists. Everyone, regardless of experience, is susceptible to both conscious and unconscious biases. Recognising this is essential for implementing strategies to address bias. The recognition and acknowledgement of our conscious biases helps us to uncover our unconscious biases.
  - **Action.** Take time to reflect regularly on the possibility of biases influencing your decisions. Awareness is the foundation for change.
- **Self-reflection and assessment**
  - **Why is it important?** Self-reflection allows you to identify the biases that may influence your judgement. Regular self-assessment exercises can highlight which types of biases are more likely to affect you personally.
  - **Action.** Implement a routine self-assessment after hearings to examine where bias may have played a role. By doing this regularly, you become more aware of your potential for bias and can actively adjust your overall mindset and your behaviour during hearings.
- **Exposure to diverse environments**
  - **Why is it important?** Being exposed to individuals from different backgrounds broadens your understanding of diverse perspectives, which can reduce both conscious and unconscious bias.
  - **Action.** Seek opportunities to engage with people from various socioeconomic, cultural and professional backgrounds. This will enhance your ability to approach each case with an open mind.
- **Use of checklists**
  - **Why is it important?** Checklists help structure your decision-making process, reducing the influence of memory-based biases and errors. They also ensure that all relevant aspects of a case are considered systematically. For further guidance on how to create structured approaches to the decision-making process, consult the *Equal Treatment Bench Book* by the Judicial College of the United Kingdom ([22]).

([22]) Judicial College of the United Kingdom, *Equal Treatment Bench Book*, London, 2025, https://www.judiciary.uk/about-the-judiciary/diversity/equal-treatment-bench-book/.

- **Action.** Develop or use existing checklists during different stages of the decision-making process. These should encourage best practices, such as prompting reflection on possible biases during the case. Make sure the use of checklists follows training on recognising and addressing biases.

Bias checklist in international protection cases

This checklist will support you during the decision-making process.

Pre-hearing review

☐ Have I fully reviewed the case file without forming premature conclusions?

☐ What are my initial thoughts, having reviewed the case file? Could these be influenced by stereotypes or preconceptions about the applicant's background (e.g. ethnicity, gender or socioeconomic status)?

☐ Do I identify any biases in the first instance interview/decision?

During the hearing

☐ Am I asking open-ended questions that allow the applicant to explain their situation without leading them towards specific answers?

☐ Am I remaining neutral in tone and body language, ensuring I am not communicating scepticism or agreement prematurely?

☐ Could I be unconsciously favouring the applicant due to perceived similarities (affinity bias)?

☐ Are my reactions to non-verbal clues (e.g. demeanour, nervousness) and my assessment influenced by attribution or cultural bias?

Post-hearing review

☐ Have I reviewed all the evidence, ensuring I am not favouring evidence that confirms my initial assumptions (confirmation bias)?

☐ Am I evaluating the applicant's testimony based solely on the facts of the case, without comparing it to previous cases (contrast effect)?

☐ Could my final decision be influenced by my emotional response to the case, rather than objective analysis (affect heuristic)?

2.1.3. Tips and techniques for courts

This section provides practical strategies to help courts combat bias in the decision-making process, with a focus on training, guidelines and self-assessment methods. Implementing these strategies can enhance fairness and reduce the influence of unconscious biases.

(a) Training for judges

Providing regular training for both new and experienced judges is one of the most effective ways to address bias. Training should focus on the origins and effects of bias in judicial processes.

Below are key elements to consider when organising training sessions.

- **Tailored training for judges.** Sessions should be designed exclusively for judges. This creates a comfortable environment where judges can openly share experiences and understand that bias is a challenge faced by everyone in the profession.
- **Cultural sensitivity and competence.** Include sessions that focus on understanding the cultural contexts of applicants. This can prevent misunderstandings of behaviours and statements influenced by cultural differences.
- **Diverse trainers.** Invite trainers from various fields such as psychology, anthropology, law and ethnography, along with individuals from varied ethnic, social and gender backgrounds. This diversity will offer judges multiple perspectives and tools to address bias.
- **Interactive approaches.** Use a variety of methods – not only lectures but also interactive methods such as working groups, case studies, moot court exercises or discussions with recognised refugees. This encourages discussion and deeper reflection on bias ([23]).

(b) Development of guidelines

Courts can develop internal guidelines on recognising and addressing bias. These guidelines should:

- be grounded in counter-bias training;
- include practical examples and exercises;
- serve as a reference for judges when facing potential bias in their cases.

(c) Structured decision-making tools

Providing **standardised protocols and checklists** ensures that judges assess cases using consistent criteria. This reduces the risk of personal biases creeping into decision-making and ensures a more objective approach to each case.

([23]) Smith, M., Hyman, M. B. and Redfield, S. E., 'Addressing bias among judges', State Court Report website, 14 September 2023, accessed 20 February 2025, https://statecourtreport.org/our-work/analysis-opinion/addressing-bias-among-judges.

(d) Regular bias audits and peer reviews

A **bias audit** is a systematic review process used to identify and address patterns of bias in decision-making. It involves collecting data, analysing outcomes and assessing whether biases influence judgements. **Peer reviews** contribute to maintaining impartiality in the following ways.

- **Peer feedback and observing hearings.** Encouraging peer reviews (also known as appraisals) and constructive feedback allows judges to identify unconscious biases and make corrective adjustments. Observing other judges' hearings can provide valuable insights into different approaches and highlight unconscious biases in action, fostering self-reflection and professional growth.
- **Discussions of difficult cases.** Reviewing challenging cases with peers provides judges with different perspectives and reduces the risk of bias.

(e) Improving decision-making conditions

Factors such as heavy caseloads, time pressure and psychological fatigue can increase the likelihood of biased decision-making ([24]). Minimising stress and **cognitive overload** can be achieved by:

- monitoring workloads and ensuring that judges have enough time to consider each case thoroughly without heavy workloads affecting the quality of their work ([25]);
- creating a working environment that supports psychological well-being, reducing the impact of stress on decision-making.

(f) Self-assessment tools

Courts can encourage judges to use **self-assessment tools** to understand and address their biases. One effective tool is the **implicit association test (IAT)**, a computerised test created as a result of a Harvard University research project called Project Implicit ([26]). This test helps individuals recognise implicit attitudes and stereotypes related to social groups ([27]).

(g) Increasing responsiveness

Courts can improve responsiveness in the following ways.

- **Statistical analysis.** This helps identify patterns of potential bias across multiple cases, safeguarding judicial independence by focusing on systemic trends rather

([24]) Kang, J., Bennett, M., Carbado, D., Casey, P., Dasgupta, N. et al., 'Implicit bias in the courtroom', *UCLA Law Review*, Vol. 59, Issue 5, 2012, pp. 1124–1186, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2026540.

([25]) For more information, consult Gill, N., Hoellerer, N., Hambly, J. and Fisher, D., *Inside Asylum Appeals – Access, participation and procedure in Europe*, Routledge, Abingdon, 2024, https://doi.org/10.4324/9781003295365 .

([26]) Project Implicit, 'Preliminary information', Project Implicit website, accessed 20 February 2025, https://implicit.harvard.edu/implicit/takeatest.html.

([27]) Kang, J., Bennett, M., Carbado, D., Casey, P., Dasgupta, N. et al., 'Implicit bias in the courtroom', *UCLA Law Review*, Vol. 59, Issue 5, 2012, pp. 1124–1186, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2026540.

than individual decisions. This approach promotes fairness while maintaining judicial autonomy.

- **Sophisticated platforms.** Courts can invest in platforms that allow judges to assess their decisions for bias over time, helping them make more informed and impartial judgements.

By incorporating these strategies, courts can foster a fairer, more balanced decision-making process, free from the undue influence of bias.

Sources and further reading

- Australian Law Reform Commission, 'Without fear or favour: Judicial impartiality and the law on bias', *ALRC Reports*, No 138, Brisbane, 2021, Chap. 12, https://www.alrc.gov.au/publication/ji-report-138/.
- Breger, M. L., 'Making the invisible visible: Exploring implicit bias, judicial diversity, and the bench trial', *University of Richmond Law Review*, Vol. 53, Issue 4, 2019, pp. 1039–1083, https://scholarship.richmond.edu/cgi/viewcontent.cgi?article=3264&context=lawreview.
- Canadian Judicial Council, *Ethical Principles for Judges*, Ottawa, 2021, https://cjc-ccm.ca/sites/default/files/documents/2021/CJC_20–301_Ethical-Principles_Bilingual%20FINAL.pdf.
- Casey, P. M., Warren, R. K., Cheesman, F. L. and Elek, J. K., *Helping Courts Address Implicit Bias – Resources for education*, National Center for State Courts, Williamsburg, 2012, https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/246/
- Kang, J., Bennett, M., Carbado, D., Casey, P., Dasgupta, N. et al., 'Implicit bias in the courtroom', *UCLA Law Review*, Vol. 59, Issue 5, 2012, pp. 1124–1186, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2026540.
- Krämer, W. and Kahneman, D., 'Thinking, fast and slow', *Statistical Papers*, Vol. 55, 2014, p. 915, https://doi.org/10.1007/s00362-013-0533-y.
- Marsh, S. C., 'The lens of implicit bias', *Juvenile and Family Justice Today*, summer 2009, https://www.ncjfcj.org/wp-content/uploads/2012/09/The-Lens-of-Implicit-Bias_0.pdf.
- Monteith, K., Quinn, E., Dennis, A. L., Joseph-Salisbury, R., Kane, E. et al., *Racial Bias and the Bench – A response to the judicial diversity and inclusion strategy (2020–2025)*, University of Manchester, 2024, https://documents.manchester.ac.uk/display.aspx?DocID=64125.
- Smith, M., Hyman, M. B. and Redfield, S. E., 'Addressing bias among judges', State Court Report website, 14 September 2023, accessed 20 February 2025, https://statecourtreport.org/our-work/analysis-opinion/addressing-bias-among-judges.
- *The Guardian*, 'Are you prejudiced? Take the implicit association test', 7 March 2009, accessed 21 February 2025, https://www.theguardian.com/lifeandstyle/2009/mar/07/implicit-association-test.

2.2. Cultural and linguistic challenges

2.2.1. How might culture affect your work as an asylum judge?

Culture is:

> *a fuzzy set of basic assumptions and values, orientations to life, beliefs, policies, procedures and behavioural conventions that are shared by a group of people, and that influence (but do not determine) each member's behaviour and his/her interpretations of the 'meaning' of other people's behaviour* ([28]).

As such, culture can be the foundation of bias, but it is also important to recognise that cultural indoctrination affects those who appear before you and the accounts that they give.

The asylum procedure typically involves participants from diverse cultural backgrounds, and their interaction is affected by their personal, professional and cultural affiliations. The cultural background of the judge is likely to be different, often very different, from the cultural background of the applicant. As a judge, you need to be aware of your own and the applicants' cultural backgrounds and the potential conflict of understanding that they may generate.

In the asylum procedure, distortions connected to culture can occur for many reasons. A (non-exhaustive) list follows.

- Culture affects the interpretation of behaviour.
- The interpretation of the information exchanged is connected to culture-specific concepts (e.g. the concept of family in Western society is typically associated with parents and children, while in other regions it is much wider in terms of scope).
- Participants have different perceptions of the circumstances of the case due to differing personal experiences, gender roles and educational levels.
- Participants have different perceptions of non-verbal communication, body language and emotions that do not fit the dominant cultural assumptions.
- Having an open conversation and being able to express one's feelings, especially when it comes to personal and psychological issues, is very much dependent on the culture of the person. Some people see this as an expression of vulgarity or lack of education. Sharing personal information in front of strangers may be considered a public humiliation, with saving face and maintaining respect being of the utmost value.

All these distortions can lead to being 'locked into' your cultural identity and can create a 'clash of cultures'. Different values, beliefs and perceptions about concepts in the world can therefore have an influence on the outcome of the asylum procedure.

([28]) Spencer-Oatey, H., *Culturally Speaking – Culture, communication and politeness theory*, 2nd edition, Continuum, London, 2008.

What is a relevant circumstance for decision-making can be perceived as 'everyday life' by the applicant (e.g. gunfire, if living in a conflict zone).

A judge might expect that an applicant will provide all the information they have, but that is not always the case if the applicant comes from a culture where the fear of authority is persistent. In addition, the expected behaviour towards authorities may differ, so the applicant might not dare to contradict someone in a position of authority, or they might say what they think they are expected to say.

Their level of education, which is often connected to their cultural background, can also affect the way an applicant is able to grasp certain notions and articulate responses.

Furthermore, aspects that are central to the judge's credibility assessment, in terms of consistency, such as age, times or (birth) dates and distances, might be irrelevant in certain cultural contexts.

In some societies, being laconic is customary and can signify respect or thoughtfulness, while gender dynamics may further inhibit open expression, particularly for women.

According to the Office of the United Nations High Commissioner for Refugees (UNHCR):

> *The gender, cultural, and educational background of an applicant may affect his or her ability to relate his or her account to the interviewer. A woman, for instance, may lack experience of and confidence in communicating with figures of authority. A woman, for instance, may be unaccustomed to communicating with strangers and/or persons in public positions due to a background of social seclusion and/or social mores dictating that, for example, a male relative speaks on her behalf in public situations. In addition, it may be common for a female applicant to be deferential in her country of origin or place of habitual residence. Male applicants may also find it difficult to discuss aspects of their past and present experiences that may be at variance with their expected gender roles in their society. Such factors may account for brief, vague or apparently inconsistent responses* ([29]).

([29]) UNHCR, *Beyond Proof – Credibility assessment in EU asylum systems*, Brussels, 2013, p. 70, https://www.unhcr.org/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems.

Sources and further reading ([30])

- Arajärvi, N., 'Cultural expertise and international human rights law', in: Holden, L. (ed.), *Cultural Expertise, Law, and Rights: A comprehensive guide*, Routledge, Abingdon, 2023, pp. 188–200, https://cadmus.eui.eu/bitstream/handle/1814/76372/Cultural_expertise_and_international_BC_2023.pdf?sequence=1&isAllowed=y.
- Conlan, S., Waters, S. and Berg, K., *Difficult to Believe – The assessment of asylum claims in Ireland*, Irish Refugee Council, Dublin, 2012, p. 14, https://emn.ie/files/p_20130114033510Difficult-to-Believe-The-assessment-of-asylum-claims-in-Ireland.pdf.
- Council of Chief Justices of Australia and New Zealand, *Guide to Judicial Conduct*, 3rd edition, Australasian Institute of Judicial Administration, Sydney, 2023, pp. 19–20, https://aija.org.au/wp-content/uploads/2024/04/Judicial-Conduct-guide_revised-Dec-2023-formatting-edits-applied.pdf.
- de Bruïne, G., Vredeveldt, A. and van Koppen, P. J., 'Culture and credibility: The assessment of asylum seekers' statements', *Psychology, Crime and Law*, 2023, pp. 1–23, https://doi.org/10.1080/1068316X.2023.2279328.
- GlobalPeople, 'Core concepts and tools', University of Warwick website, 5 November 2021, accessed 1 September 2025, https://warwick.ac.uk/fac/cross_fac/globalpeople2/knowledgeexchange/coreconcepts/.
- Gyulai, G., Kagan, M., Herlihy, J., Turner, S., Hárdi, L. et al., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 1, Hungarian Helsinki Committee, Budapest, 2013, pp. 105–127, https://helsinki.hu/wp-content/uploads/Credibility-Assessment-in-Asylum-Procedures-CREDO-manual.pdf.
- UNHCR, *Community-based Protection in Action – Effective and respectful communication in forced displacement*, Geneva, 2016, https://www.refworld.org/policy/opguidance/unhcr/2016/en/110175.
- UNHCR, *Beyond Proof – Credibility assessment in EU asylum systems*, Brussels, 2023, pp. 75–81, https://www.unhcr.org/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems.

2.2.2. How might language affect your work as an asylum judge?

Language and culture are inherently intertwined, as language serves as the primary medium through which human culture is conveyed and expressed in all its complexity.

([30]) Other sources include Amato, A. and Gallai, F., 'Asylum hearings in Italy: Who mediates between cultures?', *Just – Journal of Language Rights and Minorities, Revista de Drets Lingüístics i Minories*, Vol. 3, No 1, 2024, pp. 143–189, https://doi.org/10.7203/Just.3.28272; Jacquemet, M., 'Crosstalk 2.0: Asylum and communicative breakdowns', *Text and Talk*, Vol. 31, Issue 4, 2011, pp. 475–497, https://doi.org/10.1515/text.2011.023; Jacquemet, M., 'Asylum and superdiversity: The search for denotational accuracy during asylum hearings', *Language and Communication*, Vol. 44, 2014, pp. 72–81, https://doi.org/10.1016/j.langcom.2014.10.016.

Language can affect the asylum procedure in various ways ([31]):

- different linguistic concepts, manners of expression and meanings given to words or sentences can lead to misunderstandings or distortions;
- some applicants come from cultures where certain phrases are often 'left unsaid', but implied, which leads to their omitting significant details that could be relevant to the case;
- the influence of interpreters and the intrinsic limitations of translation are factors (including difficulties in conveying the meanings of expressions, sayings and proverbs and the common situation where there is no direct translation of a word or phrase).

2.2.3. The role of the interpreter

The primary task of interpreters is to enable communication between the applicant and the court.

Interpreters have a cultural background of their own, and this is often the same as that of the applicant. This circumstance can help the applicant to open up in some cases. However, in others, it can lead to a higher level of distress, as the interpreter could remind the applicant of the society they fled. It should also be noted that the applicant may perceive the interpreter as part of the state or the asylum authority. In certain cases, the applicant may be concerned that their account may offend the moral standards of the interpreter, and this may influence the way in which they give their account.

Interpreters may face various challenges that can affect the hearing, such as:

- managing the conversation using verbal and non-verbal cues;
- maintaining impartiality;
- translating the message into another language without additions or omissions, while conveying cultural aspects for which the appropriate terminology does not exist in the target language;
- working as the sole interpreter in the courtroom, which can lead to fatigue over long sessions;
- adapting to varying levels of linguistic proficiency among participants, which may entail simplifying or clarifying complex concepts to ensure comprehension;
- managing their own exposure to traumatic narratives.

([31]) Nanda, D. W., 'Exploring the connection among language, culture, identity and difference', *Eltin Journal: Journal of English Language Teaching in Indonesia*, Vol. 9, No 1, 2021, pp. 48–55; Hedlund, D. and Johannesson, L., 'Editorial introduction: The role of language and communication in asylum procedures', *International Migration and Integration*, Vol. 24 (Suppl. 4), 2023, pp. 717–726, https://doi.org/10.1007/s12134-023-01032-w.

Sources and further reading ([32])

- Dublin Rape Crisis Centre, *Interpreting in situations of domestic, sexual and gender-based violence – A Dublin Rape Crisis Centre handbook*, Dublin, 2024, pp. 73–95, https://www.drcc.ie/news-resources/resources/handbook-interpreting-in-situations-of-dsgbv/.
- EASO, 'Practical guide: Personal interview', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2014, https://euaa.europa.eu/publications/practical-guide-personal-interview.
- EUAA and Intergovernmental Consultations on Migration, Asylum and Refugees, *Interpretation in the Asylum Procedure – Checklists*, Publications Office of the European Union, Luxembourg, 2024, https://euaa.europa.eu/publications/interpretation-asylum-procedure-checklists.
- EUAA and Intergovernmental Consultations on Migration, Asylum and Refugees, *Practical Guide on Interpretation in the Asylum Procedure*, Publications Office of the European Union, Luxembourg, 2024, https://euaa.europa.eu/publications/practical-guide-interpretation-asylum-procedure.
- Federal Department of Justice and Police of Switzerland: State Secretariat for Migration, 'Role of the interpreter in the asylum procedure', January 2016, https://www.sem.admin.ch/sem/en/home/suche.html#role%20of%20the%20interpreter.
- Judicial College on Diversity and Inclusion of Australia, *Recommended national standards for working with interpreters in courts and tribunals*, 2nd edition, Kingston, Canberra, 2022, https://jccd.org.au/wp-content/uploads/2022/05/JCDD-Recommended-National-Standards-for-Working-with-Interpreters-in-Courts-and-Tribunals-second-edition.pdf.
- Keselman, O., Cederborg A.-C. and Linell, P., '"That is not necessary for you to know!" Negotiation of participation status of unaccompanied children in interpreter-mediated asylum hearings', *Interpreting*, Vol. 12, Issue 1, 2010, pp. 83–104, https://doi.org/10.1075/intp.12.1.04kes.

([32]) Other sources include Gibb, R. and Good, A., 'Interpretation, translation and intercultural communication in refugee status determination procedures in the UK and France', *Language and Intercultural Communication*, Vol. 14, Issue 3, 2014, pp. 385–299, http://dx.doi.org/10.1080/14708477.2014.918314; Gill, N., Rotter, R., Burridge, A., Allsopp, J. and Griffiths, M., 'Linguistic incomprehension in British asylum appeal hearings', *Anthropology Today*, Vol. 32, Issue 2, 2016, pp. 18–21, https://doi.org/10.1111/1467-8322.12240; Hedlund, D. and Johannesson, L., 'Editorial introduction: The role of language and communication in asylum procedures', *International Migration and Integration*, Vol. 24 (Suppl. 4), 2023, pp. 717–726, https://doi.org/10.1007/s12134-023-01032-w; Jacobs, M. and Maryns, K., 'Mediated disclosure in asylum encounters', *Multilingua*, Vol. 42, Issue 2, 2023, pp. 165–189, https://doi.org/10.1515/multi-2021-0141; Jalonen, A. and Cilia La Corte, P., *A practical guide to therapeutic work with asylum seekers and refugees*, Jessica Kingsley Publishers, London, 2017, pp. 152–157; Nanda, D. W., 'Exploring the connection among language, culture, identity and difference', *Eltin Journal: Journal of English Language Teaching in Indonesia*, Vol. 9, No 1, 2021, pp. 48–55; Rousseau, C., Crépeau, F., Foxen, P. and Houle, F., 'The complexity of determining refugeehood: A multidisciplinary analysis of the decision-making Process of the Canadian Immigration and Refugee Board', *Journal of Refugee Studies*, Vol. 15, No 1, 2002, pp. 43–70, https://papyrus.bib.umontreal.ca/xmlui/handle/1866/1369.

- Maryns, K., 'Disclosure and (re)performance of gender-based evidence in an interpreter-mediated asylum interview', *Journal of Sociolinguistics*, Vol. 17, Issue 5, 2013, pp. 661–686, https://doi.org/10.1111/josl.12056.
- Moskal, M., Fassetta, G., Imperiale, M. G. and Spurway, J., '"To translate feelings not words" – Humanitarian interpreting: Challenging institutional and professional boundaries in interpreting for refugees', *Language and Intercultural Communication*, 2024, pp. 1–14, https://doi.org/10.1080/14708477.2024.2317138.
- Pöllabauer, S., '"Not everyday business" – A caseworker perspective on interpreter provision for deaf refugees and cooperation with interpreters', *Just – Journal of Language Rights and Minorities, Revista de Drets Lingüístics i Minories*, Vol. 3, No 1, 2024, pp. 53–94, https://doi.org/10.7203/Just.3.27794.
- UK Home Office, 'Guidance: Asylum interviews (accessible)', version 9.0, 'Interpreters' section, GOV.UK website, 28 June 2022, accessed 29 July 2025, https://www.gov.uk/government/publications/conducting-the-asylum-interview-process/asylum-interviews-accessible#bookmark114.
- UNHCR Austria, *Handbook for Interpreters in Asylum Procedures*, Vienna, 2022, https://www.refworld.org/policy/opguidance/unhcr/2022/en/124043.

