

Italy - Catania Court, 28 January 2010, No. RG 6176/2009

Country of Decision:

Italy

Country of Applicant:

Ivory Coast

Date of Decision:

28-01-2010

Citation:

No. R.G. 6176/2009

Court Name:

Tribunale Ordinario di Catania, Prima sezione civile

Keywords:

Effective remedy (right to)

Legal assistance / Legal representation / Legal aid

More favourable provisions

Relevant Legislative Provisions:European Union Law > [EN - Asylum Procedures Directive, Council Directive 2005/85/EC of 1 December 2005](#) [1] > Art 22European Union Law > [EN - Asylum Procedures Directive, Council Directive 2005/85/EC of 1 December 2005](#) [1] > [Art 39](#) [2]

Headnote:

For the purposes of access to legal cover for persons applying for international protection, documents issued by the Italian police certifying a person's identity (residence permit) should be considered as being valid and wholly sufficient to identify the foreigner and, in consequence, to provide legal aid at the State's expense, regardless of the precise particulars in the country of origin.

Facts:

The Council of the Bar Association in Catania, which is the competent authority as regards granting state-funded legal aid, rejected an application for such assistance on the basis of an

?absence of appropriate documentation certifying the identity of the Applicant?, notwithstanding the fact that the case file included a residence permit as an asylum seeker. This decision was contested.

Decision & Reasoning:

The Court did not agree with the contested decision and granted state-funded legal aid to the Applicant because the case involved a citizen of the Ivory Coast who was applying for international protection and, for that reason, it was quite legitimate that he did not have documentation provided by the consular authorities of the country of origin.

In the Court's view, a person applying for international protection should be granted legal aid even in the absence of documentation issued by the consular authorities in the country of origin, since a reading of the relevant regulations that takes into account the provisions of the Constitution imposes a duty to do so in order to avoid an unlawful violation of the right of access to legal protection.

Outcome:

A decree was issued granting state-funded legal aid.

Attachment(s):



[Original Judgment - No. RG 61762009.pdf](#)[3]

National / Other Legislative Provisions:

[Italy - Legislative Decree No. 25 of 28 January 2008](#) [4]

[Italy - Constitution - Art 24](#) [5]

[Italy - Presidential Decree 115/2002](#) [6]

Links:

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

[2] <http://www.asylumlawdatabase.eu/en/content/asylum-procedures-directive#Art 39>

[3] <https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/Original%20Judgment%20-%20No.%20RG%2061762009.pdf>

[4] <https://www.asylumlawdatabase.eu/en/taxonomy/term/7543>

[5] <https://www.asylumlawdatabase.eu/en/taxonomy/term/8033>

[6] <https://www.asylumlawdatabase.eu/en/taxonomy/term/8034>