

Directive on asylum procedures: Important Jurisprudence of the Court of Justice

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Affaire C-69/10 (Samba Diouf) : Judgment of the Court 28/07/2011

The Court (Second Chamber) ruled:

On a proper construction, Article 39 of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, and the principle of effective judicial protection, do not preclude national rules such as those at issue in the main proceedings, under which no separate action may be brought against the decision of the competent national authority to deal with an application for asylum under an accelerated procedure, provided that the reasons which led that authority to examine the merits of the application under such a procedure can in fact be subject to judicial review in the action which may be brought against the final decision rejecting the application – a matter which falls to be determined by the referring court.

Affaire C-175/11 (HID and BA) : Judgment of the Court 31/01/2013

The Court (Second Chamber) ruled:

1. Article 23(3) and (4) of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status must be interpreted as not precluding a Member State from examining by way of prioritised or accelerated procedure, in compliance with the basic principles and guarantees set out in Chapter II of that directive, certain categories of asylum applications defined on the basis of the criterion of the nationality or country of origin of the applicant.
2. Article 39 of Directive 2005/85 must be interpreted as not precluding national legislation, such as that at issue in the main proceedings, which allows an applicant for asylum either to lodge an appeal against the decision of the determining authority before a court or tribunal such as the Refugee Appeals Tribunal (Ireland), and to bring an appeal against the decision of that tribunal before a higher court such as the High Court (Ireland), or to contest the validity of that determining authority's decision before the High Court, the judgments of which may be the subject of an appeal to the Supreme Court (Ireland).