

**THE HIGH COURT**  
**JUDICIAL REVIEW**

**[2009 No. 260]**

**BETWEEN**

**G. O**

**APPLICANT**

**AND**

**THE REFUGEE APPEALS TRIBUNAL, THE MINISTER FOR JUSTICE, EQUALITY AND LAW REFORM, IRELAND AND THE ATTORNEY  
GENERAL**

**RESPONDENTS**

**JUDGMENT of Mr. Justice Colm Mac Eochaidh delivered on the 22nd day of February 2013**

1. This is an application for leave to seek judicial review in respect of a decision of the Refugee Appeals Tribunal. The hearing was conducted on a telescoped basis meaning that only one hearing is required in respect of the leave application and, if leave is granted, in respect of the application for substantive reliefs.

2. An extensive statement grounding the application for judicial review was prepared which advanced approximately 19 grounds of complaint against the first named respondent's decision. These grounds have been considerably reduced. The applicant agrees with the respondents' formulation of those grounds as follows:

(i) The decision of the Tribunal Member lacks clarity and consistency such that it is not possible to understand the basis of the applicant's claim.

(ii) The credibility findings are flawed as they are based on conjecture related to peripheral matters and certain letters (from Ruhama) were improperly discounted.

(iii) The finding on State protection IS flawed due to the selective assessment of the country of origin information and a failure to assess the adequacy of protection for the applicant.

(iv) The internal relocation finding is flawed as it is not based on a reasoned assessment.

**The Background Facts:**

3. The applicant was born on 19th December 1983, and she arrived in Ireland on 10th December 2007, on a flight from Milan to Dublin whereupon she claimed asylum. She has twelve years of formal education, is an English speaker and professes Christianity.

4. The applicant says that she was unwittingly trafficked to Italy in April 2004, believing that she would be required for housework but was forced to become a prostitute. She claims that her traffickers required her to repay €60,000. This demand was also made of her parents in Nigeria who had to flee their home as a consequence. She describes being the victim of a Mr. King and Mr. Martins in Italy and says she suffered rape and torture. She eventually escaped and sought refuge with a client/ boyfriend called Simon who helped her travel to Ireland. The applicant says she fears persecution in Nigeria by reason of a particular social group, namely, as a woman who has been subject to human trafficking and prostitution.

5. The Tribunal decision sets out in very considerable detail the facts surrounding her plight in Italy. The Tribunal identified the task with which it was faced as follows:

"The Applicant may well have fears of returning to Nigeria but what the Tribunal must assess is whether the Applicant's fear is well founded? Is it an irrational fear?

In assessing whether the Applicant's fear is a well founded fear, the Tribunal must assess the subjective fear of the applicant against objective country of origin information."

6. The Tribunal records its principal decision on this aspect of the applicant's claim as follows:

"It is well known that Nigeria is a hub for trafficking women and girls to Europe. It is also well known that many of these girls end up in Italy. Objective country of origin information backs this up and the Tribunal is aware of, and accepts, the fact that this horrendous practice exists and occurs on a daily basis.

The British Home Office Operational Guidance Notes 2007, which are on file, state that under the 2003 act, the National Agency for the Prohibition of Traffic in Persons was founded. The agency brings prosecutions, conducts investigations and operates throughout Nigeria. NAPTIP have shelters in Ahuja, Benin and Lagos. It states that trafficked women are met at the airport, by NAPTIP representatives, and many participate in rehabilitation schemes.

At paragraph 3.11.5, the document goes on to state that Nigerian Authorities do not view these women as criminals, but rather as victims of crime. It states that most people would hold these women in high regard as they had travelled to Europe. In relation to sufficiency of protection, the document at paragraph 3.11.6 states 'some reliable sources state that

while there is a real risk of such reprisals, there was no record of it ever having happened, whilst others are aware of rare (one or two) such incidents'. Paragraph 3.11.8 states that the federal government operates a 120 bed shelter at Lagos, with the involvement of the International Organisation for Migration.

It would appear from the Country of Origin Information that while it is clear that human trafficking is a widespread problem in Nigeria, the government had passed legislation to combat the problem and agencies are in being in order to help and support the victims of human trafficking. There to be [sic] no hard evidence or statistics regarding any reprisals or attacks by agents on their victims. In fact, the British Home Office report, at paragraph 3.11.9 states that 'the federal government provided some funding for protection activities in 2005 and for victims serving as witnesses'."