2.2.4. Mitigating cultural and linguistic challenges

This section offers guidance on how to navigate cultural and linguistic challenges.

(a) Overcoming cultural challenges

- Keep an open mind.
- Use cultural mediation, follow specialised training sessions, find specialised readings, etc.
- Always acknowledge the applicant's cultural background in all phases of the procedure.
- Ask the applicant to clarify what is unclear; do not leave room for assumptions, speculations, intuition and gut feelings.
- Take into consideration that the applicant's demeanour stems from a variety of personal, cultural and other factors, as well as past experiences, and as such cannot be an indicator of credibility.
- Be aware of the danger of stereotyping.
- Keep in mind that the applicant is first and foremost an individual and that defining a person through cultural traditions alone can make you unable to properly understand the applicant's personal story.
- Be aware of how your own cultural background affects your way of interpreting relevant facts. Self-awareness and self-reflection are needed to identify your attitudes and verbal and non-verbal communication styles and to decide how to adjust them.

- Keep in mind that cultural factors may have a substantial impact on the credibility assessment.
- Be aware of the importance of the interpreter's gender, especially in relation to specific case types (e.g. cases involving victims of trafficking or lesbian, gay, bisexual, transgender, intersex or queer individuals) ([33]).

(b) Overcoming linguistic challenges

- Make sure Article 13(5) of Regulation (EU) 2024/1348 ([34]) (the Asylum Procedure Regulation (APR)) is taken into consideration ([35]).
- Proceed with an initial check to confirm mutual understanding.
- If possible and necessary, explain the role of the interpreter (see the EUAA checklists on this topic ([36])).
- Check to make sure that comprehension difficulties are not arising throughout the hearing and encourage both the applicant and the interpreter to indicate any communication difficulties.
- Keep the questions and overall communication simple and short.
- Ask one question at a time.
- Ask questions in a correct, fair and non-suggestive way.
- Ask questions according to the capability and educational level of the applicant.
- Ask the applicant to give the interpreter time to keep up.
- Restate to the applicant what you have understood and give the opportunity to clarify, if needed.
- Ask the applicant what they have understood to avoid misunderstanding and create an opportunity to clarify.
- Be vigilant for **warning signs** indicating possible problems in interpretation (e.g. long excerpts of speech translated into a short sentence, answers provided are not answers to the questions asked, exchanges between the interpreter and the applicant are taking place without explanations from the interpreter).

([33]) Nanda, D. W., 'Exploring the connection among language, culture, identity and difference', *Eltin Journal: Journal of English Language Teaching in Indonesia*, Vol. 9, No 1, 2021, pp. 48–55; Hedlund, D. and Johannesson, L., 'Editorial introduction: The role of language and communication in asylum procedures', *International Migration and Integration*, Vol. 24 (Suppl. 4), 2023, pp. 717–726, 2023, https://doi.org/10.1007/s12134-023-01032-w.

([34]) 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 (OJ L, 2024/1348, 22.5.2024, ELI: http://data.europa.eu/eli/reg/2024/1348/oj).

([35]) In accordance with Article 13(5) of Regulation (EU) 2024/1348, 'Member States shall give preference to interpreters and cultural mediators that have received training'.

([36]) EUAA and Intergovernmental Consultations on Migration, Asylum and Refugees, *Interpretation in the Asylum Procedure – Checklists*, Publications Office of the European Union, Luxembourg, 2024, https://euaa.europa.eu/publications/interpretation-asylum-procedure-checklists.

Sources and further reading ([37])

- Amato, A. and Gallai, F., 'Asylum hearings in Italy: Who mediates between cultures?', *Just – Journal of Language Rights and Minorities, Revista de Drets Lingüístics i Minories*, Vol. 3, No 1, 2024, pp. 143–189, https://doi.org/10.7203/Just.3.28272.
- EASO, 'Practical guide: Personal interview', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2014, https://euaa.europa.eu/publications/practical-guide-personal-interview.
- EUAA, *Practical Guide on Evidence and Risk Assessment*, Publications Office of the European Union, Luxembourg, 2024, https://euaa.europa.eu/publications/practical-guide-evidence-and-risk-assessment.
- Skrifvars, J., Antfolk, J., van Veldhuizen, T., Sui, V. and Korkman, J., 'Eliciting information in official Finnish asylum interviews', *Applied Cognitive Psychology*, Vol. 36, Issue 3, 2022, pp. 508–519, https://doi.org/10.1002/acp.3936.
- van Veldhuizen, T. S., Horselenberg, R., Landström, S., Granhag, P. A. and van Koppen, P. J., 'Interviewing asylum seekers: A vignette study on the questions asked to assess credibility of claims about origin and persecution', *Journal of Investigative Psychology and Offender Profiling*, Vol. 14, Issue 1, 2017, pp. 3–22, https://doi.org/10.1002/jip.1472.

2.3. Managing emotions and professional well-being

There are clear legal standards to follow when adjudicating an appeal in the field of international protection, and especially when conducting an oral hearing. Besides the aspects that have been presented previously, as a judge, you will also need to deal with emotional challenges determined by the specificities of adjudicating international protection cases.

Thus, a range of soft skills will be required to fully grasp the human implications at hand, starting with your **emotional intelligence** (Section 2.1.3 'Tips and techniques for courts'). Being frequently exposed to traumatic accounts and the vulnerabilities of applicants can also impact your **well-being**. Being aware of this fact is paramount, as it can, directly or indirectly, have an impact on the individual assessment of the case and in particular on the weighing of the applicant's statements (Section 2.3.2 'Professional well-being of international protection judges').

([37]) Other sources include Pöllabauer, S., 'Interpreting in an asylum context: Interpreter training as the linchpin for improving procedural quality', in: Ruiz Rosendo, L. and Todorova, M. (eds), *Interpreter Training in Conflict and Post-Conflict Scenarios*, Routledge, Abingdon, 2023, pp. 129–145; Pöllabauer, S., 'Research on interpreter-mediated asylum interviews', in: Gavioli, L. and Wadensjö, C. (eds), *The Routledge Handbook of Public Service Interpreting*, Routledge, Abingdon, 2023, pp. 140–154.

2.3.1. Activating your emotional intelligence

Emotional intelligence is to be understood as the ability to recognise, understand, manage and influence emotions – both your own and those of others. It involves a set of skills that allow individuals to navigate social interactions effectively, maintain emotional balance and handle the ups and downs of life with resilience ([38]). Emotional intelligence is based on the interplay between emotional and cognitive processes. It involves the capacity to process emotional information but also the ability to make decisions and take actions that enhance personal and social well-being, allowing for more effective interactions and helping people to lead more fulfilling, balanced lives. These skills can be learned and developed over time, although they tend to be influenced by genetic predispositions and early life experiences.

Two of the core components of emotional intelligence are **self-awareness** and **self-regulation**. While **self-awareness** is about recognising and understanding your emotions and how they affect your thoughts and behaviour, **self-regulation** focuses on the ability to manage and control your emotions in healthy ways.

In the context of preparing for an interaction with very specific legal consequences, such as an international protection hearing, reflecting on your personal mental and emotional state is key, as will be illustrated later (see the section 'Mental and emotional check'). In the same vein, your psychological preparation could benefit from (re)considering some examples of feelings commonly experienced by decision-makers in asylum procedures.

(a) Insecurity

Insecurity is an emotion that tends to overcome those with less experience handling asylum hearings. On the one hand, being well prepared reflects your desire to engage meaningfully and serves as a tool for managing your insecurity and fostering a sense of control. On the other hand, those with less experience may choose to prepare extensively for the hearing to the point of drafting a list of **all** the questions they plan to ask. Overpreparing may, in the end, chip away at your focus on what is unfolding before you during the hearing and hinder the much-needed skill of adaptability.

This sense of insecurity may stem from various reasons. It may be that the judge fears that during the hearing they are bound to listen to another painful human story or come face to face with an emotionally vulnerable applicant, which may trigger their own mental destabilisation. It may be that the judge does not feel physically safe with the applicant. Making sure that the hearing room has been set up in the most appropriate way might help you alleviate this fear. The judge may very well fear making the wrong decision, with potentially serious consequences for the applicant, or fear losing face before their peers by appearing somewhat lenient. Fear of conflict may be stressful during the preparation stage, and during the hearing itself managing tensions or other difficult situations that arise may be a source of pressure.

([38]) Goleman, D., *Emotional Intelligence: Why it can matter more than IQ*, Bloomsbury, London, 2020.

When fear or insecurity takes over, it becomes extremely difficult to fulfil your duties in a fair and efficient manner. To assist you in recalibrating your emotions, it is advised that you take a step back and try to put things into perspective; perhaps you could seek the advice of someone with more experience in adjudicating international protection cases and/or an expert in the field of psychology to help you find ways of managing your stress and emotions. You will, in any case, overcome your initial insecurity when you start hearing asylum cases systematically, but engaging meaningfully with every applicant is and should remain a priority.

Practical tip

Try to determine the cause of your insecurity and look at it objectively. Take some time to think about potential solutions and request help or take the necessary measures to help you lead the hearing as fairly and efficiently as possible.

(b) Anger

It is not unheard of to respond with anger when you believe someone is lying to you or to become impatient when they are taking too long to make their point. If certain things trigger your frustration while you are leading a hearing, you may be tempted to react with irony or show your irritation. This, for one thing, would mean the end of any kind of rapport that was established at the beginning of the hearing. Where the atmosphere does not put the applicant at ease, they will probably stop contributing to the hearing in a meaningful manner. Even worse, the applicant could also demonstrate defensive aggression.

Whether the applicant seems to be telling the truth or not, it is important to try to manage your feelings and avoid letting anger take control. You should still be able to discern the 'lie' for what it is, which is not personal. Remember that, even though one allegation or piece of evidence may not be true, this does not necessarily render the rest of them untrue.

(c) Indifference

If you have been deciding asylum appeals for a while, you may experience a sense of déjà vu, where cases start to feel similar. As a result, your initial enthusiasm and interest may wane, giving way to feelings of indifference. Handling international protection cases can begin to feel vain and boring, and judges may start treating applicants like files and numbers, rather than human beings.

In such a case, the judge may distance themself from their work and become less involved during hearings, the average duration of which may start to drop. These could be the symptoms of professional fatigue, burnout and vicarious traumatisation ([39]). If you notice signs that this may be happening to you, you should seek appropriate support.

([39]) For more information on professional fatigue, burnout and vicarious traumatisation, consult Gyulai., G., Kagan, M., Herlihy, J., Turner, S., Hárdi, L. et al., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 1, Hungarian Helsinki Committee, Budapest, 2013, p. 94 and pp. 132–139, https://helsinki.hu/wp-content/uploads/Credibility-Assessment-in-Asylum-Procedures-CREDO-manual.pdf.

(d) Credulity and scepticism

When judges first begin hearing international protection cases, they sometimes find it difficult to distance themselves so as to see things objectively and may find it hard to reach a negative finding. With time and experience, you will develop skills and techniques to conduct a fair and efficient hearing and will be able to handle your emotions and reactions better.

On the other hand, after spending some time deciding such cases, it is also natural to experience some professional fatigue. For some, this may trigger several negative feelings and responses, in the form of scepticism and indifference. Should this happen to you, you will no longer be in a position to engage in an actual dialogue with the applicant. Consequently, you will adopt an ill-disposed stance, and you may start assuming that the applicants are lying and abusing the asylum procedure. You are advised to seek any support that may be available to you at the time you find yourself having these thoughts (peer, expert or other support). This should be tackled as soon as possible to make sure you are still dealing with applicants in a fair and efficient way, but also because these negative feelings and this cynical stance may spill over into your personal life.

Should the option be available to you, perhaps you should consider taking a break from handling asylum cases.

(e) Empathy

Empathy is about perceiving, understanding and reacting to someone's troubles.

It is not necessary to share the painful or troubled emotions someone is experiencing to show empathy.

When you are hearing cases on a regular basis, it is not always easy to keep a safe emotional distance, especially when you can relate to a certain experience or feeling, for example the death of a loved one. When you identify with the applicant, it becomes very difficult to keep a professional distance and control your feelings. This loss of control may throw you off balance and also affect the applicant, who will no longer be able to express themself or may even become confused. In essence, any such destabilisation may cause you to lose your objectivity or derail the hearing.

With experience, it will probably become easier to maintain the correct professional distance and protect the roles of the parties involved in a hearing, as well as the general context of the hearing. Your technique will benefit from showing understanding and sensitivity, but you should not become emotionally invested nor be unnaturally cold and distant.

Practical tip

If you find that you are on the verge of losing control, it is advisable to pause the hearing, take a moment to yourself and regroup.

Sources and further reading ([40])

- EUAA, 'Asylum interview method', EUAA website, accessed 24 February 2025, https://euaa.europa.eu/training-catalogue/asylum-interview-method-0.
- Gyulai, G., Kagan, M., Herlihy, J., Turner, S., Hárdi, L. et al., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 1, Hungarian Helsinki Committee, Budapest, 2013, https://helsinki.hu/wp-content/uploads/Credibility-Assessment-in-Asylum-Procedures-CREDO-manual.pdf.
- Sultanić, I., 'Interpreting traumatic narratives of unaccompanied child migrants in the United States: Effects, challenges and strategies', *Linguistica Antverpiensia, New Series – Themes in Translation Studies*, Vol. 20, 2021, pp. 227–247, https://doi.org/10.52034/lanstts.v20i.601.

2.3.2. Professional well-being of international protection judges

Trauma and vulnerability are often inherent to the field of international protection and are conditions that generally concern applicants. However, when adjudicating international protection applications, judges might themselves be exposed to several risks to their well-being.

Professional well-being – mental, emotional and physical health – is especially crucial for international protection judges, who face the pressure of high-stakes decisions and daily exposure to trauma. The following sections of the guide look at what professional well-being is and what the factors are that can jeopardise your well-being in the asylum context. The guide presents several suggestions and resources for preserving your well-being as a human being.

(a) A quick introduction to professional well-being

Well-being is a **subjective concept** that encompasses mental, emotional and physical health. The way well-being is measured varies based on the elements that are considered. Generally, well-being includes the following dimensions: mental, physical, social, financial and occupational health. The following figure shows how wellbeing compares to wellness at work.

([40]) Other sources include Jalonen, A. and Cilia La Corte, P., *A practical guide to therapeutic work with asylum seekers and refugees*, Jessica Kingsley Publishers, London, 2017, pp. 88–89.

Figure 2. Wellbeing vs wellness at work

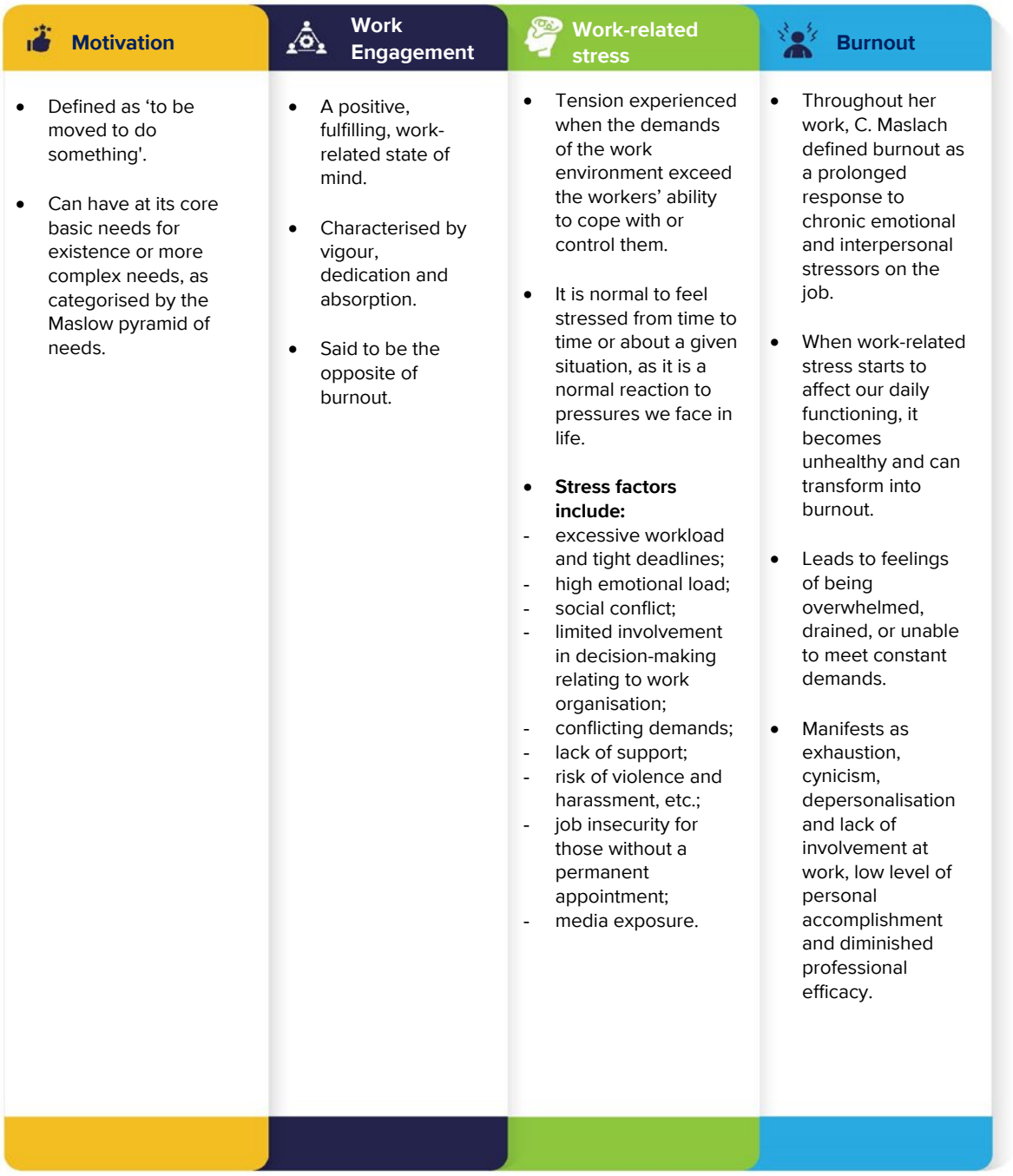
Source: Learning Dimensions Network, 'Navigating the difference between wellbeing and wellness at work', https://ldn.com.au/mental-health-wellbeing-and-wellness-at-work/.

Good employment and good working conditions have powerful **positive health effects**, which can contribute to mental health and well-being through self-esteem, fulfilment, social interaction and financial security.

Professional well-being can be achieved thanks to a combination of personal resources (psychological capital) and job resources (autonomy, training and role clarity) that help in finding a good balance and thus help you manage the demands you face at work.

The **four elements** shown in Figure 3 may affect your level of well-being in the professional context, in a positive or negative manner.

Figure 3. Elements affecting the level of professional well-being ([41])



([41]) For more details on each element, see: Copley, L., 'Hierarchy of needs: A 2024 take on Maslow's findings', Positive Psychology website, 8 January 2024, accessed 28 July 2025, https://positivepsychology.com/hierarchy-of-needs/; European Agency for Safety and Health at Work (EU-OSHA), 'Work engagement: Drivers and effects', OSHwiki website, 30 June 2024 (18 June 2013), accessed 28 July 2025, https://oshwiki.osha.europa.eu/en/themes/work-engagement-drivers-and-effects; EU-OSHA, 'Work-related stress: Nature and management', OSHwiki website, 26 January 2015 (31 March 2012), accessed 28 July 2025, https://oshwiki.osha.europa.eu/en/themes/work-related-stress-nature-and-management; EU-OSHA, 'Understanding and preventing worker burnout', OSHwiki website, 5 September 2023 (27 March 2012), accessed 28 July 2025, https://oshwiki.osha.europa.eu/en/themes/understanding-and-preventing-worker-burnout; Maslach, C., Schaufeli, W. B. and Leiter, M. P., 'Job burnout', *Annual Review of Psychology*, Vol. 52, 2001, pp. 397–422.

Signs of poor well-being

Stress reactions (signs of poor well-being) may result when people are exposed to stress factors at work and may be cognitive, emotional, behavioural and/or physiological in nature:

- **cognitive responses** include reduced attention and perception, forgetfulness, difficulty learning and negative thinking;
- **emotional responses** include feeling nervous, irritated, indifferent or annoyed;
- **behavioural reactions** include aggressive, impulsive behaviour, becoming withdrawn and a change in eating and drinking habits;
- **physical responses** include an increase in heart rate, raised blood pressure and hyperventilation, hormonal and neurological changes, difficulty sleeping, sore back, headaches and frequent illness.

Stress assessment – a first step would be to come to a realisation regarding the level of stress you are currently experiencing, using tools widely available online ([42]).

How people respond to stress differs from person to person. Some people may invest resources to overcome the situation, some may disengage and detach to protect their resources, and others may manifest certain behavioural outcomes.

Although the experience of stress is psychological, it can also have negative effects on your physical health. Prolonged exposure to chronic stress on the job can develop into burnout. Several validated self-report questionnaires have been developed today by psychologists to assess burnout.

([42]) Judicial College of the United Kingdom, 'Increasing judicial resilience – Resource pack', 2019, https://portal.ejtn.eu/PageFiles/18757/Resilience_handout_EJTN%2020.pdf.

Maslach Burnout Inventory – assessing the risk of burnout

The Maslach Burnout Inventory is the most commonly used tool **to self-assess** whether you might be at risk of burnout. To determine the risk of burnout, the inventory explores **three components**: exhaustion, depersonalisation and personal achievement.

While this tool is very useful, its objective is to simply make you aware of the risk of burnout and **it must not be used as a scientific diagnostic technique** ([43]).

Here are a few other useful sources online that use similar tests:

- Maslach, C. and Leiter, M. P., 'How to measure burnout accurately and ethically', Harvard Business Review website, 19 March 2021, accessed 26 February 2025, https://hbr.org/2021/03/how-to-measure-burnout-accurately-and-ethically.
- Schaufeli, W. B., De Witte, H. and Desart, S., *User Manual – Burnout assessment tool (BAT)*, version 2.0, Appendix, KU Leuven, Leuven, Belgium, https://burnoutassessmenttool.be/handleiding_vragenlijst_eng/.

