



KNOWLEDGE-BASED HARMONISATION OF EUROPEAN ASYLUM PRACTICES

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Case Summary

Country of Decision/Jurisdiction	Spain
Case Name/Title	5051/2006
Court Name <i>(Both in English and in the original language)</i>	Supreme Court
Neutral Citation Number	5051/2006
Other Citation Number	
Date Decision Delivered	19/02/2010
Country of Applicant/Claimant	Colombia
Keywords	Credibility; Burden of proof; Relevant facts;
Head Note (Summary of Summary)	This appeal was submitted before the Supreme Court against the decision of the High National Court to refuse refugee status. It had not been proved that the persecution alleged against the asylum claimants was individually and personally addressed. The Supreme Court responded that the Court of appeal had demanded extensive evidence of persecution, while the law requires that only sufficient signs of evidence must be proved.
Case Summary (150-500)	
<i>Facts</i>	The claimant and his wife and children submitted the asylum application alleging persecution in Colombia on political grounds. He claimed persecution based on the following facts: because of his professional position in a university he received death threats after reporting a robbery that was carried out by university security guards. Moreover, in the <i>Del Valle University</i> , where he worked, he was wrongly linked to a Colombian paramilitary group. He received death threats against him and his family from the Sixth Front of the Revolutionary Armed Forces of Colombia (FARC), which acts in this particular region.
<i>Decision & Reasoning</i>	<p>The High National Court considered, and the General Attorney reiterated, that it's not enough to suffer a generalised and objective situation of insecurity in order to amount to persecution under asylum law. Rather, it has to be proved that this violence has been directly and individually addressed to the asylum seeker. Also, the claimant has to prove that he didn't get adequate and sufficient protection from the state authorities. Also, the possibility that the applicant could have moved within the territory to a safer place where he wouldn't be in need of international protection must be considered.</p> <p>The Supreme Court deems that the following final reasoning presented by the High National Court for refusing the refugee status, "to obtain</p>



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	<p>international protection as determined by the asylum law it is necessary to prove not only an objective and generalised persecution, but, also, the persecution has to be addressed particularly and personally towards the claimant of international protection and that has not been proved”, is a reasoning which is contrary to the law, as the Court of appeal demanded extensive evidence, while the law requires that only sufficient signs of evidence be proved. This requirement is qualitatively over the legally established criteria.</p> <p>The Supreme Court provided a favourable interpretation for the claimant in relation with the burden of proof and credibility.</p>
<i>Outcome</i>	<p>The appeal was successful; the Supreme Court declared that the right of asylum had to be recognised.</p>