

CASE LAW COVER PAGE TEMPLATE

Name of the court ¹ (English name in brackets if the court's language is not English): Tribunale di Milano – I sezione civile (Tribunal of Milan)	
Date of the decision: (2013/03/24)	Case number: ² n/a
Parties to the case: Unknown applicant vs Italian Ministry of Interior	
Decision available on the internet? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, please provide the link: http://www.asgi.it/public/parser_download/save/1_013_trib_mi_asilo_pakistan_lgtb.pdf	
Language(s) in which the decision is written: Italian	
Official court translation available in any other languages? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (If so, which):	
Countr(y)(ies) of origin of the applicant(s): Pakistan	
Country of asylum (or for cases with statelessness aspects, country of habitual residence) of the applicant(s): Italy	
Any third country of relevance to the case: ³ n/a	
Is the country of asylum or habitual residence party to:	
The 1951 Convention relating to the Status of Refugees <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Relevant articles of the Convention on which the decision is based: Art. 1, (a)
(Only for cases with statelessness aspects) The 1954 Convention relating to the Status of Stateless Persons <input type="checkbox"/> Yes <input type="checkbox"/> No	Relevant articles of the Convention on which the decision is based:
(Only for cases with statelessness aspects) The 1961 Convention on the Reduction of Statelessness <input type="checkbox"/> Yes <input type="checkbox"/> No	Relevant articles of the Convention on which the decision is based:
(For AU member states): The 1969 OAU Convention governing the specific aspects of refugee problems in Africa <input type="checkbox"/> Yes <input type="checkbox"/> No	Relevant articles of the Convention on which the decision is based:
For EU member states: please indicate which EU instruments are referred to in the decision Directive 2004/83/CE	Relevant articles of the EU instruments referred to in the decision:

Topics / Key terms: (see attached 'Topics' annex):

Persecution on the basis of sexual orientation or gender/ credibility assessment/Lesbian, gay, bisexual, transgender and intersex (LGBTI)/sexual orientation/SGBV/ Convention refugee/ Freedom from torture, inhuman and degrading treatments/ Human rights and fundamentals freedoms/Non-refoulement

Key facts (as reflected in the decision): [No more than 200 words]

The applicant, a Pakistani national, applied for International Protection in Italy (the date is not specified). The applicant explained he had been forced to flee his Country of origin due to the threats he endured from his boyfriend's brothers because of his homosexuality. Moreover, the brothers of his boyfriend are political activists of a political faction which is opposed to the applicant's party (Muslim League).

During the interview which took place on 16/7/2012, the applicant reaffirmed that his sexual orientation was the reason that forced him to flee and ask for International Protection.

During another interview, on 11/2/2013, a compatriot, coming from the same village of the applicant, referred that he had known the applicant since 2006, and he was aware of the isolation experienced by the applicant because of his sexual orientation.

After having received a negative decision regarding his request of International Protection from the competent Territorial Commission, on 13/3/2012 the applicant lodged an appeal before the Tribunal.

Key considerations of the court (translate key considerations (containing relevant legal reasoning) of the decision; include numbers of relevant paragraphs; do not summarize key considerations) [max. 1 page]

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Decision and reasoning: After the denial by the Territorial Commission, the competent Judicial Authority has been asked to carry out a complete re-examination of the International Protection request, which could be summarized as follows.

The Tribunal accepted the credibility of the applicant's claim, also considering the relevant testimony. In the light of the situation in the Country of origin (Pakistan), there are reasons to believe that, in case of return, the applicant would have a well-founded fear of persecution due to his sexual orientation. In particular, he could risk to be convicted to stoning as in Pakistan any sexual practice different from heterosexual marriage is illegal (as confirmed by the documentation provided). The Tribunal considers these facts as perfectly corresponding to those "persecutory acts" required in articles 7 and 8 of d.lgs. 251/2007, and in particular, in art. 1, letter a), of the 1951 Convention relating to the status of refugees.

Therefore, with regard to the elements above, the Tribunal observed that the conditions required by article 2, lett. e), of d.lgs. n. 251/2007 in order to recognize the refugee status were met.

Outcome: The Tribunal accepted the appeal, granting the applicant with the *refugee status*.

Other comments or references (for example, links to other cases, does this decision replace a previous decision?)

None.

EXPLANATORY NOTE

1. Decisions submitted with this form may be court decisions, or decisions of other judicial, quasi-judicial and administrative bodies.
2. Where applicable, please follow the court's official case reference system.
3. For example in situations where the country of return would be different from the applicant's country of origin.

For any questions relating to this form, please contact the RefWorld team at the address below.

Please submit this form to:

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