Sources and further reading ([44])

- Brafford, A. and Rebele, R. W., 'Judges' well-being and the importance of meaningful work', *Court Review: The Journal of the American Judges Association*, Vol. 54, No 2, 2018, pp. 60–72, https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1645&context=ajacourtreview.
- BSI, *Health and Wellbeing in the Workplace – A whitepaper*, London, 2019, https://www.unido.org/sites/default/files/files/2019-05/Field_Paper_0.pdf.
- Buchanan, B., 'Five ways judges can improve well-being', *Judicature*, Vol. 101, No 4, 2017, https://judicature.duke.edu/articles/five-ways-judges-can-improve-well-being/.
- Copley, L., 'Hierarchy of needs: A 2024 take on Maslow's findings', Positive Psychology website, 8 January 2024, accessed 28 July 2025, https://positivepsychology.com/hierarchy-of-needs/.
- Elek, J. K., *Elements of Judicial Excellence – A framework to support the professional development of state trial court judges*, National Center for State Courts, Williamsburg, 2017, pp. 7–10, https://ncsc.contentdm.oclc.org/digital/collection/judicial/id/474.

([43]) Maslach, C., Jackson, S. E. and Leiter, M. P. (eds), *Maslach Burnout Inventory Manual*, 3rd edition, Consulting Psychologists Press, Palo Alto, California, 1996; see also 'Burnout self-test: Maslach Burnout Inventory (MBI)', available at https://different.hr/wp-content/uploads/2020/05/Maslach-Burnout-Inventory-MBI.pdf.

([44]) Other sources include EU-OSHA, *Well-being at Work: Creating a positive work environment*, Publications Office of the European Union, Luxembourg, 2013, https://osha.europa.eu/en/publications/well-being-work-creating-positive-work-environment; EU-OSHA, 'Health and wellbeing', OSHwiki website, 19 September 2022 (21 November 2012), accessed 28 July 2025, https://oshwiki.osha.europa.eu/en/themes/health-and-wellbeing; Jalonen, A. and Cilia La Corte, P., *A practical guide to therapeutic work with asylum seekers and refugees*, Jessica Kingsley Publishers, London, 2018, pp. 139–151.

- EU-OSHA, 'Work-related stress: Nature and management', OSHwiki website, 26 January 2015 (31 March 2012), accessed 28 July 2025, https://oshwiki.osha.europa.eu/en/themes/work-related-stress-nature-and-management.
- EU-OSHA, *Healthy Workers, Thriving Companies – A practical guide to wellbeing at work*, Bilbao, 2018, https://osha.europa.eu/en/publications/healthy-workers-thriving-companies-practical-guide-wellbeing-work.
- EU-OSHA, 'Understanding and preventing worker burnout', OSHwiki website, 5 September 2023 (27 March 2012), accessed 28 July 2025, https://oshwiki.osha.europa.eu/en/themes/understanding-and-preventing-worker-burnout.
- EU-OSHA, 'Managing stress and psychosocial risks – E-guide', 2019, https://osha.europa.eu/sites/default/files/Eguide_stress_ENGLISH.pdf.
- EU-OSHA, 'Work engagement: Drivers and effects', OSHwiki website, 30 June 2024 (18 June 2013), accessed 27 August 2025, https://oshwiki.osha.europa.eu/en/themes/work-engagement-drivers-and-effects.
- Eurofound, *Burnout in the Workplace: A review of data and policy responses in the EU*, Publications Office of the European Union, Luxembourg, 2018, https://www.eurofound.europa.eu/en/publications/2018/burnout-workplace-review-data-and-policy-responses-eu.
- Eurofound, 'Subjective well-being', Eurofound website, accessed 28 July 2025, https://www.eurofound.europa.eu/en/topic/subjective-well-being.
- Eurostat, 'Subjective well-being – Statistics', Statistics Explained website, October 2019, accessed 28 July 2025, https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Subjective_well-being_-_statistics.
- Holt, L., Mulcaire, J., O'Driscoll, C., Zard, S. and Brady, F., 'Mental health effects of working as a legal professional in the field of asylum law: A systematic review', *BMJ Public Health*, Vol. 2, Issue 1, 2024, e000729, https://bmjpublichealth.bmj.com/content/2/1/e000729.
- ILO, 'Workplace stress: A collective challenge', 28 April 2016, https://www.ilo.org/publications/presentation-workplace-stress-collective-challenge.
- National Judicial College of Australia, 'Attaining judicial excellence: A guide for the NJCA', November 2019, pp. 3–4, https://www.njca.com.au/wp-content/uploads/2023/03/Attaining-Judicial-Excellence.pdf.
- Psychology Today, 'Resilience test', Psychology Today website, accessed 31 July 2025, https://www.psychologytoday.com/us/tests/personality/resilience-test.
- Schrever, C., Hulbert, C. and Sourdin, T., 'The privilege and the pressure: Judges' and magistrates' reflections on the sources and impacts of stress in judicial work', *Psychiatry, Psychology and Law*, Vol. 31, Issue 3, 2024, pp. 327–380, https://doi.org/10.1080/13218719.2024.2335913.
- Schulte, P., Sauter, S., Tiesman, H., Pandalai, S., Chosewood L. C. et al., 'An urgent call to address work-related psychosocial hazards and improve worker well-being', NIOSH Science Blog website, 10 April 2024, accessed 28 July 2025, https://blogs.cdc.gov/niosh-science-blog/2024/04/10/workplace-psychosocial-hazards/.

- World Health Organization, 'Mental health at work', World Health Organization website, 2 September 2024, accessed 28 July 2025, https://www.who.int/news-room/fact-sheets/detail/mental-health-at-work.

(b) Well-being hazards

Psychosocial hazards are generally understood as factors in the work environment that have the potential to cause physical, psychological and social consequences. In short, stressful characteristics of work that can be related to work schedule, workload, communication, decision-making, interpersonal relationships, etc.: 'Judges around the world face immense stress, high workloads, and unprecedented pressures. These factors compromise their mental health, leading to burnout, reduced productivity, and ultimately impairing their ability to deliver justice in an impartial manner' ([45]).

On 25 July 2024, judicial leaders and other judicial experts adopted the Nauru Declaration on Judicial Well-being ([46]) on the occasion of the regional judicial conference organised by the United Nations Office on Drugs and Crime (UNODC) in partnership with the Nauru judiciary and supported by the Department of Justice of Nauru. The declaration calls for collective attention to the physical, mental, emotional and psychological health of judges, emphasising the principles of independence, impartiality, integrity, propriety, competence and diligence, as outlined in the Bangalore Principles of Judicial Conduct ([47]).

This is in accordance with the doctrine 'Judicial well-being is essential for individual judges' occupational health and sustainability, for court users' experience in court, for the quality of justice and ultimately for public confidence in the courts' ([48]).

Frequent exposure to accounts of human suffering arising from torture and other forms of violence or inhuman and degrading treatment can take a **psychological toll** on judges ([49]). As a judge working in the **asylum context**, you may often be exposed to psychosocial hazards specific to this unique field of work.

([45]) Declaration by Judge José Igreja Matos, member of the Advisory Board of the Global Judicial Integrity Network and President of the Court of Appeal in Porto, Portugal, on the occasion of the adoption of the Nauru Declaration on Judicial Well-being; see UNODC Regional Office for Southeast Asia and the Pacific, 'Mental health in the judiciary: New well-being declaration launched in Nauru', UNODC website, 26 July 2024, accessed 24 February 2025, https://www.unodc.org/roseap/en/pacific/2024/07/mental-health-judiciary-nauru/story.html.

([46]) UNODC, Nauru Declaration on Judicial Well-being, 25 July 2024, https://judicialwellbeing.info/wp-content/uploads/2024/07/Nauru-Declaration-on-Judicial-Well-being.pdf.

([47]) Declaration by Judge José Igreja Matos, member of the Advisory Board of the Global Judicial Integrity Network and President of the Court of Appeal in Porto, Portugal, on the occasion of the adoption of the Nauru Declaration on Judicial Well-being; see UNODC Regional Office for Southeast Asia and the Pacific, 'Mental health in the judiciary: New well-being declaration launched in Nauru', UNODC website, 26 July 2024, accessed 24 February 2025, https://www.unodc.org/roseap/en/pacific/2024/07/mental-health-judiciary-nauru/story.html.

([48]) Article 1 of the Nauru Declaration on Judicial Well-being, 25 July 2024, https://judicialwellbeing.info/wp-content/uploads/2024/07/Nauru-Declaration-on-Judicial-Well-being.pdf.

([49]) Also according to UNHCR, *Beyond Proof – Credibility assessment in EU asylum systems*, Brussels, 2013, https://www.unhcr.org/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems.

Hazards specific to the asylum field of work ([50])

These hazards include:

- effort/reward imbalance;
- feeling powerless;
- fear of making wrong decisions;
- exposure to accounts of traumatic events and human suffering leading to secondary traumatic stress and vicarious trauma;
- workload pressure;
- political, societal, media and time pressure / ethical strain;
- compassion/credibility fatigue;
- 'case-hardening', apathy and cynicism.

As a consequence of constant exposure to such hazards, you may start to feel in distress and, naturally enough, employ coping strategies that could involuntarily compromise your mental clarity, impartiality and empathy.

Such coping strategies were the focus of research conducted in 2013 by the UNHCR and financed through the European Refugee Fund of the European Commission. The report *Beyond Proof – Credibility assessment in EU asylum systems* provides insights into some state practices on specific aspects of the credibility assessment ([51]). The most relevant findings of the report are included in the following paragraphs.

Some judges may find the content of the accounts so horrific that the initial reaction will be to reject it as unimaginable, fabricated and therefore lacking credibility. Disbelief is a very human coping strategy, and it may undermine objectivity and impartiality. Others may, by contrast, easily believe an account of terrible suffering, and evaluate it as credible, precisely because a person would normally not be considered capable of inventing such a horrific scenario.

In such situations, emotional detachment may be fundamental to the effort to maintain your objectivity. However, as a judge, you have to be careful about the extent to which you emotionally detach yourself, so that such detachment does not translate into disbelief and a reluctance to engage with the applicant's narrative. A high level of disengagement, together with the high workload and volume of evidence assessed, can make judges cynical – 'case-hardened' – or result in their suffering from credibility fatigue. Credibility fatigue may be a

([50]) For more information on professional fatigue, burnout and vicarious traumatisation, see Gyulai, G., Kagan, M., Herlihy, J., Turner, S., Hárdi, L. et al., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 1, Hungarian Helsinki Committee, Budapest, 2013, p. 94 and pp. 132–139, https://helsinki.hu/wp-content/uploads/Credibility-Assessment-in-Asylum-Procedures-CREDO-manual.pdf.

([51]) UNHCR, *Beyond Proof – Credibility assessment in EU asylum systems*, Brussels, 2013, pp. 40–41 and pp. 79–81, https://www.unhcr.org/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems.

greater danger where a judge is dealing with a large number of applicants from a particular country or where local practices require judges to specialise in specific countries.

A lack of emotional detachment is an equal danger. Becoming emotionally involved can militate against impartiality and lead to decisions based on sympathy rather than an application of the facts to the law. It is therefore important to preserve your professional well-being, and you can find some useful tools and tips in the following section.

Sources and further reading ([52])

- British Medical Association, 'Vicarious trauma: Signs and strategies for coping', British Medical Association website, 28 June 2024, accessed 28 February 2025, https://www.bma.org.uk/advice-and-support/your-wellbeing/vicarious-trauma/vicarious-trauma-signs-and-strategies-for-coping.
- EU-OSHA, *Healthy Workers, Thriving Companies – A practical guide to wellbeing at work*, Bilbao, 2018, https://osha.europa.eu/en/publications/healthy-workers-thriving-companies-practical-guide-wellbeing-work.
- Eurofound, 'Psychosocial risks', Eurofound website, accessed 28 February 2025, https://www.eurofound.europa.eu/en/topic/psychosocial-risks.
- ILO, 'Workplace stress: A collective challenge', 28 April 2016, https://www.ilo.org/publications/presentation-workplace-stress-collective-challenge.
- Judiciary of England and Wales, *Judicial Wellbeing Survey 2021 – Report and action plan*, London, 2021, https://www.judiciary.uk/wp-content/uploads/2022/03/14.51_Judicial_Wellbeing_Survey_2021_Report_and_Action_Plan_FINAL2_WEB.pdf.

([52]) Other sources include: Bride, B. E., Sprang, G., Hendricks, A., Walsh, C. R., Mathieu, F. et al., 'Principles for secondary traumatic stress-responsive practice: An expert consensus approach', *Psychological Trauma: Theory, Research, Practice and Policy*, Vol. 16, Issue 8, 2024, pp. 1301–1308, https://doi.org/10.1037/tra0001575; Gozzoli C. and De Leo, A., 'Receiving asylum seekers: Risks and resources of professionals', *Health Psychology Open*, Vol. 7, No 1, 2020, https://doi.org/10.1177/2055102920920312; Holt, L., Mulcaire, J., O'Driscoll, C., Zard, S. and Brady, F., 'Mental health effects of working as a legal professional in the field of asylum law: A systematic review', *BMJ Public Health*, Vol. 2, Issue 1, 2024, e000729, https://bmjpublichealth.bmj.com/content/2/1/e000729; ILO, 'Psychosocial factors at work: Recognition and control', *Occupational Safety and Health Series*, No 56, Geneva, https://webapps.ilo.org/public/libdoc/ilo/1986/86B09_301_engl.pdf; Liebling, H., 'The experiences of staff working with refugees and asylum seekers in the United Kingdom: A grounded theory exploration', *Journal of Immigrant and Refugee Studies*, Vol. 9, Issue 3, 2011, pp. 205–228, https://doi.org/10.1080/15562948.2011.592804; Roussos, P. L., 'The psychosocial risks and impacts in the workplace assessment tool: Construction and psychometric evaluation', *Behavioural Sciences*, Vol. 13, Issue 2, 2023, 104, https://doi.org/10.3390/bs13020104; Safe Work Australia, 'Psychosocial hazards', Safe Work Australia website, accessed 29 July 2025, https://www.safeworkaustralia.gov.au/safety-topic/managing-health-and-safety/mental-health/psychosocial-hazards; Spirig, J., 'When issue salience affects adjudication: Evidence from Swiss asylum appeal decisions', *American Journal of Political Science*, Vol. 67, Issue 1, 2023, pp. 55–70, https://doi.org/10.1111/ajps.12612; Swenson, D., Bibelhausen, J., Buchanan, B., Shaheed, D. and Yetter, K., 'Stress and resiliency in the U.S. judiciary', *Journal of the Professional Lawyer*, American Bar Association, 2020, https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/journal-of-the-professional-lawyer-2020.pdf; UNHCR, *Beyond Proof – Credibility assessment in EU asylum systems*, Brussels, 2013, pp. 79–81, https://www.unhcr.org/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems.

- National Institute for Occupational Safety and Health, 'Psychosocial hazards', National Institute for Occupational Safety and Health website, accessed 28 February 2025, https://www.cdc.gov/niosh/learning/safetyculturehc/module-2/8.html.
- Sabino Recovery, 'What is the difference between vicarious trauma and secondary trauma?', Sabino Recovery website, 13 July 2023, accessed 29 July 2025, https://www.sabinorecovery.com/what-is-the-difference-between-vicarious-trauma-and-secondary-trauma/.
- Schulte, P., Sauter, S., Tiesman, H., Pandalai, S., Chosewood, L. C. et al., 'An urgent call to address work-related psychosocial hazards and improve worker well-being', National Institute for Occupational Safety and Health website, 10 April 2024, accessed 29 July 2025, https://blogs.cdc.gov/niosh-science-blog/2024/04/10/workplace-psychosocial-hazards/.
- Secondary Traumatic Stress Consortium, 'Secondary traumatic stress continuum of responses', Secondary Traumatic Stress Consortium website, accessed 28 February 2025, https://www.stsconsortium.com/what-is-sts.
- Tend Academy, 'A shift in perspective: Why it's time to stop using "compassion fatigue"', YouTube, accessed 29 July 2025, https://www.youtube.com/watch?v=pEBvxADumNw.
- Tend Academy, 'Defining vicarious trauma and secondary traumatic stress', Tend Academy website, accessed 28 February 2025, https://www.tendacademy.ca/resources-2/defining-vicarious-trauma-and-secondary-traumatic-stress/.
- UNHCR, *Staff Well-being and Mental Health in UNHCR*, Geneva, 2016, https://www.unhcr.org/media/staff-well-being-and-mental-health-unhcr-survey-report-2016.
- UNODC, *Exploring the linkages between judicial well-being and judicial integrity*, 2022, https://www.unodc.org/res/ji/resdb/data/2022/exploring_linkages_between_judicial_well-being_and_judicial_integrity_html/Global_Report_Judicial_Well-being.pdf.
- UNODC, Nauru Declaration on Judicial Well-being, 25 July 2024, https://judicialwellbeing.info/wp-content/uploads/2024/07/Nauru-Declaration-on-Judicial-Well-being.pdf.

(c) Preserving your professional well-being

It is of the utmost importance that judges are self-aware and understand that their mental processes, individual background and physical and psychological state (level of well-being) can impact their assessment of international protection cases.

Building resilience is key to preventing the effects of the psychosocial hazards to which judges are exposed. Resilience is generally understood as the ability to bounce back from difficult situations and adapt to change. To build resilience, it is important to take care of yourself physically, emotionally and mentally.

Resilience self-assessment tool

Before starting to reinforce your psychological resilience, try to assess where you currently stand ([53]).

Here are a few practical tips on how to protect your professional well-being by building your resilience and ensuring it does not negatively affect the way you hear and assess international protection cases.

Good practices for building resilience

Here are a few tips and good practices to build your resilience.

- **Stepping back and recovering energy reserves.**

  The more work we have, the more time we spend on it. But the more tired we get, the less we produce. This is known as the 'recovery paradox'. Just when we most need to stop, take a break and allow our bodies and minds to recover from the constant stress of work, it's precisely when we seem least willing to do so.

  [...]

  What do we achieve by doing this? We accumulate exhaustion and diminish our performance. ***We work harder, but we work worse.*** *To overcome this paradox, experts recommend designing a custom-made recovery plan tailored to your preferences and needs* ([54]).

- **Setting clear boundaries between professional and personal life.** This is essential to avoid prolonged exposure to trauma and to recover energy in a neutral environment. Spending time with family and friends is also very useful for detaching from the professional setting.
- **Asking for and receiving support.** Courts and tribunals should have adequate and accessible support mechanisms in place, along with strategies to address the psychological impact of a judge's tasks. These could include counselling and therapy.
- **Practising physical activities.** Physical activity helps in disconnecting from an emotionally challenging situation, improves sleep and appetite, boosts energy and generally improves your mood and mindset. Practising sports in an outdoor environment is of added value to reduce the production of stress hormones.

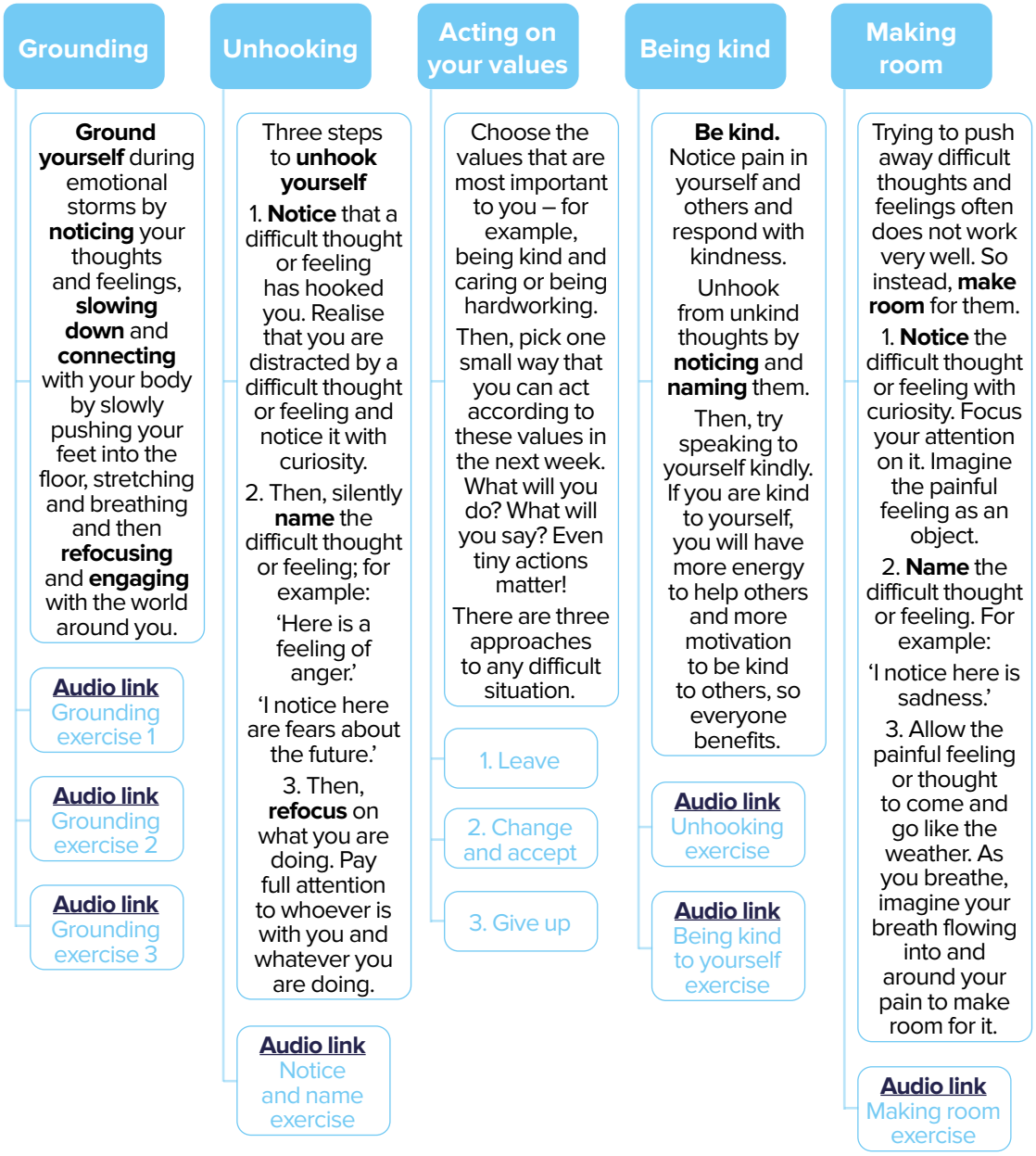
([53]) A questionnaire that you can use to self-assess your level of resilience is available at Judicial College of the United Kingdom, 'Increasing judicial resilience – Resource pack', 2019, p. 3, https://portal.ejtn.eu/PageFiles/18757/Resilience_handout_EJTN 20.pdf.

([54]) People Acciona, '"The more the better"? Understanding the recovery paradox', People Acciona website, 9 February 2024, accessed 1 September 2025, https://people.acciona.com/trends-and-inspiration/work-overload/?_adin=11734293023.

