Irish Court of Appeal

Judgment

Title:	Danqua -v- Minister for Justice and Equality (No.2)
Neutral Citation:	[2017] IECA 20
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Court:	Court of Appeal
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Judgment by:	Hogan J.
Status:	Approved
Result:	Allow and set aside

THE COURT OF APPEAL

Neutral Citation Number: [2017] IECA 20

Record No. 2014/20CA

Peart J.
Irvine J.
Hogan J.

BETWEEN/

EVELYN DANQUA

PPELLANT

- AND -

MINISTER FOR JUSTICE AND EQUALITY (NO. 2)

RESPONDENTS

JUDGMENT of Mr. Justice Gerard Hogan delivered on the 6th day of February

2017

1. To what extent should this Court regard itself as bound by a judgment delivered by the Court of Justice of the European Union in respect of an Article 267 TFEU reference when that Court has been pleased to answer a question not posed by the referring court and when the issue in question to which the answer refers had not previously been raised in the domestic proceedings? This is the issue which now arises for consideration by this Court following the decision of the Court of Justice of the European Union on 20th October 2016 which in turn followed a reference from this Court: see C-495/15 *Danqua v. Minister for Justice and Equality* EU:C:2016:789. The issue arises in the following way.

2. In the present case the applicant, Ms. Evelyn Danqua, (who is a Ghanaian national), made a very belated application for subsidiary protection on 8th October 2013, having first applied for refugee status in 2010 and having been refused asylum following a decision of the Refugee Appeal Tribunal in January 2011. By decision dated 5th November 2013 the Minister for Justice and Equality refused to entertain this belated application for subsidiary protection, contending that she had not made the application within the 15 day time period which had been prescribed in correspondence with her. It should be stated that the 15 day time period does not have a legislative basis, but is rather one which has been administratively imposed.

3. In the judicial review proceedings which then ensued, Ms. Danqua maintained that the 15 day time limit infringed the principle of equivalence because no similar time limit is contained in respect of refugee applications. The twin principles of equivalence and effectiveness are fundamental principles of EU law which serve to act as a break on the national procedural autonomy which Union law accords to national legal systems. The principle of equivalence requires that a national rule be applied without distinction to procedures based on EU law and those based on national law. The principle of effectiveness, on the other hand, seeks to ensure that a national procedural rule does not render it either impossible in practice or excessively difficult to exercise rights conferred by the EU legal order. It is important to stress that the applicant challenged the 15 day rule only by reference to the principle of equivalence. It was never contended that this rule infringed the principle of effectiveness, a point to which I shall presently return.

4. The applicant also maintained that the decision to refuse to extend time to allow for an application of this kind was unreasonable in law, specifically, because the Minister's refusal to entertain the late application was predicated on the factual assumption that she had made a conscious decision not to apply for subsidiary protection at the time in February/March 2011, when this was not, in fact, the case.

5. The applicant's contentions were rejected in a reserved judgment delivered by MacEochaidh J. in the High Court on 16th October 2014: see *ED v. Minister for Justice and Equality* [2014] IEHC 456. The applicant's appeal was then heard by this Court and in a reserved judgment delivered on 10th June 2015, the Court decided to make a reference to the Court of Justice pursuant to Article 267 TFEU: see *Danqua v. Minister for Justice and Equality* [2015] IECA 118. I propose to consider presently the terms of that Article 267 reference, but I will for convenience refer to that judgment of this Court as "the first judgment".

6. The full circumstances of Ms. Danqua's case are set out in that first judgment. In summary, Ms. Danqua is now 52 years of age and she originally applied for refugee status in the State on 30th April 2010, claiming that she was a potential victim of what is known as the Trokosi system. This is a well documented practice which subsists in certain parts of Ghana whereby family members - usually female teenagers - are pledged by other family members for indentured service at a local pagan shrine in order

to atone for the past deeds of the family. The pledged family members (the Trokosis) are required to help with the upkeep of these shrines and often fall prey to sexual predation at the hands of the fetish priests and local tribal chiefs.

7. Ms. Danqua's application was, however, refused on credibility grounds by a decision of the Refugee Application Tribunal by decision dated 13th January 2011. The applicant was legally represented before the Tribunal by the Refugee Legal Service ("RLS") and she did not seek to challenge the decision of the Tribunal by way of judicial review proceedings.

