Max Planck Institute
for Social Anthropology
Department 'Law & Anthropology'

Witchcraft and Asylum: Italian Judges Innovatively Engaging in Anthropological Investigation to Ascertain a Witch-Child's Mother's Risk of Persecution

Question(s) at stake:

Whether the risk of persecution for being the mother of a witch-child provides grounds for asylum.

Outcome of the ruling:

The Turin Court grants the appeal and declares that the applicant is entitled to refugee status for being the mother of a witch-child.

Topic(s):

- Immigration and Asylum

Keywords:

- Real Risk of persecution
- Gender based persecution
- International protection
- Refugee status

Tag(s):

- Witchcraft
- Child persecution

Author(s):

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Country:

Italy

Official citation:

Ordinary Court Turin, Decree of 3 February 2020, No. 741 (Tribunale Ordinario di Torino, Decreto del 3 febbraio 2020, n. 741)

Link to the decision:

No link available.

ECLI:

No ECLI number / ECLI number unknown

Date:

03 February 2020

Jurisdiction / Court / Chamber:

Ordinary Court of Turin

Remedy / Procedural stage:

Appeal

Previous stages:

- Turin Territorial Commission for the recognition of international protection

Subsequent stages:

None

Branches / Areas of law:

Immigration and Asylum, Constitutional Law, Fundamental Rights

Facts:

The applicant for international protection, a woman from the Ivory Coast, moved to Italy in May 2010 at the age of 21. In March 2017, she submitted her application to the Territorial Commission of Turin. The woman travelled to Italy for

work with her passport and a work visa. The woman had a daughter in the Ivory Coast who remained there and lived with an aunt in Abidjian. The child had been accused by the village pastor of being a witch since 2018. Because of this, she was accused of causing the health problems of the cousin she lived with. As the applicant feared that her daughter could be tortured or burnt alive, she arranged for her to go live with her grandmother in Molonou. Moreover, the aunt did not want the applicant's daughter to live with her anymore, both because of the witch-like power the child was thought to exert over her own daughter, and also because she feared the neighbours' reaction. Because of the accusations, the applicant feared that she would be subjected to even more serious acts of persecution than those suffered by her daughter as well as to physical and psychological violence if she returned to the Ivory Coast as the mother of a "witch". It was a common belief in her community that powers of witchcraft were transmitted from mother to daughter, and she feared being subjected to the treatment that Ivorian society reserves for witches.

As the applicant was unable to leave Italy, the child's move to her grandmother in the village of Molonou was organized with the help of a cousin of the applicant who lived in Milan. Once in the Ivory Coast, the man learned that the child was able to communicate with a deceased aunt, that she often talked in her sleep, and that she was treated badly: she lived in isolation both during the day and at night, ate alone, and was insulted and called an "imbecile". The applicant and her cousin tried not to disclose the accusations of witchcraft against the child to her grandmother in order to prevent the news from spreading to the village.

As reported to the social workers, the applicant then tried to contact a number of international organizations to find out whether they could intervene to protect her daughter, but was unsuccessful.

The Territorial Commission did not find the story of the witchcraft accusations credible and rejected the applicant's request for asylum.

The applicant appealed against this decision before the Ordinary Court of Turin, requesting that she be granted the right to refugee status or, alternatively, subsidiary protection provided by Articles 14 et seq. of Legislative Decree no.

25/2008. The reason for the appeal was that, in the event of repatriation, she risked being accused of witchcraft as the mother of a “witch”.

Ruling:

The Ordinary Court of Turin found that the applicant was entitled to refugee status and considered the fears related to the accusations of witchcraft against her daughter to be well-founded.

According to the Court, the recognition of refugee status was not precluded by the fact that the risk of persecution arose only after the applicant’s departure from her country of origin, i.e. when the accusations of witchcraft were made against her daughter in March 2018.

