

Hungary - Szeged Administrative and Labour Court, 27 May 2014, 7.K.27.145/2014/9

Country of Decision:

Hungary

Country of Applicant:

Nigeria

Date of Decision:

27-05-2014

Citation:

7.K.27.145/2014/9

Court Name:

Szeged Administrative and Labour Court

Keywords:

Credibility assessment

Refugee Status

Relevant Legislative Provisions:International Law > [1951 Refugee Convention](#) [1] > [Art 1](#) [2]International Law > [1951 Refugee Convention](#) [1] > Art 37International Law > [1951 Refugee Convention](#) [1] > Art 41European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [3] > [Article 2](#) [4]European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [3] > [Article 4](#) [5]European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [3] > [Article 9](#) [6]European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [3] > [Article 10](#) [7]European Union Law > [EN - Recast Qualification Directive, Directive 2011/95/EU of 13 December 2011](#) [3] > [Article 15](#) [8]

Headnote:

In the case of the Nigerian asylum-seeker, the Court found the objection of the OIN unfounded,

repealed its decision and ordered the OIN to conduct a new procedure.

The Court emphasised that the contradictions which were encountered by the OIN were irrelevant regarding the applicant's flight testimony, therefore the applicant can be considered credible.

Facts:

The Nigerian applicant was attacked by the people of Boko Haram due to his Christian belief. His life was in direct danger when the Islamic extremist group burned down his house. He managed to escape and reported the incident to the local police.

The OIN rejected his application and held the prohibition of non-refoulement was also not relevant. According to the reasoning of the OIN's decision, the applicant's flight testimony was not credible. The OIN claimed that if the stated incidents had happened to the Applicant, he could have moved to other parts of Nigeria where the security of Christians is ensured.

The OIN did not accept the Applicant's claim of personal threat. In the appeal, the Applicant claimed that the OIN's finding that he lacked credibility was based on insignificant inconsistencies within his story, which are irrelevant.

Decision & Reasoning:

The Court noted that people's ability to record, preserve and recall memories are different. Memory for dates, times, frequency, duration and sequence may be difficult or impossible to recall. Those who have suffered traumatic events often display avoidance symptoms; they avoid thinking and talking about the event. They tend to remember some central details, on which they have focused, at the expense of other peripheral details.

For this reason, the Court ruled that the credibility of the Applicant's story shall not be questioned because he does not remember the exact date of leaving his country and the number of days he stayed in Lagos.

The Court found that the OIN did not indicate in its decision the safe place in Nigeria where the Applicant as a Christian may move back. In addition, the OIN neither used proper county information, nor gave rational conclusions drawn from the examination of individual circumstances.

Outcome:

The Court repealed the decision of the OIN and ordered it to conduct a new procedure.

Other sources cited:

[Beyond Proof, Credibility Assessment in EU Asylum Systems](#) [9]; 15 May 2013

National / Other Legislative Provisions:

[Hungary - Fundamental Law of Hungary- Art. XIV\(3\)](#) [10]

[Hungary - Act III of 1952 on Civil Procedure ? Art. 339\(1\)](#) [11]

[Hungary - Act III of 1952 on Civil Procedure ? Art. 339/A](#) [12]

[Hungary - Act LXXX of 2007 on Asylum - Art 6\(1\)](#) [13]

[Hungary - Act LXXX of 2007 on Asylum - Art 7\(1\)](#) [14]

[Hungary - Act LXXX of 2007 on Asylum - Art 12](#) [15]
[Hungary - Act LXXX of 2007 on Asylum - Art 40](#) [16]
[Hungary - Act LXXX of 2007 on Asylum - Art 41a](#) [17]
[Hungary - Act LXXX of 2007 on Asylum - Art 41c](#) [18]
[Hungary - Act LXXX of 2007 on Asylum - Art 58\(2\)](#) [19]
[Hungary - Act LXXX of 2007 on Asylum - Art 59\(1\)\(c\)](#) [20]
[Hungary - Act LXXX of 2007 on Asylum - Art 61\(c\)](#) [21]
[Hungary - Act LXXX of 2007 on Asylum - Art 62/ A 1-2](#) [22]
[Hungary - Act LXXX of 2007 on Asylum - Art 63\(1\)](#) [23]
[Hungary - Act LXXX of 2007 on Asylum - Art 63\(2\)](#) [24]
[Hungary - Act LXXX of 2007 on Asylum - Art 68\(5\)](#) [25]
[Government Decree 301/2007 \(XI. 9.\) on the implementation of Act LXXX of 2007 on asylum- Art. 91](#) [26]
[Art. 92\(1\)\(b\)](#) [27]
[Art. 92\(2\)](#) [28]
[Hungary - 1/2011. \(V. 9.\) KK opinion](#) [29]
[Point 2](#) [30]

Links:

[1] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention>
[2] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention#1>
[3] <https://www.asylumlawdatabase.eu/node/4038>
[4] https://www.asylumlawdatabase.eu/node/4038#toc_70
[5] https://www.asylumlawdatabase.eu/node/4038#toc_95
[6] https://www.asylumlawdatabase.eu/node/4038#toc_140
[7] https://www.asylumlawdatabase.eu/node/4038#toc_153
[8] https://www.asylumlawdatabase.eu/node/4038#toc_205
[9] <http://www.refworld.org/docid/51dd2f0d4.html>
[10] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/hungary-fundamental-law-hungary-art-xiv3>
[11] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/hungary-act-iii-1952-civil-procedure-%E2%80%93-art-3391>
[12] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/hungary-act-iii-1952-civil-procedure-%E2%80%93-art-339a>
[13] <https://www.asylumlawdatabase.eu/en/taxonomy/term/779>
[14] <https://www.asylumlawdatabase.eu/en/taxonomy/term/788>
[15] <https://www.asylumlawdatabase.eu/en/taxonomy/term/775>
[16] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/hungary-act-lxxx-2007-asylum-art-40>
[17] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/hungary-act-lxxx-2007-asylum-art-41a>
[18] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/hungary-act-lxxx-2007-asylum-art-41c>
[19] <https://www.asylumlawdatabase.eu/en/taxonomy/term/790>
[20] <https://www.asylumlawdatabase.eu/en/taxonomy/term/1508>
[21] <https://www.asylumlawdatabase.eu/en/taxonomy/term/778>
[22] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/hungary-act-lxxx-2007-asylum-art-62-1-2>
[23] <https://www.asylumlawdatabase.eu/en/taxonomy/term/1435>
[24] <https://www.asylumlawdatabase.eu/en/taxonomy/term/785>
[25] <https://www.asylumlawdatabase.eu/en/taxonomy/term/792>

- [26] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/government-decree-3012007-xi-9-implementation-act-lxxx-2007-asylum>
- [27] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/art-921b>
- [28] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/art-922>
- [29] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/hungary-12011-v-9-kk-opinion>
- [30] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/point-2>