- **Self-care.** Proper rest, hydration and nutrition are also fundamental for sustaining mental and emotional health. Engaging in activities that bring you joy, such as hobbies or spending time with loved ones, is also a way to practise self-care. The impact of self-care is visible only after some time. It should be seen not as a one-time intervention but, rather, as an ongoing effort. The practice of self-care can be a powerful way of maintaining a work–life balance and healthy motivation for and effectiveness at work.
- For more advice on how to build your resilience by taking action in your social sphere, to improve your health, in relation to your self-organisation and purpose in life and to increase your self-belief and adaptability, see Judicial College of the United Kingdom, 'Increasing judicial resilience – Resource pack', 2019, pp. 6–9, https://portal.ejtn.eu/PageFiles/18757/Resilience_handout_EJTN%2020.pdf.
- For examples and advice on how to develop your self-care strategy, see EASO, 'Practical guide on the welfare of asylum and reception staff – Part II: Staff welfare toolbox', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2021, pp. 50–52, https://euaa.europa.eu/publications/practical-guide-welfare-staff-part-ii.

For your everyday well-being, you can also practise a set of exercises, developed by psychologists, that can help you to cope with stress in general. The World Health Organization has produced an illustrated guide focusing on five exercises, explained with visuals, and accompanied by multilingual audio guidance. Figure 4 details the five exercises covered by this guide and includes links to audio exercises.

Figure 4. Five stress management exercises for coping with adversity



Source: Figure created based on World Health Organization, *Doing What Matters in Times of Stress: An illustrated guide*, Geneva, 2020, https://iris.who.int/bitstream/handle/10665/331901/9789240003910-eng.pdf?sequence=1 Licence: CC BY-NC-SA 3.0 IGO.

Take some time to develop your self-care plan and refer to it on a regular basis ([55]).

([55]) EUAA, 'The EUAA animation on psychological first aid as an awareness raising tool', August 2023, p. 21, https://euaa.europa.eu/sites/default/files/publications/2023-08/2023_How_to_use_the_EUAA_animation_on_PFA_as_an_awareness_raising_tool.pdf.

Sources and further reading

- EUAA, 'Practical guide on the welfare of asylum and reception staff – Part II: Staff welfare toolbox', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2021, https://euaa.europa.eu/publications/practical-guide-welfare-staff-part-ii.
- EU-OSHA, 'Managing stress and psychosocial risks – E-guide', 2019, https://osha.europa.eu/sites/default/files/Eguide_stress_ENGLISH.pdf.
- Judicial College of the United Kingdom, 'Increasing judicial resilience – Resource pack', 2019, p. 3, https://portal.ejtn.eu/PageFiles/18757/Resilience_handout_EJTN 20.pdf.
- Meister, A., Cheng, B. H., Dael, N. and Krings, F., 'How to recover from work stress, according to science', Harvard Business Review website, 5 July 2022, accessed 28 July 2025, https://hbr.org/2022/07/how-to-recover-from-work-stress-according-to-science.
- People Acciona, '"The more the better"? Understanding the recovery paradox', People Acciona website, 9 February 2024, accessed 1 September 2025, https://people.acciona.com/trends-and-inspiration/work-overload/?_adin=11734293023.
- Tend Academy, *Tools to reduce vicarious trauma, secondary trauma and compassion fatigue*, Kingston, Ontario, https://www.opseu2100.ca/wp-content/uploads/2018/05/Tools-to-Reduce-Trauma.pdf.
- University of Kentucky Center on Trauma and Children, *Well@Work* podcast series, https://ctac.uky.edu/projects-and-programs/wellwork/wellwork-podcasts.
- World Health Organization, *Doing What Matters in Times of Stress: An illustrated guide*, Geneva, 2020, https://iris.who.int/bitstream/handle/10665/331901/9789240003910-eng.pdf?sequence=1.

3. Soft skills in the context of an international protection hearing

This chapter proposes a structured approach to preparing for and conducting a hearing for an international protection appeal, with specific and practical reference to the soft skills that might be required, as outlined in previous chapters.

The way international protection appeals procedures operate may differ from one jurisdiction to another. This chapter builds on the premise that a judge is tasked with the *ex nunc* examination of an appeal against a determining authority's decision on international protection. As such, although a hearing may in principle be necessary, the reader will view this guidance through the prism of their own national rules and use it accordingly. This chapter may also be useful to judges deciding international protection cases without the option of conducting an oral hearing, especially when combined with other EUAA judicial publications, such as the judicial analysis on evidence and credibility assessment ([56]).

This guide suggests an approach based on the EUAA asylum interview method ([57]) but adjusted to correspond to the judicial perspective.

To promote usability, this chapter has been divided into what may be understood as the main phases of a hearing of an international protection appeal:

- Section 3.1 'Preparing'
- Section 3.2 'Opening and conducting the hearing'
- Section 3.3 'Closing the hearing'.

This division will help in navigating the specificities of each particular phase. The sections should serve as reference for members of courts and tribunals and offer insights and practical advice through a multidisciplinary approach.

([56]) EUAA, 'Judicial analysis on evidence and credibility assessment in the context of the common European asylum system', 2nd edition, *EUAA Judicial Publications for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2023, https://euaa.europa.eu/publications/judicial-analysis-evidence-and-credibility-context-common-european-asylum-system.

([57]) The asylum interview method is the basis of an EUAA training module for asylum officials, the materials for which are made available to registered users only. For more information on the method, see EUAA, 'Asylum interview method', EUAA website, accessed 24 February 2025, https://euaa.europa.eu/training-catalogue/asylum-interview-method-0. Most basic aspects of the asylum interview method are also covered in EASO, 'Practical guide: Personal interview', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2014, https://euaa.europa.eu/publications/practical-guide-personal-interview, which includes useful checklists for practitioners.

3.1. Preparing

3.1.1. Familiarising yourself with the case

Whether you are preparing for the case hearing yourself or with some support, expert knowledge of all aspects of international protection law (procedural, qualification, exclusion, etc.) is essential to be able to focus on the relevant aspects of the case required to evaluate whether there is a need, or not, for international protection.

Mobilising your skill set – including the capacity to conduct research, in-depth analytical and synthesis skills and clarity of thought – during the preparatory stages will help structure the hearing and enable you to focus on the 'pillars' of the case, while also keeping an open mind.

(a) Contents of the case file

You should have access to the entire physical and/or digital case file and what information is available regarding the applicant whose appeal you will be deciding ([58]). The aim should be to have the opportunity to study what is already on record, including personal documents and other evidence submitted by the applicant to the determining authority, especially if these were not accepted as authentic/credible or if they were not mentioned in the determining authority's decision.

Consult the interview transcript or recording and go through it before studying the decision of the determining authority. If you find that certain parts of the interview transcript raise concerns or uncertainties or are even mentioned in the appeal submitted, it would be advisable to double-check the audio (or audiovisual) recording, if this is available, and try to review the part in question.

If, while studying the first instance decision, you spot an issue with the credibility assessment, this should be taken into account, and it should trigger further reflection on your part. Was the issue raised in time (while the first instance examination was ongoing) and was the applicant requested to provide an explanation or submit additional evidence ([59])? Is there any other possible explanation for what has been assessed as lacking credibility? Based on your knowledge about your national setup, would the applicant have been in a position to effectively procure what they were informed might be needed following their interview and before the decision was issued ([60])?

([58]) Depending on the national setup, different kinds of information may be available that could be relevant to the examination and of which you should be aware, for example a Eurodac hit – indicating that the applicant had already passed through another Member State or even previously applied for international protection there – that was accidentally overlooked by the determining authority.

([59]) See EASO, 'Practical guide: Personal interview', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2014, p. 14, https://euaa.europa.eu/publications/practical-guide-personal-interview.

([60]) Applicants may have faced multiple practical obstacles while the procedure before the determining authority was ongoing, for example serious delays or an inability to communicate with persons who might be in possession of documents of evidentiary value for their case. Other obstacles include being in detention, lacking financial means and language barriers. Depending on the processing time for their application in your country, these obstacles may even have proved insurmountable.

Having reviewed the available information and documents, it is important to assess if there might be a need to request additional documentation.

(b) Available country of origin information and country guidance

As a second step in your preparation, it is important that you are familiar with the country of origin information (COI) and any country guidance documents already on file, whether these were the outcome of the research of the national determining authority or were submitted as evidence by the applicant. To be in a position to review this information accurately and efficiently, it is essential that you have previously received training in how to research and use COI. The EUAA judicial practical guide on this topic is a useful resource ([61]).

Once you have an overview of the COI and country guidance documents on file, you will be able to assess if you perhaps need to expand the COI research to aspects that have not been tackled but could be relevant and important to the outcome of the appeal, such as the availability of information on a specific tribe or clan from the applicant's country of origin. It is especially important to attempt to expand any research already conducted when there are signs that the COI utilised is not adequate or conclusive.

Given the fact that these should be taken into account by the authorities when applying Regulation (EU) 2024/1347, you are advised to check if the EUAA has published COI reports or EUAA country guidance documents and, similarly, if the UNHCR has published relevant general information and recommendations that could be relevant to the applicant's case ([62]), to the extent that this has not already been done or that these may have been updated in the meantime.

Practical tip

If you are going to introduce or refer to new COI during (or even after) the hearing, remember to introduce it into the proceedings, giving the parties the opportunity to comment and adhering to the equality of arms principle.

([61]) EASO, 'Judicial practical guide on country of origin information', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2018, https://euaa.europa.eu/publications/judicial-practical-guide-country-origin-information.

([62]) Recitals 14 and 24 of 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, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95 EU of the European Parliament and of the Council (OJ L, 2024/1347, 22.5.2024, ELI: http://data.europa.eu/eli/reg/2024/1347/oj).

(c) Relevant case-law

At this point, you should consider researching any existing national or European case-law that may offer additional assistance or even guidance ([63]) on how to tackle legal points either already addressed by the first instance authority or raised with the appeal. This is especially important to avoid divergence in the application of specific legal provisions. It is also important to avoid divergence in outcomes for otherwise similar profiles and material facts claimed, without prejudice to the case-by-case nature of the preceding assessment and with full respect for judicial independence.

(d) Identifying the facts of importance to the appeal

Having consulted all the background information, the next step is to make a preliminary assessment of the elements you need to look into and establish, to the extent possible, during the hearing. Should there be a lack of information or even doubt as to specific material facts claimed, the profile of the applicant or the circumstances put forward, the points should be noted and, together with any potential issues identified in the interview transcript and the first instance decision, they need to feed into your preparation for the hearing.

As an example, if the applicant was not given the opportunity to provide an explanation for contradictory information provided regarding a certain material fact not found credible in the first instance assessment ([64]), this should inform your preparation, as should any new or different claims submitted with the appeal.

You should note that not all statements and/or evidence need to be re-examined by default; you should focus your efforts on the elements of relevance and potential importance to the outcome. Depending on the jurisdiction, matters that are accepted by the state authorities may not need re-examination.

([63]) It is imperative that any judgments of the Court of Justice of the European Union (CJEU) interpreting the relevant legal provisions are taken into account. For example, if you are assigned a case dealing with the topic of protection on the basis of gender, you could consult the recent CJEU judgments on this, such as joined cases C-608/22 and C-609/22, where the CJEU ruled that an accumulation of discriminatory measures towards women adopted or tolerated by an 'actor of persecution' and that undermine human dignity constitute acts of persecution. The CJEU found that the individual assessment does not require the competent authority to take into account factors particular to the applicant's personal circumstances other than those relating to her gender or nationality (CJEU, judgment of 2 October 2024, *AH, FN* v *Federal Office for Immigration and Asylum (Bundesamt für Fremdenwesen und Asyl*, C-608/22 and C-609/22, EU:C:2024:828, https://curia.europa.eu/juris/document/document.jsf?text=&docid=290687&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=188421). Furthermore, in case C-621/21, the CJEU ruled that women may be regarded as belonging to a social group within the meaning of Directive 2011/95/EU and may qualify for refugee status if they are exposed to physical or mental violence, including sexual violence and domestic violence, in their country of origin on account of their gender (CJEU, judgment of 16 January 2024, *WS* v *State Agency for Refugees under the Council of Ministers (SAR)*, C-621/21, EU:C:2024:47, https://curia.europa.eu/juris/document/document.jsf;jsessionid=77F34706B2D66870A22799DC40815AE1?text=&docid=281302&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=2346454).

([64]) In accordance with Article 16 of Directive 2013/32/EU and Article 12(2) APR (the latter is quoted): 'The applicant shall be given the opportunity to provide an explanation regarding elements which might be missing or any inconsistencies or contradictions in his or her statements.'

(e) Identifying special procedural needs – vulnerability check

There are clear legal standards to be addressed when an applicant is identified as vulnerable. Vulnerable applicants are entitled to procedural guarantees during the asylum process, and sometimes special measures need to be implemented. Furthermore, the presence of specific vulnerabilities may affect the assessment of evidence and credibility in the case at hand. This is further explored in the context of the hearing. See, for example, Section 3.1.1 'Familiarising yourself with the case', and Section 3.1.2 'Balancing legal standards and human nature', in particular Section 3.1.2(b) 'Memory basics'.

The preparatory phase is a good time to take stock of any vulnerability already identified and how or to what extent it was addressed by the first instance authority.

When dealing with cases of vulnerable applicants, judges should assess if any special procedural guarantees need to be put in place during the proceedings.

Article 24 of Directive 2013/32/EU ([65]) requires Member States to provide special procedural guarantees throughout the asylum procedure, where applicants have been identified as being in need of such guarantees ([66]). By virtue of Article 24(4) of Directive 2013/32/EU, the special procedural guarantees that need to be ensured during the procedure before the determining authority will be instructive for courts or tribunals, where, in any particular case, the need for special procedural guarantees becomes apparent in the context of an appeal.

If an applicant's vulnerability was not identified during the procedure before the determining authority and/or the necessary procedural measures or support were not provided or were not fully effective, the determining authority may not have been apprised of all the material grounds and/or evidence in the case.

It will also be for a national court or tribunal to determine if a time limit, in a given situation, is insufficient in view of the circumstances of a vulnerable applicant. A vulnerable applicant who may need more time than another applicant without a disability would need to make their case

([65]) 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 180/60, 29.6.2013, p. 60, ELI: http://data.europa.eu/eli/dir/2013/32/oj).

([66]) Articles 20 and 21 APR also deal with special procedural guarantees. In particular, Article 20(3) provides that:

> *The assessment referred to in paragraph 1 shall be continued after the application is lodged, taking into account any information in the applicant's file. The assessment referred to in paragraph 1 shall be concluded as soon as possible and, in any event, within 30 days. It shall be reviewed in the event of any relevant changes in the applicant's circumstances or where the need for special procedural guarantees becomes apparent after the assessment has been completed.*

Article 21, in turn, refers to the provision of adequate support and, specifically, stipulates:

> 1. *Where applicants have been identified as being in need of special procedural guarantees, they shall be provided with the necessary support allowing them to benefit from the rights and comply with the obligations under this Regulation throughout the duration of the procedure for international protection.*
> 2. *Where the determining authority, including on the basis of the assessment of another relevant national authority, considers that the necessary support referred to in paragraph 1 of this Article cannot be provided within the framework of the accelerated examination procedure referred to in Article 42 or the border procedure referred to in Article 43, paying particular attention to victims of torture, rape or other serious forms of psychological, physical, sexual violence or gender-based violence, the determining authority shall not apply or shall cease to apply those procedures to the applicant.*

effectively may be disproportionately affected by a system in which the cumulative effect of short deadlines erodes their right to be heard. This might apply, for example, to applicants with physical and/or mental illnesses and/or disabilities.

It is not possible to set out 'one-size-fits-all' procedural rules to ensure an effective remedy for all vulnerable persons before courts or tribunals. Analysing each particular case, though, can indicate the need for appropriate or necessary measures depending on, for example:

- the nature of the applicant's vulnerability;
- when the vulnerability was identified and whether or not it has already resulted in the application of special procedural guarantees;
- the role of a particular provision in the procedure;
- the domestic judicial system as a whole;
- the principles derived from the right to an effective remedy as they apply in the domestic judicial system.

Figure 5 shows some examples of procedural guarantees to consider for applicants with vulnerabilities.

Figure 5. Procedural guarantees for vulnerable applicants

A more detailed list of good practices in international protection proceedings before courts or tribunals relating to procedural guarantees is available in the EUAA judicial analysis on vulnerability ([67]).

Having reviewed the applicant's file, it is important to assess if there might be scope for requesting additional documentation clarifying or certifying the alleged needs **before the hearing**.

([67]) EASO, 'Vulnerability in the context of applications for international protection – Judicial analysis', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2021, Appendix D, https://euaa.europa.eu/publications/judicial-analysis-vulnerability.

If, on the other hand, no vulnerability issues have been identified, it is particularly important to take note of anything that might suggest the existence of vulnerability and to address it during the hearing.

Practical tip

Do not forget to include any previously unaddressed indications of vulnerability in your hearing plan (see Section 3.1.1(g) 'Make a plan for the hearing').

Although designed for the phase before the determining authority, the following EUAA tools can also prove useful in the appeals phase, especially if you detect vulnerabilities that were not identified and properly addressed in the previous steps.

Tool for identification of persons with special needs ([68])

This is an interactive online tool that allows the user to identify potential special needs in the context of the asylum procedure and reception. It supports the identification of 14 different categories: accompanied children; unaccompanied children; disabled people; elderly people; pregnant women; single parents with minor children; victims of human trafficking; persons with serious illnesses; persons with mental disorders; persons who have been subjected to torture; persons who have been subjected to rape; persons who have been subjected to other serious forms of psychological, physical or sexual violence; people with diverse sexual orientations; and people with gender-related special needs.

Special needs and vulnerability assessment tool ([69])

This tool is designed to support Member State authorities in the assessment of the special needs of persons in a situation of vulnerability. It supports specialised staff in assessing special needs in a structured way and identifying appropriate future actions to be taken in the interests of the applicant. A timely response and prompt access to services will also avoid vulnerable applicants becoming more vulnerable due to delayed service provision.

Keep in mind that vulnerable applicants should be granted special procedural guarantees, irrespective of when exactly their vulnerability was identified ([70]). According to your level of

([68]) The tool for identification of persons with special needs is available on the EUAA website at https://ipsn.euaa.europa.eu/ipsn-tool.

([69]) The special needs and vulnerability assessment tool is available on the EUAA website at https://snva.euaa.europa.eu/.

([70]) See EASO, 'Vulnerability in the context of applications for international protection – Judicial analysis', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2021, Section 2.1 'The legal concept of vulnerability in the common European asylum system', https://euaa.europa.eu/publications/judicial-analysis-vulnerability. In addition, there are several references to vulnerability considerations in the APR. For example, see recitals 15, 18, 36 and 61 and Articles 3(14) and 8(7), along with Articles 20 and 21, which concern special procedural guarantees. Article 13(7)(a) APR stipulates (emphasis added):

> *the person conducting the interview shall (a) be **competent** to take account of the personal and general circumstances surrounding the application, including the situation prevailing in the applicant's country of origin, and the applicant's cultural origin, age, gender, gender identity, sexual orientation, **vulnerability** and special procedural needs …*

expertise and specialised knowledge of dealing with applicants of such a profile, you may need to refer to a specific focal point or to relevant guidance where available.

Where such vulnerabilities have been flagged, it is worth keeping in mind, even at this early stage, that there might also be a direct impact on the assessment of the evidence and credibility. Furthermore, coping with vulnerabilities and trauma could affect your well-being. If you are aware of this, you can anticipate that you will need to fully mobilise your set of soft skills (see Section 2.3.2 'Professional well-being of international protection judges' and Section 3.1 'Preparing').

It can also occur that certain attributes, although not characterised as vulnerabilities per se ([71]) or meriting special procedural guarantees according to the relevant provisions ([72]), may play an important role when considering the basis of your decision later. For example, this can be the case when considering if the applicant could reasonably be expected to settle in a different part of their country of origin or former habitual residence.

(f) Other matters of relevance

It is advisable to try to discern if there is any other matter of relevance to the applicant's case that has been disregarded thus far and/or that should be taken into account moving forward. Depending on the national setup, this could be, for example, making sure that the applicant has interpretation in a dialect they are reasonably expected to understand ([73]) or requesting information on the privacy of the room that the applicant will be using for the hearing, if it will be conducted remotely.

([71]) See in particular Article 24 of Directive (EU) 2024/1346 of the European Parliament and of the Council of 14 May 2024 laying down standards for the reception of applicants for international protection (OJ L, 2024/1346, 22.5.2024) , ELI: http://data.europa.eu/eli/dir/2024/1346/oj:

Member States shall take into consideration the fact that certain applicants such as those falling within any of the following categories, are more likely to have special reception needs:

(a) minors;
(b) unaccompanied minors;
(c) persons with disabilities;
(d) elderly persons;
(e) pregnant women;
(f) lesbian, gay, bisexual, trans and intersex persons;
(g) single parents with minor children;
(h) victims of trafficking in human beings;
(i) persons with serious illnesses;
(j) persons with mental disorders including post-traumatic stress disorder;
(k) persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, for example victims of gender-based violence, of female genital mutilation, of child or forced marriage, or violence committed with a sexual, gender, racist or religious motive.

([72]) See in particular Articles 20–23 APR. In accordance with recital 17 APR:

Certain applicants may be in need of special procedural guarantees due, inter alia, to their age, gender, sexual orientation, gender identity, disability, serious physical or mental illness or disorders, including when these are a consequence of torture, rape or other serious forms of psychological, physical, sexual or gender-based violence. It is necessary to assess whether any individual applicant is in need of special procedural guarantees.

([73]) For example, the efficiency and accuracy of interpretation from/into Arabic depend heavily on whether the applicant and the interpreter are fluent in the same Arabic dialect used in a certain country or geographical region. See Translators without Borders, 'Language factsheet – Arabic', https://translatorswithoutborders.org/wp-content/uploads/2017/04/Arabic-Factsheet-in-English.pdf.

There are no hard and fast rules for your preparation at this point, other than that you should stay as vigilant as possible for any practical difficulties that could affect the upcoming hearing and, subsequently, the outcome of the appeal.

(g) Make a plan for the hearing

The last step in making sure the case file has been prepared should be to draw up a plan for your hearing. This is not meant in the sense of preparing a full set of questions covering all aspects and details of the appeal; rather, it means preparing an outline of the main points the appeal hearing should cover ([74]). During the actual hearing, it will be important to try to remain present, alert and flexible with your questions.

If you expect that certain sensitive issues may be discussed during the hearing, you should try to prepare the phrasing of your questions on these matters accordingly, to avoid giving the applicant the wrong impression or even causing them discomfort or worse.

For example, a member of a court or tribunal who is not particularly knowledgeable or experienced in dealing with claims based on diverse sexual orientations, gender identities, gender expressions or sex characteristics (SOGIESC-based claims) may use inappropriate language or questions while trying to explore the basis and credibility of the claim ([75]).

In the same manner, if you are dealing with an applicant who you suspect or already know has suffered traumatic events in their past, you should try to plan your hearing accordingly, ensuring that you avoid repeated intrusive questions on how the traumatic events occurred. Instead, you could focus on exploring the events leading up to and following what could be regarded as the cause of traumatisation. If these past events have already been established – that is, the relevant material facts have been accepted as credible in the decision of the determining authority – and no doubt has arisen in the meantime, there is no need to re-examine them in the hearing.