The Court found the witness testimony credible and confirmed by a witness at the hearing (the applicant’s cousin, the one who accompanied the child from Abidjian to her grandmother’s house in Molonou). The Court of Turin reconstructed the phenomenon of witchcraft and witchcraft persecution in the Ivory Coast and Africa by consulting COI (Country of Origin Information) reports and other interdisciplinary material on the subject (UNHCR 2009; ethnographic and sociological academic articles, as indicated in the quotes below). The Court pointed out that in cases of witch persecution, what is important is not so much the actual membership of the accused person in the social group of “witches”, but rather the widespread and deep-rooted belief within a community or group of people that a person – very often female – is to be considered a “witch” and the consequent perception that the persecutors hold of the accused individual. By quoting the UNHCR report on witchcraft, the decision emphasized that in the assessment of persecution caused by accusations of witchcraft, it is important to take gender affiliation into account: the applicant’s fear of being marginalized in her country of origin was well-founded due to the fact that, as the mother of a “witch-child”, she would be associated with witchcraft or even considered a witch herself. In fact, on the basis of the data consulted and the testimonies, it is a widespread belief in the Ivory Coast that “magical powers” are inherited by the family, in particular through the matriarchal line. Therefore, in light of the accusations of witchcraft against her daughter, the Tribunal found that the

applicant also faced the risk of persecution in the form of acts of physical or psychological violence directed against a sexual gender and human rights violations.

Main quotations on cultural or religious diversity:

- “The phenomenon of witchcraft is indeed part of the complex of beliefs and rituals that govern social relations within many communities in different African countries. Although the concept of witchcraft (‘witchcraft’ in English; ‘sorcellerie’ in several French-speaking countries) can include a vast array of different phenomena, a definition of this notion that is as all-encompassing as possible can refer to two elements: the presence of negative or harmful actions and the fact that these are attributed to persons believed to have supernatural powers (on this point Ashforth, ‘Reflections on Spiritual Insecurity in a Modern African City (Soweto)’, African Studies Review (Dec. 1998), p. 64. In UNHCR): ‘Witchcraft makes it possible, in other words, to place alongside a rational explanation of a critical phenomenon, which explains “what” and “how” it happened, another explanation, linked to “why”. An essential step in such an explanation is the community’s identification of the “witch”. This usually occurs following an accident (the onset of an illness or the death of someone, for instance): as a result, the witch will be accused of having caused, albeit apparently unconsciously, the harm suffered. The identification of the victim is a process operated by the community, which often makes this accusation against the most vulnerable people. The spread of witchcraft-related beliefs is not, moreover, confined to the past and to tribal or sectorial contexts: there are several African countries where the majority of the population still believes in witchcraft and where persecutory attitudes towards accused individuals are reported. Moreover, it is a widespread phenomenon at both the rural and urban level, regardless of people’s religious beliefs or level of education: it can be considered a true cultural fact spread at every level of society’. As regards, then, the process of accusation and stigmatization of such subjects, it was

pointed out that accusations of witchcraft are always based on suspicion, on the spreading of news and gossip, on the social construction of the charge, based on word of mouth. The fears expressed by the appellant as to the possibility of her daughter being taken to a ‘prayer centre’, therefore, are once again entirely understandable. A final, fundamental aspect concerns the way in which witchcraft is transmitted: it is in fact a widespread belief, even in the Ivory Coast, that ‘magical powers’ are inherited by the family, particularly through the female side.” (6)

