Reports of Cases

JUDGMENT OF THE COURT (Fourth Chamber)

17 December 2015*

(Reference for a preliminary ruling — Area of freedom, security and justice — Directive 2005/85/EC — Minimum standards on procedures in Member States for granting and withdrawing refugee status — Article 39 — Right to an effective remedy — Multiple asylum claims — Non-suspensory effect of an appeal against a decision of the competent national authority not to further examine a subsequent application for asylum — Social protection — Charter of Fundamental Rights of the European Union — Article 19(2) — Article 47)

In Case C-239/14,

REQUEST for a preliminary ruling under Article 267 TFEU from the tribunal du travail de Liège (Belgium), made by decision of 7 May 2014, received at the Court on 14 May 2014, in the proceedings

Abdoulaye Amadou Tall

v

Centre public d'action sociale de Huy,

intervener:

Agence fédérale pour l'accueil des demandeurs d'asile (Fedasil),

THE COURT (Fourth Chamber),

composed of L. Bay Larsen (Rapporteur), President of the Third Chamber, acting as President of the Fourth Chamber, M.J. Malenovský, M. Safjan, A. Prechal and K. Jürimäe, Judges,

Advocate General: P. Cruz Villalón,

Registrar: V. Tourrès, Administrator,

having regard to the written procedure and further to the hearing on 6 May 2015,

after considering the observations submitted on behalf of:

— Mr Tall, by D. Andrien, avocat,

— the centre public d'action sociale de Huy, by S. Pierre and A. Fischer, avocats,

— Agence fédérale pour l'accueil des demandeurs d'asile (Fedasil), by A. Detheux, advocaat,

* * Language of the case: French.

— the Belgian Government, by M. Jacobs and C. Pochet and by S. Vanrie, acting as Agents,

— the Hungarian Government, by M. Fehér and G. Koós, acting as Agents,

— the European Commission, by M. Condou-Durande, acting as Agent,

after hearing the Opinion of the Advocate General at the sitting on 3 September 2015,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of 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 (OJ 2005 L 326, p. 13; corrigendum OJ 2006 L 236, p. 36) and of Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter').

2 The request has been made in proceedings between Mr Tall and the centre public d'action sociale de Huy (public social welfare centre, Huy) ('the CPAS'), concerning the decision taken by that body to withdraw Mr Tall's social assistance.

Legal context

The ECHR

3 Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 ('the ECHR'), is entitled 'Prohibition of torture', and provides:

'No one shall be subjected to torture or to inhuman or degrading treatment or punishment.'

4 Article 13 ECHR, entitled 'Right to an effective remedy', is worded as follows:

'Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.'

European Union (EU) Law

Directive 2005/85

5 Recital 8 in the preamble to Directive 2005/85 is worded as follows:

'This Directive respects the fundamental rights and observes the principles recognised in particular by the [Charter].'

6 Recital 15 in the preamble to that directive is worded as follows:

‘Where an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige Member States to carry out a new full examination procedure. In these cases, Member States should have a choice of procedure involving exceptions to the guarantees normally enjoyed by the applicant.’

7 According to recital 27 to that directive:

‘It reflects a basic principle of [EU] law that the decisions taken on an application for asylum and on the withdrawal of refugee status are subject to an effective remedy before a court or tribunal within the meaning of Article [267 TFEU]. The effectiveness of the remedy, also with regard to the examination of the relevant facts, depends on the administrative and judicial system of each Member State seen as a whole.’

8 Article 7 of that directive, entitled ‘Right to remain in the Member State pending the examination of the application’, is worded as follows:

‘1. Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a decision in accordance with the procedures at first instance set out in Chapter III. This right to remain shall not constitute an entitlement to a residence permit.

2. Member States can make an exception only where, in accordance with Articles 32 and 34, a subsequent application will not be further examined or where they will surrender or extradite, as appropriate, a person either to another Member State pursuant to obligations in accordance with a European arrest warrant … or otherwise, or to a third country, or to international criminal courts or tribunals.’