([74]) See Section 3.2.2 'Structuring the hearing'.

([75]) EUAA, *Practical guide on applicants with diverse sexual orientations, gender identities, gender expressions and sex characteristics – Examination procedure*, Publications Office of the European Union, Luxembourg, 2024, p. 21, https://euaa.europa.eu/publications/practical-guide-SOGIESC-examination-procedure; EUAA, 'Judicial analysis on evidence and credibility assessment in the context of the common European asylum system', 2nd edition, *EUAA Judicial Publications for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2023, pp. 263–267, https://euaa.europa.eu/publications/judicial-analysis-evidence-and-credibility-context-common-european-asylum-system; UNHCR, 'Claims to refugee status based on sexual orientation and/or gender identity within the context of Article 1(A)2 of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees', *Guidelines on International Protection*, No 9, HCR/GIP/12/01, 23 October 2012, https://www.unhcr.org/media/unhcr-guidelines-international-protection-no-9-claims-refugee-status-based-sexual-orientation; Chelvan, S., 'Migrant Law Clinic – Episode 2: The DSSH model and LGBT+ asylum – The emotional journey', YouTube, 15 September 2020, accessed 29 July 2025, https://youtu.be/R5lhliw1djg; Chelvan, S., 'The DSSH model and the voice of the silenced: Aderonke Apata – The Queer Refugee: "I Am a Lesbian"', in: Raj, S. and Dunne, P. (eds), *The Queer Outside in Law: Recognising LGBTIQ people in the United Kingdom*, Palgrave Macmillan, Cham, 2021, https://doi.org/10.1007/978-3-030-48830-7_4; Chelvan, S., written evidence before the Women and Equalities Select Committee, 8 November 2020, https://committees.parliament.uk/writtenevidence/40744/html/; Gyulai, G., Singer, D., Chelvan, S. and Given-Wilson, Z., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 2, Hungarian Helsinki Committee, Budapest, 2015, pp. 59–91, https://www.refworld.org/reference/manuals/hhc/2015/en/97964.

Practical tip

Look in the folder for any medical or other evidence of the traumatic experience(s) claimed, to avoid having to revisit material facts that have already been established. Note, however, that a lack of documentary evidence of past events should not in itself adversely affect the assessment of the credibility of the applicant's account.

Your plan should take into account the specific characteristics of the applicant and the case before you. To that effect, the wording of any questions prepared should be informed by the educational, ethnic and cultural background of the applicant and by factors such as their age, gender and state of health. If you feel it may be necessary, you should seek expert guidance on how to address certain issues or profiles ([76]).

Sources and further reading ([77])

- Correale, C., 'Special procedural guarantees for vulnerable asylum seekers', presentation given in an EASO professional development workshop on asylum procedures and the principle of *non-refoulement*, 2021, https://www.fricore.eu/sites/default/files/content/event/files/rt_2_procedural_rights_of_vulnerable_applicants_correale.pdf.

([76]) For example, if you are about to conduct a hearing with a minor, you might benefit from the following reading materials: Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*, Strasbourg, 2011, https://rm.coe.int/16804b2cf3; EASO, 'Practical guide on the best interests of the child in asylum procedures', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2019, https://euaa.europa.eu/publications/practical-guide-best-interests-child; Bala, N., Ramakrishnan, K., Lindsay, R. and Lee, K., 'Judicial assessment of the credibility of child witnesses', *Alberta Law Review*, Vol. 42, No 4, 2005, pp. 995–1017, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4640896/; UNHCR, *Beyond Proof – Credibility assessment in EU asylum systems*, Brussels, 2013, pp. 79–81, https://www.unhcr.org/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems; UNHCR and UNICEF, *The way forward to strengthened policies and practices for unaccompanied and separated children in Europe*, 2017, https://www.refworld.org/reference/regionalreport/unhcr/2017/en/117468; UNHCR and UNICEF, *Safe and Sound: What states can do to ensure respect for the best interests of unaccompanied and separated children in Europe*, 2014, https://www.refworld.org/reference/regionalreport/unhcr/2014/en/101717; UNHCR, *The Heart of the Matter – Assessing credibility when children apply for asylum in the European Union*, Brussels, 2014, https://www.refworld.org/reference/regionalreport/unhcr/2014/en/98211; Gyulai, G., Kagan, M., Herlihy, J., Turner, T., Hárdi, L. et al., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 1, Hungarian Helsinki Committee, Budapest, 2013, p. 93, https://helsinki.hu/wp-content/uploads/Credibility-Assessment-in-Asylum-Procedures-CREDO-manual.pdf; Gyulai, G., Singer, D., Chelvan, D. and Given-Wilson, Z., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 2, Hungarian Helsinki Committee, Budapest, 2015, https://www.refworld.org/reference/manuals/hhc/2015/en/97964; UN Committee on the Rights of the Child, General Comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (Art. 3, para. 1), CRC/C/GC/14, 29 May 2013, https://www.refworld.org/legal/general/crc/2013/en/95780; European Union Agency for Fundamental Rights (FRA), *Guardianship for Children Deprived of Parental Care – A handbook to reinforce guardianship systems to cater for the specific needs of child victims of trafficking*, Publications Office of the European Union, Luxembourg, 2014, https://fra.europa.eu/en/publication/2014/guardianship-children-deprived-parental-care.

([77]) Other sources include Tribunals Judiciary of the United Kingdom, Joint Presidential Guidance Note No 2 of 2010, 'Child, vulnerable adult and sensitive appellant guidance', https://www.judiciary.uk/wp-content/uploads/2014/07/ChildWitnessGuidance.pdf.

- EASO, 'Judicial analysis – Asylum procedures and the principle of *non-refoulement*', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2018, https://euaa.europa.eu/publications/judicial-analysis-asylum-procedures-and-principle-non-refoulement.
- EASO, 'Vulnerability in the context of applications for international protection – Judicial analysis', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2021, pp. 21–38, pp. 196–214, Appendix D, https://euaa.europa.eu/publications/judicial-analysis-vulnerability.
- EUAA, *Victims of Torture – Identification, support and examination of claims*, Publications Office of the European Union, Luxembourg, 2023, https://euaa.europa.eu/publications/victims-torture.
- European Council on Refugees and Exiles, *The Concept of Vulnerability in European Asylum Procedures*, Brussels, 2017, https://asylumineurope.org/wp-content/uploads/2020/11/aida_vulnerability_in_asylum_procedures.pdf.

Further guidance and practical tools for dealing with **applicants with mental health issues** can be drawn from the following.

- EASO, 'Practical guide on the best interests of the child in asylum procedures', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2019, https://euaa.europa.eu/publications/practical-guide-best-interests-child.
- The threefold EUAA guidance on the topic:
  - EUAA, *Mental health and well-being of applicants for international protection – Part I. Shaping an asylum system informed by considerations for mental health and well-being – For senior management*, Publications Office of the European Union, Luxembourg, 2024, https://euaa.europa.eu/publications/mental-health-well-being-applicants-part-i-senior-management.
  - EUAA, *Mental health and well-being of applicants for international protection – Part II. Practical guide for implementing mental health and psychosocial support – For officers working in the first line*, Publications Office of the European Union, Luxembourg, 2024, https://euaa.europa.eu/publications/mental-health-well-being-applicants-part-ii-first-line-officers.
  - EUAA, *Mental health and well-being of applicants for international protection: Part III. Toolbox for the implementation of mental health and psychosocial support*, Publications Office of the European Union, Luxembourg, 2024, https://euaa.europa.eu/publications/mental-health-well-being-applicants-part-iii-toolbox. See, in particular, Chap. 4 'Understanding trauma', pp. 31–37, and Chap. 8 'Checklists, questionnaires and other tools – considering trauma during the personal interview', pp. 75–76.
- Judicial College of the United Kingdom, *Equal Treatment Bench Book*, London, 2025, Chap. 2, https://www.judiciary.uk/about-the-judiciary/diversity/equal-treatment-bench-book/.
- Judicial College of Victoria, *Disability Access Bench Book*, Melbourne, 2025, Chap. 5, https://resources.judicialcollege.vic.edu.au/article/1053839/section/3477.

- UNHCR, *The Heart of the Matter – Assessing credibility when children apply for asylum in the European Union*, Brussels, 2014, https://www.refworld.org/reference/regionalreport/unhcr/2014/en/98211.

3.1.2. Balancing legal standards and human nature

In preparing yourself, remember that you will be assessing evidence and credibility according to specific legal standards, while also drawing on numerous skills and knowledge, such as your understanding of human nature. Staying alert, curious and adaptable is crucial for a successful hearing. Keeping this in mind will help you adjust your expectations.

(a) Remembering the legal standards

It is likely that during the hearing you may need to gather information that will allow you to assess the credibility of the applicant's statements. To that end, you may benefit from being reminded of the duty to cooperate with the applicant and the latter's duty to substantiate their application and, by analogy, their appeal, on which the Court of Justice of the European Union (CJEU) has already pronounced ([78]). As ruled in the *M. M.* case ([79]), although it is generally for the applicant to submit all elements needed to substantiate the application, the fact remains that it is the duty of the state authority to actively cooperate with the applicant at the stage of determining the relevant elements of that application. This may imply the need for the state authority concerned to cooperate insofar as to ensure that all the elements needed to substantiate the application are assembled, inter alia as the state may be better placed to gain access to certain types of documents ([80]).

It is noteworthy that the wording of Article 4(1) of Regulation (EU) 2024/1347, which differs from that of Article 4(1) of Directive 2011/95/EU ([81]), reads:

> *Applicants shall submit all the elements available to them which substantiate the application for international protection. For that purpose, applicants shall fully*

([78]) See also EUAA, 'Judicial analysis on evidence and credibility assessment in the context of the common European asylum system', 2nd edition, *EUAA Judicial Publications for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2023, pp. 60–87, https://euaa.europa.eu/publications/judicial-analysis-evidence-and-credibility-context-common-european-asylum-system.

([79]) CJEU, judgment of 22 November 2012, *M. M.* v *Minister for Justice, Equality and Law Reform, Ireland*, C-277/11, EU:C:2012:744, https://curia.europa.eu/juris/document/document.jsf?text=&docid=130241&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=302563. An EUAA case-law summary is available at https://caselaw.euaa.europa.eu/pages/viewcaselaw.aspx?CaseLawID=1754.

([80]) CJEU, judgment of 22 November 2012, *M. M.* v *Minister for Justice, Equality and Law Reform, Ireland*, C-277/11, EU:C:2012:744, paras 65 and 66, https://curia.europa.eu/juris/document/document.jsf?text=&docid=130241&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=302563.

([81]) 'Member States may consider it the duty of the applicant to submit as soon as possible all the elements needed to substantiate the application for international protection. In cooperation with the applicant, it is the duty of the Member State to assess the relevant elements of the application' of the directive (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 content of the protection granted (recast) (OJ L 337, 20.12.2011, p. 9, ELI: http://data.europa.eu/eli/dir/2011/95/oj)).

> *cooperate with the determining authority and with other competent authorities and shall remain present and available on the territory of the Member State responsible for examining their application throughout the procedure, including during the assessment of the relevant elements of the application.*

Despite this shift, the newer provision still points towards the need to cooperate. It remains to be seen whether the CJEU will differentiate its approach regarding the assessment of facts and circumstances in the future.

Sources and further reading ([82])

- Council of Europe, *Gender-based Asylum Claims and* Non-refoulement, Strasbourg, 2020, https://edoc.coe.int/en/violence-against-women/8301-gender-based-asylum-claims-and-non-refoulement-articles-60-and-61-of-the-istanbul-convention.html.
- EASO, 'Practical guide on the best interests of the child in asylum procedures', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2019, https://euaa.europa.eu/publications/practical-guide-best-interests-child.
- EASO, 'Vulnerability in the context of applications for international protection – Judicial analysis', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2021, pp. 135–147, https://euaa.europa.eu/publications/judicial-analysis-vulnerability.
- EUAA, 'Judicial analysis on evidence and credibility assessment in the context of the common European asylum system', 2nd edition, *EUAA Judicial Publications for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2023, pp. 267, https://euaa.europa.eu/publications/judicial-analysis-evidence-and-credibility-context-common-european-asylum-system.
- EUAA, *Guidance on Vulnerability in Asylum and Reception – Operational standards and indicators*, Publications Office of the European Union, Luxembourg, 2024, https://euaa.europa.eu/publications/guidance-vulnerability-operational-standards-and-indicators.
- European Council on Refugees and Exiles, *The Concept of Vulnerability in European Asylum Procedures*, Brussels, 2017, https://asylumineurope.org/wp-content/uploads/2020/11/aida_vulnerability_in_asylum_procedures.pdf.

([82]) Other sources include Gyulai, G., Kagan, M., Herlihy, J., Turner, S., Hárdi, L. et al., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 1, Hungarian Helsinki Committee, Budapest, 2013, https://helsinki.hu/wp-content/uploads/Credibility-Assessment-in-Asylum-Procedures-CREDO-manual.pdf; International Association of Refugee Law Judges: Vulnerable Persons Working Party, 'Discussion paper: Sexual orientation, gender identity and the administration of refugee protection', 16 October 2014, https://www.iarmj.org/files/151/IARMJ-Working-Parties/3/Sexual-Orientation-Gender-Identity-and-the-Administration-of-Refugee-Protection—-Vulnerable-Persons-Working-Party-Tunis-2014.pdf; Määttä, S. K., Puumala, E. and Yikomi, R., 'Linguistic, psychological and epistemic vulnerability in asylum procedures: An interdisciplinary approach', *Sage Journals*, Vol. 23, Issue 1, 2021, pp. 46–66, https://doi.org/10.1177/1461445620942909; Schock, K., Rosner, R. and Knaevelsrud, C., 'Impact of asylum interviews on the mental health of traumatized asylum seekers', *European Journal of Psychotraumatology*, Vol. 6, Issue 1, 2015, https://doi.org/10.3402/ejpt.v6.26286; UNHCR, *The Heart of the Matter – Assessing credibility when children apply for asylum in the European Union*, Brussels, 2014, https://www.refworld.org/reference/regionalreport/unhcr/2014/en/98211.

- European University Institute: Robert Schuman Centre for Advanced Studies and Centre for Judicial Cooperation, 'Handbook on the techniques of judicial interactions in the application of the EU Charter', March 2019, https://cjc.eui.eu/wp-content/uploads/2020/05/eNACT_Handbook_asylum-compresso.pdf.
- Fundamental Rights in Courts and Regulation, *Effective justice, international protection and fundamental rights in asylum and migration*, Scuola Superiore della Magistratura, Rome, 2022, https://www.fricore.eu/sites/default/files/content/materials/5._fricore_casebook_-_asylum_and_migration_isbn_cp_002_dd.pdf.
- Gyulai, G., Singer, D., Chelvan, S. and Given-Wilson, Z., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 2, Hungarian Helsinki Committee, Budapest, 2015, https://www.refworld.org/reference/manuals/hhc/2015/en/97964.
- Malvasio, F., 'Judicial protection and vulnerable categories', International Association of Refugee and Migration Judges Conference, 12–14 September 2018, Catania, Italy, https://www.iarmj.org/files/165/Vulnerable-claimants/33/Judicial-Protection-and-Vulnerable-Categories—-Malvasio.pdf.
- Smyth, C., 'The human rights approach to "persecution" and its child rights discontents', *International Journal of Refugee Law*, Vol. 33, Issue 2, 2021, pp. 238–276, https://doi.org/10.1093/ijrl/eeab039.
- Tribunals Judiciary of the United Kingdom, 'Child, vulnerable adult and sensitive appellant guidance', Joint Presidential Guidance Note No 2 of 2010, https://www.judiciary.uk/wp-content/uploads/2014/07/ChildWitnessGuidance.pdf.
- UNHCR, *Beyond Proof – Credibility assessment in EU asylum systems*, Brussels, 2013, https://www.unhcr.org/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems.
- UNHCR, 'Claims for refugee status related to situations of armed conflict and violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees and the regional refugee definitions', *Guidelines on International Protection*, No 12, HCR/GIP/16/12, 2 December 2016, para. 12, https://www.unhcr.org/media/unhcr-guidelines-international-protection-no-12-hcr-gip-16-12-02-december-2016.

(b) Memory basics

Human memory, the interview and hearing process, the applicant's account and your credibility assessment are very much interrelated, and they interreact ([83]). To prepare for and to conduct a hearing, but also to be in a position to assess the information gathered after the hearing ends, it is important that you are aware of certain facts regarding human memory.

Our memories reside in a highly complex network of neurons in our brain, where we encode and store information and from where we retrieve it. This network functions in a particular way: when certain neurons are activated in a specific part of the brain, these can trigger the activation of other relevant parts by association.

This becomes evident when a single cue sparks a chain of connected memories. For instance, hearing a certain song might instantly take you back to a summer spent in a seaside town, evoking the scent of salt air, the warmth of the sun and the sound of waves at dusk.

Practical tips

1. The fact that we tend to remember by association is why the applicant should be encouraged to recount their experience of an event freely.

2. This is also why, following the free narrative of the applicant, you are advised to go back to tackle the material facts claimed one by one and satisfactorily cover one topic before you move to the next one, thus utilising the activation of neurons that has been triggered in the applicant's brain before moving on to the next important topic.

Scientists often divide human memory into different subsystems. In the context of international protection procedures, two such subsystems are important: **semantic memory** and **episodic memory**. Plainly put, the semantic memory contains memories of learned facts ('Athens is the capital of Greece'), whereas the episodic memory contains memories of events the person

([83]) You can read more on memory and how it may affect refugee status determination procedures in Cameron, H. E., 'Refugee status determinations and the limits of memory', *International Journal of Refugee Law*, Vol. 22, Issue 4, 2010, pp. 469–511, https://doi.org/10.1093/ijrl/eeq041; Cohen, G. and Conway, M. A., *Memory in the Real World*, 3rd edition, Psychology Press, Hove, 2007; Fisher, R. P., Ross, S. J. and Cahill, B. S., 'Interviewing witnesses and victims', in: Granhag, P. A. (ed.), *Forensic Psychology in Context – Nordic and international approaches*, Routledge, Abingdon, 2010, pp. 56–74, https://faculty.washington.edu/sjross2/documents/FisherRoss&10-interviewing%20witnesses%20and%20victims.pdf; Fivush, R. and Waters, T. E. A., 'Sociocultural and functional approaches to autobiographical memory', in: Perfect, T. J. and Lindsay, S. D. (eds), *The SAGE Handbook of Applied Memory*, SAGE Publications, London, 2014, pp. 221–238; Gyulai, G., Kagan, M., Herlihy, J., Turner, S., Hárdi, L. et al., *Credibility Assessment in Asylum Procedures – A multidisciplinary training manual*, Vol. 1, 2013, pp. 63–102, https://helsinki.hu/wp-content/uploads/Credibility-Assessment-in-Asylum-Procedures-CREDO-manual.pdf; Herlihy, J., Jobson, L. and Turner, S., 'Just tell us what happened to you: Autobiographical memory and seeking asylum', *Applied Cognitive Psychology*, Vol. 26, Issue 5, 2012, pp. 661–676, https://doi.org/10.1002/acp.2852; Jobson, L., 'Cultural differences in specificity of autobiographical memories: Implications for asylum decisions', *Psychiatry, Psychology and Law*, Vol. 16, Issue 2, 2009, pp. 453–457, https://doi.org/10.1080/13218710902930259; Perfect, T. J. and Lindsay, S. D. (eds), *The SAGE Handbook of Applied Memory*, SAGE Publications, London, 2014, pp. 221–238; Resisberg, D., *The Science of Perception and Memory – A pragmatic guide for the justice system*, Oxford University Press, New York, 2014.

has experienced ('We left our hometown on the third day of Ramadan'). The autobiographical memory, which is part of the episodic memory, is also of particular interest here. Our autobiographical memory holds experiences that are of great personal significance; memories that have shaped us as individuals and formed our identity. People tend to remember autobiographical memories with ease and in more detail, but these can still be influenced by the passing of time and other factors.

Memory does not function like a video camera. In general, you should note that memory may be influenced by various factors, and this can happen during encoding, storing or even retrieving the information we are trying to share. Figure 6 shows some examples of influencing factors.

Figure 6. Factors that can influence memory during ...

Encoding	Storing	Retrieving
• Factors relating to the perception of the person experiencing the event • The emotional relevance of the event • Lighting conditions • Focus • Stress	• The time that has passed (retention interval) • Social influence	• The general conditions of the hearing (or interview) • The type of questions asked • The order in which questions are asked • Stress or mental distress on the part of the applicant

It is not normally possible to play back a memory of a certain event like a film. It becomes apparent that people who may have experienced the same event will not necessarily encode, store and/or retrieve the same memory when asked to do so. There are, however, some scientific insights that can support you in your preparation.

Dating specific events

During a hearing, you may need to ask the applicant to situate a specific event in time or try to sort out the chronological order of several events. As a rule, people find it difficult to remember exact dates, and it is important to settle for estimates. Furthermore, the longer ago something has happened, the more difficult it becomes to chronologically frame it. It is important to note, however, that people are more likely to work out the timing of private/personal events than that of public events. Consequently, they are more likely to remember when something in the public sphere happened when they associate it with a personal memory. Bear in mind, though, that our memories of personal experiences and what we are able to recall depend not only on the person but also on other factors, such as our educational and cultural background.

Practical tip

When you are trying to establish a chronology, try to refer in your questions to other events that may have been of significance to the applicant, based on their culture, religion, heritage, etc. (e.g. 'You had mentioned that you left Iraqi Kurdistan sometime last spring. Do you perhaps remember if you had already celebrated Nowruz?').

Multiple similar events

To understand how people remember and speak about events that they have experienced repeatedly, it is necessary to mention script-based memory. Applicants who have experienced a certain type of event routinely will generally find it difficult to remember individual occurrences or to give a detailed account of an individual event. This is particularly important for you to remember when assessing credibility.

People who have experienced a certain type of event multiple times will, in principle:

- remember what this routine typically entailed, and therefore will probably not be able to recall exactly what happened in more than a few of these events or may not even recall the exact number of times these events occurred;
- remember less detail, and the memories may sound general or vague when they are being retrieved.

Traumatic events

Memories of traumatic experiences can be relatively rich in terms of perceptual and sensory details, but also in accompanying emotional information. Nonetheless, it is not uncommon for people who suffer from post-traumatic stress disorder (PTSD) to experience difficulties when asked to provide specific information, not only when recounting the traumatic event in question but also when providing information about events in general and even everyday activities ([84]). This is why it is important that they are provided with adequate time to concentrate and attempt to recall, without being pressured into it (see Section 3.1.2 'Balancing legal standards and human nature').

Furthermore, as mentioned previously, people who have suffered trauma may actively refrain from sharing much information about it for other reasons too (shame, guilt, fear, etc.).