[“Il fenomeno della stregoneria invero si colloca nel complesso di credenze e riti che regolano le relazioni sociali all’interno di molte comunità di diversi paesi africani. Nonostante il concetto di stregoneria (‘witchcraft’, in inglese; ‘sorcellerie’, in diversi paesi francofoni) possa comprendere una vastità di fenomeni differenti tra loro, una definizione il più possibile onnicomprensiva di tale nozione può fare riferimento a due elementi: la presenza di azioni negative o dannose ed il fatto che queste ultime siano attribuite a persone che si ritiene abbiano poteri soprannaturali (sul punto Ashforth, Reflections on Spiritual Insecurity in a Modern African City (Soweto), African Studies Review, (Dec. 1998), p. 64. In UNHCR): ‘La stregoneria consente, in altri termini, di affiancare ad una spiegazione razionale di un fenomeno critico, che spiega “cosa” e “come” è successo, un’altra spiegazione, legata al “perché”. Passaggio essenziale di tale spiegazione è l’identificazione, da parte della comunità, della “strega”. Questo avviene, di solito, a seguito di un incidente (l’insorgere di una malattia o la morte di qualcuno, ad esempio): di conseguenza, la strega sarà accusata di aver causato, anche se in modo apparentemente inconscio, il danno patito. L’identificazione della vittima è un processo operato dalla comunità di appartenenza, che spesso formula tale accusa nei confronti delle persone maggiormente vulnerabili. La diffusione delle credenze legate alla stregoneria non è, peraltro, circoscritta ad un tempo passato e a contesti tribali o settoriali: diversi sono i paesi africani in cui la maggioranza della popolazione crede tuttora alla stregoneria ed in cui vengono riportati atteggiamenti persecutori nei confronti degli individui accusati. Inoltre, si tratta di un fenomeno diffuso sia a livello rurale

che cittadino, indipendentemente dal credo religioso o dal livello di istruzione delle persone: può essere considerato un vero e proprio dato culturale diffuso ad ogni livello della società'. Quanto, poi, al processo di accusa e stigmatizzazione di tali soggetti, è stato evidenziato come le accuse di stregoneria siano sempre fondate sul sospetto, sulla diffusione di notizie e pettegolezzi, sulla costruzione sociale dell'addebito, fatta di passaparola.
Risultano quindi del tutto comprensibili, ancora una volta, i timori espressi dalla ricorrente in ordine alla possibilità che la figlia venisse condotta in un 'centro di preghiera'. Un ultimo, fondamentale aspetto attiene alle modalità di trasmissione della stregoneria: è infatti credenza diffusa, anche in Costa d'Avorio, che i 'poteri magici' vengano ereditati dalla famiglia, in particolare attraverso il lato femminile."] (6)

- "We refer on this point to the COI indicated by the defendant in the appeal on p. 16: 'B. Sanou, ibid. The transmission of witchcraft through the matriarchal line is also documented, from an ethnographic point of view, in the volume Witchcraft and Sorcery in East Africa, ed. J. Middleton, 1964, p. 67. See also: Nyabwari B., NkongeKagema D., 'The Impact of Magic and Witchcraft in the Social, Economic Political and Spiritual Life in African Countries', in International Journal of Humanities Social Sciences and Education, May 2014, pp. 9–18. Similarly: moreover, children who descend from a matrilineage of witches are often believed to inherit witchcraft tendencies, in 'Women and Religion in Africa', 2013, found at <https://blog.uvm.edu/vlbrenna-rel163/>." (6)

["Si richiamano sul punto le Coi indicate dal difensore nel ricorso alla pag. 16: 'B. Sanou, ibidem. La trasmissione della stregoneria per linea matriarcale è altresì documentato, da un punto di vista etnografico, nel volume Witchcraft and Sorcery in East Africa, Ed. J. Middleton, 1964, p. 67. Si vedano inoltre: Nyabwari B., NkongeKagema D., The Impact of Magic and Witchcraft in the Social, Economic Political and Spiritual Life in African Countries, in International Journal of Humanities Social Sciences and Education, Maggio 2014, pp. 9-18. Allo stesso

modo: Also, children descending from a matrilineage of witches are often thought to inherit tendencies toward witchcraft, in ‘Women and Religion in Africa’, 2013, reperibile al link: https://blog.uvm.edu/vlbrenna-rel163/.”] (6)