9 Article 24 of Directive 2005/85, entitled ‘Specific procedures’, provides:

‘1. Member States may provide for the following specific procedures derogating from the basic principles and guarantees of Chapter II:

(a) a preliminary examination for the purposes of processing cases considered within the framework set out in Section IV;

…’

10 Article 32 of that directive, entitled ‘Subsequent application’, provides as follows:

‘…

2. Moreover, Member States may apply a specific procedure as referred to in paragraph 3, where a person makes a subsequent application for asylum:

…

(b) after a decision has been taken on the previous application. Member States may also decide to apply this procedure only after a final decision has been taken.

3. A subsequent application for asylum shall be subject first to a preliminary examination as to whether, after the withdrawal of the previous application or after the decision referred to in paragraph 2(b) of this Article on this application has been reached, new elements or findings relating to the examination of whether he/she qualifies as a refugee by virtue of [Council] Directive

2004/83/EC [of 29 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 (OJ 2004 L 304, p. 12)] have arisen or have been presented by the applicant.

4. If, following the preliminary examination referred to in paragraph 3 of this Article, new elements or findings arise or are presented by the applicant which significantly add to the likelihood of the applicant qualifying as a refugee by virtue of Directive 2004/83/EC, the application shall be further examined in conformity with Chapter II.

5. Member States may, in accordance with national legislation, further examine a subsequent application where there are other reasons why a procedure has to be re-opened.

6. Member States may decide to further examine the application only if the applicant concerned was, through no fault of his/her own, incapable of asserting the situations set forth in paragraphs 3, 4 and 5 of this Article in the previous procedure, in particular by exercising his/her right to an effective remedy pursuant to Article 39.

…'

11 Article 34(2) of Directive 2005/85, entitled 'Procedural rules', provides:

'Member States may lay down in national law rules on the preliminary examination pursuant to Article 32. …

…

The conditions shall not render impossible the access of applicants for asylum to a new procedure or result in the effective annulment or severe curtailment of such access.'

12 Article 39 of that directive, entitled 'The right to an effective remedy', states:

'1. Member States shall ensure that applicants for asylum have the right to an effective remedy before a court or tribunal, against the following:

…

(c) a decision not to further examine the subsequent application pursuant to Articles 32 and 34;

…

2. Member States shall provide for time-limits and other necessary rules for the applicant to exercise his/her right to an effective remedy pursuant to paragraph 1.

3. Member States shall, where appropriate, provide for rules in accordance with their international obligations dealing with:

(a) the question of whether the remedy pursuant to paragraph 1 shall have the effect of allowing applicants to remain in the Member State concerned pending its outcome;

(b) the possibility of legal remedy or protective measures where the remedy pursuant to paragraph 1 does not have the effect of allowing applicants to remain in the Member State concerned pending its outcome. Member States may also provide for an ex officio remedy …

…’

Directive 2008/115/EC

13 Article 6(1) of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98), entitled ‘Return decision’, states:

‘Member States shall issue a return decision to any third-country national staying illegally on their territory, without prejudice to the exceptions referred to in paragraphs 2 to 5.’

14 Article 13 of that directive states:

‘1. The third-country national concerned shall be afforded an effective remedy to appeal against or seek review of decisions related to return, as referred to in Article 12(1), before a competent judicial or administrative authority or a competent body composed of members who are impartial and who enjoy safeguards of independence.

2. The authority or body mentioned in paragraph 1 shall have the power to review decisions related to return, as referred to in Article 12(1), including the possibility of temporarily suspending their enforcement, unless a temporary suspension is already applicable under national legislation.

