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Well-founded fear

Within the framework of asylum, the notion of ‘well-founded fear’ can be viewed as encompassing two aspects, often referred to as its ‘subjective’ and ‘objective’ elements. The focus of the assessment is on whether or not the fear is ‘well-founded’ (i.e. on the objective elements).

‘Fear’

> **Fear can be defined as a distressing emotion aroused by impending harm, whether the threat is real or imagined.**

The subjective aspect, therefore, relates to the fear that is felt by the applicant.

It should be underlined that psychological reactions differ between individuals, including when faced with the same situation. The experience of fear is intrinsically linked to factors such as the personality, age, sociocultural background and previous experiences of the applicant. Case officers should take into account the applicant’s personal situation as well as the expression of fear that emerges from their statements.

As the fear of returning to their country may emanate from numerous different causes, it is not necessary for all of them to be related to persecution within the meaning of the QD. Moreover, it is not necessary to establish that the fear of persecution is a predominant motive for the applicant, as long as such fear can be identified.

Specific considerations

When the applicant does not express fear. In some cases, the applicant may not explicitly state that they experience fear. In other cases, they may even state that they do not. However, the absence of fear could be considered irrelevant when circumstances would objectively justify that anyone in such circumstances would be facing a risk.

‘Well-founded’

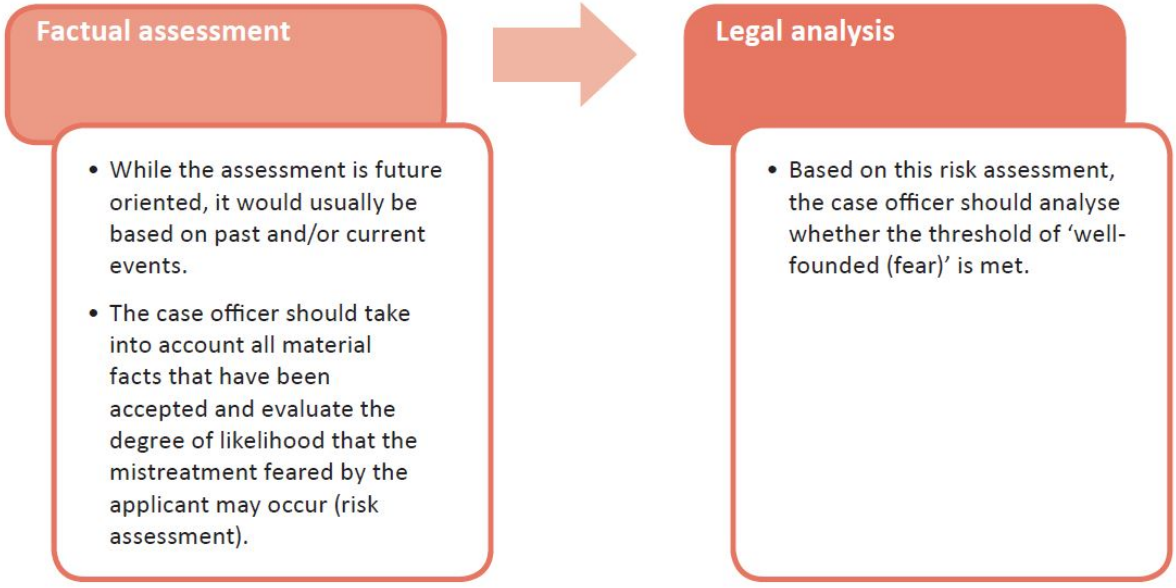
An applicant's subjective fear should be objectively substantiated in order to be considered 'well-founded'.

Since the 'well-founded' element of the refugee definition deals with the degree of likelihood of the applicant facing persecution, it is mainly a matter of factual risk assessment (see *EASO Practical Guide: Evidence assessment*). In this assessment, the case officer should consider the individual situation of the applicant in light of information regarding the general situation in the country of origin (e.g. the political, religious, social or security situation). Information about persecution of family members or persons in a similar situation to that of the applicant could be pertinent in this regard.

In order to assess 'well-founded' as a legal requirement, the following should be taken into consideration.

- Firstly, it should be noted that the assessment focuses on whether such a fear is well founded **at the time when the decision on the application for international protection is made**, i.e. the well-founded fear of the applicant has to be current. The circumstances that lie behind a person fleeing might change or cease to exist through time, or conversely appear after fleeing (see the section on 'International protection needs arising sur place').

- Secondly, 'well-founded fear' is based on the risk assessment, which is **forward-looking**. Because of inherent difficulties in making a prognosis about what would happen if the applicant were to return, the risk of a subjective appreciation in this regard is high. It is, therefore, of utmost importance that the evaluation of well-founded fear is based on an objective methodology and that it avoids speculation. Such a methodology regarding the factu
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Specific considerations

Experience of past persecution. The fact that the applicant has been subject to persecution previously does not in itself mean that there is a risk of future persecution. However, past persecution or threats would constitute serious indications of a well-founded fear. In that case, the case officer will have the burden to demonstrate that the persecution will not be repeated if the applicant returns to their country.

Moreover, depending on national practices, there may be instances where it is substantiated that the harm would not be repeated. Past persecution, however, may have been of such an **atrocious character** that the harm is deemed to be continuous. In such a situation, the applicant could not be expected to go back to the place of the persecution because the return could place them in psychological distress reaching the same severity as persecution.

Case officers must keep in mind that **the absence of previous persecution, on the other hand, does not mean that there is no future risk of persecution.** The applicant's fear may be well founded independently of his or her own past and current experiences.

However, the risk of being subjected to persecution upon return should always be an individual risk.

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