

Italy - Trieste Court, 14 January 2012, No. RG 479/2011

Country of Decision:

Italy

Country of Applicant:

Rwanda

Date of Decision:

14-01-2012

Citation:

No RG 479/2011

Court Name:

Trieste Court

Keywords:

Country of origin information

Personal circumstances of applicant

Refugee Status

Relevant Legislative Provisions:International Law > [1951 Refugee Convention](#) [1] > [Art 1](#) [2]International Law

Headnote:

A risk of persecution of a refugee can extend in time beyond the period during which the actual events took place that resulted in a flight in search of protection. The risk should be assessed taking into account all the evidence and documentation at the Applicant's disposal.

Facts:

The Applicant, of Hutu origin, requested that the decision refusing international protection and recognition of humanitarian protection issued by the Territorial Commission in Gorizia be overturned, arguing that the decision had violated Article 1 of the Geneva Convention, Articles 2, 3 and 5 of Legislative Decree 251/2007, Directive 2005/83/EC and Article 3 of Law 241/1990, since all the requirements for granting refugee status had been met and there was a risk of persecution if he returned to Rwanda, his country of origin, because of his position in society and his ethnic

background which were well known at the time of the genocide. These factors would continue to prejudice his security even after his final acquittal of genocide by the International Criminal Tribunal, reached after seven years of preventive detention.

Decision & Reasoning:

The Court stated that it did not agree with the Decision of the Territorial Commission in Gorizia. In this regard, the Court said that the deciding authority had underestimated the close relationship that existed between the personal situation of the Applicant and the political, social and legal situation in his country of origin. Indeed, the Court argued that the risk of persecution could only have increased following the final judgment from the International Criminal Tribunal for Rwanda, which had revealed that the Applicant had been the victim of false accusations. Basing its analysis on the many documents submitted by the Applicant, the Court laid emphasis on the difficulties resulting from a hypothetical resettlement of persons acquitted by the International Criminal Tribunal (which to date has not yet happened), from the outcry caused by the final acquittal, which was exacerbated by the social and political situation in Rwanda, where restrictions were being placed on the civil and political freedoms of the opposition, sharpening the ever-present ethnic conflict and including the introduction of a vaguely-worded crime of genocidal ideology that increases the risk of the Applicant being subjected to domestic proceedings for offences for which he has already been tried and acquitted.

Outcome:

Refugee status granted.

Attachment(s):

 [Original Judgment - RG 479.2011.pdf](#)[3]

Other sources cited:

ICTR's challenges in the re location of acquitted persons, released prisoners and protected witnesses

ERSPS & ICTR Spokesperson, Arusha, 28 November 2008

Amnesty International, ?Amnesty International 2010 Report?

Freedom House, ?Countries at the Crossroads 2011: Rwanda?

Human Rights Watch, ?Law and Reality. Progress in Judicial Reform in Rwanda?

National / Other Legislative Provisions:

[Italy - Legislative Decree No. 251/2007](#) [4]

[Italy - Law 241/1990](#) [5]

[Italy - Law 722/1954](#) [6]

[Italy - Constitution - Art 10](#) [7]

[Italy - Legislative Decree 416/1989](#) [8]

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/sites/default/files/aldfiles/Original%20Judgment%20-%20RG%20479.2011.pdf>
- [4] <https://www.asylumlawdatabase.eu/en/taxonomy/term/7375>
- [5] <https://www.asylumlawdatabase.eu/en/taxonomy/term/8036>
- [6] <https://www.asylumlawdatabase.eu/en/taxonomy/term/7370>
- [7] <https://www.asylumlawdatabase.eu/en/taxonomy/term/8037>
- [8] <https://www.asylumlawdatabase.eu/en/taxonomy/term/8038>