…’

Belgian law

15 Article 4 of the Law of 12 January 2007 on the reception of applicants for asylum and certain other categories of foreign nationals (*Moniteur belge* of 7 May 2007, p. 24027), in the version applicable to the events in the main proceedings, provides:

‘The agency may decide that an applicant for asylum who submits a second application for asylum is not entitled to benefit from Article 6(1) of this Law while his application is being examined where the file has not been sent by the Office des étrangers to the Commissariat général aux réfugiés et aux apatrides … and there is a decision giving individual reasons …’

16 Article 6(2) of that law states:

‘Without prejudice to Articles 4, 4/1 and 35/2 of this Law, the benefit of material assistance applies to every applicant for asylum from the time when his application for asylum is submitted and has effect throughout the asylum procedure.

If a negative decision is reached at the conclusion of the asylum procedure, the material assistance shall end when the period prescribed for the enforcement of the order to leave the territory served on the applicant for asylum has expired. …

…’

17 Article 57(2) of the Organic Law of 8 July 1976 on public social welfare centres, in the version applicable to the events in the main proceedings, provides:

‘…

A foreign national who has declared himself a refugee and has asked to be recognised as such will be deemed to be staying in Belgium illegally where his application for asylum has been rejected and an order to leave the territory has been served on him.

With the exception of urgent medical assistance, social assistance granted to a foreign national who was in receipt thereof at the time when an order to leave the territory was served on him will be stopped on the day when that foreign national actually leaves Belgium and, at the latest, on the day when the period prescribed in the order to leave the territory expires.

…'

18 Under Article 39/1, the third subparagraph of Article 39/2(1), Article 39/76, the second subparagraph of Article 39/82(4) and Article 57/6/2 of the Law of 15 December 1980 on the entry, residence, establishment and removal of foreign nationals (*Moniteur belge* of 31 December 1980, p. 14584) ('the Law of 15 December 1980'), in the version in force at the time of the events in the main proceedings, only appeals seeking annulment and suspension due to extreme urgency may be brought against a refusal to take a subsequent application for asylum into consideration.

The dispute in the main proceedings and the question referred for a preliminary ruling

19 Mr Tall, a Senegalese national, submitted an application for asylum in Belgium, the rejection of which was confirmed by a decision of the Conseil du contentieux des étrangers (Belgian Asylum and Immigration Board) of 12 November 2013.

20 He brought an action against that decision before the Conseil d'État (Council of State) which, by a judgment of 10 January 2014, declared that action inadmissible.

21 On 16 January 2014, Mr Tall submitted a second application for asylum, relying on evidence which he presented as new evidence.

22 By a decision of 23 January 2014, the Commissariat général aux réfugiés et aux apatrides (Commissariat-general for Refugees and Stateless Persons) refused to take that second application for asylum into consideration.

23 By a decision of 27 January 2014, the CPAS withdrew, with effect from 10 January 2014, the social assistance which Mr Tall was receiving, on the ground that, as a result of the second application for asylum submitted by that individual, that body '[was] no longer competent to provide social assistance equivalent to income support or to provide medical assistance'.

24 On 10 February 2014, Mr Tall was served with an order to leave the territory.

25 On 19 February 2014, he appealed to the Conseil du contentieux des étrangers against the decision refusing to take his second application for asylum into consideration.

26 In parallel with that appeal, Mr Tall brought an action before the referring court on 27 February 2014 against the decision of the CPAS to withdraw his social assistance.

27 The referring court declared that action to be both admissible and well founded to the extent that it concerned the period running from 10 January 2014 to 17 February 2014 on the ground that, by virtue of the relevant provisions of national legislation, the decision to withdraw social assistance at issue in the main proceedings could not enter into force until the date of expiry of the period for voluntary departure which accompanied the order to leave the territory, namely, 18 February 2014.

28 As regards the social assistance to which Mr Tall claimed he was still entitled after 18 February 2014, the referring court held that, under national law, it was not possible for him to bring a legal action having suspensory effect before a court having full jurisdiction to determine issues of fact and law against the decision refusing to take his second application for asylum into consideration. According to the referring court, the only remedies for which provision is made under the national legislation currently in force against a decision refusing to take a subsequent application for asylum into consideration are appeals seeking annulment and suspension due to 'extreme urgency', which, as they do not have suspensory effect, deprive the person concerned of the right of residence and the right to social assistance.

