

Italy - Cagliari Court, 3 April 2013, No. RG 8192/2012

Country of Decision:

Italy

Country of Applicant:

Nigeria

Date of Decision:

03-04-2013

Citation:

No. RG 8192/2012

Court Name:

Tribunale civile di Cagliari

Keywords:

Actor of persecution or serious harm

Actors of protection

Female genital mutilation

Gender Based Persecution

Membership of a particular social group

Refugee Status

Relevant Legislative Provisions:European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [1] > [Art 2](#) [2] > [Art 2 \(c\)](#) [2]European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [1] > [Art 2](#) [2]European Union Law > [EN - Qualification Directive, Directive 2004/83/EC of 29 April 2004](#) [1] > [Art 9](#) [3]

Headnote:

Female genital mutilation constitutes an act of persecution relating to membership of a particular social group and, if it is established that such mutilation could specifically affect the Applicant, constitutes a reason for granting refugee status under Article 2 and subsequent articles of Legislative Decree No 251 of 19.11.2007, implementing Directive 2004/83/EC.

Facts:

The Applicant stated that she had been mistreated in her country of origin by the second wife of her father and had then gone to live with her aunt's family. There she had been a victim of sexual violence within the family context, perpetrated by the aunt's husband. Eventually she had left in order to avoid genital mutilation prior to an arranged marriage.

Having arrived in Italy she applied for international protection. The Territorial Commission rejected the request stating that the circumstances were not credible and also that the conditions for granting international protection had not been fulfilled. An appeal against this decision was submitted to the Court.

Decision & Reasoning:

The Court held that, in the light of judgments issued by the European Court of Human Rights and the Court of Justice of the European Union, female genital mutilation should be considered as an act of gender-based persecution. In addition, as genital mutilation is widespread in Nigeria despite legal sanctions against the practice, it can be reasonably assumed that it would not be possible for the Applicant to receive any protection in her country of origin.

Outcome:

Appeal upheld and granting of refugee status.

Attachment(s):

[Original Judgment - No. 8192.2012.pdf](#)[4]

National / Other Legislative Provisions:

[Italy - Legislative Decree No. 251/2007](#) [5]

[Italy - Constitution - Art 3](#) [6]

[Italy - Constitution - Art 2](#) [7]

Links:

[1] <http://www.asylumlawdatabase.eu/en/content/qualification-directive>

[2] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%202%20QD>

[3] <http://www.asylumlawdatabase.eu/en/content/qualification-directive#Art%209%20QD>

[4] <https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/Original%20Judgment%20-%20No.%208192.2012.pdf>

[5] <https://www.asylumlawdatabase.eu/en/taxonomy/term/7375>

[6] <https://www.asylumlawdatabase.eu/en/taxonomy/term/7380>

[7] <https://www.asylumlawdatabase.eu/en/taxonomy/term/8035>