Irish Court of Appeal

Judgment

Title:	F.F. -v- The Minister for Justice Equality and Law Reform
Neutral Citation:	[2017] IECA 273
Court of Appeal Record Number:	2015 555
High Court Record Number:	2010 214 JR
Date of Delivery:	25/10/2017
Court:	Court of Appeal
Composition of Court:	Finlay Geoghegan J., Irvine J., Hedigan J.
Judgment by:	Finlay Geoghegan J.
Status:	Approved
Result:	Appeal Allowed

THE COURT OF APPEAL

Neutral Citation Number: [2017] IECA 273

Finlay Geoghegan J.
Irvine J.
Hedigan J.

Appeal No. 2015 555 CA

BETWEEN/

F.F.

APPLICANT/

APPELLANT

- AND -

THE MINISTER FOR JUSTICE EQUALITY & LAW REFORM

RESPONDENT

JUDGMENT of Ms. Justice Finlay Geoghegan delivered on the 25th day of October 2017

1. Where an applicant for subsidiary protection is considered by the decision maker to be a national of Country A, and also to have been granted refugee status and lived in each of Countries B and C, may the application be decided upon the basis that he is a stateless person under the European Communities (Eligibility for Protection) Regulations 2006 (S.I. 518 of 2006) ("2006 Regulations")? That is the primary issue on this appeal.

2. The appeal is from an order of the High Court (McDermott J.) made on 17th April, 2015, for the reasons set out in a written judgment of that date ([2015] IEHC 245) refusing leave to apply by way of judicial review seeking *inter alia* an order of *certiorari* quashing the decision issued by the respondent by letter dated 10th December, 2010, refusing to grant subsidiary protection to the applicant.

3. The facts upon which the application for leave was based are not in dispute and may be summarised as follows.

4. The facts pertaining to the applicant accepted by the decision maker are as stated by him in his applications for refugee status and subsidiary protection in this jurisdiction. He was born in Cameroon in 1965. He worked as a journalist and with an NGO and claimed to have experienced persecution in Cameroon, including arrest, detention and torture. He fled to Nigeria in 1999 and was recognised as a refugee there in 2001. He claims to have been threatened by a Cameroonian diplomat in Nigeria, and in 2002 fled to Mali via Ghana. He was granted refugee status in Mali in 2003 and included amongst the documents produced in this jurisdiction was a refugee card issued in Mali on 15th March, 2005 which was stated to be valid until 14th March, 2008, identifying him to be of Cameroonian nationality.

5. In Mali he was involved in an organisation that was opposed to female genital mutilation. In June, 2005, through contacts made at a meeting in Mali, he obtained funding to attend the 36th session of the Rights of Women and Children in Strasbourg. He claimed that authorities in Mali refused to sign his UNHCR papers permitting him to travel to Strasbourg unless they received a bribe. He also claimed that he was arrested and detained prior to leaving Mali, concerning a complaint that he had unlawfully defamed the police and the *Commission Nationale ChargÉe des RÉfugiÉs au Mali* (*CNCR*). However, he travelled to Strasbourg in July, 2005; made a presentation about alleged abuses in Mali (and possibly elsewhere) and claimed that he was subsequently threatened on behalf of the government of Mali. He arrived in Ireland and claimed refugee status on 2nd September, 2005. In his initial application he stated his nationality as "stateless? {Cameroonian}". His ASY1 Form indicated his nationality as Cameroonian as did the initial card granted him by the Irish authorities.

6. In the application for refugee status questionnaire he identified his nationality as Cameroonian.

7. The Refugee Applications Commissioner recommended that the applicant should not be declared to be a refugee. In the Report of the Refugee Applications Commissioner dated 18th May, 2006 Cameroon is stated to be his country of origin. Mr F was also stated to be a national of Cameroon, however, para. 3 of the report refers to his refugee status in Mali and then states that "for the purposes of this report, Mali can be considered Mr [F's] country of habitual residence."

8. He appealed to the Refugee Appeals Tribunal with the assistance of the Refugee Legal Service. In the notice of appeal, in relation to his nationality, it was stated "Cameroon

(country of habitual residence: Mali)".

