

Tribunale di Messina – I Sezione Civile, No. 316/2017, 14 July 2017 [Court of First Instance – Civil Chamber, Italy]

The assessment of the asylum application of a victim of trafficking cannot be linked to the victim's willingness to provide evidence in the context of a proceeding against her exploiters, and cannot be conditional on the contribution given to identify and prosecute her traffickers.

Keywords: International protection – Refugee status – Trafficking in persons – Victim's willingness to cooperate – Sexual exploitation – Trafficking as form of persecution – Evidence

Parties: *Ricorrente* [Appellant]; *Ministero dell'Interno – Commissione Territoriale per il Riconoscimento della Protezione Internazionale di Palermo* [Ministry of the Interior – Territorial Commission for the Recognition of International Protection]

Court: Tribunale di Messina [Court of First Instance – Civil Chamber, Italy]

Country of origin of the applicant: Nigeria

Country of asylum: Italy

Language of the decision: Italian

Provisions referred to in the decision: Italian Legislative Decree No. 251/2007, in transposition of the Council Directive No. 2004/83/CE – Italian Legislative Decree No. 25/2007, in transposition of the Council Directive No. 2005/85/EC

Fact Summary: The Italian administrative authorities [*Commissione Territoriale per il Riconoscimento della Protezione Internazionale*] refused to grant refugee status to a Nigerian woman who had been recognized as a victim of trafficking, considering that the applicant was reluctant to clarify the aspects of her journey and to describe the details of the abuses she had been exposed to. The Tribunal of Messina reverted the decision granting the applicant refugee status on the basis of the persecution she would fear in her country of origin for having been trafficked for sexual exploitation purposes and considering that sufficient evidence had been provided.

Decision and Significant Features:

In examining the refusal of the Italian administrative authorities to recognize the need of international protection to the applicant, the Tribunale di Messina found it was sufficiently proved, from the information provided, that she had been a victim of trafficking and granted her refugee status, affirming that “[...] the assessment of the asylum application cannot be linked to the victim's willingness to provide evidence in the context of a proceeding against her exploiters, and cannot be conditional on the contribution given to identify and prosecute her traffickers” [p. 8].

It further considered that, although not all victims of trafficking may be in need of international protection as refugee on the basis of this experience, in this case all the conditions of the refugee definition under the national law were met. In particular, when considering the persecution the applicant would encounter if she were returned to her country of origin, the Court affirmed “[...] it is undisputed that the forced or deceptive recruitment of women for the purposes of prostitution is a form of gender-related violence which often constitutes persecution, whereas the story narrated by the applicant makes it clear that the authorities of her country of origin are unable to protect her, and that, even today, they are not equipped with effective tools to prevent and combat the phenomenon of trafficking in women for sexual exploitation” [p. 9].

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