8. The Minister subsequently issued a proposal to deport Ms. Danqua on 9th February 2011 but that letter also outlined her various options including her right to apply for a subsidiary protection and also to apply for humanitarian leave to remain. In that information leaflet she was informed:

> "if you do not apply for subsidiary protection at the same time as you make representations under s. 3 of the Immigration Act 1999 (as amended) such an application will not be considered at a later date."

9. As it happens, no such subsidiary protection application was received at the time. Ms. Danqua herself is functionally illiterate and she spoke little English at the time of her arrival in the State. Following the adverse decision of the Tribunal the RLS informed Ms. Danqua that it did not consider that they were any substantial grounds as would warrant a subsidiary protection application. It later emerged that the RLS had a practice of not representing applicants in respect of subsidiary protection applications where their original asylum application had failed on credibility grounds.

10. However, on 1st March 2011 the RLS did, in fact, make an application on Ms. Danqua's behalf for humanitarian leave to remain. Some two and a half years later on 23rd September 2013 Ms. Danqua was informed that a deportation order had, in fact, being signed on 17th September 2013 and that her application for humanitarian leave to remain had been refused. By this stage, however, Ms. Danqua had found a new set of private solicitors who were prepared to act for her. On 8th October 2013 her new solicitors sought to submit an application for subsidiary protection and to revoke the deportation order.

11. This application was not, however, successful and Ms. Danqua was informed of this decision by letter dated 5th November 2013. In that letter the Minister stated:

> "Even allowing for a generous interpretation of the fifteen day working period your "window of opportunity" for the management of an application for subsidiary protection would have closed in or about 7th/8th March 2011. As a result we cannot accept such an application from your client some two and a half years later.
>
> In relation to the contention that the Refugee Legal Service may have advised your client against the lodgement of an application for subsidiary protection, the position is that an asylum or protection applicant solely and singularly is responsible for the lodgement of any application and within the prescribed period of time. The role of a legal representative is to give advice or guidance, assist in drafting etc. Ultimately the decision to lodge or not to lodge a specific application rests solely and singularly with the applicant themselves, given that it is the applicant who is "instructing" the legal representative and not *vice versa*. This being the case it was there to be taken that it was your client's decision not to lodge an application for subsidiary protection at the appropriate time. As a result and given that your client's fifteen day window of opportunity for

lodgement of an application for subsidiary protection has closed since March 2011, we cannot accept, or determine, such an application for your client at this point in time."

12. Pausing at this point, I will not attempt to summarise the difficulties which had arisen because of the (then) practice of the RLS not to apply for subsidiary protection on behalf of their clients where earlier applications for refugee status had been refused. The details of this particular practice are set out in the first judgment. This issue is, in any event, relevant to the second part of the applicant's claim only, namely, that the subsequent decision to exclude her application for subsidiary protection was unreasonable in law, because the premise of the Minister's refusal letter - namely, that the applicant had made a conscious decision following legal advice not to apply for subsidiary protection - was not factually sustainable, not least in the light of the new information which has since come to light.

13. The other issue raised at the hearing of the appeal in *Danqua (No.1)* was, however, that the principle of equivalence had been breached. The essence of the argument advanced on her behalf at the hearing of the appeal was that at the time when Ms. Danqua first applied for asylum in 2010 there was a 15 day limitation period which applied to subsidiary protection applications, whereas no similar time period obtained in the case of applications to the Minister for asylum. This time period - which was administratively imposed and which was not provided for pursuant to statute - ran from the date the Minister communicated with the applicant in the immediate aftermath of the refusal of the asylum application. It was, however, accepted that this 15 day time limit was subject to exceptions and that the Minister had in the past accepted late applications on an ad hoc case by case basis.

14. For the purpose of delivering its first judgment this Court was required to consider a challenge to the validity of the 15 day rule simply by reason of the principle of equivalence. It was suggested on behalf of the applicant that the application of the 15 day rule breached that principle precisely because no such rule applied in the case of applications for asylum, whereas it did in the case of subsidiary protection. Since we considered - wrongly, as it now turns out in the light of the judgment of the Court of Justice - that asylum and subsidiary protection were sufficiently comparable for the purposes of the application of the equivalence doctrine, it was on that basis that this Court made the Article 267 reference which it did. The reference was in the following terms:

"First, can an application for asylum which is governed by domestic legislation which reflects a Member State's obligations under the Qualification Directive be regarded as an appropriate comparator in respect of an application for subsidiary protection for the purposes of the principle of equivalence?