9. The Tribunal was satisfied that the applicant was not a refugee for the reasons set out in a decision dated 17th April, 2007. In that decision his nationality is stated to be Cameroonian. However, its analysis of the applicant's claim related to whether he had a well-founded fear of persecution if returned to Mali. It was against country of origin information for Mali that his claim was determined.

10. The next application made with the assistance of the Refugee Legal Service was an application for subsidiary protection and an application for leave to remain. In the application for subsidiary protection his nationality is stated to be "stateless". The basis of the claim for subsidiary protection was (as summarised at para. 1.8) that the applicant "is at risk of serious harm and execution in all of his counties of former habitual residence, Cameroon, Nigeria and Mali." Later the application stated

> "The Applicant does not have access to any protection in Cameroon, Nigeria or Mali as he is stateless, as was accepted by the Office of the Refugee Applications Commissioner. It was accepted by the Presenting officer and the section 13 report that the applicant's place of habitual residence was Mali. I refer to para. 104 of the UNHCR Guidelines [which] acknowledges that the appellant can fear more than one place of formal [sic] habitual residence, as is the current position. The applicant has abandoned Cameroon, Nigeria and Mali as he cannot avail of any protection in these countries and cannot as a result return to any one of them."

11. The application also referred to his entire asylum file, including the earlier applications to the Office of the Refugee Applications Commissioner and the Refugee Appeals Tribunal and the documents submitted therewith.

Decision on subsidiary protection

12. The application for subsidiary protection was refused in a decision dated 10th December, 2009. The determination made by the Assistant Principal following the detailed recommendation and conclusion from the Executive Officer dated 4th December, 2009 was:

> "I agree with the above recommendation. Substantial grounds have not been shown for believing that [F.F.] would face a real risk of suffering serious harm if returned to either Nigeria or Mali."

13. The Executive Officer had similarly reached the conclusion that substantial grounds had not been shown for believing that the applicant would face a real risk of suffering serious harm if returned to either Nigeria or Mali. The grounds upon which an order of *certiorari* was sought relate to an alleged legal error in the approach taken in determining the application, and in particular a failure to determine the application in accordance with the 2006 Regulations. The determination, at its outset, records the nationality of the applicant as "Cameroon (has refugee status in Mali and in Nigeria)". The basis of the application is recorded thus:

> "The applicant claims a fear of serious harm in Cameroon for reasons of 'death penalty or execution' **and** 'torture or inhuman or degrading treatment or punishment of an applicant in the country of origin'."

14. In recording the serious harm claim there are references to the applicant's fears in relation to his treatment in Cameroon, Nigeria and Mali. The determination then identifies the main issues to be examined as being:

> (i) would the applicant face a threat of serious harm by way of death penalty or execution and/or torture or inhuman or degrading treatment or punishment, if returned to Cameroon,

(ii) would the applicant face a threat of serious harm by way of death penalty or execution and/or torture or inhuman or degrading treatment or punishment, if returned to Nigeria,

(iii) would the applicant face a threat of serious harm by way of death penalty or execution and/or torture or inhuman or degrading treatment or punishment, if returned to Mali,

(iv) would the applicant be able to avail of state protection in any of the above three countries.

15. The determination then turns to assessments of facts and circumstances and purports to consider "[r]elevant facts relating to the country of origin, including laws and regulations and the manner in which they are applied (Reg 5(1)(a)) including the availability of 'protection against serious harm' as defined in (Reg 2(1))". This is done by considering in turn Cameroon, Nigeria and Mali. In relation to Cameroon the determination states:

> "The applicant claims that if he is returned to Cameroon, he is at risk of being subjected to torture or inhuman and degrading treatment. However it is noted from the applicant's own account that he was granted formal refugee status in both Nigeria, and later in Mali. There is no evidence to suggest that the applicant's refugee status in either jurisdiction has been revoked. In light of this, it is acknowledged that both jurisdictions accepted that the applicant feared some form of persecution in Cameroon and accepted that he had protection needs in respect of his country of origin, Cameroon, and both jurisdictions duly granted protection status in the form of refugee status.
>
> In light of the above, I will not be examining the applicant's claim of serious harm in respect of his fears of being returned to Cameroon."