- “Persecution, moreover, can also extend to other family members: this is particularly the case in cases of hereditary transmission of witchcraft, a circumstance which is particularly significant with reference to the present case. From all of the foregoing, clear evidence emerges regarding the statements made by the applicant, both with regard to the risks to which her young daughter is exposed in the Ivory Coast, and with regard to the dangers that would directly affect her in the event of her return, due to the hereditary nature of witchcraft by matrilineal transmission referred to above. In conclusion, therefore, the conditions for the recognition of refugee status exist, since she has a well-founded fear of being subjected to persecutory treatment in the form of acts of physical or psychological violence directed against a sexual gender, due to the fact that she would be considered a witch for being the mother of a minor already considered as such, and therefore associated with a particular form of religious practice or in any case with a specific social group. In this respect the application must be granted.” (6–7)

[“La persecuzione, inoltre, può estendersi anche ad altri membri della famiglia: ciò avviene soprattutto nei casi di trasmissione ereditaria della stregoneria, circostanza particolarmente significativa con riferimento al caso di specie. Da tutto quanto riferito, emergono chiari riscontri in ordine alle dichiarazioni rese dalla ricorrente, sia rispetto ai rischi cui risulta esposta la figlia minore in Costa d’Avorio, sia in ordine ai pericoli che la riguarderebbero direttamente in caso di rientro, a causa del carattere ereditario della stregoneria per via matrilineare cui si è sopra fatto riferimento.In conclusione sussistono pertanto i presupposti per il riconoscimento dello status di rifugiata dal momento che la stessa ha il fondato timore di subire trattamenti persecutori, nella forma di atti di violenza fisica o psichica diretti contro un genere sessuale, in ragione del fatto che verrebbe considerata una strega per essere madre di una minore già ritenuta tale, e

pertanto associata ad una particolare forma di pratica religiosa o comunque ad uno specifico gruppo sociale. Sotto questo profilo la domanda deve essere accolta.”] (6–7)

Main legal texts quoted in the decision:

- Articles 3 and 4 of the Legislative Decree No. 251 of 19 November 2007

Cases cited in the decision:

None

Commentary

Witchcraft and Asylum: Italian Judges Innovatively Engaging in Anthropological Investigation to Ascertain a Witch-Child’s Mother’s Risk of Persecution

In this decision, the Ordinary Court of Turin found that refugee status had to be granted to a woman from the Ivory Coast who had a well-founded fear of being subjected to persecutory treatment in the form of acts of physical or psychological violence. This was due to the fact that, as the mother of a minor considered to be a witch, she would be considered a witch herself. For the Court of Turin, there was a risk of persecution and violation of the woman’s human rights, associated with a particular form of religious practice or with belonging to a specific social group. The ruling under review is particularly significant for the following reasons.

First, the judge addressed the difficulties of understanding the phenomenon of contemporary witchcraft by consulting numerous interdisciplinary sources on the subject, suggested by the applicant’s defence. The Court then reported those data in the ruling to clarify this phenomenon, i.e. witchcraft and witch persecution, which is nowadays far from the collective and juridical imagination in the West, but is still alive in other parts of the world and has concrete effects on individuals. In the ruling it is possible to discern an innovative approach taken by the Italian judges to a cultural issue such as this. Through a thorough investigation and with references to interdisciplinary literature on the subject, the

judge overcame the “judicial ethnocentrism” (Bianchini 2021: 9) caused by a difficulty in understanding concepts unfamiliar to Western culture. While in other cases in which no experts or in-depth material were consulted, it was difficult to understand the negative consequences of witchcraft and its harmfulness to human rights, in this case an engagement with anthropological and other interdisciplinary sources allowed the judge to better understand the context of the persecution.

Another interesting aspect of this decision is that instead of granting subsidiary protection, it granted refugee status, which is a stronger form of protection. Other Italian case law on the subject had already recognized the seriousness of witchcraft claims (Court of Bologna, Order of 9 October 2017, G.R. 17524/2016, see Bianchini 2024; Civil Cassation, section labour 28/01/2022, no. 2717 about persecution suffered by relatives of a witch, see Cecchini 2025; Civil cassation, labour section, 16/02/2022, no. 5146; Civil Cassation, labour section, 13/04/2022, no. 12040; Civil Cassation, sec. III, 20/04/2022, no. 12644 about the fear of having undergone or being liable to undergo witchcraft acts, see Carta 2025) but only granted subsidiary protection.