([84]) People suffering from PTSD may be experiencing the traumatic event(s) repeatedly, a situation that may lead to panic attacks, a continuous feeling of anxiety and nightmares. PTSD may also lead to memory impairment and dysfunction. See, for instance, Samuelson, K. W., 'Post-traumatic stress disorder and declarative memory functioning: A review', *Dialogues in Clinical Neuroscience*, Vol. 13, Issue 3, 2011, pp. 346–351, https://doi.org/10.31887/DCNS.2011.13.2/ksamuelson; and Pitts, B. L., Eisenberg, M. L., Bailey, H. R. and Zacks, M. S., 'PTSD is associated with impaired event processing and memory for everyday events', *Cognitive Research: Principles and Implications*, Vol. 7, Issue 35, 2022, https://doi.org/10.1186/s41235-022-00386-6.

For example, a person who has been tortured in their country of origin and is suffering from PTSD will probably not respond to your questions the way someone who is not afflicted by mental health issues would. This is partly because the traumatic event may have altered the way their mind and memory work, but also partly because they may choose not to discuss details of the traumatic event with a representative of the authorities of the host country. This could be out of persisting fear or distress if the torture was perpetrated by the authorities of their countries.

Practical tip

When you become aware that an applicant is a victim of torture and/or is suffering from PTSD, look for medical records to find out if the applicant has received treatment and if they have opened up to a psychiatrist about their past experiences. The aim is to avert the risk of retraumatisation but also to anticipate whether they are likely to have faced or are currently facing issues stemming from PTSD, which notably affect memory and capacity for narration.

(c) Considering culture and body language

As highlighted in Section 2.2 'Cultural and linguistic challenges', awareness of how cultural misunderstandings can distort the understanding/representation of facts is particularly important in international protection cases.

Non-verbal communication or body language may include gestures, body stance, facial expressions, the distance between interlocutors, the rhythm and intensity of our speech and the tone of our voice.

How we use body language, and how we and others interpret it, is based to a huge extent on culture. Additionally, how or if we discuss certain topics largely depends on culture.

For example:

- when you are frowning while listening to the applicant, they might think that you are doubting them, irrespective of your reasons, which may be completely irrelevant (e.g. you are having difficulty hearing the interpreter);
- in some societies, eye contact is considered a basis for open and direct communication, while in other cultures it is considered intrusive and possibly offensive;
- in some cultures, nodding may mean 'yes' while in other cultures it may mean the opposite.

In summary, keep in mind that:

- good intercultural communication requires skills, knowledge and practice, but mainly motivation;

- it is not just about differences but also similarities – for example, people of most cultures wish to please or impress others, which may make them reluctant to admit that they have not understood something;
- it is important to be conscious of your own non-verbal cues;
- your personal cultural background affects your interpretation of material facts.

Remember **not to**:

- assume that everyone perceives things the same way you do or that your perception of things is the only one that is correct;
- interpret the applicant's body language as a sign of credibility or lack thereof.

(d) Perspective and stance

Keep in mind that all parties involved in a hearing will have their own perspective.

The applicant's perspective

It is the right of the applicant to present their case and be offered the opportunity to substantiate it. Nonetheless, the applicant may face cultural, linguistic or other obstacles that may limit their ability to present what they have been through and what they fear. You should take into account any such challenges with which the applicant may be dealing and individualise your approach.

The applicant may fear prejudice, scepticism or rejection, or they may simply be overly stressed during the hearing. In some cases, they may not have been given adequate time to present their case before the determining authority. This, in addition to the fact that in most cases it will be their last opportunity to have their application reviewed in fact and law, makes it all the more important to provide an environment where they will feel at ease and where they will be able to substantiate their case. At the same time, it is important to remind yourself that, while you may be fairly familiar with the judicial setting, this may be the first time the applicant has appeared before a judicial body. In this situation, the power imbalance becomes even more apparent.

It is advisable to briefly reflect on all the potential mental 'blocks' that may be weighing on the applicant. The behaviour and statements of an applicant may have been shaped by experiences they have had in their home country, on the journey or even during their stay in the host country. It is important that you are aware of possible influencing factors and, as far as possible, try to adjust the hearing and your communication to the needs of the applicant.

It goes without saying that various actors – such as family, the human smugglers with whom the applicant crossed the border (where relevant) or the authorities – may have certain expectations of the applicant. These actors may directly affect the account the applicant gives and the way they respond to your questions.

As an example, the applicant may be worried that if the hearing does not go well or if they reveal too much information, they may endanger their family in their home country. Without financial support, their family may not be able to survive, especially if they have had to borrow money to fund their journey. They may be feeling guilty for abandoning their family and home. They may be feeling guilty that they are betraying their roots and that they are not following the traditional lifestyle of their culture and family.

Similarly, depending on the kinds of experiences and contacts the applicant may have had with the authorities in their country of origin, they may fear that they need to obey the authorities in the host country, no matter what, or else they risk being imprisoned or abused. They may think that the authorities are unfair and not to be trusted by default. They may fear the smuggler who brought them to the host country, and they may have been threatened or convinced that certain statements are the 'ticket' to receiving protection.

The judicial perspective

The hearing is one of the best means of making sure you have all the information you need from the applicant ([85]). They, in turn, should cooperate, substantiate their appeal and answer your questions as thoroughly and specifically as possible.

You are responsible for collecting as much information as is needed about the material facts and the circumstances that drove the applicant out of their country and led them to apply for international protection. A fair and just decision depends on having a clear idea of the issues at hand. Therefore, the hearing must be fair, but it must also be efficient. It is your responsibility to strike a balance between the time that is available for you to conduct the hearing and the time the applicant is given to argue their case. Remember that your goal is to obtain adequate, credible and detailed information that will inform your decision-making process and enable you to reach a well-founded conclusion.

Mental and emotional check

Being well prepared is not about coming up with an exact structure for the hearing in advance or about drafting an exhaustive list of questions to pose. Being well prepared is about understanding the case before you as much as possible. This preparation is meant to help you thoroughly examine the material facts during the hearing, while staying focused and present. This is the only way to achieve the adaptability required to adjust your reactions and questioning depending on how the hearing is progressing. In addition, before the hearing, you need to be psychologically prepared. You need to reflect on your mental and emotional state so that you can tackle any factors that may hold you back from leading a successful and efficient hearing (see Section 2.3.1 'Activating your emotional intelligence').

Furthermore, keep in mind that the frequency with which you are handling international protection cases may be exposing you to a broad range of emotions and also to prejudice.

([85]) In certain jurisdictions, the hearing also presents an important opportunity to share knowledge of relevant COI or other facts the court may have that have not yet been introduced into the proceedings.

You may also have some pre-existing ideas on certain nationalities, cultures or situations. The applicants are equally exposed to stereotypes, which may also be reinforced by the de facto imbalance of power (see Section 2.2 'Cultural and linguistic challenges').

It is perhaps worth (re)visiting at this point three elements that could affect the quality of your interaction with the applicant during the hearing.

Predisposition

You may have a predisposition about a hearing, resulting from a combination of your beliefs, values and even ideals. This predisposition may have originated from your personal life experiences, career path, social standing and even family and friends.

Leading the hearing gives you the upper hand by default. You should not show off or abuse your position, as the fact that you are representing the judicial (or quasi-judicial) authority responsible for deciding the international protection appeal is already influencing your relationship and interaction with the applicant. You run the risk of making the applicant change their reactions so that they comply with what the determining authority seems to be asking of them.

Practical tip

At the beginning of the hearing, remind the applicant that you are not the determining authority. Explain that you are an independent judge tasked with deciding whether the authority's decision is right or not.

Discretion

While discretion is important, it should not prevent you from asking the questions necessary for a proper hearing of the applicant's case. Sometimes there can be a thin line between asking the necessary questions and being indiscreet. Staying curious and motivated throughout the hearing is imperative, but your questioning should always aim to extract the necessary information, and this has to be done in an appropriate way. Not all matters are related to the international protection claim and especially not those that, as difficult or as interesting as they may be, would not influence your legal or factual reasoning when it comes to allowing or dismissing their appeal.

The boundaries to be taken into account are the elements that need to be satisfied for your assessment to be full and fair. There is no need to have all the raw details of a traumatic experience put down on paper, especially if the applicant would have to be pressured into sharing them or risk retraumatisation in the process. On the other hand, if the applicant begins to narrate in detail such experiences, you are advised to allow them to express themself up to the point they wish or are able to do so.

If you can afford the time, you may allow the applicant to expand on an unrelated matter if you feel they need to talk or that it may help them open up. The hearing may be the first (and last) opportunity to reveal a long-kept secret. It stands within reason that they be allowed to do so.

The authority figure

Encouraging the applicant to be cooperative and answer your questions will come naturally in most cases, without particular effort on your part. But intentionally trying to reinforce or push for such a reaction may verge on manipulation. If you raise your voice or use a different tone, it is possible that you are exerting pressure on the applicant.

It goes without saying that a judge must abstain from making demands or expressing what may be perceived as (direct or indirect) pressure. It is fine to remind the applicant of the purpose of the hearing and their obligations at the beginning or, if problems arise, even later, during the hearing, but you should not go so far as to put undue pressure on them. Telling the applicant (let alone repeating to them) that you do not believe what they are saying and thus that their appeal will be rejected is not professional. Similarly, if you keep interrupting them and asking them to omit or shorten their narration without showing respect or explaining your reasons, it could be considered a form of abuse of authority.

3.1.3. Practical arrangements

To complete your preparation, take a little time to check on practical arrangements, including the room setup and practical aspects relating to the interpreter.

(a) Ensure the proper setup of the hearing room

Before the parties to the hearing enter the hearing room, consider checking and making sure that everything is in place for an international protection hearing to take place. As difficult as it may be to make sure that the hearing room is exactly right and to apply a common approach from one national context to the next, it is useful to discuss your options and the issues you may have spotted, so that steps are eventually taken to resolve these.

In principle, the hearing is held in the presence of the applicant and (where necessary) an independent interpreter. The applicant may also be accompanied by their legal representative or other counsellor. If there are more persons who wish to be present, depending on your national practice, you may be called upon to decide whether they are allowed to attend and where they will be seated, so that their presence does not interfere with the hearing.

In many jurisdictions, a representative of the determining authority may take part in the appeal proceedings or the hearing may be open to the public and the media. Ideally, however, the number of people in the hearing room should be kept as small as possible to ensure that communication with the applicant is as uninhibited as possible. You are advised to take this into consideration when it falls to you to decide between a closed or a public hearing.

In the context of personal interviews conducted by national determining authorities, it is commonly accepted and advised that the applicant sits opposite the interviewer and the

interpreter sits somewhere to the side between the two, thus forming an imaginary triangle. The interviewer should ideally be seated opposite the applicant, so that direct, face-to-face communication is ensured, while the interpreter, who sits to the side and slightly removed, is positioned such that their impartiality is stressed. A similar setup can be advisable for hearings of appeals taking place in a non-court setting, and particularly in jurisdictions allowing or encouraging the number of people present for the oral hearing to be kept low.

If, on the other hand, according to your national law and practice, the determining authority is regularly represented during the hearing, you are advised to sit opposite both the representative of the authority and the applicant, forming an imaginary triangle with them. In this setup, the interpreter sits somewhere between you and the applicant so that the applicant has an unobstructed view of all the main parties.

As the interpreter and applicant speak the same language, it would be easy for them to start conversing on the side. To avoid such side exchanges, it is important to maintain regular eye contact and explain what needs to be explained, so that the applicant remains focused on the hearing and does not digress from the dialogue between you and them. The legal representative, if one is present, should be offered a seat next to the applicant or close to them.

To get a feel for how things look from where the parties will be sitting, try each position before the hearing. See if you would perhaps feel intimidated by the placement and if your view of where you will be sitting during the hearing is unobstructed, for example that there are no other people, equipment or screens in your line of sight from each of the seats. If you spot an object that might be distracting to the applicant, have it either removed from the room or placed somewhere out of sight.

It is advised that relatives or friends wait outside the hearing room, if possible, so that the applicant is free to share important or private information, which they might avoid doing in the presence of their relative(s). If they must be present in the hearing room, any relatives are better placed behind the applicant, so that they do not interfere with the communication triangle formed by the main parties.

If the UNHCR or representatives of non-governmental organisations request to be present for or intervene in the hearing – and have been allowed to do so in accordance with the national procedures in place – they can be seated behind the parties. This is, again, to avoid interference with the direct communication and line of sight that need to be established among the main parties and the interpreter.

Figures 7 and 8 depict two examples of national setups of hearing rooms in asylum cases.

Figure 7. Example of setup for a hearing taking place in camera

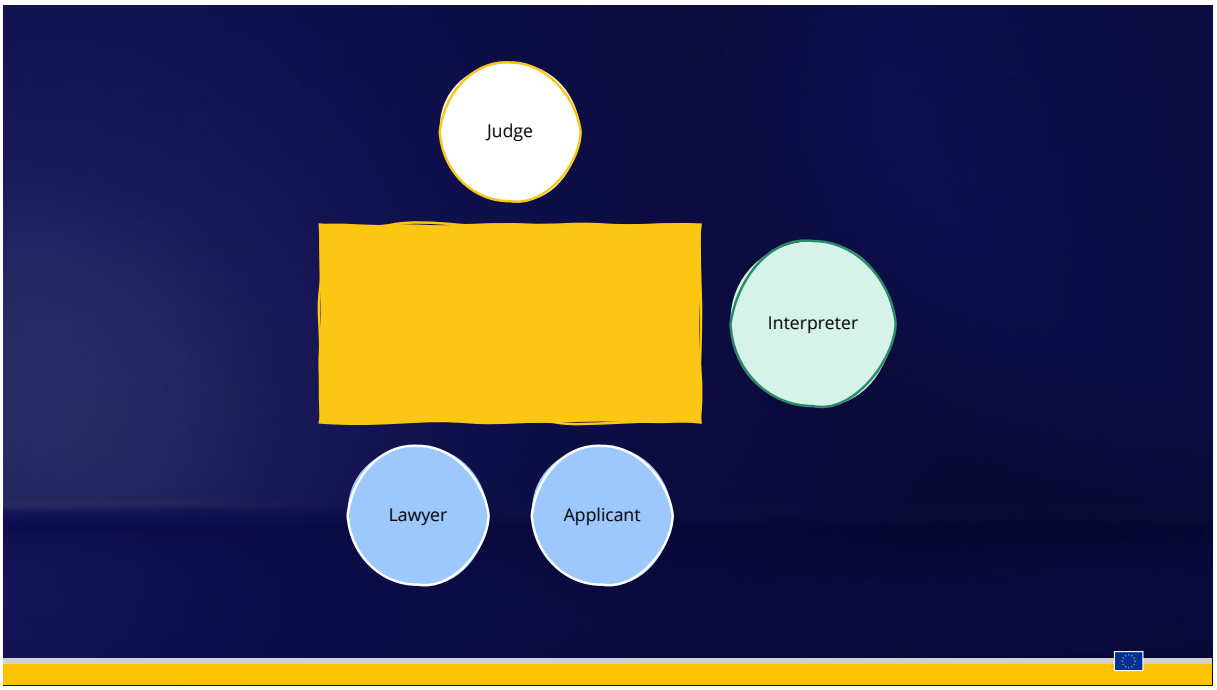
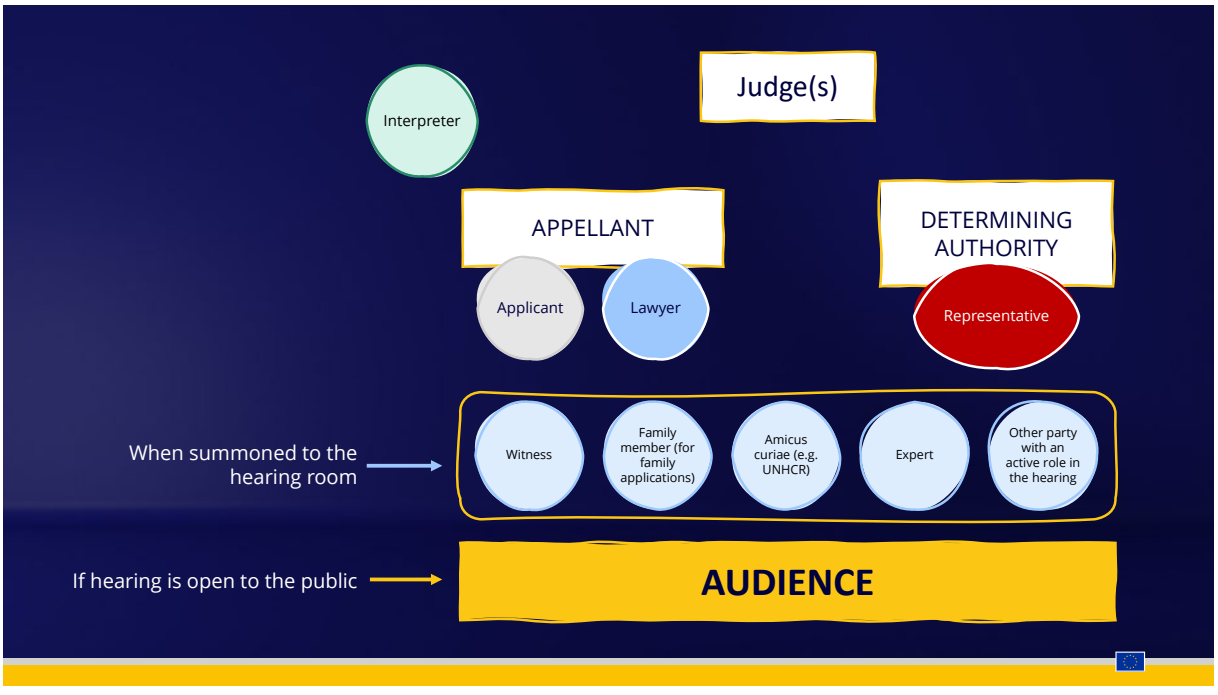


Figure 8. Example of setup for a public hearing



In principle, it is not advisable for the applicant's child or children to be present during the hearing. Often, parents do not wish to open up or expand on the grounds that led them to apply for international protection in the presence of their child. If possible, the child should wait

outside the hearing room and be looked after, ideally by someone the parent knows and trusts. If keeping the child outside the hearing room is not feasible, an idea would be to keep them busy in the room with paper and markers or toys, in coordination with the court administration. Similarly, arrangements for the availability of headphones and a device playing cartoons would also help keep the child distracted and unable to hear what their parent might be describing.

In certain jurisdictions, children are not allowed to be present on court premises unless they are to provide testimony. Parents who are invited to a hearing should be made aware in advance of any such rule and of the need to make specific arrangements if they are accompanied by their children.

Lastly, take note of whether the information available mentions that the applicant has any health or mobility issues (e.g. hearing problems, use of wheelchair, use of a medical device). Try to arrange the hearing room and the applicant's seat with any such requirements in mind.

(b) Get in front of vulnerability issues

As much as possible (given that the premises of courts are the responsibility of their administration and this is generally outside the control of judges), you should make a few practical arrangements to facilitate the hearing of a vulnerable applicant. Some general suggestions include:

- assessing any special requests from the applicant (e.g. the presence of a family member) according to their specific needs;
- adjusting the time slot allocated for the hearing;
- ensuring the premises (reception area, waiting area, court room) are suitable and:
  - accessible to the applicant according to their specific needs;
  - a confidential environment, free from disturbances;
  - a welcoming environment.

When it comes to minor applicants, in particular, hearing and waiting rooms should be arranged in a child-friendly manner as far as appropriate and possible ([86]). According to the Council of Europe guidelines on child-friendly justice ([87]), children should be protected, as far as possible,

([86]) Bulgaria and Poland have developed child-friendly 'blue rooms', which feature a viewing space behind a two-way mirror for judges and other appropriate persons. See Bestau, 'Equipping interrogation rooms with audio–video equipment', Bestau website, accessed 27 February 2025, https://bestau.pl/en/equipping-interrogation-rooms-with-audio-video-equipment/. In Iceland and Norway, there are 'children's houses', which provide integrated inter-agency, multidisciplinary services for child victims and witnesses in one location purposely situated away from courts. These children's houses are also used in Denmark, Croatia and Sweden. They were recently introduced in Cyprus and are being developed in England (United Kingdom), Estonia and Spain. See FRA, *Child-friendly justice – Perspectives and experiences of children and professionals: Summary*, Publications Office of the European Union, Luxembourg, p. 6, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2017-child-friendly_justice-summary_en.pdf. See also the other materials on the relevant FRA web page (https://fra.europa.eu/en/publication/2017/child-friendly-justice-perspectives-and-experiences-children-involved-judicial).

([87]) See Council of Europe, *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*, Strasbourg, 2011, p. 17, https://rm.coe.int/16804b2cf3.

against images or information that could be harmful to their welfare. In deciding on disclosure of possibly harmful images or information to the child, the judge should seek advice from other professionals, such as psychologists and social workers. Lastly, court sessions involving children should be adapted to the child's pace and attention span: regular breaks should be planned and hearings should not last too long. To facilitate the participation of children to their full cognitive capacity and to support their emotional stability, disruption and distractions during court sessions should be kept to a minimum.

(c) Language check with the interpreter

Depending on your national framework, you may have direct access to and be able to communicate with the interpreter who has been assigned to the case before the hearing. If so and if allowable in your jurisdiction, it would be very useful, although not necessary, to briefly introduce them to the profile of the applicant for whom they are going to interpret.

This approach serves to enable a preliminary check that the interpreter is certified in the dialect/language that the applicant is reasonably expected to understand and speak and to ascertain if the applicant and the interpreter are acquainted (in which case the interpreter should not be used). It also serves to confirm that there is no issue with the basic topics that are going to be tackled, which could be a reason for the interpreter to recuse themself or cause disruption (the interpreter may be a survivor of violence or abuse and may prefer not to risk being triggered by the applicant's descriptions). Depending on the case, it may also be an opportunity for the interpreter to look up any terminology that may prove useful (e.g. legal or military terminology) and thus help to ensure the accuracy of the interpretation to the best of their ability ([88]).

(d) Equipment and other useful items

Make sure that any technical requirements are met. If there will be an audio or visual recording of the hearing, check with the staff responsible that the equipment is in place and that it is working normally.

Making sure that all that is needed is already in the hearing room allows you to be calm and focus on the content and the progress of the hearing. It will also allow the applicant to feel at ease, instead of adding to their worries or leaving them wondering what is happening and what the reason is for any delay. Ensuring that the opening of the hearing goes as smoothly as possible will increase your chances of achieving the necessary rapport ([89]).

Moreover, you should make sure that any unnecessary items (personal or not) are removed from the applicant's view and that any physical folders containing confidential documents are safely hidden away. Remember to either turn off your mobile phone or put it on silent and ask the others to do the same.

([88]) See also Section 2.2.3 'The role of the interpreter'.

([89]) See also Section 3.2 'Opening and conducting the hearing'.

Avoid bringing a beverage, other than plain water, into the hearing and instruct others not to do so. Avoid glass for safety reasons. It is a good idea to have some water available to offer to the interpreter and the applicant. It is also useful to keep pen and paper to hand, in case they are needed by any of the parties involved. A box of tissues might also come in handy.