16. The applicant's fear of serious harm if returned to Nigeria are then considered and then separately and subsequently Mali. In respect of each, the conclusion is that by reason of his recognition in each as a refugee, he had previously been granted protection by that state and therefore that "it is reasonable to assume that the [Nigerian or Malian] State would continue to provide the applicant with protection if he was returned there". The issue of serious harm by death penalty or execution was also considered, and a negative conclusion reached, in relation to Nigeria and Mali.

17. The determination also considered the applicant's actual or potential citizenship (Reg. 5(1)(e)) and states:

> "The applicant claims to have been granted full refugee status in Mali. A Malian 1951 Convention Travel Document and a Refugee Identity Card, No. 95-A 006553 have been submitted in respect of the applicant. The applicant also claims to have been granted refugee status in Nigeria but no documentation has been submitted to support this assertion."

Application for judicial review

18. By notice of motion filed on 25th February 2010 the applicant sought leave to apply *inter alia* for *certiorari* of the decision of the respondent to refuse subsidiary protection. The principle ground sought to be relied upon was that the respondent in refusing or failing to consider the risk of serious harm to the applicant in his country of origin, Cameroon, acted in breach of the 2006 Regulations. It was contended that the applicant's country of nationality is Cameroon; that he does not have a right to nationality in Nigeria or Mali and that in accordance with the 2006 Regulations,

Cameroon is his country of origin; that his application must be decided primarily by reference to his country of origin; and that the respondent failed to process the application fairly by failing to consider the risk of serious harm to the applicant in Cameroon.

19. In the High Court there was a telescoped hearing. The respondent filed a notice of intended opposition and affidavits. The respondent primarily contended that he had dealt with the applicant as a "stateless" person who had been habitually resident in both Mali and Nigeria and that accordingly under the 2006 Regulations it was permissible to consider and determine the application by reference to the applicant's fears if returned to Nigeria or Mali. The respondent relied upon a number of other grounds including that the relief sought would serve no useful purpose as the respondent had and has no intention of repatriating the applicant to Cameroon. The respondent also contended that the application was out of time.

High Court decisions

20. The trial judge concluded that there were no substantial grounds for granting leave to apply for judicial review. On the time point he determined that he would have leaned in favour of the applicant if substantial grounds had been advanced. There was no cross appeal against that determination. The only issue on the appeal was whether or not the trial judge was correct in determining that the applicant is not entitled to an order of *certiorari*. As the High Court had been a telescoped hearing this Court was not asked to consider it only on the basis of substantial grounds, but rather to consider it as an appeal from the determination that the applicant was not entitled to an order of *certiorari*.

21. The trial judge concluded that the respondent was not in breach of the 2006 Regulations. His principle reasons are set out at paras. 28 and 29 of the judgment:

> "28. It is clear that the subsidiary protection decision in this case followed a series of applications made by the applicant claiming that he was a stateless person. The approach adopted by the respondent in the determination is entirely in accordance with the applicant's consistently claimed status. The reality is that he had fled Cameroon for reasons which were acknowledged by the applicant and accepted by the governments of Mali and Nigeria. At the time of the subsidiary protection application the preponderance of the evidence was that the applicant was a "stateless" person for the purpose of the Convention.
>
> 29. In addition, the applicant obtained a declaration of refugee status in Mali. If recognised as a refugee under the Geneva Convention by another contracting state, he could not obtain a declaration of refugee status in Ireland under s. 17(4) of the Refugee Act 1996 (as amended) unless the reason for leaving or not returning to that state or for seeking a declaration in Ireland related to a fear of persecution in that state. His claim in respect of Mali was rejected. The basis upon which he could then apply for subsidiary protection was as a failed asylum seeker. Clearly, he could not have obtained a declaration of refugee status based upon a fear of persecution in Cameroon, because he already had refugee status in Nigeria and Mali and had based his application on that fact. I am not satisfied that the purpose of the Directive and the Regulations is served by an interpretation which requires the respondent to consider the applicant's position in Cameroon when determining this complementary form of international protection, when the evidence demonstrates that he has refugee status in Mali and Nigeria. It is entirely appropriate and logical that this complementary form of international protection should be considered in the context of his failed application for asylum in respect of

> Mali and Nigeria. The object of providing subsidiary protection is to meet the requirements of those who have no alternative to seeking international protection and cannot avail of the protection of their country of origin, which for a stateless person means their country of former habitual residence, in this case Mali or Nigeria. It is contrary to the purpose of the Regulations, the Directive, the Refugee Act 1996, as amended, and the Geneva Convention to provide a further form of international protection to a person who has the benefit of refugee status in another country. To adopt the applicant's submissions would be to permit the applicant to circumvent s. 17(4) and to avoid its clear meaning and purpose. It would allow him to disavow the factual and legal basis upon which his application for refugee status was considered and rejected in Ireland."