From an anthropological perspective, witchcraft can be considered as a set of supernatural powers with which “the witch” or “the sorcerer”, i.e. the person who possesses such powers, is able to influence reality. Today, witchcraft is particularly widespread in sub-Saharan Africa, especially in the Democratic Republic of Congo, Tanzania, Kenya, Ivory Coast, Nigeria, South Africa, and also in Malawi, Ghana, Gambia, Benin, and Angola. The practice is also widespread on the Asian and American continents, especially in India, Nepal, Indonesia, Brazil, and Colombia (Maakor Quarmyne 2011; UNHCR 2009). A witch-hunt is an accusation made against an individual in the community for having determined or planned nefarious events in the future through his or her powers. Often the accusations come from neighbours or relatives (Bianchini 2021), as in the present case, and are endorsed by the local authorities (in this case the village pastor, the highest religious authority). The people most affected by witch-hunts are women, children, people with special physical characteristics like albinos and disabled

people (Bianchini 2021). In these contexts, the subject may be isolated, tortured, excluded from the community, forced into exile, or even killed, all of which constitute forms of persecution. Beliefs that are deeply rooted in all social classes in the community (Bianchini 2021; Quarmyne 2011; UNHCR 2009) have also often been used as a political instrument of control or consent. Local authorities can use these accusations to be hailed by the population as those who have uncovered the cause of evil. Political authorities often seek consensus by endorsing or encouraging vigilantism (UNHCR 2009). Witch-hunting is a form of social release valve that often allows one or more individuals to be framed as the cause of many nefarious events, relieving politicians of responsibility and generating a climate of apparent security through private vigilantism and summary justice.

Due to the complexity of the phenomenon in terms of its influence on fundamental rights, the legal literature has highlighted the importance of expert evidence to support the judge in cases similar to the one discussed (Bianchini 2021; Decarli 2021). In the case under analysis, the judge did not request ad hoc cultural expertise, in line with the Italian tendency to underutilize cultural expertise compared to other legal systems such as the United Kingdom (Bianchini 2021). However, the judge did engage in his own search for interdisciplinary material to understand the concept of witchcraft.

The judge provided a brief explanation of the cultural practice of witchcraft in the decision. It defined it as a phenomenon that develops within a complex of beliefs and rituals aimed at regulating social relations in many communities in various African countries. While highlighting the variety and complexity of the phenomenon, the judge pointed to an all-encompassing definition, identified in the sources consulted on the subject: witchcraft is spoken of when critical events occur within a community, damaging or negative events, and the cause of these is attributed to individuals believed to have magical powers. Through witchcraft, the community flanks the rational explanation of a given phenomenon, which answers the question of “what” and “how” it happened, with another explanation, linked to “why” that event occurred. It usually happens, therefore, that following

some negative event (an accident, someone’s death or illness), the community traces that event back to a person, identified as a “witch”, endowed with magical powers and able to determine that nefarious event, either consciously or unconsciously.

The other important fact that is highlighted in the ruling is the description of the effects that the accusation of witchcraft has on the alleged “witch” and also on the people close to her (parents, siblings, and other relatives).

The investigation into the cultural practice of witchcraft and the possible persecution of both the alleged witch and her closest relatives (in particular her mother) was conducted in depth. In the reconstruction of the practice, the material provided by the defence played a fundamental role, together with a new sensitivity toward anthropological knowledge shown by the judge. In fact, the judge consulted numerous interdisciplinary sources on the subject and conducted an in-depth study of a phenomenon that, without this anthropological research, would be difficult for those with a Western cultural background to understand (Bianchini 2021).