Avoid wearing religious symbols and ensure that there is no religious symbolism in the hearing room to the extent possible.

Try to find a way to signal that a hearing is in progress to avoid disruptions (e.g. hang a sign on the door).

(e) Timing

To the extent possible, the circumstances of the applicant should be taken into account when arranging the time of the hearing. For example, it is better not to schedule the hearing of an applicant who lives far away from where the hearing is taking place early in the morning. Women who have just given birth should be given some time to recover physically. It is not advised that hearings at which children would need to be present be arranged for during school hours.

It is equally important to adhere to the scheduled starting time for the hearing. If, for any reason, the hearing is delayed, it is impolite to leave the applicant waiting without any explanation, and it may also cause stress, fear, irritation or indignation. If you are unable to stick to the schedule, you should respect the applicant and any other participants and inform them about the expected delay. To the extent possible, ensure that the hearing will take place and, if it becomes apparent that the hearing will have to be delayed to another day, the applicant should be informed and allowed to leave at the earliest opportunity. In the event of a delay, make sure that the hearing room will still be available at the later time despite the delayed start. For these reasons, it is important to schedule enough time for a hearing to mitigate any delays.

(f) Safety and security

Be mindful of and try to identify any factors that may be a cause for concern or may affect the safety and security of all those present in the hearing room. Make sure you are aware of the safety regulations applicable and that you have direct access to the exit, which should not be blocked by furniture or the applicant. If your hearing rooms are equipped with an alarm button, make sure you know where this is located.

If you become aware of any safety or security concerns stemming from the applicant's health or past behaviour, make sure to notify the security personnel before the hearing. They should be aware of who will be present for the hearing, as well as when and where it will take place. If there are any known previous incidents of violent behaviour on the part of the applicant, the security personnel should be made aware, so that, if necessary, they can take preventive measures. If you sense any danger (for any person involved) during the hearing, you are advised to stop the hearing immediately.

3.2. Opening and conducting the hearing

3.2.1. Opening the hearing

These are the first steps in a hearing. This phase is an opportunity to:

- welcome the parties;
- begin the hearing;
- build rapport.

Ideally, during the opening, you aim to create a relatively relaxed atmosphere of trust, encourage the applicant to start opening up in relation to a neutral topic, show understanding and acceptance, make a preliminary assessment regarding the applicant's capacity to express themself verbally and establish a form of dialogue.

Establishing rapport is helpful, if not essential, to good communication. The aim should be to set the tone and smoothly transition to the rest of the hearing, which, due to the nature of the topics often explored (e.g. violent incidents, abuse, torture), tends to be more challenging for the judge and applicant. Establishing good communication is vital and it is also important to take note of how the applicant is carrying themself and their reactions throughout the hearing.

(a) Introductions

Normally, the hearing is your first opportunity to meet the applicant. This may sound simple and logical, but your communication during the opening phase will affect the other phases. It will set the tone and give them an idea of how things are going to unfold and what the expectations are.

The first step is to welcome the parties and initiate the necessary introductions. The introductions should include anyone who has a role in the hearing. You should take the opportunity to introduce yourself and clarify your independence, as well as that of others, including the interpreter. Be sure to stress that the interpreter is neutral and should be treated as such. At this point, it is essential to check that the applicant understands the interpreter well and vice versa.

Where representatives are present, they should also be introduced and their roles explained to the applicant. If your national setup allows, you could ask the applicant if they object to other people's presence in the room and what the reasons are for the objection.

If the hearing is or has been delayed or there is any practical obstacle to overcome before the start of the hearing, it is important to apologise for the inconvenience and explain if this might affect the applicant's hearing and how.

During introductions, it is important to avoid an impersonal approach – for example, 'I am a judge working for the appeals authority/tribunal' – that stresses the power imbalance between you and the applicant. Being courteous by welcoming the applicant, stating your name and

explaining your role will have a better result in terms of the rapport you are trying to develop. Rather than using 'we', try using 'I' to show that you are willing to establish a more personal type of communication, while always respecting professional boundaries. If you are sitting on a panel, you should adjust your introductions accordingly.

(b) Essential information

Most applicants are not aware of how asylum procedures work in your country, they are not sure how to tackle bureaucratic requirements, they are experiencing high levels of anxiety and, in all likelihood, they do not understand the language everyone around them is speaking. You should remain sensitised to their perspective and try to communicate with them accordingly. During the opening phase, you are presented with the opportunity to provide them with some essential information about the hearing and make sure they understand the purpose of the hearing and what is expected of them. This will help put the applicant at ease and you will start establishing the dialogue that will be much needed for the remainder of the hearing. You will also have the chance to start assessing their capacity to narrate or respond to the questions you had in mind.

Essential points to cover

Remember the following points.

- Stress your independence and what it means for the adjudication of their case.
- Let them know (or remind them) what their rights and obligations are at the appeal stage.
- Let them know the main purpose and the time frame of the hearing.
- Give them an overview of what you will be addressing during the hearing. For example, you could say, 'We will first confirm some of the personal information we have on file for you, then we will discuss your reasons for leaving your country when you did and we will end with some questions on what more may be necessary for your appeal.' Briefly explain any legal issues that are to be discussed.
- Ask them if they have any questions.

The opening phase is the time to cross-check and validate some basic information about the profile (identity, age, family situation, health-related issues, etc.) and certain aspects of the applicant's life (where they grew up, where they were living, profession, education, etc.). You could also start with some questions on neutral topics related to their life before becoming an asylum seeker, as a form of breaking the ice, showing interest and paving the way to more personal topics. Their responses may offer a glimpse of how developed their skills of narration are and how talkative or stressed they may be feeling at the start of the hearing.

(c) Building rapport

Establishing and maintaining rapport is essential for a well-conducted hearing. As the person leading the process, it is your responsibility to lay the groundwork for effective interaction and to ensure clear, respectful communication throughout. This will allow you to compile

information as accurately and thoroughly as is needed. The more comfortable the applicant is made to feel, the more they are likely to share.

Both the quantity and the quality of information shared is affected considerably by the way you handle interpersonal communication during the hearing. Spending some time on building rapport first serves multiple purposes: it allows the applicant to relax, it reduces their stress and/or their inhibitions and it provides you with an opportunity to start making some preliminary notes. It may also be that by initiating smooth communication, you will help yourself take a more relaxed and non-confrontational approach. Our own fears and anxiety at the beginning of an interaction with someone new may stand in the way of our capacity for active listening.

The following are some practical tips on building rapport.

Focus on what the applicant is saying

Give the floor to the applicant using open-ended questions ([90]), making them feel that they are engaging you. This will allow you to understand how they tend to formulate their responses and describe past experiences. Try using elements of their responses (e.g. the specific wording they use to describe something) to further your dialogue at this stage, as a practical method of demonstrating active listening.

Keep the applicant informed on every aspect of the hearing

It is expected that the applicant will feel anxiety and insecurity in an unfamiliar context. Remember to give them basic information on the hearing procedure and what will be discussed in general during the hearing, but also details of lesser importance, the reasons for which may be obvious to you but to them may not necessarily be clear – for example if you suddenly need to break and exit the room to retrieve a document, why the door needs to be closed, if you need to communicate something practical to the interpreter, etc.

Adjust your communication

Be attentive and take into consideration the applicant's verbal and non-verbal communication. Adjusting your communication to the needs of the applicant means using appropriate language and providing them with information that they are able to understand. It also means identifying signs of non-verbal communication, so that you can react to prevent or resolve any potential issue and can adjust your own language, posture, rhythm or tone of speech to cultivate a climate of understanding. Keep in mind that your presence both as a judge and an individual is affecting the applicant. The way you communicate affects the way they communicate.

You should not hesitate to encourage communication. When you nod in acknowledgement and say, 'Please continue' ([91]), as an indication that you understand what they are talking about, your message is reinforced. Use non-verbal communication as a tool to reinforce your words. You

([90]) For more on open-ended questions, wee Section 3.2.2(b) 'Explore in more detail'.

([91]) Or, similarly, 'I understand', 'Go on', 'Take your time', 'That makes sense'.

can also respond to the applicant's narration with a simple nod or interjection to reassure them that you are following and to encourage them to continue.

During a hearing, cultural misunderstandings are often more a result of prejudice, discrimination and circumstance than real cultural differences between the participants involved. Keep an open mind and consciously try to avoid cultural misunderstandings. Your way of thinking and questioning needs to be adaptable throughout.

For example, when the hearing is with an elderly, illiterate member of a minority from a rural part of country X, it is highly unlikely that a question such as 'Please tell me how the political situation in your home country affected you and what led to the war' will elicit a meaningful response. Let them take the lead on what was going on around them. Note how they talk about it and what they say; note the words they choose to use. It is advisable to mirror those words when you speak if you would like to look deeper into a part of their narrative. Avoid using difficult and complicated words or terminology.

Furthermore, when you become aware of an inconsistency and it is time to address it, consider the possibility that, due to their background, they may attribute a different meaning even to everyday words, such as 'family' and 'support'. Having relatives does not necessarily equate to having family or support. When in doubt, the only logical and advisable course of action is to ask the applicant what they mean exactly. See Section 3.1.2(c) 'Considering culture and body language'. Table 3 sets out the dos and don'ts of courtroom communication.

Table 3. Practical reminders for a smooth and efficient hearing

Dos	Don'ts
Treat the applicant with respect, regardless of their problems and behaviour	Avoid intimidating or inappropriate body language or gestures
If the applicant is opening up, keep interruptions to a minimum	Do not urge the applicant to continue or show signs of impatience if they are hesitant or searching for words
Ask for context without directly mentioning a specific issue and evoking sensory memories and flashbacks	Avoid overly technical or complicated language
Take breaks as necessary	Do not repeat the same question multiple times using the same words if you are not receiving an answer. Try to rephrase and simplify, and/or ask what they understood of your question
Give the applicant the opportunity to explain contradictions or gaps	Do not initiate multiple topics at once. Focus on one thing at a time
Prevent unnecessary (re)traumatisation	Do not disregard or postpone answering the applicant's questions for longer than absolutely necessary

You, as the judge, need to remain respectful and professional at all times. Trying to break the ice with the applicant – for example, by bringing up a neutral topic – should not cross professional or other boundaries.

When opening the hearing, remember to ...

- Introduce yourself and the other parties, but also present the interpreter, as this gives the applicant a feeling of being welcome. If there has been a delay, remember to apologise.
- Stress your independence.
- Use facial expression and tone of voice to show that you are friendly and open. By doing this, you can initiate a positive atmosphere.
- Follow up on the information provided by the applicant, so that it becomes clear that you are really interested and listening.
- Talk about a neutral topic to establish rapport.
- Give the applicant information about the structure of the hearing, what you are doing and why you are doing it, as it helps them to relax and feel more confident.
- Reflect a genuine interest and curiosity towards the applicant.
- If possible, offer the applicant and others present some water.
- Avoid talking about sensitive issues that are of no relevance to the case (e.g. how the detention/reception facility is) or issues that the applicant will not understand (e.g. overly technical details).

3.2.2. Structuring the hearing

In structuring your hearing process, you need to think strategically about which areas need further exploration, ensuring sufficient time is allocated where needed while avoiding peripheral or unimportant issues. At the same time, you need to demonstrate flexibility, patience and readiness to adapt to changing circumstances.

(a) Plan strategically and introduce focused themes

In preparing for your hearing, you should have already identified the key themes that need to be explored further. These themes are those that are material to the applicant's claim, and they can be identified from the appeal reasons the applicant has brought forward or by reviewing elements of the case file, such as the interview transcript or the decision of the determining authority.

After identifying the key themes requiring further exploration in the appeal hearing, it is essential to guide the applicant towards recounting events relevant to these specific topics as freely as possible. The hearing should begin with open-ended questions designed to encourage the applicant to share their experiences within these crucial areas, using their words and providing detailed accounts. Gathering accurate information through a focused free narrative is central to the purpose of international protection hearings.

A method recommended by the EUAA is to introduce focused themes, also known as 'signposting'. This involves guiding the applicant to the relevant topics by introducing each one and inviting them to provide a free narrative on each, allowing you to explore all pertinent subtopics. Introducing focused themes helps the applicant focus on information that is crucial to the outcome of their appeal, bringing structure to the hearing and facilitating a smoother interpretation process.

Example of an introduction to a focused theme

A, a 25-year-old Iranian man, grew up in a strict household, attending the mosque despite doubts about his faith. At 22, he began a secret affair with B, a 19-year-old girl. Their relationship was discovered by B's brother, who filmed them and showed the footage to their father, a powerful local figure. Fearing for his life, A fled Iran with the help of his uncle. After arriving in your country, he converted to Christianity and was baptised. He informed his father, who disowned him. A now fears persecution in Iran due to his affair and religious conversion, believing he would face severe punishment for apostasy if returned. A applied for international protection in your country, but his claim was rejected, as his accounts of the affair and conversion were deemed to lack credibility. He is appealing the decision.

In preparing for this hearing, you may need to gather more information on the following key themes:

- the relationship between A and B,
- the filming of their relationship and the circumstances that led him to flee Iran,
- his Muslim faith and conversion to Christianity,
- his fear of returning to Iran.

To effectively explore each of these key themes:

- establish the context for each theme, setting the stage for the applicant;
- ensure you close the discussion on the previous theme before proceeding to the next;
- finally, invite the applicant to provide a free narrative, to clarify events that were not sufficiently addressed during the interview before the determining authority.

The following is an example of what you might say:

'I have now confirmed your personal information, so let's move on to better understand the reasons you left your country. In your interview with the asylum authority, you mentioned your relationship with a girl. Can you tell me more about that?'

Keep in mind that your plan should remain flexible. Be ready to demonstrate adaptability and deviate from it as needed to follow the flow of the conversation.

(b) Explore in more detail

Once the applicant has finished providing their open account of the events, it is important to review the information shared and identify any areas that may require further clarification. Pay attention to detail; as the applicant speaks, it might be helpful to note down questions that arise, which you can address after they have completed their narrative. This should be done without disrupting the flow of their account.

To probe the information you have gathered, consider using the funnel approach. Begin by asking broader questions to elicit general information, then gradually narrow down to more specific questions to clarify details. Start with open-ended questions to encourage the applicant to provide as much information as possible and then follow up with probing or closed questions as needed to gain further clarity.

Example based on the scenario provided previously

Open-ended question. 'Tell me more about the events that led you to leave your country.'

Probing questions. 'When did her brother discover your relationship?' 'How long had your relationship lasted by that time?' 'Who helped you escape?' 'How was your escape organised?' 'When did you arrive in this country?'

Closed questions. 'Did you leave immediately?' 'Did anyone else know about the event?' 'Have you had any contact with your family since then?'

It is important to ensure each topic is thoroughly clarified before moving to the next. To this end, regularly check your understanding of the applicant's answers to confirm you have the facts right. At this stage, you could also address any inconsistencies between the applicant's current account and their previous submissions or the available COI. Once satisfied with the information gathered on a subtopic, summarise it – using the applicant's words or paraphrasing – and ask for final confirmation that your understanding is correct.

In cases involving trauma or vulnerability, the applicant may be inclined to jump between topics. In this situation, consider the relative importance of the current and newly introduced topics and decide whether to address the new topic immediately or return to it later.

Sources and further reading

- Baade, B. and Gölz, L., 'An empirical analysis of credibility assessment in German asylum cases', *German Law Journal*, Vol. 24, Issue 2, 2023, pp. 310–341, https://doi.org/10.1017/glj.2023.15.
- Council of Europe, *How to convey child-friendly information to children in migration – A handbook for frontline professionals*, Strasbourg, 2018, https://rm.coe.int/how-to-convey-child-friendly-information-to-children-in-migration-a-ha/1680902f91 (also available in French and Romanian).

- Council of Europe: Human Rights Education for Legal Professionals (HELP), 'Child-friendly justice – HELP online course', 2023, https://help.elearning.ext.coe.int/enrol/index.php?id=2104. The course is available in multiple languages.
- EASO, 'Practical guide: Personal interview', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2014, pp. 11–13, https://euaa.europa.eu/publications/practical-guide-personal-interview.
- EUAA, 'Handbook on module: Asylum interview method', 2022, pp. 47–49 (available to registered users).
- International Protection Appeals Tribunal of Ireland, Guideline No 2017/5 – Appeal from child applicants, 2017, https://www.protectionappeals.ie/wp-content/uploads/2019/08/IP-Guidance-Note-2017-5-Children.pdf.
- UNHCR, 'Interviewing applicants for refugee status', RLD 4, 1995, pp. 11–14, https://www.unhcr.org/sites/default/files/legacy-pdf/4d9485a69.pdf.
- UNHCR, *Beyond Proof – Credibility assessment in EU asylum systems*, Brussels, 2013, pp. 25–55, https://www.unhcr.org/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems.

3.2.3. Am I asking the right questions?

(a) Strategic questioning is key to effective communication

While there is no one-size-fits-all rule for formulating questions, since they should be tailored to the specifics of the case and areas that need further exploration, the following guidelines are likely to produce effective results.

- **Keep questions simple and direct.** Frame your questions in a clear and concise manner. Avoid providing excessive information or complicating the question. Given that applicants often have to recall stressful information, asking one question at a time helps them focus and structure their thoughts more effectively. It also helps the interpreter to interpret more accurately.
    - Example of a question to avoid: 'I understand that you left in secrecy. Can you explain to me how your escape was organised and by whom, who knew about it and how you managed to leave unnoticed?'
- **Adjust to the applicant's background.** Consider the applicant's educational and cultural background when formulating your questions. Tailor the complexity and language to their level of understanding to ensure clarity.
- **Start with open questions.** Without prejudice to the point explained below, begin the hearing with open questions to encourage the applicant to provide detailed accounts. Open questions start with verbs such as 'tell', 'explain' or 'describe' and require more than a simple 'yes' or 'no' response.
    - Example: 'Tell me about the reasons that led you to leave your country.'

- **Use the question type that is required.** Base your questions on the information already available in the file and at the current stage of the procedure. If a topic has been well explored during the procedure before the determining authority, you may ask directly for specific details rather than a free narrative.
- **Seek clarifications with basic question words.** Once you have initial information, use questions starting with 'who', 'what', 'where', 'when', 'why' and 'how' to obtain more detailed responses. These questions narrow down the scope and help clarify aspects not fully addressed in the initial narrative.
- **Use closed questions wisely.** Reserve closed questions for the end of each subtopic when you need specific, concise answers to fill in gaps or resolve contradictions. For example: 'Did you leave the country immediately after the event?'
- **Be flexible with your plan.** While having a list of topics to cover is useful for keeping the hearing on track, be prepared to adapt your questions based on the flow of the hearing rather than strictly following a prepared list.
- **Avoid suggestive and multiple-choice questions.** Do not frame questions in a way that suggests an answer or offers multiple-choice options, as this can lead the applicant to agree with one of the provided answers, even if it is not accurate. For example, instead of asking, 'Did you leave the country because of threats or because of financial difficulties?', ask, 'What were the reasons for your departure?'

(b) Dos and don'ts when asking questions

Table 4 sets out the dos and don'ts of structuring your questions.

Table 4. How to structure your questions

Dos	Don'ts
Use simple language	Avoid complicated questions
Ask one thing at a time	Avoid questions that include multiple subparts
Keep questions as open-ended as possible and always appropriate	Avoid suggestive questions that indirectly lead to a specific answer
Stay neutral	Avoid judgemental questions
Adjust your style to the educational level and general background of the applicant	Avoid multiple-choice questions
Adjust your questions to the flow of the hearing	Do not adopt a one-size-fits-all approach to every hearing
Ask confirmation questions to verify understanding of the applicant's account before the conclusion of the hearing	Refrain from relying too rigidly on a fixed set of pre-drafted questions

(c) Other considerations

Vulnerability may affect how and the extent to which an applicant can be expected to **cooperate** and **substantiate** their appeal.

For instance, depending on the type of vulnerability, during a court hearing such applicants may:

- hesitate;
- stop mid-sentence;
- fall silent;
- make incoherent statements;
- get caught up in contradictions;
- relate personal experiences as if they were distant events that happened to someone else.

Nonetheless, it is not always clear whether such manifestations are the consequence of a vulnerability (age, mental capacity, PTSD, etc.) or whether the applicant is not credible. This is a delicate assessment, and a balance needs to be struck in relation to all the elements at hand.

3.2.4. Demonstrating chairing and communication skills while managing the process

A hearing in an international protection appeal involves a complex setting with diverse actors, often from varying cultural and professional backgrounds, presenting facts that may challenge personal preconceptions. Effectively managing this process requires critical thinking, cultural competence, active listening, empathy and flexibility to ensure a fair and thorough procedure.

(a) Managing the relationship with the applicant

Communication skills are crucial to the hearing process, as you must listen carefully, encourage the applicant's narrative and be attentive to non-verbal cues. Intercultural communication skills are particularly important, requiring you to maintain a neutral, unbiased and culturally sensitive approach. In line with impartiality as a core principle of judicial conduct, it is essential to remain objective, even when information challenges your prior assumptions. Avoid displaying emotions such as discontent or disapproval, particularly when the applicant struggles with inconsistencies or has difficulty explaining their experiences. Your role is to be actively engaged and supportive, fostering the applicant's trust in the process.

Demonstrating active listening

Paying attention through active listening, offering empathetic responses and maintaining an approachable demeanour – for example by displaying a calm expression and using an appropriate tone of voice – have been shown through research to increase both the quantity and the accuracy of information gathered.

Here are some tips to demonstrate active listening.

- Adopt a relaxed body posture.
- Maintain eye contact with the applicant, even when taking evidence through an interpreter, unless it is culturally inappropriate. If you need to take notes, which may limit eye contact, inform the applicant beforehand, so they do not interpret your focus on documents as indifference to their claim. Use brief, focused glances and prioritise understanding what is said before noting down key points. Consider using abbreviations to help you write more quickly and efficiently.
- Avoid distractions like checking your phone or looking out of the window.
- Use the applicant's own words or paraphrase and summarise to show you are following their narrative.
- Employ non-verbal cues such as nodding and using encouraging phrases like 'I see' or 'I understand'.

Sources and further reading ([92])

- Lovelace, J., 'Learning to listen', *Law Practice Today*, 14 September 2016, accessed 28 July 2025, https://www.acc.com/sites/default/files/2022-12/TOPIC%2011%20-%20Learning%20to%20Listen%20Article.pdf.
- Marino, G., 'Are you listening?, *The New York Times*, 17 December 2019, accessed 21 February 2025, https://www.nytimes.com/2019/12/17/opinion/art-of-listening.html.
- Treasure, J., '5 ways to listen better', TED website, 29 July 2011, accessed 21 February 2025, https://www.ted.com/talks/julian_treasure_5_ways_to_listen_better.

Reacting to silence

Silences are common and may occur if the applicant has difficulties recalling or articulating their experiences. Resist the urge to fill these pauses forcefully; instead, allow the applicant time to think. If it becomes clear that they need support to continue, offer gentle encouragement or utilise techniques suitable for vulnerable applicants. Pay attention to non-verbal cues during these silences, as they might indicate new areas to explore.

