



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

*A project of the Hungarian Helsinki Committee
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Case Summary

Country of Decision/Jurisdiction	Spain
Case Name/Title	3155/2006
Court Name <i>(Both in English and in the original language)</i>	Supreme Court
Neutral Citation Number	3155/2006
Other Citation Number	
Date Decision Delivered	11/05/2009
Country of Applicant/Claimant	Nigeria
Keywords	Internal protection; Actor of protection; Gender-based persecution; Assessment of facts and circumstances
Head Note (Summary of Summary)	<p>The asylum application was based on the circumstance of having suffered Female Genital Mutilation (FGM) and the obligation to forced marriage.</p> <p>The Ministry of Interior refused the application and the applicant lodged an appeal before the High National Court, which was also rejected (she was granted with a residence permit for humanitarian reasons). Finally, the applicant filed an appeal to the Supreme Court.</p>
Case Summary (150-500)	
<i>Facts</i>	<p>The applicant claimed to have suffered genital mutilation in order to force her into marriage.</p> <p>The asylum application was rejected because her identity wasn't sufficiently proved and the life story in which she based the persecution was qualified as incongruous. Additionally, it was stated that she did not have a collaborative and easy attitude while the examination of her claim was taking place.</p> <p>The General Attorney argued that the applicant was aware of the forced marriage plans as well as the genital mutilation and she did not show opposition to this fact. Neither did she ask for protection from the national authorities even though FGM has been prohibited in Nigeria since 2000, therefore, it could be expected to get protection from the national authorities</p>
<i>Decision & Reasoning</i>	<p>The Supreme Court stated that a situation where a lack of protection and social, political and legal exclusion takes place in relation to women in their countries of origin, which clearly constitutes a violation of their human rights, a qualified reason to grant asylum exists.</p> <p>To challenge the allegations made by the High National Court and the General attorney, the Supreme Court states:</p> <p>The <i>UNHCR recognized criteria about the FGM</i> determine that even though</p>



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	<p>the practice may be banned in a certain country, effective protection is not necessarily granted by the national authorities, as many specific reports about Nigeria indicate. Moreover, as shown in the mentioned reports, it seems that the FGM practice is spread across the country. It can be concluded that despite the official prohibition of the FGM practice, it has to be determined whether or not this prohibition has been effectively achieved. The mere prohibition of FGM is not sufficient to affirm that authorities in the country of origin are protecting the victim.</p> <p>And, finally, concerning the alleged inconsistencies, these were sufficiently founded and proved when the cultural context of the claimant was taken into account.</p>
<i>Outcome</i>	<p>The decision granted refugee status to the applicant and the previous decision to reject refugee status was cancelled. The appeal was successful for the applicant.</p>