



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

A project of the Hungarian Helsinki Committee
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Case Summary

Country of Decision/Jurisdiction	Italy
Case Name/Title	Tribunale Roma, sez. I, 17 luglio 2009, sentenza n. 20491
Court Name <i>(Both in English and in the original language)</i>	Ordinary Court of Rome (Tribunale ordinario di Roma)
Neutral Citation Number	
Other Citation Number	
Date Decision Delivered	17/07/2009
Country of Applicant/Claimant	Democratic Republic of Congo
Keywords	Credibility, Burden of Proof, Medical Reports, Persecution
Head Note (Summary of Summary)	Appeal against refusal to grant the refugee status ¹
Case Summary (150-500)	The applicant, a DRC national, was suspected of having taken part in the assassination of former DRC president, Mr. Kabila, because of his friendship with one of the alleged organisers of the killing. In 2004, because of these accusations he was illegally detained for sixteen months. Also, his wife was detained for the same reasons. In 2005, he managed to escape and reached Italy on the 15 th of August 2005.
Facts	The Italian Ministry of Interior rejected the asylum application. Nevertheless, it recognized the so-called "humanitarian protection", a form of complementary protection. The applicant appealed against this decision.
Decision & Reasoning	The Ordinary Court of Rome judged the claim for asylum as well-founded. First of all the Court found that the applicant was credible. The Court explained that: <i>"..la versione dei fatti fornita da M. (...) può infatti ritenersi pienamente credibile innanzitutto poichè debitamente supportata dalla certificazione medica, confermata dal dr. G."</i> "...the version of the facts told by the applicant (...) can be considered fully credible first of all because it's supported by a medical certificate, approved by Dr. G." <i>"...inoltre la versione dei fatti allegata nell'atto introduttivo del giudizio appare non solo dettagliata e specifica ma anche totalmente sovrapponibile e congrua sia rispetto a quella ab initio resa alla Commissione Territoriale, sia anche con riguardo alle dichiarazioni rilasciate dalla moglie dell'attore K.A."</i>

¹ From the text of the judgement it wasn't possible to understand on what grounds the refugee status was denied.



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	<p><i>alla quale (...) la Commissione Nazionale per il diritto di asilo (..) ha riconosciuto lo status di rifugiata politica"</i></p> <p>"...Moreover, the facts stated in the request of appeal are not only detailed and specific but also completely consistent with both the version that he previously told the Territorial Commission and with the declarations made by his wife, to whom the National Commission for asylum granted refugee status"</p> <p>In the opinion of the Court these elements proved the credibility of the applicants.</p> <p>Moreover, taking into consideration the special difficulties of situations faced by persons forced to leave his/her country to save his/her life, the Court recognized that:</p> <p><i>"nei procedimenti in esame la prova può essere valutata con minore rigore, in considerazione della obiettiva difficoltà in cui incorre chi si sia trovato precipitosamente a fuggire dal proprio paese per salvaguardare la propria incolumità"</i></p> <p>"in this case, the burden of proof can be loosened, taking in consideration the objective difficulties faced by that person who hastily had to leave his country in order to save his life"</p> <p>Secondly, the Court judged that the claim was well-founded because of the existence of acts of persecution against the applicant based on the grounds set out in the 1951 Convention. In this case, in the opinion of the Court, the lack of willingness and lack of the ability of the government to protect the human rights of its citizens had to be considered as a lack of the willingness to protect, as well as an act of persecution.</p> <p>The Court concluded that:</p> <p><i>" (...) sussistono in definitiva i presupposti per il riconoscimneto dello status richiesto, consistenti nella natura ideologica della persecuzione (attuata o minacciata) e nella rottura del legame sociale esistente tra lo Stato di origine e il cittadino"</i></p> <p>"(....) it's possible to conclude that the grounds for the recognition of refugee status do exist, being represented by the ideological nature of the persecution (whether actual or threatened) and by the breaking of the social link existing between the country of origin and the citizen"</p>
Outcome	The decision of the Ministry of Interior was overturned and the applicant was granted refugee status by the Ordinary Court of Rome.