Appeal

22. The core submission on behalf of the applicant was that the trial judge was in error in his construction of the 2006 Regulations as not requiring the application to be decided by reference to Cameroon as his country of stated nationality, and also in his conclusion that at the time of the subsidiary protection application "the preponderance of the evidence was that the applicant was a "stateless" person for the purpose of the Convention". Whilst it was not clear to which convention to which the trial judge was referring, it appears to have been the 1951 Convention on the Status of Refugees.

The Law

23. At the date of this application for subsidiary protection the application fell to be determined in accordance with the 2006 Regulations. These regulations were made for the purpose of giving effect to Council Directive 2004/83/EC of 29th April, 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted ("the Qualification Directive").

24. In considering the relevant provision it is necessary to bear in mind that in the determination of the application for subsidiary protection, the applicant was stated by the decision maker to be a national of Cameroon. The determination does not expressly state at any point that he is considered to be a stateless person. The application had stated him to be a stateless person.

25. On the application for judicial review the court must review the decision which in this case records the applicant as a national of Cameroon.

26. The first construction issue which arose on the appeal was whether an applicant for subsidiary protection may be considered both as a national of a third country and a stateless person simultaneously. Counsel for the applicant contends that they may not. Counsel for the respondent, in reliance upon an apparent distinction between people who are "*de jure*" stateless and "*de facto*" stateless, contends that "stateless" is used in both senses in the Qualification Directive and consequently the 2006 Regulations and that it is possible to be simultaneously both a national of a state and stateless for the purposes of the Qualification Directive and the 2006 Regulations.

27. The relevant definitions in Regulation 2(1) of the 2006 Regulations are:

> '"country of origin" means the country or countries of nationality or, for stateless persons, of former habitual residence…

> "person eligible for subsidiary protection" means a person—
>
> (a) who is not a national of a Member State,
>
> (b) who does not qualify as a refugee,
>
> (c) in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, would face a real risk of suffering serious harm as defined in these regulations,
>
> (d) to whom regulation 13 of these regulations does not apply, and
>
> (e) is unable, or, owing to such risk, unwilling to avail himself or herself of the protection of that country…
>
> "refugee" has the meaning given to it by section 2 of the 1996 Act.'

28. It is not in dispute that Regulation 5(1) and the definition of a "person eligible for subsidiary protection" require an application for subsidiary protection to be decided primarily by reference to the country of origin of the applicant. The issue in dispute relates to what country it was permissible on this application to consider as the country of origin of the applicant.

29. Regulation 5(1) requires the following matters to be taken into account by a protection decision-maker for the purposes of making a protection decision:

> "(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application for protection, including laws and regulations of the country of origin and the manner in which they are applied;
>
> …
>
> (e) whether the applicant could reasonably be expected to avail himself of the protection of another country where he or she could assert citizenship."

30. Counsel for the applicant contended that the decision maker, having specified that the applicant was a national of Cameroon, was bound by the above provisions to treat Cameroon as his country of origin and determine the application by reference to a potential return to Cameroon. The only circumstances in which potential protection in another country may be considered is, it is contended, under Regulation 5(1)(e), namely in a country "where he or she could assert citizenship."