7. The Tribunal appears to have carefully considered the country of origin information which accepts the prevalence of human trafficking for prostitution between Italy and Nigeria. The same information also identifies efforts made by the Nigerian State to address the problem. However, the Tribunal expressed its view that accepting that the problem is prevalent did not necessarily conclude its analysis of the applicant's case and it said as follows:

"While it is clear, from looking at objective information, that the Applicant's story could have happened, the question which the Tribunal must ask is whether all the incidents which the Applicant recounted actually did happen to her. When analysing the Applicant's claim, and in particular the subjective part of the claim, the Tribunal must assess the Applicant's credibility. The Tribunal must have regard to the coherence and the credibility of the account."

8. The next section of the Tribunal's decision addresses the applicant's credibility. Extensive credibility findings were made and approximately 21 such matters are identified in the decision of the first named respondent. Having regard to these findings, the Tribunal concluded as follows:

"While on their own, these matters may not affect the Applicant's account of events; however, taken cumulatively they can go to her credibility. There would appear to be some inherent inconsistencies and unresolved contradictions in the Applicant's story which call into question the Applicant's credibility."

In *Ogugua v. RAT H Ct Unrep May 2007*, Herbert J. referred to the concept of credibility in an Applicant's claim and stated that an accumulation of implausible incidents in the Applicant's story 'though seeming unimportant in themselves, yet constitute direct and material links in the Applicant's narrative which, in the absence of any form of independent supporting narrative or corroboration must necessarily be evaluated by reference to its inherent consistency and lack of unresolved contradictions'.

Taking this into account, with reference to the inconsistencies and implausible incidents in the Applicant's story as outlined above, cumulatively these matters can go to her credibility. There would appear to be a number of inherent inconsistencies, unresolved contradictions and implausible incidents in the applicant's story."

The Tribunal concludes as follows:

"In the circumstances, because of the lack of credibility and plausibility in relation to the Applicant's account of events, the Tribunal finds that there is no well founded fear of persecution in the Applicant's case."

9. In addition to the finding of credibility deficiencies, the Tribunal makes a separate finding as follows:

"Further, it is clear from the country of origin information cited above that State protection is available to the Applicant. The Applicant's country of origin does not have to provide perfect protection, in this regard, and just because the level of protection which the applicant would receive in Ireland is not the same as she would receive in Nigeria, does not give the applicant an automatic entitlement to be declared a refugee."

10. At the hearing of this action, significant complaint was mounted in respect of the apparent contradiction between a finding of lack of credibility, on the one hand, and a finding that there was State protection available for women who had been trafficked, on the other.

11. In my opinion, this apparent contradiction does not undermine the legality of the decision. It is immediately apparent from the extremely careful decision of the Refugee Appeals Tribunal that the numerous inconsistencies and implausibilities in the applicant's account led to the decision not to accept that she was a refugee. There is nothing unlawful about a decision of the RAT which makes negative credibility findings and then conducts an examination of conditions in the country of origin. It is clear that such an approach is precautionary and ensures a comprehensive assessment of an applicant's claims.

12. It is well established by case law that where the RAT fundamentally disbelieves an applicant's account, there is no legal requirement to examine further matters such as the question of internal relocation, the availability of State protection etc. But there is no prohibition on the RAT from carrying out such an exercise following negative credibility findings as happened in this case. No authority in support of that proposition has been advanced and I reject that complaint.

13. The second complaint advanced by the applicant is that the decision of the RAT lacked clarity or consistency. I have not been able to identify any aspect of the decision which was unclear. As far as I understand the complaint about inconsistency, it is that which I have identified in the foregoing paragraphs. Therefore, I reject this complaint also.

14. For the avoidance of any doubt, it appears to me that the Tribunal has gone to considerable trouble to explain in the clearest terms why the applicant's credibility was rejected. It is also clear that the country of origin information which confirmed the problem of human trafficking for prostitution between Nigeria and Italy has been considered and the Tribunal fully accepts the nature and extent of that problem, but also examines the efforts made by the State of Nigeria to tackle it.