Second, if the answer to the first question is in the affirmative, is it relevant for this purpose that the time limit imposed in respect of applications for subsidiary protection (i) has been imposed simply administratively and (ii) that the time limit serves important interests of ensuring that applications for international protection are dealt [with] within a reasonable time?"

15. It is important to stress again that at no stage was the 15 day rule ever the subject of a challenge on the ground that it violated the principle of effectiveness.

16. It is next necessary to consider the judgment of the Court of Justice.

The decision of the Court of Justice

17. The decision of the Court of Justice was delivered on 20th October 2016. The Court

first held that the principle of equivalence simply did not apply, given that the differing procedures concerned "two types of applications based on EU law." The principle of equivalence was therefore engaged only where the comparator was between an application based on national law on the one hand and that based on EU law on the other.

18. While that conclusion was sufficient to dispose of the actual question referred by this Court, the Court then held that it was entitled to re-formulate the referred question:

> "….. in the procedure laid down by Article 267 TFEU, providing for cooperation between national courts and the Court of Justice, it is for the latter to provide the referring court with an answer which will be of use to it and enable it to determine the case before it. With this in mind, the Court may have to reformulate the questions referred to it….Furthermore, it is for the Court to provide the national court with all those elements for the interpretation of EU law which may be of assistance in adjudicating on the case pending before it, whether or not the referring court has specifically referred to them in its questions (see, to that effect, judgment of 21st February 2006, *Ritter-Coulais*, C 152/03, EU:C:2006:123, paragraph 29 and the case-law cited). In this case, and to that end, the two questions referred by the Court of Appeal must be understood as asking whether the principle of effectiveness must be interpreted as precluding a national procedural rule, such as that at issue in the main proceedings, which requires an application for subsidiary protection status to be made within a period of 15 working days of notification, by the competent authority, that the applicant whose asylum application has been rejected may make an application for subsidiary protection."

19. The practical effect of this re-formulation of the referred question was that the Court of Justice was then free to address the question of effectiveness, even though it had not formed any part of the proceedings to date, whether in the High Court or this Court. We were informed at the resumed hearing before this Court that it was the European Commission which had suggested in its intervention on the reference that the 15 day rule raised questions regarding the principle of effectiveness. In its written submissions to the Court of Justice the Commission had submitted that "a 15 working day deadline, applied flexibly, is not in principle contrary to the principle of effectiveness."

20. In the wake of those submissions, the Court of Justice then corresponded with the parties and requested them to reply to the Commission's suggestion regarding a consideration of the principle of effectiveness. At the resumed hearing, both counsel for Ms. Danqua and the Minister agreed, accordingly, that they had had an opportunity to address the Court of Justice on the issue of effectiveness.

21. Returning now to the judgment of the Court of Justice itself, the Court proceeded to an examination of whether the 15 day rule was compatible with the judgment of the Court of Justice by reference to the principle of effectiveness:

> "….a national procedural rule, such as that at issue in the main proceedings, must not render impossible in practice or excessively difficult the exercise of rights conferred by the EU legal order. Accordingly, such a rule must ensure, in the present case, that persons applying for subsidiary protection are actually in a position to avail themselves of the rights conferred on them by Directive 2004/83.
>
> It is, therefore, appropriate to consider whether a person, such as Ms. Danqua, who applies for subsidiary protection, is in concrete terms in a position to assert the rights she derives from Directive 2004/83, namely,

in this case, the right to submit an application for that protection and, should the conditions required in order to qualify for such protection be satisfied, the right to be granted subsidiary protection status.

It is apparent from the order for reference and the documents before the Court that, under the national procedural rule at issue in the main proceedings, the applicant for subsidiary protection may, in principle, no longer submit an application for subsidiary protection status after the expiry of a period of 15 working days from notification of the rejection of his application for refugee status…..

