

Credibility Cases

Case Identifier	IJ Decision and Statements	BIA Decision and Statements
<p>C Ukraine Asylum 1998</p>	<p>Denied.</p> <p>Former Soviet Marine tried to start a magazine in the Ukraine after the overthrow of the Communist regime in 1991, but was denied by the government and so set up his own magazine in his apartment. He was threatened, beaten, called into court, and all his equipment and writing was eventually taken from his apartment. B.I.A. at 2-4.</p> <p>The IJ found the respondent incredible for the reasons that follow:</p> <ul style="list-style-type: none"> • “exhibited behavior which does not always seem reasonable, nor plausible, nor...worthy of belief because of his inconsistent behavior and his inconsistent statements” B.I.A. at 5 (quoting I.J. at 18). • “seemed rehearsed, lacking in spontaneity,” and “lacked the ring of truth.” B.I.A. at 5 (quoting I.J. at 22). • “highly implausible that none of [his] friends who assisted in the publication of his magazine were approached or harassed by Ukrainian authorities.” B.I.A. at 8. • Couldn’t produce actual copies of the magazine. B.I.A. at 8. • Did not flee the Ukraine the first time he was called into court. B.I.A. at 8. • The IJ also “devoted substantial portions of the hearing to inquiries into wholly irrelevant issues, such as why he referred to his publication as a ‘magazine,’” etc. B.I.A. at 8. 	<p>Granted.</p> <p>The BIA overturned the IJ credibility finding.</p> <p>The BIA specifically noted that the immigration judge:</p> <ul style="list-style-type: none"> • “never points to a specific inconsistent statement to support her conclusion in the course of her 24-page oral decision,” and • “makes no reference to the respondent’s demeanor during the proceedings as the basis for her adverse credibility determination.” B.I.A. at 6. <p>Further, the BIA determined that:</p> <ul style="list-style-type: none"> • “neither the respondent’s testimony, behavior or actions prior to, or during, the proceedings are inconsistent in any manner” and • “we do not find in his testimony the existence of any discrepancies or omissions regarding events central to his asylum claim.” B.I.A. at 6. <p>The BIA finds no basis in the record for the Immigration Judge’s negative inferences drawn from:</p> <ul style="list-style-type: none"> • his friends were not harassed, • he can’t produce a copy of the magazine, • he didn’t flee the first time he was called into court • other issues such as his calling his publication a “magazine.” B.I.A. at 8. <p>The BIA noted that respondent answered all these questions “in a consistently patient, thorough, and detailed manner.” B.I.A. at 8.</p>
<p>K Togo</p>	<p>Denied.</p>	<p>Granted.</p>

<p>Asylum 1996</p>	<p>Applicant fears the female genital mutilation (FGM) practice of her tribe.</p> <p>The immigration judge found her not credible, based on a perceived lack of rationality, persuasiveness, and consistency, but not based on her demeanor. B.I.A. at § I.D.</p>	<p>The BIA found “that the applicant’s testimony in support of her asylum application is plausible, detailed, and internally consistent... with her asylum application and with the substantial background information in the record.” B.I.A. at § I. D.</p> <p>The BIA “specifically reject[ed] the Immigration Judge’s findings” that the following were “irrational, unpersuasive, or inconsistent:”</p> <ul style="list-style-type: none"> • “the applicant’s failure to know the present whereabouts of her mother” • “her claim to have avoided FGM through her father’s efforts” • her randomly meeting a German woman who offered her room and board and with whom she stayed for two months • her randomly meeting a Nigerian man who provided her with a passport to travel to the US <p>The BIA found each was “adequately and reasonably explained by the applicant during her testimony and... reasonably could have happened to a teenage girl in the applicant’s situation.” B.I.A. at § I.D.</p>
<p>N Nigeria Asylum 1996</p>	<p>Denied.</p> <p>Applicant claimed to have suffered persecution on account of her marriage to a political activist, including being detained and sexually assaulted on two occasions, with the second detention lasting a week. Later, police came to the house looking for her husband and a man began to follow her, so she left the country. B.I.A. at 1.</p> <p>The IJ made an adverse credibility finding because:</p> <ul style="list-style-type: none"> • “[a] principal difficulty with this case, from the court’s perspective, is that the applicant has made such horrendous claims of abuse.” I.J. at 8 (quoted in B.I.A. at 3). • the applicant did not cry during her testimony, but rather appeared “highly peeved.” I.J. at 11 (quoted in B.I.A. at 3). 	<p>Granted.</p> <p>“We cannot agree with the Immigration Judge that the applicant’s testimony and evidence lacks credibility. ...the Immigration Judge based his findings on several incorrect conclusions.” B.I.A. at 2.</p> <p>The BIA stated that:</p> <ul style="list-style-type: none"> • “such repeated abuse is physically possible, and there mere fact that the applicant claims that it occurred can not be held against her as an indication of her lack of credibility.” B.I.A. at 3. • “we are unwilling to assume that the absence of any visible distress... implies that she did not find such experiences distressing; consequently, we can not find that her stoic