29 In those circumstances the tribunal du travail de Liège (Labour Court, Liège) decided to stay the proceedings and to refer the following question to the Court of Justice for a preliminary ruling:

'According to Article 39/1 of the Law of 15 December 1980, read in conjunction with [the third subparagraph of Article 39/2(1), Article 39/76, point (d) of the second subparagraph of Article 39/82(4) and Article 57/6/2] of the same law, only appeals seeking annulment and suspension due to extreme urgency may be brought against a decision refusing to consider a multiple asylum claim. Given that in such an appeal the court does not have full jurisdiction to determine issues of fact and law, the appeal does not have suspensory effect and the applicant does not have the right of residence nor to material assistance while it is under consideration, are such appeals compatible with the requirements of Article 47 of the [Charter] and Article 39 of [Directive 2005/85] which lay down the right to an effective remedy?'

Consideration of the question referred

Admissibility

30 The CPAS, Fedasil, the Belgian Government and the European Commission contend that the question referred for a preliminary ruling is inadmissible. They argue that the entry into force on 31 May 2014, that is to say, after the Court's receipt of the present request for a preliminary ruling, of the Law of 10 April 2014 laying down various provisions concerning the procedure before the Conseil du contentieux des étrangers and before the Conseil d'État ('the Law of 10 April 2014'), which amended the Law of 15 December 1980, has had the effect, in view of the transitional provisions set out in Article 26 thereof, of conferring suspensory effect upon the appeal brought by Mr Tall against the decision refusing to take his second application for asylum into consideration, and of acknowledging that he is entitled to material assistance while that appeal is under examination.

31 The Court of Justice asked the referring court to inform it as to the consequences of the entry into force of the Law of 10 April 2014 for the dispute in the main proceedings and for the reference for a preliminary ruling and to state whether that dispute was still ongoing before it and, if so, whether a response from the Court was necessary in order for the referring court to give a ruling on that dispute.

32 In its response received at the Court on 19 January 2015, the referring court stated that the dispute — to the extent that it concerned the period running from 18 February 2014 to 31 May 2014 — was still ongoing before it.

33 In addition, on 28 May 2015, Fedasil sent the Court a copy of judgment No 56/2015 of 7 May 2015 of the Cour constitutionnelle (Constitutional Court, Belgium). That court, which had also received a reference for a preliminary ruling from the referring court concerning whether the provisions of national legislation at issue in the main proceedings were compatible with the Belgian Constitution read in conjunction with the ECHR, held that, in view of the entry into force of the Law of 10 April

2014 and the transitional provisions set out in Article 26 thereof, that law is applicable to the procedure initiated by Mr Tall before the Conseil du contentieux des étrangers and decided to refer the case back to the referring court for reassessment so that it might ascertain whether it was still necessary to submit a reference for a preliminary ruling to the Cour constitutionnelle.

34 In that regard, it should be recalled that, in proceedings under Article 267 TFEU, it is solely for the national court before which the dispute has been brought, and which must assume responsibility for the subsequent judicial decision, to determine, in the light of the particular circumstances of the case, both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions submitted concern the interpretation of EU law, the Court is in principle bound to give a ruling. The presumption that questions referred by national courts for a preliminary ruling are relevant may be rebutted only in exceptional cases, where it is quite obvious that the interpretation of EU law that is sought bears no relation to the actual facts of the main action or its purpose, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgment in *FOA*, C-354/13, EU:C:2014:2463, paragraph 45 and the case-law cited).

35 Furthermore, it should also be noted that it is not for the Court, in the context of a reference for a preliminary ruling, to give a ruling on the interpretation of provisions of national law or to decide whether the interpretation given by the national court of those provisions is correct. Indeed, only the national courts are competent to decide upon the interpretation of domestic law (judgment in *Samba Diouf*, C-69/10, EU:C:2011:524, paragraph 59 and the case-law cited).