As regards time limits, the Court has held that, in respect of national rules which come within the scope of EU law, it is for the Member States to establish those time limits in the light of, inter alia, the significance for the parties concerned of the decisions to be taken, the complexities of the procedures and of the legislation to be applied, the number of persons who may be affected and any other public or private interests which must be taken into consideration (see, to that effect, judgment of 29th October 2009, Pontin, C 63/08, EU:C:2009:666, paragraph 48)…..

In that context, taking account of the difficulties such applicants may face because of, inter alia, the difficult human and material situation in which they may find themselves, it must be held that a time limit, such as that at issue in the main proceedings, is particularly short and does not ensure, in practice, that all those applicants are afforded a genuine opportunity to submit an application for subsidiary protection and, where appropriate, to be granted subsidiary protection status. Therefore, such a time limit cannot reasonably be justified for the purposes of ensuring the proper conduct of the procedure for examining an application for that status…..

Accordingly, it must be held that a national procedural rule, such as that at issue in the main proceedings, is capable of compromising the ability of applicants for subsidiary protection actually to avail themselves of the rights conferred on them by Directive 2004/83.

In the light of all the foregoing considerations, the answer to the questions referred is that the principle of effectiveness must be interpreted as precluding a national procedural rule, such as that at issue in the main proceedings, which requires an application for subsidiary protection status to be made within a period of 15 working days of notification, by the competent authority, that an applicant whose asylum application has been rejected may make an application for subsidiary protection."

22. In the light of these conclusions, counsel for the State argued at the resumed hearing that the Court of Justice had no jurisdiction to determine the second question of effectiveness, since it had never formed part of the pleadings or arguments in these proceedings. Alternatively, it was submitted that the comments of the Court of Justice on the effectiveness issue were in the nature of obiter dicta which did not bind this Court. Either way, it was submitted that the conclusions of the Court of Justice on the effectiveness question were not binding and need not be followed by this Court. In considering this submission it may be convenient first to examine the effect of the decision of the Court of Justice and, second, to consider the extent to which (if at all) this Court is free not to follow such a decision.

The effect of the decision of the Court of Justice

23. What, then, was the effect of the decision of the Court of Justice? It seems to me that the decision cannot realistically be regarded as other than an express finding that the 15 working day rule is inconsistent with EU law which must therefore be disapplied by national courts by reference to standard *Simmenthal* principles (Case 106/77 *Amministratzione delle Finanze dello Stato v. Simmenthal SpA* [1978] ECR 629). Inasmuch, therefore, as the *Simmenthal* doctrine requires all national courts to disapply the national rule in question which has been found to be inconsistent with EU law, the Court of Justice's findings to such effect accordingly have a general *erga omnes* application. Iit is, of course, true that the Court of Justice does not enjoy any formal jurisdiction to annul or otherwise positively invalidate national laws or practices. The practical effect nonetheless of a decision of this nature is in many respects akin to that of a finding of unconstitutionality in our own legal system, given that national courts are called upon to disapply that national law in consequence of that finding on the ground that it is inconsistent with the superior ranking EU law. While under the *Simmenthal* doctrine the inconsistent national law is *simply suspended* by the disapplication of that law by the national courts in reliance upon the decision of the Court of Justice rather than formally annulled (as would happen with a declaration of unconstitutionality under Article 34.3.2 of the Constitution under our own legal system), the key point in both instances is nonetheless that the national rule is now no longer legally operative and, specifically, it can no longer form the basis of any administrative decision which pre-supposes that the rule in question has full force and effect.

Whether this Court is bound to apply the decision of the Court of Justice

24. The effective invalidity (in the particular sense I have just described) of the 15 working day rule as a matter of EU law crystallised with the decision of the Court of Justice in the present case. Accordingly, it seems to me that this Court is entirely bound to apply that decision as part of its duty of sincere co-operation with the Court of Justice as an institution of the European Union in the manner provided for Article 4(3) TEU. Article 4(3) TEU provides:

> "Pursuant to the principle of sincere co-operation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties.
>
> The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives."

25. The decision of the Court of Justice on the Article 267 reference is itself an act of an institution of the Union. It is, accordingly, the task of this Court, discharging as it is the juridical functions of Ireland qua Member State of the Union, to take the appropriate measures to give effect to that decision. This Court discharges that task by simply giving effect to the decision of the Court of Justice.

