

Summary

Assessing the credibility of asylum applications motivated by LGBTI orientation and religious conversion

The way in which the Dutch Immigration and Naturalisation Service (IND) decides on asylum applications motivated by LGBTI orientation or religious conversion has long been a subject of debate among government bodies, civil-society organisations and researchers. The main focus is on how the IND assesses the credibility of statements regarding such motivations. The IND's decisions are supposedly too often based on stereotyped ideas about religious conversion or how people become aware of their sexual orientation.

There seem not to be any objective research methods that can determine with certainty what a person's sexual orientation is, or whether a person is really a religious convert. This is apparent from such titles as *Herken de homo* ('Recognising who is gay', Jansen, 2013) and *Herken de christen* ('Recognising who is Christian', Van Veldhuizen, 2020). Earlier research has also shown that IND staff tend to consider asylum applications based on such motivations as 'difficult to deal with' (Severijns, 2019).

In July 2018, in response to outside criticism and in order to better equip its staff to examine and assess the credibility of asylum applications motivated by LGBTI orientation or religious conversion, the IND amended two of its rules of procedure. The purpose of the amendments was to make clear to the outside world how the IND assesses such asylum applications, and to enable its staff to ascertain asylum seekers' authentic stories. This means focusing on asylum seekers' personal experiences rather than relying on standard – stereotyped – expectations about their religious conversion or acceptance of their sexual orientation.

Besides amending the rules of procedure, the Dutch Minister of Justice and Security has proposed additional measures to promote IND staff's expertise in these areas: 1) holding workshops on both topics, 2) appointing LGBTI and religious conversion coordinators, and 3) peer supervision. This is intended to improve their ability to reach professionally sound decisions when assessing such applications, and so help increase the overall quality of decision-making.

Goals, questions and methods of this evaluation

This evaluation examines how the amendments to the rules of procedure and measures to promote expertise have been designed ('planning evaluation') and implemented ('process evaluation'). The planning evaluation involved interviews with policy officers, researchers and experts from outside organisations. The process evaluation focused on the experiences of IND executive staff. There were also interviews with lawyers and civil-society organisations, and dossiers were analysed in order to shed light on IND staff's experiences by a process of triangulation.

The evaluation answers the following questions:

1. What substantive and organisational changes were announced by the minister in July 2018 regarding assessment of the credibility of asylum applications motivated by religious conversion or LGBTI orientation? Were additional changes made later on?
2. How are these changes assumed to increase the quality (i.e. balanced justification) of assessment of asylum applications motivated by religious conversion or LGBTI orientation? Are these assumptions supported by existing knowledge and insights?
3. How are the announced changes to assessment of the credibility of such asylum applications implemented in practice?
4. What are the experiences of the people involved? Is there any indication that the changes have – or have not – increased the perceived quality of assessments?
5. Are there problems with the design and/or implementation of the amendments to the rules of procedure and the promotion of relevant expertise when assessing the credibility of asylum applications motivated by religious conversion or LGBTI orientation?

Changes to IND rules of procedure for LGBTI persons and religious converts

Rules of procedure for LGBTI persons

Three changes were made to the IND rules of procedure for applications by LGBTI persons (WI 2018/9):

- a. Specific questions are no longer asked about ‘processes of awareness’ and ‘self-acceptance’, and it is no longer assumed that every LGBTI person has experienced an inner struggle;
- b. Interviews with asylum seekers now focus on personal experiences and interpretation by adopting an open-minded approach and asking open-ended questions;
- c. The IND staff member must explain how account has been taken of statements by third parties.

A final amendment to the rules of procedure was made in December 2019 (WI 2019/17), requiring the decision-making IND staff member to consult an LGBTI coordinator before reaching a decision.

Rules of procedure for religious converts

The amendment to the rules of procedure for religious converts in July 2018 involved turning an internal memorandum into a published rule of procedure (WI 2018/10). The main features of the IND rules of procedure adopted in July 2018 are as follows:

- a. A standard set of questions is no longer used, and open-ended questions are asked about personal experiences and interpretation. The main focus is on the person’s motives for converting and the conversion process;
- b. The decision must specify how account has been taken of factual information and statements provided by third parties.

This rule of procedure was likewise amended in December 2019 by requiring the decision-making IND staff member to consult a religious conversion coordinator before reaching a decision (WI 2019/18).

Policy logic in the amended rules of procedure

The planning evaluation shows that the substantive changes to the rules of procedure are in accordance with available theoretical insights. The emphasis on adopting an open-minded approach and asking open-ended questions when interviewing asylum seekers gives IND staff more room to ascertain their authentic stories. Stereotyped notions about processes that applicants motivated by LGBTI orientation or religious conversion have supposedly experienced have been removed, reflecting the reality that the ways in which people perceive their own religious or sexual identities vary from person to person. The rules of procedure now place less emphasis on standard ideas about how people convert or how their sexual identities develop.

The rules of procedure now also indicate how to deal with statements by third parties, and stipulate that this must be explained in staff members' justifications for their decisions; the purpose of this is to give outside parties insight into how the IND deals with such statements. Systematic use of statements by third parties may lead to less subjective, more balanced assessment of the credibility of asylum seekers' stories.

The now mandatory consultation of coordinators may help to prevent 'tunnel vision' and 'confirmation bias'. In practice, however, this will depend on how it is handled by the decision-making staff member and the coordinator.

Implementation of and experience with the amended rules of procedure

Open-minded approach and avoidance of stereotyped assumptions

The amendment of the rules of procedure was largely considered positive by interviewed IND staff. Most of them said it helped them have more open conversations that took fuller account of asylum seekers' personal experiences. They also said they were more aware of the need to avoid certain expectations that might be based on stereotyped ideas. However, they did not think the amendments would completely eliminate such ideas. Lawyers and civil-society organisations reported that they still came across them. They also lacked a clear picture of how much importance was attached to the various elements in the rules of procedure and how these were weighed up.