Managing bias

Be aware of your biases and avoid letting them affect your interaction with the applicant. Approach each individual as unique, separate from any assumptions based on their background or anticipated behaviour (see Section 2.1 'Recognising biases and strategies to fight them').

Staying on track

Encourage a comprehensive narrative while ensuring the applicant stays focused on relevant facts. Be prepared with a list of essential areas to cover, and guide the conversation back on track if it deviates significantly. Recognise that each applicant has their own narrative style and be flexible in managing it.

Assessing evidence and credibility

In international protection cases, the burden of proof is shared. Use all available resources to evaluate and verify relevant facts. Stay alert for key information that could uncover new aspects of the applicant's account. If discrepancies arise, give the applicant a chance to clarify without being confrontational. Paraphrase their responses or acknowledge potential misunderstandings to seek clarity.

([92]) Other sources include Hoppe, M., *Active Listening – Improve your ability to listen and lead*, Center for Creative Leadership, Greensboro, North Carolina, 2018; Miller, W., *Listening Well – The art of empathic understanding*, Wipf & Stock, Eugene, Oregon, 2018.

Managing difficult situations

Trauma, memory issues and other vulnerabilities can impact the hearing process (see Section 3.1.1(e) 'Identifying special procedural needs – vulnerability check'). Remain calm, reassure the applicant of the confidentiality, if applicable under your jurisdiction, and the importance of the process, and allow extra time if needed. If the hearing is public, consider options under your national jurisdiction to restrict audience access, if available, and, in all cases, ensure that the audience's presence interferes as little as possible with the applicant's account. Show empathy and consider taking a break or postponing to another date if necessary.

Use of breaks

A rule of thumb is to have a short break every hour or hour and a half. It is important to decide on the exact timing of the break based on the progress of the hearing, to avoid interrupting the free narrative phase. This should be discussed with the interpreter to avoid them jumping in unexpectedly to request a break. Taking short breaks is helpful and necessary to enable all parties to rest and regroup.

(b) Managing the relationship with representatives of the applicant and/or the determining authority

Time management is particularly important in international protection hearings, where the efficiency of the process must be balanced with careful attention to detail. Allocate time for each party's input, ensuring both legal representatives have the opportunity to present the relevant arguments fully. Active participation from all parties is essential, although it may be necessary to intervene diplomatically if discussions diverge from the main purpose of the hearing. Steering the conversation back to relevant issues can help keep the hearing on track, without cutting off valuable contributions from the representatives.

When handling international protection hearings where representatives of government authorities are present, a balanced and transparent atmosphere that ensures a fair process for all parties needs to be fostered. To achieve this, it is essential to clarify each participant's role at the outset, particularly for applicants who are not represented by a lawyer or may have a limited understanding of legal procedures. A brief explanation that the government representative's role is to present relevant evidence and arguments to support their position on the case can help maintain transparency.

Depending on the national framework, judges may assume a more investigative role, which could compromise the perceived neutrality of the proceedings. In these cases, it is even more important to maintain an impartial stance, using clear and respectful language to avoid perceptions of bias. Ensuring that all parties present are treated with respect and maintaining the 'equality of arms' principle will help build a fair and neutral environment.

All in all, the exact role of the legal representative may vary according to the jurisdiction, and a state representative may or may not routinely participate in the proceedings. Managing the

conduct and behaviour of these representatives during the hearing should normally not be a concern. However, there might be occasions when a representative oversteps their boundaries or is disruptive. As the judge, you must ensure that you remain in control of the hearing at all times. There may also be occasions when a representative comes poorly prepared, which is bound to affect the ease with which certain information or evidence can be obtained. Refer to Section 3.2 'Opening and conducting the hearing' and concentrate on identifying and, where possible, narrowing down the material facts and the contested issues.

In all cases, ensure that you remain neutral and respectful towards both the applicant's representative and the representative of the authority, avoiding favouritism or the perception of favouritism towards either side.

(c) Managing the relationship with the interpreter

When working with an interpreter, it is essential that you maintain a slow and steady speaking pace to ensure clarity and accuracy in interpretation. It is also important that you always address the applicant directly, rather than speaking to the interpreter, as this helps maintain the proper flow of communication and ensures that the applicant feels directly engaged in the process. Be vigilant for and sensitive to any issues the interpreter may encounter, and adjust your pace if necessary, pausing if you notice any signs of difficulty.

Ensure that the interpreter interprets everything that is being said in the courtroom and nothing more than that, including any exchanges between the representatives and the judge, so that the applicant does not feel excluded from the process. You must confirm that the interpreter can deliver an accurate and impartial interpretation of the applicant's narrative. At the outset, ensure that the interpreter has no personal connection to the applicant. Throughout the process, you should consistently monitor the interpreter's performance, continuously assessing their capability, neutrality and impartiality to ensure that the interpretation remains accurate and unbiased. Be alert, because it is unlikely that you will be able to know whether the interpretation remains accurate other than through verbal cues and inconsistencies. Raise any issues as they arise.

(d) Managing the relationship with panel members and others present

Communication with other panel members should be managed carefully so as not to disrupt the progress of the hearing or distract from the applicant's case. Avoid engaging in frequent side discussions, as these can interfere with the appearance of neutrality and might confuse the applicant's perception of the process and disrupt their focus or their representative's focus. Instead, procedural comments or coordination between panel members should take place during breaks or in private. Maintain a consistent focus on the proceedings until the formal close of the hearing and avoid gestures such as packing up materials prematurely, which could be perceived as disengagement. At the end of the hearing, confirm any necessary follow-up steps with the panel members privately.

In public hearings especially, ensure attendees behave appropriately, addressing any concerns or distractions promptly to maintain order. Protect the integrity of the applicant's account

by fostering an environment that respects their participation and preserves the courtroom's dignity.

3.2.5. Remote hearings

The term 'remote hearing' may refer to a hearing where either all participants, including the judge, attend via video- or audio-conferencing (a fully remote hearing) or at least one of the parties involved is physically present in the hearing room while others participate online, again via video- or audio-conferencing (hybrid hearing). This section deals solely with what is particular to remote hearings, since other more generally applicable knowledge is covered in other sections.

While conducting an international protection hearing in the physical presence of all the main actors in the procedure is generally preferable, there may be compelling reasons to resort to a remote hearing. Such reasons can include public health concerns, the availability of human or other resources, travel-related or accessibility issues and even safety and security reasons. A remote hearing, while facilitating the progress of the asylum procedure under circumstances that render physical presence overly challenging, should not, however, become the norm, as it comes with disadvantages that cannot be overlooked. In that regard, recital 15 APR, referring to the determining authority's process, clearly stipulates: 'In order to ensure an optimal environment for communication, in-person interviews should be given preference, with the conduct of remote interviews by video conference remaining the exception.'

It is axiomatic that this preference should be carried over to the appeal stage.

(a) Where do I start?

After familiarising yourself with the case file (see Section 3.1 'Preparing'), as a judge it is important to take a moment and consider whether a remote hearing is appropriate for the case at hand. Conducting a hearing remotely may compromise the ability and/or willingness of the applicant to openly narrate and describe material facts critical to the claim, especially where the hearing is open to the public and is conducted through transmission to the hearing room ([93]). What is more, the arrangements in place may need to be (re)considered before deciding on the best course of action. This may be particularly relevant to applicants suffering from mental health conditions, intellectual disabilities, or visual or hearing impairments and to children ([94]).

Similarly to your preparation for a regular hearing, it is advised to first check with the staff responsible that practical arrangements have been made for all participants to have access to reliable technology and a stable internet connection. It is advised that video and/or audio testing takes place before the start of the hearing.

The equipment and platform used to perform the hearing should allow for confidentiality and security and, insofar as this may concern your role as a judge, you should make sure that any

([93]) As is currently the case in some Member States.

([94]) See also recital 15 APR.

sharing of sensitive information adheres to relevant security protocols. You should thus avoid using alternative communication methods, even if prompted/requested by the applicant or their representative.

It is equally important to ensure that any special needs are accommodated and assistance is provided for people with disabilities. Any accessibility issues should be addressed as early as possible and, for issues already known to the host country authorities, before the hearing even begins. Make sure that the physical space you will occupy during the hearing is suitable and that there is adequate lighting and no background noise. It is also advisable to request information on the physical space from where the applicant (or others) will be joining the hearing. Aside from checking on these conditions, request information on the presence of others within the same room and if their setup ensures confidentiality of the exchanges to take place. Where the applicant appears from a remote location, there will always be the potential that others are present, assisting or even coaching the applicant without making their presence known. Judges need to be alert for any indication of an unauthorised presence.

(b) Conducting the remote hearing

Start by introducing yourself and the parties and verifying the identity of your interlocutors participating in the hearing, if need be, by having them produce their ID or other suitable document through the camera or other reliable method.

During the opening of the remote hearing, it would be useful to establish clear guidelines for speaking and responding, ensuring efficient and uninterrupted communication for all parties. This could be achieved by explaining the order in which people will speak and the procedure to be followed, but also by indicating how someone can be given the floor if they need to intervene or make a request.

Much like in the opening phase of a regular hearing, you are advised to pursue the establishment of rapport. A good start would be to inform the applicant of the conditions under which the interview is to take place, and especially about the measures taken to ensure confidentiality and the use and storage of any records taken. The applicant should be given the opportunity to raise any concerns or express any inhibitions they may have regarding the setup. You or the staff responsible (i.e. any technical support staff, who should in any case be on standby during such hearings) should be in a position to address these or provide clarifications. You should remain vigilant throughout the hearing for any indication that the applicant is having difficulty responding or understanding and ask them to clarify the cause of the difficulty, so that you are able to address it in a timely manner.

If new documents or evidence are produced, this should be done in such a way that they become available and accessible in a timely manner, allowing for adequate review by any of the participating actors.

During the hearing, you are advised to disable or quit all other software and shut down or mute any devices that might cause disruption or detract from your focus. If the video or audio

quality falters during the hearing, it is preferable to pause and make sure these are back to full working order before continuing with the hearing.

You should aim to provide the applicant with a fair opportunity to present their case, despite the remote setting. To that end, it is as important that the applicant does not feel rushed during the hearing as it would be in an in-person hearing, if not more so. Without a doubt, the element of 'remoteness' can increase the stress and psychological burden on an applicant. The physical distance can contribute to feelings of detachment among the parties involved. The fact that hearings often require applicants to share deeply personal, sensitive or even traumatic experiences makes the situation even more complicated. Thus, when you have serious grounds to consider that the applicant is unable to continue or is experiencing undue hardship by having to participate in the hearing remotely, you are advised to consider rescheduling or continuing the hearing in person. Before closing the hearing, remember to clearly outline the next steps for the applicant, including how any decision will be communicated to them and potential channels of communication with you.

Sources and further reading

- Clark, J., *Evaluation of Remote Hearings during the Covid 19 Pandemic – Research report*, HM Courts and Tribunals Service, December 2021, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040183/Evaluation_of_remote_hearings_v23.pdf.
- Courts and Tribunals Judiciary of the United Kingdom, *Guide to Judicial Conduct*, London, 2023, https://www.judiciary.uk/wp-content/uploads/2023/06/Guide-to-Judicial-Conduct-2023.pdf.
- Department of Justice of Western Australia, *Equal Justice Bench Book*, Perth, 2021, Section 4.6.3 'Language and communication', p. 253, https://www.supremecourt.wa.gov.au/_files/Equal_Justice_Bench_Book.pdf.
- EASO, 'Practical guide: Personal interview', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2014, pp. 10–13, https://euaa.europa.eu/publications/practical-guide-personal-interview.
- EASO, 'Practical recommendations on conducting the personal interview remotely', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2020, https://euaa.europa.eu/publications/practical-recommendations-conducting-personal-interview-remotely.
- Equality and Human Rights Commission, *Inclusive Justice: A system designed for all*, 2020, https://www.equalityhumanrights.com/sites/default/files/inclusive_justice_a_system_designed_for_all_interim_report_0.pdf.

- EUAA, 'Judicial analysis on evidence and credibility assessment in the context of the common European asylum system', 2nd edition, *EUAA Judicial Publications for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2023, pp. 48–56, pp. 246–267, https://euaa.europa.eu/publications/judicial-analysis-evidence-and-credibility-context-common-european-asylum-system.
- EUAA, *Guidance on Remote Interviews*, Publications Office of the European Union, Luxembourg, 2025, https://euaa.europa.eu/publications/guidance-remote-interviews.
- European Council on Refugees and Exiles, 'Module 5, Ensuring a child-friendly approach to unaccompanied children in asylum procedures: Practical dimensions', January 2019, https://www.ecre.org/wp-content/uploads/2019/07/4.26.-Module-5_Ensuring-a-child-friendly-approach.pdf.
- Gill, N., Hoellerer, N., Hambly, J. and Fisher, D., *Inside Asylum Appeals – Access, participation and procedure in Europe*, Routledge, Abingdon, 2024, accessed 10 September 2025, https://doi.org/10.4324/9781003295365.
- Grieshofer, T., 'Remote interpreting in immigration tribunals', *International Journal for the Semiotics of Law*, Vol. 36, 2022, pp. 767–788, https://doi.org/10.1007/s11196-022-09908-3.
- Havelka, I., Iacono, K., Pöllabauer, S. and Stachl-Peier, U., 'Distance interpreting in asylum proceedings', in: UNHCR Austria, *Handbook for Interpreters in Asylum Procedures*, Vienna, 2022, pp. 213–239, https://www.refworld.org/policy/opguidance/unhcr/2022/en/124043.
- Henderson, M., Moffatt, R., Pickup, A. and Nollet, M., *Best practice guide to asylum and human rights appeals*, Electronic Immigration Network, 2023, Chap. 7A, https://www.ein.org.uk/bpg/chapter/7A.
- Herlihy, J., Gleeson, K. and Turner, S., 'What assumptions about human behaviour underlie asylum judgments?', *International Journal of Refugee Law*, Vol. 22, Issue 3, 2010, pp. 351–366, https://doi.org/10.1093/ijrl/eeq027.
- International Protection Appeals Tribunal of Ireland, Chairperson's Guideline No 2022/1 on taking evidence from appellants and other witnesses, 2022, https://www.protectionappeals.ie/wp-content/uploads/2022/03/IPAT-Chairpersons-Guideline-on-Taking-Evidence-February-2022.pdf.
- Jacobson, J. and Cooper, P. (eds), *Participation in Courts and Tribunals – Concepts, realities and aspirations*, Bristol University Press, 2020, https://library.oapen.org/bitstream/id/cabebdca-a8b1-42d0-9f72-b16b8edf0998/9781529211306.pdf.
- Judicial College of the United Kingdom, 'Good practice for remote hearings', May 2020, https://www.judiciary.uk/wp-content/uploads/2020/03/Good-Practice-for-Remote-Hearings-May-2020-1.pdf.
- Judicial College of the United Kingdom, *Equal Treatment Bench Book*, London 2025, para. 47 and Appendix E, https://www.judiciary.uk/about-the-judiciary/diversity/equal-treatment-bench-book/.
- Judicial College of Victoria, 'Modifying courtcraft for virtual hearings', https://judicialcollege.vic.edu.au/resources/modifying-courtcraft-virtual-hearings.

- Kahneman, D., Sibony, O. and Sunstein, C. R., *Noise: A flaw in human judgment*, William Collins, London, 2021, https://ia804606.us.archive.org/11/items/ar_20211024/BOOKS.YOSSR.COM-Noise-A-Flaw-in-Human-Judgment.pdf.
- Keselman, O., Cederborg, A.-C., Lamb, M. E. and Dahlström, Ö., 'Asylum-seeking minors in interpreter-mediated interviews: What do they say and what happens to their responses?', *Child and Family Social Work*, Vol. 15, Issue 3, 2010, pp. 325–334, https://doi.org/10.1111/j.1365-2206.2010.00681.x.
- Licoppe, C. and Verdier, M., 'Interpreting, video communication and the sequential reshaping of institutional talk in the bilingual and distributed courtroom', *The International Journal of Speech, Language and the Law*, Vol. 20, Issue 2, 2013, pp. 247–75, https://www.dhi.ac.uk/san/waysofbeing/data/communication-zangana-licoppe-2013.pdf.
- McKeever, G., 'Remote hearings: Litigants in person and effective participation', Ulster University, 1 January 2020, https://pure.ulster.ac.uk/ws/portalfiles/portal/79053910/Remote_hearings_LIPs_and_effective_participation.pdf.
- Millbank, J., '"The ring of truth": A case study of credibility assessment in particular social group refugee determinations', *International Journal of Refugee Law*, Vol. 21, Issue 1, 2009, pp. 1–33, https://doi.org/10.1093/ijrl/een040.
- Norman, S., 'Assessing the credibility of refugee applicants: A judicial perspective', *International Journal of Refugee Law*, Vol. 19, Issue 2, 2007, pp. 273–292, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1149674.
- Northern Ireland Statistics and Research Agency, *Northern Ireland Courts and Tribunals Service – Remote and hybrid hearings: A qualitative analysis*, Belfast, 2022, https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-a-qualitative-analysis-of-remote-and-hybrid-hearings.pdf.
- Ramezankhah, F., 'The tale of two men: Testimonial styles in the presentation of asylum claims', *International Journal of Refugee Law*, Vol. 29, Issue 1, 2017, pp. 110–137, https://doi.org/10.1093/ijrl/eex014.
- UNHCR, 'Interviewing applicants for refugee status', RLD 4, 1995, pp. 8–16, https://www.unhcr.org/sites/default/files/legacy-pdf/4d9485a69.pdf.
- UNHCR, *Handbook on procedures and criteria for determining refugee status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, Geneva, 2019, pp. 42–47, https://www.unhcr.org/media/handbook-procedures-and-criteria-determining-refugee-status-under-1951-convention-and-1967.
- UNHCR, Key procedural considerations on the remote participation of asylum-seekers in the refugee status determination interview', 15 May 2020, https://www.refworld.org/policy/legalguidance/unhcr/2020/en/123213. See, in particular, 'Annex: Remote RSD interviewing checklist', pp. 5–8.
- UNHCR Austria, 'Self-check for interviews and court hearings using technical equipment for audio and image transmission in the asylum procedure' (unofficial English translation), June 2021, https://acsg-portal.org/wp-content/uploads/2021/09/Unofficial-EN-translation-Self-check-video-interviews-Project-Bridge.pdf.

3.3. Closing the hearing

3.3.1. Analysing, synthesising and summing up

At the end of the hearing, it is essential that you review the themes you identified earlier in the process as those on which more detail was needed and ensure that all key points have been thoroughly covered. Do not rush the ending but instead inform the applicant that you are approaching the end of the hearing and invite them to add any information that they feel is relevant. It is also important to reaffirm the understanding between the interpreter and the applicant.

Additionally, ensure that all aspects of the international protection process relevant to your case have been thoroughly addressed. A helpful tool for staying organised and covering all necessary steps and information is set out in the decision trees included in the relevant EUAA judicial analyses. Depending on whether you are handling a hearing related to qualification for international protection, cessation, withdrawal or exclusion, consult the corresponding decision tree. Detailed information on these analyses can be found in the 'Sources and further reading' box at the end of this section.

3.3.2. Ensure follow-up and information on next steps

At the conclusion of the hearing, if it falls within the scope of your jurisdiction, ensure referrals are made to appropriate services or organisations, particularly if previously unidentified vulnerabilities come to light. Be sure to note any new facts that emerge during the hearing, as these may require further research and verification through additional COI sources. Inform the applicant about the next steps in the process to help manage their stress, including the expected timeline for the issuance of a decision, how they will be notified and any options for further appeal. Additionally, provide an opportunity for the applicant to ask any final questions, ensuring they leave with a clear understanding of what to expect moving forward.

3.3.3. Reflection, mental check and feedback

After concluding the hearing, it is essential to take a moment for self-evaluation. Reflect on whether you gathered all the necessary elements and assess how successful you were in enabling the applicant to provide a free and open account. Identify any challenges you faced in encouraging them to open up and consider areas where you can improve your approach for future cases.

At the conclusion of the process, if applicable, provide feedback on the interpreter's performance to the appointing authority. If any concerns about poor performance arise, escalate them through the appropriate channels for resolution.

Handling cases involving potentially traumatic content may affect your well-being. Consider reflecting on this after completing the hearing. For strategies to maintain your mental health and professional well-being while managing challenging hearings, see Section 2.3.2 'Professional well-being of international protection judges'.

Sources and further reading

- EASO, 'Practical guide: Personal interview', *EASO Practical Guides Series*, Publications Office of the European Union, Luxembourg, 2014, pp. 15–25, https://euaa.europa.eu/publications/practical-guide-personal-interview.
- EASO, *Judicial analysis – Exclusion: Articles 12 and 17 Qualification Directive*, 2nd edition, Publications Office of the European Union, Luxembourg, 2020, pp. 133–143, https://euaa.europa.eu/publications/judicial-analysis-exclusion-2nd-edition.
- EASO, 'Judicial analysis – Ending international protection', *EASO Professional Development Series for Members of Courts and Tribunals*, Publications Office of the European Union, Luxembourg, 2021, pp. 92–97, https://euaa.europa.eu/publications/judicial-analysis-ending-international-protection-update.
- EUAA, 'Handbook on module: Asylum interview method', 2022, pp. 53–57 (available to registered users).
- EUAA, 'Judicial analysis on qualification for international protection (Directive 2011/95/EU)', *EUAA Judicial Publications for Members of Courts and Tribunals*, 2nd edition, Publications Office of the European Union, Luxembourg, 2023, pp. 301–304, https://euaa.europa.eu/publications/judicial-analysis-qualification-international-protection-second-edition.
- Henderson, M., Moffatt, R., Pickup, A. and Nollet, M., *Best practice guide to asylum and human rights appeals*, Electronic Immigration Network, 2023, Chap. 39, https://www.ein.org.uk/bpg/chapter/39.
- UNHCR, 'Interviewing applicants for refugee status', RLD 4, 1995, p. 17, https://www.unhcr.org/sites/default/files/legacy-pdf/4d9485a69.pdf.

Annex: Useful checklists and overviews

In Section 1.3 ‘Soft skills in relation to judicial conduct’

Table 1. The Bangalore Principles of Judicial Conduct in practice

In Section 2.1.1 ‘Introduction to bias in the context of the judiciary’

Table 2. Types of bias

In Section 2.1.2 ‘How can I mitigate bias?’

Bias checklist in international protection cases

In Section 2.2.4 ‘Mitigating cultural and linguistic challenges’

Overcoming cultural challenges

Overcoming linguistic challenges

In Section 2.3.2 ‘Professional well-being of international protection judges’

Good practices for building resilience

Figure 4. Five stress management exercises for coping with adversity

In Section 3.1.2 ‘Balancing legal standards and human nature’

Figure 6. Factors that can influence memory during ...

In Section 3.2.1 ‘Opening the hearing’

Table 3. Practical reminders for a smooth and efficient hearing

When opening the hearing, remember to ...

In Section 3.2.3 ‘Am I asking the right questions?’

Table 4. How to structure your questions

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