



# KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee  
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## Case Summary

Country of Decision/Jurisdiction	<b>Spain</b>
Case Name/Title	
Court Name <i>(Both in English and in the original language)</i>	High National Court/ Audiencia Nacional
Neutral Citation Number	62/2009
Other Citation Number	
Date Decision Delivered	12/05/2010
Country of Applicant/Claimant	Algeria
Keywords	Internal Protection; Non-state agents of persecution; State protection; Sufficient protection
Head Note (Summary of Summary)	The Ministry of Interior rejected the asylum request of an Algerian woman who founded her application upon gender persecution by a non-state agent. She claimed asylum (with extension to her daughter) alleging that she has suffered physical and mental abuse inflicted on her by her ex-husband. The High National Court rejected refugee status deeming, among other reasons, that the claimant had received effective protection from the national authorities.
Case Summary (150-500)	
<i>Facts</i>	The applicant claimed asylum in Melilla in February 2007, with extension to her daughter. She declared that, due to being divorced, she suffered gender violence from her ex-husband who worked as a police officer. Despite the existence of a criminal judgment against the ex-husband, she affirmed that, considering the social circumstances in Algeria and the discrimination against women, she still is under serious risk of persecution. She finally declared that they can't stay in Algeria and need to be granted with international protection.
<i>Decision &amp; Reasoning</i>	The High National Court referred to the legal doctrine as established by the Court, which states that the reasons for granting asylum protection can include persecution carried out by non-state agents, but it has to entail a specific attitude of the authorities to deliberately tolerate persecution or to display the inability to provide effective protection.  Following this principle, the facts founding the persecution, and the remedies undertaken by the authorities, were analysed by the Court. When the claimant suffered violence inflicted by her ex-husband, the authorities carried out the following actions: he was convicted to two months of prison, and a judicial decision granted the divorce of the married couple, from which the claimant obtained the guardianship of her daughter and alimony from her



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	<p>ex-husband. Finally, the Court decided to transfer him to work as a police officer in another city.</p> <p>Therefore, it can be deduced that the Algerian authorities did not deliberately tolerate the violence against the claimant and neither did they display incompetence in providing effective protection. The facts described reveal that the authorities had undertaken sufficient actions to protect the gender violence victim.</p>
<i>Outcome</i>	<p>The appeal was rejected ruling that the protection demanded can't be granted (both forms of protection, refugee status and the authorisation of residence in Spain for "humanitarian reasons", were rejected).</p>