15. A complaint is sought to be made that there has been a selective or inadequate assessment of the country of origin information. In this regard, I adopt and follow the approach of Clark J. in *A.A.T v. The Refugee Appeals Tribunal, the Minister for Justice, Equality and Law Reform and the Attorney General [2009] IEHC 51* and I refer, in particular, to the following passage of the judgment:

"53. In brief, the question that must be answered by this Court is whether the Tribunal Member acted in breach of fair procedures in finding that the Nigerian State is both able and willing to protect the applicant were she to return to Nigeria or whether she failed to consider all of the evidence relating to State protection, including COI, or by engaging in

selective use of the COL. In other words, what this Court must assess is whether it was reasonable and rational for the Tribunal Member to conclude as she did that the Nigerian State is both willing and able to protect the applicant, in the light of the evidence and the COI that was before her. ..The thrust of the reports is overwhelmingly to the effect that trafficking remains a problem in Nigeria and that there is evidence of corruption and complicity on the part of individual members of the Nigerian police in that practice, but that human trafficking is not tolerated or condoned by the State and that increasingly, efforts are being made to combat the practice and to support victims of trafficking who return to Nigeria.

54. The Tribunal Member's assessment of State protection must be viewed in the context of the applicant's specific asserted fear which taken at its highest is that if returned to Nigeria she would be tracked down by her trafficker, Mrs. Rose, who deceived her into travelling to Italy, and would be threatened or subjected to violence by her. Unlike many young women who are trafficked from Nigeria to Italy, the applicant was not in fact involved in any prostitution and she has not said that she fears being trafficked again or being subject to domestic violence, forced marriage or FGM if returned. While COI does not suggest that the State provides blanket protection, or even totally adequate protection, for all returned victims of trafficking, it does indicate that measures have been taken to tackle the problem and to provide some protection and support to returned victims. Much more important, that information states that the assertions that victims of trafficking were treated as criminals rather than victims on being returned to Nigeria are generally unfounded and that there is little evidence to support the contention that people who are returned are tracked down by agents or madams. There is no suggestion that there is a complete breakdown of State institutions in Nigeria or that it is a failed State. As the applicant has not provided cogent evidence of the Nigerian State's inability to protect, I have viewed all this information in accordance with the well established principle that States are not obliged to provide perfect protection."

16. That description of the issue of State protection and the manner in which country of origin information was treated could have been written for this case. I adopt the same approach and I reject the complaint in question.

17. Complaint is also made in this case that the Ruhama letters were improperly discounted by the Tribunal Member.

18. I accept the submissions on behalf of the respondent that the Tribunal Member noted the contents of the letters and reiterated that she had concluded that the applicant's claim was outside s. 2 of the Refugee Act 1996, as it was not well founded in the light of the protection available for victims of trafficking in Italy and in Nigeria and in the light of her credibility problems.

19. The final complaint which the applicant appears to advance is that the Tribunal Member's statement in relation to internal relocation at the conclusion of the decision is unreasoned. The conclusion in respect of which this complaint appears to be made is as follows:

"As the convention is a forward looking one, the Tribunal must assess if on a forward looking basis, the Applicant might suffer persecution if she returned to Nigeria. Based on the applicant's age, education and objective information in relation to agencies and legislation relating to women who are trafficked from Nigeria, the Tribunal finds that there is no prospective risk to this Applicant. Nigeria is a country with 36 States and a population of over 140 million. It is apparent to me that relocation, as was put to her, is a viable option for the Applicant if she does not wish to stay in Benin."

20. I note that the matter of internal relocation was put directly to the applicant. The Tribunal decision records that it was suggested to her that she could return to Abuja, Benin or Lagos and attend a shelter managed by the government and get support from NAPTIP. It was further put to her that there were twelve million people in Lagos and it would be difficult to find her in such a place where she to return.

23. It seems to me that the Tribunal rationally concluded that having regard to her age and education, that she would be able to access protection and/or relocate in Nigeria if she were to return and I reject the complaint that this element of the Tribunal's decision is not reasoned.

24. No substantial grounds have been advanced in support of the applicant's claims that the first named respondent's decision is unlawful. Therefore, I refuse leave to seek judicial review in this case.