



Case 5

Complexity: simple

Target groups: all

Note: The following case representation selects specific questions from a complete and general examination.

A 22-year-old male asylum seeker from a Central Asian country race and ethnic background from the Muslim tribal society applies for asylum, which is not granted as the asylum authorities state that he is not credible due to one detail in the record of violence encountered in his country of origin prior to escape to Europe. The asylum seeker had described an act of rape (sexual torture) by members of government hit squads not during his first but only during a later interview with his (male) legal adviser who submitted it as an additional relevant information. The first interview by the asylum authorities had been taken by a female official. The asylum authorities argued, that the applicant was not credible as he had not reported the event during his first interview.

Questions:

- 1) Would you agree with the conclusion of the asylum authorities?
- 2) Which arguments could explain the belated reporting of sexual violence?

Answers:

1) Would you agree with the conclusion of the asylum authorities?

The assessment of the case should rest on a comprehensive evaluation of all facts in an effort to actively use all sources available. The protocol underlines the fact that a number of reasons can contribute to incomplete reporting, especially in the case of sexual violence. This was not considered, and no medical examination was provided or requested to prove or disprove the report of the client.

While it is required by the protocol and related standards that the gender of the interview should be considered in case of sexual violence, this was not known at first.

You would discuss asylum procedures in your country and that implied challenges of the case as seen from the asylum authorities and from the perspective of the lawyer.

2) Which arguments could explain the belated reporting of sexual violence?

A number of factors can explain belated reporting of experiences seen as shameful. It is often the intention of the perpetrators to create such shame and inadequate guilt feelings. Sexual violence is therefore used as a weapon of war and tool of torture. Shame is a strong social emotion that can be even stronger than fear of torture or being sent back. This is true especially when social or cultural factors such as the gender of the interviewer are considered. This issue is therefore underlined in the protocol. In the specific situation that should be considered, a male client would feel too embarrassed in front of anyone, even an official, who freely speak about sexual torture.

Avoidance, including avoidance in conversation, is also a key symptom of posttraumatic stress disorder, which is a common problem in refugees and was also present in this asylum seeker.

A medical or psychological examination could provide the asylum authorities with the necessary confirmation, even if the above arguments would not be sufficient to explain the belated reporting after the interview.