36 It follows that it is not for the Court to give a ruling on whether the transitional provisions of the new law must be interpreted as meaning that that law is applicable retroactively to Mr Tall's situation, in particular for the period at issue mentioned by the referring court in its response of 19 January 2015 to the request for information which was put to it by the Court.

37 Thus, it is not obvious that the interpretation of EU law sought by the referring court is unnecessary for the purpose of resolving the dispute in the main proceedings.

38 Accordingly, the question referred for a preliminary ruling is admissible.

Substance

39 By its question, the referring court asks, in essence, whether Article 39 of Directive 2005/85, read in the light of Article 47 of the Charter, is to be interpreted as precluding national legislation which does not confer suspensory effect upon an appeal brought against a decision, such as the one at issue in the main proceedings, not to further examine a subsequent application for asylum.

40 It should be stated at the outset that the second application for asylum submitted by Mr Tall must in fact be regarded as a 'subsequent application' for the purposes of Article 32 of Directive 2005/85 and that the refusal of the Commissariat général aux réfugiés et aux apatrides to take that application into consideration corresponds to a 'decision not to further examine the subsequent application' for the purposes of Article 39(1)(c) of that directive.

41 That directive sets out, in Article 39 thereof, the characteristics which remedies used against, inter alia, a decision not to further examine a subsequent application for asylum must have and provides, in Article 24 thereof, entitled 'Specific procedures', an opportunity for Member States to provide for specific procedures derogating from the basic principles and guarantees of Chapter II of that directive.

42 It is necessary to determine whether those articles are to be interpreted as precluding national legislation which does not confer suspensory effect upon an appeal brought against a decision, such as the one at issue in the main proceedings, not to further examine a subsequent application for asylum and which deprives the person who has submitted such an application after the rejection of a previous application for asylum of the right, inter alia, to financial assistance until a ruling has been given on the appeal brought against such a decision.

43 As a preliminary point, it should be emphasised that the procedures put in place by Directive 2005/85 are minimum standards and that the Member States have, in a number of respects, a margin of assessment with regard to the implementation of those provisions in the light of the particular features of national law (judgment in *Samba Diouf*, C-69/10, EU:C:2011:524, paragraph 29).

44 It should be borne in mind that Article 39 of Directive 2005/85, which enshrines the fundamental principle of the right to an effective remedy, requires Member States to ensure that applicants for asylum have the right to an effective remedy before a court or tribunal against the acts which are listed in Article 39(1) of that directive.

45 In that regard, it is apparent from Article 39(1)(c) of Directive 2005/85 that Member States must ensure that applicants for asylum have the right to an effective remedy against 'a decision not to further examine the subsequent application pursuant to Articles 32 and 34 [of that directive]'.

46 Furthermore, it should be borne in mind that, as is apparent from recital 15 to Directive 2005/85, where an applicant for asylum makes a subsequent application for asylum without presenting new evidence or arguments, it would be disproportionate to oblige Member States to carry out a new full examination procedure and, in these cases, Member States should have a choice of procedure involving exceptions to the guarantees normally enjoyed by the applicant.

47 Thus, as stated in Article 32(2)(b) of Directive 2005/85, a decision not to further examine a subsequent application may be adopted in the context of a 'specific procedure', following a procedure which, pursuant to Article 32(3) of that directive, consists of a preliminary examination of that application to determine — inter alia — whether, after a decision has been taken on the previous application of the applicant concerned, new elements or findings relating to the examination of the conditions required to qualify as a refugee have arisen or have been presented by that applicant.

48 In any event, Article 32(4) of Directive 2005/85 states that if, following that preliminary examination, new elements or findings arise or are presented by the applicant which significantly add to the likelihood of that applicant qualifying as a refugee, the application is to be examined further, in conformity with Chapter II of that directive, which relates to basic principles and guarantees. By contrast, if — as is the situation in the main proceedings — the subsequent application is not examined further after that preliminary examination, Member States may, under Article 7(2) of that directive, make an exception to the rule set out in Article 7(1) thereof, pursuant to which applicants for asylum are to be allowed to remain in the Member State for the sole purpose of the procedure.

