

Italy - Tribunal of Trieste, 22 June 2018, RG No. 1929/2018

Country of Decision:

Italy

Date of Decision:

22-06-2018

Court Name:

Tribunal of Trieste

Keywords:Effective access to procedures

Relevant Legislative Provisions:European Union Law > [EN - Asylum Procedures Directive, Council Directive 2005/85/EC of 1 December 2005](#) [1] > [Art 6](#) [2] > [Art 6.1](#) [3]European Union Law > [EN - Asylum Procedures Directive, Council Directive 2005/85/EC of 1 December 2005](#) [1] > [Art 6](#) [2] > Art 6.5European Union Law > [EN - Recast Reception Conditions Directive, Directive 2013/33/EU of 26 June 2013](#) [4]European Union Law > [EN - Recast Asylum Procedures Directive 2013/32/EU of the European Parliament and of the Council](#) [5]

Headnote:

The case deals with the illegitimacy of denying the registration of an international protection request on the basis of the request being issued before a non-competent authority and lacking the criterion of ?autonomous accommodation?.

Facts:

The case originates from the refusal by the administrative authority (Questura di Pordenone) to proceed with an international protection request registration on grounds that the request was not presented to the competent authority (Border Police) and that the applicant failed to prove the existence of an ?autonomous accommodation?.

Decision & Reasoning:

The Tribunal first states that, in accordance to the Asylum Procedures Directive 2013/32/EU, Member States have to ensure that the registration of applications for international protection takes place no later than six working days after the applications are made. This is also valid for applications made before national authorities that are not competent to proceed with the registration of the application under national law.

In these circumstances, the national authority that received the application (Questura di Pordenone) deemed that it was not itself competent to register it. The Tribunal notes that Questura di Pordenone is under the obligation to ensure that the request is treated in accordance to the abovementioned EU Directive and, therefore, registered in the six working days following the application. Any national rule conflicting with the Directive is to be disregarded.

The second element relevant to the case is the provision according to which the asylum seeker is entitled to submit an application for international protection only provided that he/she is able to demonstrate the availability of an 'autonomous accommodation', as stated in doc. 10 Ministero dell'interno, missiva del Prefetto di Pordenone, prot. Uscita 0003301, 02/02/2018. First, the Tribunal states that this requirement does not collide with the obligation of the national authority to proceed with the registration of the applicant within the 6 working days. Second, an accurate examination of the requirement itself clearly demonstrates that it is illogical and disproportionate to expect asylum seekers to have an autonomous accommodation from the very moment they enter the country as illegal migrants. Moreover, the Tribunal assessed that, at the moment of the submission, the asylum seeker was hosted by the Italian Red Cross and provided with a night shelter and a daily meal: for the purposes of the registration process, even such a temporary accommodation should be deemed sufficient to trigger the obligation to proceed with the registration process.

In conclusion, the Tribunal states that:

1. in compliance with the Asylum Procedures Directive 2013/32/EU, the national authority has the obligation to register the application within the agreed time frame (6 working days), regardless of the fact that the application being presented to an authority is not competent to register it.

the same obligation is valid regardless of the nature of the accommodation that the asylum seeker is living in at the time of the application submission. Any shelter, even a temporary charitable accommodation, is to be considered sufficient to register the request.

Outcome:

Appeal granted.

Observations/Comments:

This case summary was written by Ilaria Della Moretta - MA Human Rights, University College London.

Attachment(s):

 [Accesso alla procedura di riconoscimento protezione internazionale - Tribunale di Trieste.pdf](#)

[6]

National / Other Legislative Provisions:

[Italy - Decreto legislativo n. 25/2008](#) [7]

[Art. 6.1](#) [8]

Links:

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

[2] <http://www.asylumlawdatabase.eu/en/content/asylum-procedures-directive#Art 6>

[3] <http://www.asylumlawdatabase.eu/en/content/asylum-procedures-directive#Art%206>

[4] <https://www.asylumlawdatabase.eu/node/4039>

[5] <https://www.asylumlawdatabase.eu/node/3946>

[6]

<https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/Accesso%20alla%20procedura%20di%20ricorso%20Tribunale%20di%20Trieste.pdf>

[7] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/italy-decreto-legislativo-n-252008>

[8] <https://www.asylumlawdatabase.eu/en/national-and-other-legislation/art-61>