31. The submission by counsel for the respondent is that the Qualification Directive and the 2006 Regulations in referring to a "stateless person" are referring to a person who is either "*de jure*" or "*de facto*" stateless. It is accepted that there is no decision either of the Court of Justice or the Irish courts which recognises the concept of "*de facto*" statelessness. It has been referred to in academic writing and reports from the Office of the UNHCR. The English Court of Appeal in *B2 v. The Secretary of State for the Home Department* [2013] EWCA Civ 616 considered in some detail the concepts of statelessness, and in particular *de jure* and *de facto* statelessness, and the historical development of those terms. The judgment of Jackson L.J. describes same in some detail. At para. 32, having considered certain criticisms by Mr Paul Weis, legal advisor to

the Office of the UNHCR, of the terms *de jure* and *de facto* statelessness he continued:

"I therefore proceed on the basis that *de jure* stateless persons means persons who are *de jure* unprotected by any state. In other words they fall within article 1.1 of the 1954 Convention. *De facto* stateless persons means persons who possess a nationality, but are not protected by any state. It appears that attempts were made to expand the definition of stateless persons in the 1954 Convention so as to include de facto stateless persons, but these attempts were unsuccessful."

32. That judgment concerned the meaning of "stateless" in the British Nationality Act 1981. The conclusion of the Court was that the word "stateless" in that section meant *de jure* stateless.

33. The issue before this Court is whether the use of the term "stateless" in the Qualification Directive and the 2006 Regulations includes the concept of de facto statelessness or is confined to a person who is de jure stateless.

34. The regulation must of course be construed so as to give effect to the purpose of the Qualification Directive. In accordance with Regulation 2(2), a word or expression used in the 2006 Regulations is to have the same meaning as it has in the Qualification Directive unless the contrary intention appears. The definition of "country of origin" in Article 2(k) of the Qualification Directive is precisely the same as that in s. 2(1) of the Regulations. The wording used in both is that "country of origin" is the country or countries of nationality or, for stateless persons, of former habitual residence. It is relevant that these are stated to be alternatives, and not cumulative, by the use of the word "or" rather than "and".

35. "Stateless person" is not defined in the Qualification Directive nor, it would appear, in any other EU provision. Counsel for the respondent referred the Court to Article 67 of the Treaty on the Functioning of the European Union which insofar as is relevant provides:

> "1. The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.
>
> 2. It shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Member States, which is fair towards third-country nationals. For the purpose of this Title, stateless persons shall be treated as third-country nationals.
>
> …"

36. This does not appear to me to indicate that a person who is a national of a third country is also to be considered as a stateless person. Rather it provides to the contrary that persons who are not already third-country nationals by reason of the fact that they are stateless persons are to be treated for the purposes of Title V of TFEU as third-country nationals.

37. Counsel for the applicant referred the Court to the definition of "stateless person" in the 1954 UN Convention on the Status of Stateless Persons as meaning 'a person who is not considered as a national by any state under the operation of its law'. Ireland has acceded to that Convention but has not implemented it into domestic law. It is not referred to in any of the relevant EU provisions. Accordingly it does not appear

appropriate to rely upon it in interpreting either the Qualification Directive or the 2006 Regulations.

38. Counsel for the respondent also relied upon the difference in wording between the definition of a "refugee" in the Qualification Directive and that in the 1951 Refugee Convention, as amended by the 1967 Protocol, which insofar as is relevant is the wording used in s. 2 of the Refugee Act 1996 and in the 2006 Regulations.

39. The relevant part of the definition of "refugee" in the 1951 Convention, as amended by the 1967 Protocol, is a person who

> "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (emphasis added)"

40. That is also the basic definition of refugee in s. 2 of the Refugee Act 1996.

41. Article 2(c) of the Qualification Directive defines a refugee as meaning:

> "a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that of that country, or a **stateless person**, who, being outside the country of former habitual residence for the same reasons as mentioned above is unable or, owing to such fear, unwilling to return to it, and to whom Article 12 does not apply. (emphasis added)"

Nothing turns on the Article 12 exclusions which are similar to the exclusions in the 1951 Convention and the 1996 Act.

42. As appears, Article 2(c) of the Qualification Directive has replaced the words "who, not having a nationality" with "a stateless person". There is nothing in the recitals to the Qualification Directive which indicates any intention to differ in the definition of "refugee" from that in the 1951 Convention. On the contrary, Recital (2) records that the European Council at its meeting in Tampere on 15th and 16th October, 1999 "agreed to work towards establishing a Common European Asylum System based on the full and inclusive application of the Geneva Convention of 28 July, 1951 relating to the Status of Refugees ("Geneva Convention"), as supplemented by the New York Protocol of 31 January 1967 (Protocol)". Recitals (3)-(6) inclusive indicate that the Geneva Convention and Protocol provide the cornerstone for the international legal regime for the protection of refugees; that there should be an approximation of rules on the recognition of refugees and the content of refugee status; complementation of those by measures on subsidiary forms of protection, and the application of common criteria for the identification of persons genuinely in need of international protection as well as ensuring a minimum level of benefits are available for such persons in all Member States.

