

Omeredo v. Austria (dec.) - 8969/10

Decision 20.9.2011 [Section I]

Article 3

Degrading treatment

Inhuman treatment

Expulsion

Alleged risk of female genital mutilation if applicant returned to Nigeria:
inadmissible

Facts – The applicant fled Nigeria in May 2003 and applied for asylum in Austria on the grounds that she was at risk of female genital mutilation (FGM) in her own country. The Federal Asylum Office rejected her request after finding that, even though her statements were credible, she had the alternative of living in another province of Nigeria where FGM was prohibited by law. The applicant lodged a complaint against that decision with the asylum court, but it was ultimately rejected. The Constitutional Court declined to examine the question after finding that it did not raise any issue of constitutional law. In her application to the European Court, the applicant complained under Article 3 of the Convention that she ran the risk of being subjected to FGM if expelled to Nigeria and that relying on an internal flight alternative and moving to another part of Nigeria as a single woman without her family to help her would also violate her rights under that provision.

Law – Article 3: It was not in dispute that subjecting any person, child or adult, to FGM would amount to ill-treatment contrary to Article 3 (see also *Izevbekhai and Others v. Ireland (dec.)*, no. 43408/08, 17 May 2011). The Court noted, however, that while the domestic authorities had found that the applicant's fear of being forced to undergo FGM in Nigeria was well-founded they considered that she disposed of an internal flight alternative within the country. The Court therefore had to assess the applicant's personal situation in Nigeria. The applicant, who was thirty-seven years old, had obtained school education for at least thirteen years and had worked as a seamstress for eight years. While it might be difficult for her to live in Nigeria as an unmarried woman without the support of her family, the fact that her circumstances there would be less favourable than those she enjoyed in Austria could not be regarded as decisive. Owing to her education and work experience as a seamstress, there was reason to believe that she would be able to build up her life in Nigeria without having to rely on the support of family members.

Conclusion: inadmissible (manifestly ill-founded).

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