	<ul style="list-style-type: none"> the applicant did not request asylum immediately upon entry into the United States. B.I.A. at 3. 	<p>demeanor demonstrates a lack of credibility.” <i>Id.</i></p> <ul style="list-style-type: none"> the applicant requested a female Service officer upon entry into the United States and “[a]though the applicant did not describe the nature of her asylum application to [the female officer]” and thus “we find that any inference which we may draw regarding the applicant’s failure to speak of her alleged persecution at the airport diminished by the equally strong inference that the applicant intended to discuss the specifics of her claim with a female inspector.” Tr. at 162-7 (quoted in B.I.A. at 3).
O Sudan Asylum 1996	<p>Denied.</p> <p>Country reports indicate Christians are persecuted by Muslims (12-year civil war between Muslim north and Catholic south) and the applicant’s wife and son were killed in the fighting, his shop was burned, and he was attacked several times. Additionally, applicant has worked with foreign Christian missionaries, including a particular missionary who was arrested and executed by the government. B.I.A. at 1-3.</p> <p>IJ based an adverse credibility finding on the following:</p> <ul style="list-style-type: none"> respondent did not have a good foundation in Catholic teachings and was not familiar with parochial schools and he could be from Ghana or Uganda instead of the Sudan. <p>B.I.A. at 4.</p>	<p>Granted.</p> <p>The BIA stated that “the Immigration Judge ignored information in the record and based his credibility determination on several incorrect conclusions.” The BIA showed those conclusions to be incorrect as follows:</p> <ul style="list-style-type: none"> neither Catholic teaching nor parochial schools were readily available in the Sudan as pre evidence on the record and testimony by a Sudanese priest applicant gave a good description of Sudan’s geography and presented a credible witness testifying that the applicant’s accent was southern Sudanese. <p>B.I.A. at 4.</p> <p>BIA granted asylum based on the respondent’s Christian work. B.I.A. at 4 and 6.</p>
VV Sri Lanka Asylum 1994	<p>Denied.</p> <p>Married couple who belong to Tamil ethnic group lost all their possessions and nearly their lives when their home as attacked by a mob of the majority ethnic group. Respondents fled after two cousins active in TULF disappeared after they were arrested and two other party members with whom male</p>	<p>Granted.</p> <p>The BIA reviewed de novo because the IJ did not rely on demeanor and found the male respondent credible because:</p> <ul style="list-style-type: none"> The BIA “observe[d], as did the immigration judge, that the male respondent’s testimony is ‘substantially consistent’ with his detailed written application.” B.I.A. at

	<p>respondent worked were shot and killed by the military. B.I.A. at 4-6.</p> <p>The IJ found the male respondent incredible, relying on three factors:</p> <ul style="list-style-type: none"> • no reference to any interference with the male's employment in Colombo, an area where the ethnic majority allegedly persecuted Tamils, • not believable that singled out because he was a suspected militant but only because he was Tamil and there was civil unrest, and • no reference to interference with his employment from his broken hand (allegedly broken by security personnel). <p>B.I.A. at 2.</p>	<p>3 (quoting I.J. at 8).</p> <ul style="list-style-type: none"> • The IJ failed to raise his three concerns with the respondent and let him answer them. B.I.A. at 3. • The BIA found reasons for the factors cited by the IJ that explained them all and also found the "factors to be tangential to the heart of the male respondent's claim." B.I.A. at 3. <p>The BIA also found that the IJ's disbelief that the respondent had been singled out as a suspected militant but instead was persecuted because of his ethnicity served to bolster his claim since "it suggests a prosecutorial motivation directly premised upon one of the protected grounds." B.I.A. at 4.</p>
Y Yugoslavia Asylum	<p>Denied.</p> <p>Respondent wanted civil rights for Albanians in Yugoslavia and was involved in political demonstrations where there was some violence. He attended meetings and send petitions to the government in an attempt to get civil rights by peaceful means. After his close friend was arrested and sentenced to 15 years, he decided to leave Yugoslavia. His pregnant wife was detained for 3 days and beaten severely while being questioned about where he was. Later, his wife and children met him in Chicago on medical visas. B.I.A. at 1-3</p> <p>The IJ found the respondent candid but not credible, in part because "he noted that the fact that the respondent's wife had entered the United States in 1984 [on medical visas] with a Yugoslav passport issued to her in 1982 belied the respondent's story that she was detained for 3 days, questioned, and beaten." B.I.A. at 4.</p>	<p>Granted.</p> <p>The BIA found no basis in the record to find the respondent incredible, since his testimony was straightforward, detailed, consistent, and corroborated by information in his written affidavit and other documentary evidence. B.I.A. at 5.</p> <p>BIA found that the wife's travel and detention were not inconsistent, since:</p> <ul style="list-style-type: none"> • her children needed treatment for a skin disease that causes cancer so the authorities were probably aware she had a humanitarian reason to come to the US and • the authorities had been watching his house for two years and probably thought he was not going to come home and they could stop the surveillance. <p>B.I.A. at 6.</p> <p>The BIA concludes that the excessively harsh treatment of respondent's wife and of his friend who was in a similar situation to him show that the authorities who are seeking him are trying to punish him for his political opinion. B.I.A. at 6.</p>