43. The Court of Justice has decided that the Qualification Directive must be interpreted in a manner consistent with the Geneva Convention see *H.N. v. Minister for Justice Equality & Law Reform* (Case C-604/12) (paras. 27 and 28).Accordingly it appears to me that the Qualification Directive in using the term "a stateless person" in the definition of "refugee" in Article 2(c) is using this term to connote the second category of persons referred to in the definition of refugee in the Geneva Convention, namely persons "not

having a nationality". This is a person who is *de jure* stateless but does not include a person who is *de facto* stateless as that term is used.

44. It follows that the term "stateless person" must be intended to have the same meaning in the definition of persons eligible for subsidiary protection in Article 2(e) of the Qualification Directive and in the definition of country of origin in Article 2(k) of that Directive and, consequently. in the 2006 Regulations. A person who is an applicant for subsidiary protection therefore either has a nationality or is stateless but cannot simultaneously be considered as both having a nationality and being stateless.

45. Accordingly I have concluded that the decision maker in considering the application for subsidiary protection from Mr F. was obliged to determine whether he should be treated as a national of Cameroon or whether he was a stateless person. The determination records him as being a national of Cameroon. It does not consider whether he remained a national of Cameroon or was by then stateless. Undoubtedly the applications which were submitted both in relation to his applications for refugee status, the appeal, and application for subsidiary protection were confusing. He was sometimes referred to as a national of Cameroon and in other places as a stateless person. Counsel on his behalf at the appeal hearing (who did not advise at the time the applications were submitted) stated that his applications were in error insofar as they referred to him as a stateless person. Notwithstanding this confusion the obligation on those making the decision on behalf of the respondent was to determine the application in accordance with the 2006 Regulations when construed in accordance with the Qualification Directive. This, for the reasons I have set out, required identification of the relevant country of origin. If the applicant was determined to be a national of Cameroon it follows from the terms of the Regulations (which are consistent with the Qualification Directive) that the relevant country of origin is Cameroon. Further, the only circumstances in which it is relevant to consider potential protection from another country is in accordance with Regulation 5(1)(e) (which implements Article 4(3)(e) of the Qualification Directive). This applies only if there is evidence that he could assert citizenship in that other country.

46. If the applicant was a national of Cameroon at the time of his application then he was not a stateless person for the purposes of the 2006 Regulations and the Qualification Directive. Having referred to him as a national of Cameroon the determination was in legal error in failing to treat Cameroon as the only relevant country of origin. It follows that the applicant is entitled to an order of *certiorari* and the application must be remitted to the Minister for determination in accordance with law.

47. The decision at issue in this case is to be distinguished from that referred to in the judgment of the High Court (Cooke J.) in *T.B.K. v. Linehan & Ors.* [2010] IEHC 438 where in an application for asylum by a person originally from Bhutan who had subsequently lived in Nepal, Nepal was considered to be his former habitual residence, and the Tribunal made an express finding that the applicant was stateless. The High Court judge in that case upheld the finding of statelessness as one that was open to the Tribunal member on the evidence before him.

48. I wish to emphasise that nothing in this judgment is to be considered as determining that the applicant was a national of Cameroon and not a stateless person at the date of his application for subsidiary protection. This judgment is premised on the fact that the decision expressly stated that the applicant is a national of Cameroon. This judgment does not address the criteria according to which the decision maker should determine whether or not the applicant was a national of Cameroon at the relevant date or whether he ceased to be a national of Cameroon and was a stateless person within the meaning of the Qualification Directive and the 2006 Regulations. The judgment is limited to determining that, for the purposes of the Qualification Directive and the 2006 Regulations, a person who is a national of a state is not a stateless person and that such

state or country is his country of origin in relation to which his application must be primarily decided.

Relief

49. The appeal will be allowed and an order of *certiorari* granted of the respondent's decision to refuse subsidiary protection to the applicant. The matter will be remitted to the respondent for determination in accordance with law.