26. The Court of Justice itself has held (Case 52/76 *Benedetti v. Munari* [1977] E.C.R. 163) that its function on such a reference is "to decide a question of law and that the ruling is binding on the national court as to the interpretation of the Community provisions and acts in question." This view has been consistently re-affirmed: see, e.g., Case C-62/14 *Gauweiler* EU:C:2015:400, para. 16 for a recent example of a similar approach from the Court.

27. The cases where the supremacy of decisions of the Court of Justice on Article 267

references have later been called into question in any respect by national courts are few and far between. One such case perhaps is *Arsenal F.C. v. Reed* [2003] EWCA Civ 696, [2003] 3 All E.R. 865. This was a case where the well known English football club claimed that the defendant had infringed its trade marks by selling souvenirs and memorabilia (such as Arsenal scarves) likely to appeal to Arsenal supporters outside its football ground. Although the defendant accepted that he had sold such items containing Arsenal's crest without a licence, his defence was that use complained of was not trade mark use and that without trade mark use there could be no infringement. Furthermore, his stall outside the ground made it clear that the articles in question were not licensed by Arsenal and did not constitute official club merchandise. In essence, therefore, the defence was that the reproduction of the Arsenal trade marks on football scarves and such like was simply incidental: it was simply a badge of allegiance for the football supporter and it did not convey to a prospective purchaser that the goods in question had been approved or sanctioned by the trade mark proprietor.

28. It was this latter question which was the subject of an Article 267 reference to the Court of Justice by the English High Court (Laddie J.). The Court of Justice ultimately held (Case C-206/71 *Arsenal F.C. v. Reed* [2002] ECR I-10273) that an infringement occurred where the goods in question had been used in the course of trade and the fact that the scarves and so forth might have been perceived by purchasers simply as a badge of loyalty or affiliation to the club was irrelevant.

29. The matter then returned to the English High Court where Laddie J. held that the Court of Justice had proceeded on the basis of a material misunderstanding of the facts. He had held at first instance that the use of the "Arsenal" crest on the scarves etc. sold by Mr. Reed created no message of trade origin, *i.e.*, that the memorabilia in question had been manufactured or licensed by the trade mark proprietor. Yet the Court of Justice had nonetheless held (at para. 56 of the judgment) that the use of that sign was such "as to create the impression that there is a material link between the goods concerned and the trade mark proprietor." In these circumstances Laddie J. held that the judgment of the Court of Justice had been based on an erroneous factual premise, so that he was not bound by it.

30. The English Court of Appeal disagreed with this analysis, saying in effect that the Court of Justice had decided that the circumstances in which Mr. Reed sold the goods or that his customers knew (or must be taken to know) that the goods in question had not been licensed were irrelevant, since the "unchecked use of a mark by a third party" was likely to damage "the function of the trade mark right because the registered trade mark can no longer guarantee origin, that being an essential function of a trade mark."

31. Although the English Court of Appeal ultimately disagreed with Laddie J., Aldous L.J. nonetheless agreed ([2003] 3 All E.R. 865, 873) that he would have been entitled:

> "….to disregard any conclusion reached [by the Court of Justice], in so far as it was based upon a factual background inconsistent with his judgment, Thus, upon his perception of the ECJ's judgment, he was entitled to disregard the conclusion in the ruling and decide the case upon the legal principles stated in the judgment of the ECJ."

32. The decision of the English Court of Appeal in *Reed* is, therefore, authority for the proposition that a national court is not bound by a decision of the Court of Justice that rests upon a material finding of fact which is erroneous or which was not found by the national courts. This, however, seems to be the high water mark of any suggestion that a national court might not be bound by a decision on a reference made by the Court of Justice. Specifically, there was no suggestion at all in *Reed* that the national court might not be bound by any finding *of law* which had been made by the Court of Justice. It may be recalled, however, that the finding made by the Court of Justice in the present case

is essentially one of *law*, namely, the basic ineffectiveness of the right to apply for subsidiary protection where the time limit is so short.

