



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee
co-financed by the European Commission*

Case Summary

| | |
|--|--|
| Country of Decision/Jurisdiction | Spain |
| Case Name/Title | 4251/2005 |
| Court Name <i>(Both in English and in the original language)</i> | Supreme Court/ Tribunal Supremo |
| Neutral Citation Number | 4251/2005 |
| Other Citation Number | |
| Date Decision Delivered | 2/01/2009 |
| Country of Applicant/Claimant | Colombia |
| Keywords | Internal protection; State protection; State persecution; Non-state agents of persecution; Burden of proof |
| Head Note (Summary of Summary) | The claimant appealed before the Supreme Court against the decision of the High National Court to reject refugee status. She claimed to have suffered persecution by means of extortion from unknown agents that were not national authorities. The asylum claim was rejected by the High National Court, which considered that she could have asked for protection from the Colombian authorities, adding that she hadn't even tried internal relocation. |
| Case Summary (150-500) | |
| <i>Facts</i> | The claimant alleged to have suffered persecution based on the actions of extortion carried out by unknown agents. Founding her application on this ground, she claimed asylum in Spain. Her claim was refused by the High National Court. |
| <i>Decision & Reasoning</i> | <p>The High National Court declared that the claimant did not provide evidence of having requested assistance and protection to the national authorities; neither did he attest that Colombian authorities have enhanced the alleged persecution. Additionally, the Court deems that there was a real possibility of internal relocation.</p> <p>The Supreme Court referred to the <i>International Protection Considerations Regarding Colombian Asylum-Seekers and Refugees</i> report made by UNHCR in September 2002, where it is stated that, currently, there are no areas in the country without risk. The report added that whoever affirms this lack of risk has to provide evidence to prove this fact in order to declare that there is a real and effective possibility of protection. Moreover, this document states that, in the context of the Colombian internal conflict, the Colombian authorities tolerate, support or even coordinate their actions with the paramilitaries' activities. Specifically, in the department of Antioquia the authorities' participation and their responsibility on the paramilitaries' actions</p> |



Hungarian Helsinki Committee

KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

A project of the Hungarian Helsinki Committee

co-financed by the European Commission

| | |
|----------------|---|
| | <p>have been observed.</p> <p>The Supreme Court declared, considering what was stated by the UNHCR, that the burden of proof has to be reversed; it has to be attested that the Colombian authorities could effectively protect the claimant from the agents of persecution. As this fact was not proved, the Supreme Court rejected the decision of the High National Court.</p> |
| <i>Outcome</i> | <p>The appeal was successful and the Supreme Court ruled that refugee status had to be granted.</p> |