



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	United Kingdom
Case Name/Title	Ngirincuti, R (on the application of) v Secretary of State for the Home Department [2008] EWHC 1952 (Admin)
Court Name <i>(Both in English and in the original language)</i>	High Court
Neutral Citation Number	[2008] EWHC 1952 (Admin)
Other Citation Number	
Date Decision Delivered	15 July 2008
Country of Applicant/Claimant	Burundi
Keywords	Credibility, Medical Reports/Medico-legal reports
Head Note (Summary of Summary)	An application for permission to seek a judicial review of a decision by the Secretary of State to refuse to accept a fresh claim for asylum. The court considered the extent to which a new medical report could undermine a previous adverse credibility assessment made on appeal.
Case Summary (150-500)	The appellant was raped by government soldiers in May and July 2005 due to the political sympathies of her father. She claimed asylum in the UK in December 2005, and was detained under the fast track process. No detailed medical examination was undertaken in detention. She was interviewed in relation to her asylum claim, and asylum was refused due to adverse credibility findings.
<i>Facts</i>	On appeal, an immigration judge found the account to be inconsistent with the country information, internally inconsistent, and implausible. He gave no weight, in assessing her credibility, to a medical report stating that she suffered from post-traumatic stress syndrome as he believed that the doctor took the appellant's account at face value. He refused the appeal. Following the refused appeal, new legal representatives commissioned a new medical report from a scarring expert. The new medical report identified scars, current sexual health issues, psychological problems and the doctor's own observations and to be consistent with the account she had given. The Secretary of State maintained his argument that the inconsistencies in the account outweighed the support provided by the medical report.
<i>Decision & Reasoning</i>	The High Court judge found that the medical report was capable of answering the concerns as to the applicant's credibility. He pointed to the difficulties in getting a consistent narrative from asylum seekers, particularly where sexual assaults have taken place, and that skilled and focused questioning may be necessary to extract this from them, and to the importance of medical evidence.



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	<p>25. <i>"...On the one hand, most people who have experience of obtaining a narrative from asylum seekers from a different language or different culture recognise that time, confidence in the interviewer and the interview process and some patience and some specific direction to pertinent questions is needed to adduce a comprehensive and adequate account. This is particularly the case where sexual assaults are alleged and all kind of cultural and gender sensitive issues may be in play as to why the full picture is not disclosed early on..."</i></p> <p>26. <i>Sexual violence may leave no or very few traces. Medical practitioners are, of course, trained to take a history from their patient and to examine the extent to which the history is supported or contradicted by the physical findings of the sort that you would expect in such a case. A statement that there is no medical evidence to contradict the account is likely to be of very little assistance but the more that there is physical observation of the kind that might be expected if the account is true, the more significant that evidence is likely to be".</i></p>
<p><i>Outcome</i></p>	<p>The judge accepted that the new medical report was capable of outweighing the discrepancies in the appellant's account. The judicial review was allowed, the claimant being granted a further right of appeal against refusal of asylum.</p>