33. Admittedly, the decision of the Court of Justice in Case C-277/11 *MM v. Minister for Justice* EU:C: 2012: 644 also presented our courts with a variant of this problem. In that case, sitting as a judge of the High Court, I had made an Article 267 reference to the Court of Justice concerning the interpretation of Article 4(1) of Directive 2004/83/EC. That Court resolved that issue adversely to the applicant, but it nonetheless went on "in order to provide the court with a useful answer" to address a legal issue concerning fair procedures and whether adverse credibility findings made against an applicant in the asylum process could automatically be relied upon in a later subsidiary protection application.

34. As it happens, the Court had addressed an issue or issues which had not been the subject of any question contained in the reference. Nor had this issue or issues been the subject of any argument in the course of the High Court hearing. A further complicating issue was that the judgment of the Court of Justice had ascribed certain views on these very questions to the High Court which had made the reference. At the resumed hearing, there was much discussion as to whether the Court of Justice had been altogether correct in so stating: see *MM. v. Minister for Justice and Law Reform* [2013] IEHC 9, [2013] 1 I.R. 370, 382-383. Counsel for the State submitted that the Court had fallen into error in so ascribing such views to the High Court and that as the Court had seen fit to answer a question which had not formed part of the reference under Article 267, the High Court was not bound in such circumstances by that decision.

35. I rejected the submission that I was not bound by that decision, saying that ([2013] 1 I.R. 370, 383):

> "…..just as the Court of Justice will not seek to challenge or in some way look behind findings of fact made by the national court in the context of an Article 267 TFEU reference (see, e.g., Case C-435/97 *World Wide Fund v. Autonome Provinz Bozen* [1999] ECR I-5613, paras. 31-33), I consider that a similar principle should operate in reverse. It would not, I think, be seemly or appropriate for this Court to challenge - whether directly or indirectly - the analysis of my judgment or the order for reference which was conducted by the Court of Justice. The duty of loyal co-operation between the national courts and the Court of Justice requires no less."

36. So far as the present case is concerned, I consider that a similar approach is also appropriate. While one can certainly sympathize with the Minister's position - in that she has now lost by reference to an issue which had heretofore never formed part of the proceedings and which had never been the subject of any formal finding or determination by either the High Court or this Court prior to the reference to the Court of Justice - I do not see how this Court can in any way look behind the judgment of the Court of Justice, even if some might regard the fact that the Court went beyond the scope of the questions posed in the original Article 267 reference by addressing an entirely new question as unsatisfactory.

37. The Court of Justice concluded (at para. 37 of the judgment) that its function was to give this Court "with all those elements for the interpretation of EU law which may be of assistance in adjudicating on the case pending before it", irrespective of whether this Court had made reference to these issues in the Article 267 reference. It was on this basis that the Court of Justice elected to address the effectiveness issue on the basis that it had both the jurisdiction and (by implication) the duty to do so. The Court of Justice concluded that it was necessary as part of its functions under the Article 267 reference procedure for it to give this assistance to this Court.

38. Given that that Court has elected to take that step, it would not be appropriate for

this Court to conclude that this approach was unnecessary or that the pronouncements of that Court on the effectiveness issue were merely in the way of pure *obiter dicta* which were not binding on this Court. All of this is yet another way of saying once again that this Court's duty - both by reference to Article 4(3) TEU and Article 267 TFEU itself - is to give effect to the decision of the Court of Justice and not to look behind the basis of that judgment, however tempting it may seem to do so.

Conclusions

39. It follows from the foregoing analysis that this Court is bound to give effect to the decision of the Court of Justice. The effect of that decision was to hold unambiguously that the 15 working day time limit governing applications for subsidiary protection violated the EU principle of effectiveness. In the light of that decision this Court is accordingly obliged to suspend the operation of the 15 day rule so that it can no longer provide the legal basis for any administrative decision which had previously sought to apply that rule on the premise that it was of full force and effect.

40. In the present case the Minister refused to permit the applicant to submit an application for subsidiary protection on the ground that it was out of time by reference to the 15 day rule. In view of the conclusions which I have already reached regarding the effect of the Court of Justice's decision and its binding character, it follows, therefore, that the Minister's decision was based upon a rule which has now been conclusively adjudicated to be contrary to EU law.

41. It follows in turn that the Minister's decision of 5th November 2013 which refused to permit the applicant to make an application for subsidiary protection on this ground must be quashed. I would accordingly allow the appeal on this ground and grant the appropriate order of certiorari.