

## France - Council of State, 25 July 2013, n° 350661

**Country of Decision:**

France

**Country of Applicant:**

Nigeria

**Date of Decision:**

25-07-2013

**Citation:**

CE, Section du contentieux, 25/07/2013, n°350661

**Court Name:**

Council of State (CE)

**Keywords:**

Effective access to procedures

Membership of a particular social group

Obligation to give reasons

Procedural guarantees

Trafficking in human beings

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**Relevant Legislative Provisions:**International Law > [1951 Refugee Convention](#) [1] > [Art 1A \(2\)](#) [2]European Union Law > [EN - Asylum Procedures Directive, Council Directive 2005/85/EC of 1 December 2005](#) [3] > [Art 10](#) [4]

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**Headnote:**

The Council of State ruled that non-governmental organisations who, by way of their statutory objects and their actions, can prove a sufficient interest in relation to the subject-matter of the proceedings, can make an application before the CNDA on the terms set out by the Council of State.

In this case, the Council of State held that the CNDA had made an error of law in ruling that Nigerian women who were victims of human trafficking networks and who had actively sought to escape the network constituted a social group within the meaning of the 1951 Refugee Convention.

**Facts:**

By a decision dated 29 April 2011, the CNDA quashed a decision made by the Ofpra and recognised the refugee status of a Nigerian woman, holding that she belonged to a social group of Nigerian women who were victims of human trafficking networks and who had actively sought to escape their grip.

The Ofpra lodged an appeal against this decision before the Council of State.

The Cimade and another organisation, 'Les amis du bus des femmes' [*Friends of the Women's Bus*], lodged an application before the Council of State to defend the CNDA's interpretation in favour of the Applicant.

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**Decision & Reasoning:**

In relation to the admissibility of the organisations' applications:

The Council of State found the application made by the aforementioned organisations to be admissible, since, through their statutory objects and their actions, they had proven a sufficient interest in relation to the subject-matter of the proceedings. Their applications could, as a result, be admitted.

However, the Council of State underlined that this application would still remain ancillary in nature and would not have the effect of conferring the status of party to the proceedings onto its maker, who would not have access to the case file, and under general procedural rules, judgment in the main case would not be delayed by an application.

In relation to the interpretation of the 1951 Refugee Convention:

After reiterating the definition of a refugee as set out in Article 1A(2) of the 1951 Refugee Convention, and the definition of a social group as set out in Article 10 of the Qualification Directive (2004/83/EC), the Council of State held that an error of law had been made by the CNDA in holding that Nigerian women who were victims of human trafficking networks and who had actively sought to escape their grip constituted a social group within the meaning of the 1951 Refugee Convention. The Council of State said that the CNDA should have investigated whether, beyond the procuring networks from which they were at risk, surrounding society or institutions perceived them as having a particular identity that would constitute a social group within the meaning of the said Convention.

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**Outcome:**

The applications by the Cimade and the organisation 'Les amis du bus des femmes' were admitted.

The CNDA's decision dated 29 April 2011 was quashed.

The case was referred back to the CNDA.

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### **Subsequent Proceedings :**

The Council of State's decision was sent back to the CNDA who found that victims of trafficking from the Edo State do, indeed, share a common background and distinct identity which falls within the definition of a particular social group. The applicant was given refugee status - [click here for summary and judgment.](#) [5]

### **Attachment(s):**



[Original Judgment CE 350661.pdf](#)[6]

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### **National / Other Legislative Provisions:**

[France - Ceseda \(Code of the Entry and Stay of Foreigners and Asylum Law\)](#) [7]

[France - CJA \(Code of Administrative Justice\) - Art R.632-1](#) [8]

[France - CJA \(Code of Administrative Justice\) - Art L.761-1](#) [9]

[France - law no. 91-647 of 10 July 1991 - Art 37](#) [10]

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### **Links:**

[1] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention>

[2] <http://www.asylumlawdatabase.eu/en/content/1951-refugee-convention#1>

[3] <http://www.asylumlawdatabase.eu/en/content/asylum-procedures-directive>

[4] <http://www.asylumlawdatabase.eu/en/content/asylum-procedures-directive#Art 10>

[5] <http://www.asylumlawdatabase.eu/en/case-law/france-cnda-24-march-2015-decision-no-10012810>

[6]

<https://www.asylumlawdatabase.eu/sites/default/files/aldfiles/Original%20Judgment%20CE%20350661.pdf>

[7] <https://www.asylumlawdatabase.eu/en/taxonomy/term/1035>

[8] <https://www.asylumlawdatabase.eu/en/taxonomy/term/7265>

[9] <https://www.asylumlawdatabase.eu/en/taxonomy/term/7266>

[10] <https://www.asylumlawdatabase.eu/en/taxonomy/term/7267>