The court emphasized the damaging significance of the phenomenon and its profound influence on the applicant’s fundamental rights. In particular, in accordance with the oft-quoted UNHCR report (UNHCR 2009), the danger of witchcraft persecution was linked to gender-related discrimination, as in this case, where the mother of the alleged “witch” would have been targeted by virtue of the belief that magical powers are transmitted from mother to daughter. The gender dimension contributed to a recognition of the need for protection of the woman, even though she was not the direct target of the persecutory acts, but was strongly at risk in the event of repatriation.

This case is an example on the possibility for judges to directly access anthropological knowledge and of an innovative sensibility on their part in applying this knowledge.

Literature related to the main issue(s) at stake:

(1) Specific legal publications/comments addressing the case.

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(2) General legal literature on the topic that may not be directly connected with the case;

- Bianchini, Katia. 2021. “The Role of Expert Witness in the Adjudication of Religious and Culture-based Asylum Claims in the United Kingdom: The Case Study of ‘Witchcraft’ Persecution”. *Journal of Refugee Studies* 34 (4): 3793–3819.
- Bianchini, Katia. 2024. “Humanitarian Protection for Fear of Witchcraft in Nigeria – Tribunale di Bologna, Ordinanza del 09/10/2017 (G.R. 17524/2016)”. *Cultural and Religious Diversity under State Law across Europe*, DOI: 10.48509/CUREDI013UK011.
- Carta, Silvia. 2025. “The ‘Investigative Cooperation’ Duty of the Italian Judge in Asylum Cases: A Possible Tool for Gaining Knowledge of the Socio-Cultural Context of Applicants”. *Cultural and Religious Diversity under State Law across Europe*, DOI: 10.48509/CUREDI092IT005.
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- Del Rosso, Fabrizio Giuseppe. 2020. “Il dovere di cooperazione istruttoria officiosa e le ‘country of origin information’ nel procedimento per il riconoscimento della protezione internazionale e umanitaria”. *Diritti senza confini*, available at <<https://www.questionegiustizia.it/articolo/il-dovere-di-cooperazione-istruttoria-officiosa-e-le-country-of-origin-information-nel-procedimento-per-il-riconoscimento-della-protezione-internazionale-e-umanitaria>> accessed 29 November 2023.
- Maakor, Quarmyne. 2011. “Witchcraft: A Human Rights Conflict Between Customary/Traditional Laws and the Legal Protection of Women in Contemporary Sub-Saharan Africa”. *William & Mary Journal of Women and the Law* 17 (2): 475–507.
- Quassoli, F. and C. Uboldi. 2020. “La credibilità del richiedente protezione internazionale tra cultura del sospetto, intuizioni e dilemmi etici. Alcune riflessioni a partire da un’indagine sulle prassi operative delle commissioni territoriali”. *Diritto, Immigrazione e Cittadinanza* 2: 181–205.
- UNHCR. 2009. “Witchcraft Allegations, Refugee Protection and Human Rights: A Review of the Evidence”. Research Paper No. 169 by Jill Schnoebelen, available at <https://www.unhcr.org/media/witchcraft-allegations-refugee-protection-and-human-rights-review-evidence-jill-schnoebelen> accessed 11 March 2025.
- UNHCR. 2011. “Breaking the Spell: Responding to Witchcraft Accusation against Children”. Research Paper No. 197 by Nathalie Bussien et al., available at <https://www.unhcr.org/media/breaking-spell-responding-witchcraft-accusations-against-children-bussien-dovidio-graziani> accessed 11 March 2025.

(3) General literature on the topic from other disciplines

- Igwe, Leo. 2014. “Understanding Witchcraft Accusation in Africa”. Available at <<https://web.randi.org/swift/-understanding-witchcraft-accusations-in-africa>> accessed 29 November 2023.
- Sanou, B. 2017. “Witchcraft Accusation: Destroying Family, Community and Church”. *Journal of Adventist Mission Studies* 13 (1): 33–42.

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