

Reference for a preliminary ruling from High Court of Ireland (Ireland) made on 13 April 2011 - HID, BA v Refugee Applications Commissioner, Refugee Appeals Tribunal, Minister for Justice, Equality and Law Reform, Ireland, Attorney General (Case C-175/11)

Language of the case: English

Referring court

High Court of Ireland

Parties to the main proceedings

Applicants: HID, BA

Defendants: Refugee Applications Commissioner, Refugee Appeals Tribunal, Minister for Justice, Equality and Law Reform, Ireland, Attorney General

Questions referred

Is a Member State precluded by the provisions of Council Directive 2005/85/EC of 1st December, 2005¹, or by general principles of European Union Law from adopting administrative measures which require that a class of asylum applications defined on the basis of the nationality or country of origin of the asylum applicant be examined and determined according to an accelerated or prioritised procedure?

Is Article 39 of the above Council Directive when read in conjunction with its Recital (27) and Article 267 TFEU to be interpreted to the effect that the effective remedy thereby required is provided for in national law when the function of review or appeal in respect of the first instance determination of applications is assigned by law to an appeal to the Tribunal established under Act of Parliament with competence to give binding decisions in favour of the asylum applicant on all matters of law and fact relevant to the application notwithstanding the existence of administrative or organisational arrangements which involve some or all of the following:

- The retention by a government Minister of residual discretion to override a negative decision on an application;
- The existence of organisational or administrative links between the bodies responsible for first instance determination and the determination of appeals;
- The fact that the decision making members of the Tribunal are appointed by the Minister and serve on a part-time basis for a period of three years and are remunerated on a case by case basis;
- The retention by the Minister of powers to give directions of the kind specified in ss. 12, 16(2B)(b) and 16(11) of the above Act?

¹ - OJ L 326, p. 13