



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	United Kingdom
Case Name/Title	JB (Torture and III treatment - Article 3) DR Congo
Court Name <i>(Both in English and in the original language)</i>	Immigration Appeal Tribunal
Neutral Citation Number	[2003] UKIAT 00012
Other Citation Number	
Date Decision Delivered	12 June 2003
Country of Applicant/Claimant	Democratic Republic of Congo
Keywords	Credibility
Head Note (Summary of Summary)	This is an appeal to the Immigration Appeal Tribunal on a point of law against a decision of an adjudicator to refuse an asylum appeal on credibility grounds. The adjudicator had found the appellant's account to be lacking in credibility as his oral evidence in court had been vague and hesitant.
Case Summary (150-500)	The appellant had originally claimed asylum in 1995, and had been refused. His appeal rights were exhausted in 1999. He subsequently had a right of appeal on human rights grounds and relied on the fact that in June 2001, following a demonstration he had attended in the UK, he had had published in the DRC an article critical of the government. Although the adjudicator accepted that an anti-government article written by the appellant had been published in the DRC, he did not accept the appellant's motive for having written the article, nor his account of how it came to be published. He found the publication of the article to be "self-serving". It was accepted by both parties that the adjudicator had erred in law by failing to consider the objective risk to the appellant as result of the article having been published
<i>Facts</i>	In dismissing the appeal, the Adjudicator said, "I do not believe the appellant's evidence as to how the article came to be published. He was vague and hesitant".
<i>Decision & Reasoning</i>	<p>It was agreed by all parties that the appeal be reconsidered due to the failure of the judge to consider whether the appellant would be objectively at risk as result of the article having been published in the DRC.</p> <p>The Immigration Appeal Tribunal also found that the allegation of vagueness had not been made out, and that 'hesitancy', being closely linked to demeanour, was an inadequate basis to find that the appellant was not telling the truth.</p> <p><i>"7. The Adjudicator did "not believe the appellant's evidence as to how the article came to be published." The Adjudicator did not dispute the publication of the article. Nor did he dispute its anti-government content. He disputed or disbelieved the genuineness of the motivation underlying the publication of</i></p>



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	<p><i>the article. This he did because he thought that in his evidence before him the appellant "was vague and hesitant". The Adjudicator has given no indication about the areas in which he found the appellant to be vague. Given that the appellant appeared before him, if he had thought that the appellant needed to give more detail than he had, he should have sought such details and if the appellant had not provided the detail then the Adjudicator could properly have concluded that he had been evasive in his evidence. To describe a person's evidence as vague and use that as a ground for disbelief is, in our view, quite unsatisfactory unless of course the areas of lack of detail, which cause concern, are clearly spelt out. The Adjudicator also disbelieved the appellant's evidence about how the article came to be published because he was "hesitant". Again such a description is far from satisfactory without more. One can be hesitant for perfectly bona fide reasons and one can be perceived to be hesitant for a number of bad reasons. As hesitancy is so closely linked to demeanour and judging demeanour across cultural divides is fraught with danger, the less it is used to disbelieve a person, the less likely is the chance of being criticised for unfair judgment".</i></p>
<p><i>Outcome</i></p>	<p>The Tribunal found that the appellant would be at risk on return to DRC due to the anti-government article that had been published, and allowed the appeal.</p>