



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary Template

Country of Decision/Jurisdiction	France
Case Name/Title	Mme D. ép. K.
Court Name (<i>Both in English and in the original language</i>)	National Court of Asylum Law previously called the Refugee Appeal Board (Cour nationale du droit d'asile anciennement appelée Commission des recours des réfugiés)
Neutral Citation Number	
Other Citation Number	CNDA, 6 juillet 2009, 635611/08016081, Mme D. ép. K.
Date Decision Delivered	06/07/2009
Country of Applicant/Claimant	Guinea
Keywords	Persecution, subsequent application
Head Note (Summary of Summary)	Appeal against the decision of the OFPRA to reject the subsequent application of a Guinean national fearing genital mutilation.
Case Summary (150-500)	The applicant, a Guinean national, was already rejected by both the OFPRA and the CNDA. She made a repeat application after she learnt that her mother died in a demonstration in Conakry. Moreover, she divorced her husband and had a surgery to repair the genital mutilation she had suffered. The CNDA agreed to reopen the case only on the grounds of the two last facts and granted her refugee status on the ground of membership of Guinean women refusing genital mutilation.
<i>Facts</i>	<p>The applicant, a Guinean national, made a subsequent application on the ground that her mother died during a demonstration in Conakry in January 2007. Moreover, as she was divorced from her husband, she feared a forced wedding in case of her return. Finally, the threat of persecution was worsened because of the surgery she had on September 2008 to repair the genital mutilation.</p> <p>Her application was rejected by the French Office for Protection of Refugees and Stateless Persons (OFPRA). She appealed before the National Court of Asylum Law (CNDA).</p>
<i>Decision & Reasoning</i>	<p>According to the Court, the death of her mother could not be considered as a new element to reopen the case. Indeed, the death happened before the previous decision of the Court and nothing proved that the applicant knew about the death after the mentioned decision. The medical certificate testifying to the genital mutilation performed when she was 8 could not be considered as a new element either.</p> <p>On the other side, the end of the relationship with her husband and the</p>



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	<p>surgery were new elements. The new application was thus admissible.</p> <p>According to the Court, the surgery would be considered as a transgressive behaviour in regards to the custom of her community. She could not keep the surgery secret from her family as she would join her family because of the separation with her husband. Therefore, the applicant would be exposed to violence without having the possibility to avail herself of the protection of the authorities because of the wide practice of genital mutilation in Guinea despite the official position of the Guinean State or criminal provision against genital mutilation.</p> <p>Thus, the CNDA considered that the applicant is a member of the social group of women wishing to escape from genital mutilation in Guinea.</p>
<i>Outcome</i>	<p>The CNDA overturned the OFPRA decision and granted refugee status to the applicant.</p>