The open-minded approach and the decision to stop using standard sets of questions has given IND staff more room to decide for themselves which questions they consider relevant, and to provide tailor-made solutions. On the other hand, there is an increased risk that similar asylum applications will not be dealt with in a similar manner. How great this risk is will depend on how IND staff make use of the extra room in practice, and how they are taught to deal with it.

It may also lead to more lengthy interviews, especially by inexperienced staff who are not yet sure which questions will or will not yield relevant information.

Lawyers and civil-society organisations consider that the amendment of the rules of procedure is in theory an improvement, given the increased focus on asylum seekers' authentic stories. However, it is not quite clear to them what this entails in practice. Church organisations are fairly positive about the substantive implications for interviews with applicants motivated by religious conversion, since the rules now acknowledge that conversions can take place in various ways. At the same time, they comment that in their view the staff's expertise in making assessments is not always apparent from their reports. The new rules of procedure have not affected the fundamental criticism by LGBTI organisations that sexual orientation can only be determined on the basis of self-identification.

Statements by third parties

IND staff are positive about the clarity that the new rules of procedure provide on how they should use information from third parties, especially its emphasis that it is up to them rather than third parties to assess credibility. Outside organisations are less positive about how statements by third parties are to be used. Because the motivation is often formulated in general terms, it is often unclear to lawyers and civil-society organisations why importance is or is not attached to such statements.

Consultation with coordinators before decisions are reached

Mandatory consultation with religious conversion and LGBTI coordinators is generally considered positive by interviewed IND staff. In theory it compels decision-making staff to look more closely at the available information and perhaps consider new factors. However, the extent to which this happens in practice depends on how consultation takes place, which will vary from one staff member to the next. Some staff say they go out of their way to find out if coordinators have any objections, whereas others see such consultation as a necessary evil.

It is impossible to determine whether coordinators are consulted in all cases. This is because the IND does not register asylum applications by motivation, and so such information is not systematically available. Nor is it known whether, and to what extent, advice from coordinators in fact leads to decisions being changed. Decision-making IND staff members bear final responsibility for decisions and can choose whether or not to take the advice. However, this must be justified in their unpublished reports.

Promotion of expertise

The announced workshops were held once only at each application centre. Since they did not take place as soon as the new rules of procedure were introduced, there was a period in which staff had to apply the new rules without specific training. It is up to individual IND units to decide whether to hold additional workshops.

The workshops are appreciated by IND staff. They say they are now more aware of how they perform their tasks and the need for them to take account of the asylum seeker's frame of reference. Consulting LGBTI and religious conversion coordinators also indirectly helps promote their expertise.

The interview methods that IND staff are offered in regular interview training pay no specific attention to interviews with applicants motivated by LGBTI orientation or religious conversion. The SOGI¹ course module provided by the European Asylum Support Office (EASO), which is mainly available for interviews with LGBTI asylum seekers, was attended by only a few of the staff members interviewed and is not part of the promotion of expertise provided by the IND under the amended rules of procedure.

Peer supervision is seldom used to reduce the risk of unconscious subjective assessment of the credibility of applications motivated by LGBTI orientation or religious conversion. One of the reasons given for this is that IND staff do not have enough time, particularly because of the backlog in processing applications. Another reason is the importance that the IND attaches to its staff members being able to reach independent decisions on asylum applications.

Conclusions

The answers to the main questions lead to the following conclusions:

- The IND's rules of procedure for LGBTI and religious conversion have been amended in line with the measures announced by the minister.
- The workshops announced as one of the accompanying measures to improve the assessment of credibility in applications motivated by LGBTI orientation and religious conversion are held once.
- No specific policy logic was formulated when making the amendments to the rules of procedure. However, it can be concluded that the amendments are in accordance with theoretical insights and may be considered an improvement at least in theory.
- The amended rules of procedure give IND staff clues on how to avoid stereotyped ideas and adopt an open-minded approach, but according to both IND staff and respondents outside the IND stereotypes and less open-minded approaches are still found in practice.
- The decision to stop using standard sets of questions is considered positive by IND staff, as it gives them more room to ascertain asylum seekers' authentic stories. However, it provides less support for inexperienced staff.
- In theory it is clear how the IND makes use of statements by third parties, but in practice it remains unclear for organisations outside the IND how much importance is attached to a given statement, and why.
- Coordinators are available at every application centre, but the way in which they are consulted varies considerably.

¹ Sexual Orientation and Gender Identity.

- Little attention is paid to systematic promotion of IND staff's expertise when dealing with applications motivated by LGBTI orientation and religious conversion.
- Outside organisations see improvements in theory but doubt whether the credibility of asylum applications can be objectively assessed.

The question of whether the quality of decision-making has been increased by the amendments cannot be answered objectively. It is not possible to determine in the context of such asylum applications whether the applicant's statements are truthful. For these reasons, the concept of quality has been based in this study on the subjective perceptions and personal experiences of a large number of key individuals.

We conclude that additional conditions that allow more objective assessment of credibility have been created, so that more account can in theory be taken of applicants' authentic stories. These changes are considered positive by respondents both in and outside the IND. However, there is room for improvement in practical implementation, in particular by giving executive officers more room to focus on promoting their expertise on, in particular, LGBTI orientation and religious conversion. The IND should give its staff more support here, including by making use of knowledge available outside the organisation in order to keep stereotyped assumptions and prejudices to a minimum.