

Gil-Bazo MT.

**[Book review: Assessment of Credibility by Judges in Asylum Cases in the EU,](#)
[edited by Carolus Grütters, Elspeth Guild and Sebastiaan de Groot.](#)**

***Common Market Law Review* 2016, 53(6), 1817-1818.**

Copyright:

Reprinted from *Common Market Law Review*, vol. 53, issue 6, December 2016, pp.1817-1818, with permission of Kluwer Law International.

Date deposited:

13/12/2016

Carolus Grütters, Elspeth Guild and Sebastiaan de Groot (Eds.), *Assessment of Credibility by Judges in Asylum Cases in the EU*. Nijmegen: Wolf Legal Publishers, 2013. 219 pages. ISBN: 9789462400610. EUR 20.

The theme of this book responds to the need to explore and advance standards in relation to evidence in asylum cases, and to do so by bringing in the specific expertise of judges, both at national and international level (ECHR), as well as the input of other actors in the process, notably the United Nations High Commissioner for Refugees (UNHCR). It presents the proceedings of a Seminar on “Judicial Scrutiny and Credibility Assessment in Asylum Procedures”, held in 2013 and co-organized by the Centre for Migration Law (Radboud University, Nijmegen, the Netherlands) and the International Association of Refugee Law Judges (IARLJ).

The book contains five chapters reflecting contributions made to the Seminar, and some concluding remarks, which together account for 75 pages, followed by the so-called Credo Document which is set out in 130 pages. The Credo Document is the contribution of the IARLJ to the CREDO initiative, “Improved Credibility Assessment in EU Asylum Procedures”, a project led by the Hungarian Helsinki Committee (with UNHCR, the IARLJ and Asylum Aid (UK) as partners) and funded by the EU under the European Refugee Fund.

Official figures show that only a small number of asylum claims across Europe lead to protection being granted and that a significant number of claims are rejected on credibility grounds. Research also shows that there is little dialogue among judicial instances across the Member States when deciding on asylum cases (cf. Goodwin-Gill and Lambert, *The Limits of Transnational Law. Refugee Law, Policy Harmonization and Judicial Dialogue in the European Union*). This raises issues about the ability of national courts to perform effectively their role as courts of EU law in the interpretation of the legislation across different jurisdictions, including procedural standards of fairness and evidentiary rules. The relevance of research in this field for the different actors in the asylum determination procedure, and in particular of judges, is therefore self-evident.

The role of UNHCR in judicial proceedings leading to establishing the facts is aptly explored by Baldinger, using case studies where courts had turned to UNHCR for its expert advice (Ch. 1). This overview discusses both the advantages of bringing UNHCR into proceedings, as well as the shortcomings of this approach. Myjer (former judge of the ECHR) provides an overview of some of the Court’s leading judgments in order to identify the Strasbourg Court’s approach towards establishing the facts (Ch. 2). The analysis is revealing insofar it shows the limitations of the ECHR’s architecture, notably the principle of subsidiarity, which often results in the Court’s role being satisfied once it is shown that the Member States have undertaken a rigorous scrutiny of the case, regardless of its actual outcome. Both contributions bring an international dimension to the discussion, thus highlighting that although the day-to-day art of judicial decision-making on refugee protection lies primarily with domestic courts, such national dimension exists within a broader international framework and therefore can only be complete when taking into account the principles and mechanisms developed by the international community.

The remaining chapters present the findings of different components of the Credo project: UNHCR’s research on the practice of the EU Member States on credibility issues, identifying shortcomings and divergences at national level and proposing standards for a coherent and harmonized approach in the implementation of EU law standards (Ch. 3), as well as the IARLJ’s contribution to the Credo project with a focus on procedural standards in the EU’s

Qualification and Procedures Directives (by Mckey and Barnes in Chs. 4 and 5 respectively). The IARLJ Credo Document was drafted by judges and addressed primarily to judges. It is effectively a substantive study on appropriate criteria and standards of credibility assessment in asylum claims and appeals in the context of the Common European Asylum System (CEAS). The primary goal of the study is to enhance “the quality of asylum assessment systems and fair and efficient asylum procedures throughout the EU” (p. 98).

This book is not an academic study and as such it lacks the coherence and focus that research questions provide even in the context of collaborative projects with different authors. However, the purpose of this book is not to be an academic commentary, but rather to offer elements for discussion on real issues arising in practice to make suggestions for standards and improvement. All contributions except Chapter 3 (written by Garlick from UNHCR) were written by judges. This rich background in judicial practice filters throughout the project, and as such it makes a contribution which is well-informed both on the challenges of credibility assessment in determining an asylum-seeker’s need for protection, as well as the opportunities for improvement. Perhaps the most significant contribution of this book to the existing literature is its focus on the interrelationship between the different actors in asylum determination, and its analysis of synergies and interactions, which can lead not just to an improved dialogue, but to improved decision-making in asylum cases. This in itself is an essential element of a quality asylum system, for the role of judges scrutinizing administrative decisions is one of the fundamental components of the rule of law.

Maria-Teresa Gil-Bazo
Newcastle