49 Accordingly, *a fortiori*, Member States may provide that an appeal against a decision refusing to take a subsequent application for asylum into consideration, such as the one at issue in the main proceedings, is devoid of suspensory effect.

50 In addition, it should be emphasised that any interpretation of Directive 2005/85 must, as can be seen from recital 8 thereto, respect the fundamental rights and observe the principles recognised in particular by the Charter.

51 Accordingly, the characteristics of the remedy provided for in Article 39 of that directive must be determined in a manner that is consistent with Article 47 of the Charter, which constitutes a reaffirmation of the principle of effective judicial protection and provides that everyone whose rights

and freedoms guaranteed by EU law are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in that article (see, by analogy, judgment in *Abdida*, C-562/13, EU:C:2014:2453, paragraph 45 and the case-law cited).

52 In that regard, it is apparent from the explanations relating to Article 47 of the Charter that the first subparagraph of that article is based on Article 13 ECHR.

53 It should also be noted that Article 19(2) of the Charter states, inter alia, that no one may be removed to a State where there is a serious risk that he or she would be subjected to inhuman or degrading treatment.

54 It is apparent from the case-law of the European Court of Human Rights, which must be taken into account, pursuant to Article 52(3) of the Charter, in order to interpret Article 19(2) thereof, that, when a State decides to return a foreign national to a country where there are substantial grounds for believing that he will be exposed to a real risk of ill-treatment contrary to Article 3 ECHR, the right to an effective remedy provided for in Article 13 ECHR requires that a remedy enabling suspension of enforcement of the measure authorising removal should, *ipso jure*, be available to that foreign national (see, inter alia, judgments of the European Court of Human Rights in *Gebremedhin [Gaberamadhien]* v. *France*, no. 25389/05, § 67, ECHR 2007-II, and *Hirsi Jamaa and Others* v. *Italy*, no. 27765/09, § 200, ECHR 2012-II).

55 However, it should be noted that, in the present case, the dispute in the main proceedings concerns only the lawfulness of a decision not to further examine a subsequent application for asylum for the purposes of Article 32 of Directive 2005/85.

56 The lack of suspensory effect of an appeal brought against such a decision is, in principle, compatible with Articles 19(2) and 47 of the Charter. Although such a decision does not allow a third-country national to receive international protection, the enforcement of that decision cannot, as such, lead to that national's removal.

57 By contrast, if, in the context of the examination of an application for asylum which pre-dates or post-dates a decision such as the one at issue in the main proceedings, a Member State adopts a return decision against the third-country national concerned pursuant to Article 6 of Directive 2008/115, that national must be able to exercise his right to an effective remedy against that decision in accordance with Article 13 of that directive.

58 In that regard, it follows from the case-law of the Court of Justice that, in any event, an appeal must necessarily have suspensory effect when it is brought against a return decision whose enforcement may expose the third-country national concerned to a serious risk of being subjected to the death penalty, torture or other inhuman or degrading treatment or punishment, thereby ensuring that the requirements of Articles 19(2) and 47 of the Charter are met in respect of that third-country national (see, to that effect, judgment in *Abdida*, C-562/13, EU:C:2014:2453, paragraphs 52 and 53).

59 It follows that the lack of a suspensory remedy against a decision such as the one at issue in the main proceedings, the enforcement of which is not likely to expose the third-country national concerned to a risk of ill-treatment contrary to Article 3 ECHR, does not constitute a breach of the right to effective judicial protection as provided for in Article 39 of Directive 2005/85, read in the light of Articles 19(2) and 47 of the Charter.

60 Having regard to all of the foregoing, the answer to the question referred is that Article 39 of Directive 2005/85, read in the light of Articles 19(2) and 47 of the Charter, must be interpreted as not precluding national legislation which does not confer suspensory effect on an appeal brought against a decision, such as the one at issue in the main proceedings, not to further examine a subsequent application for asylum.

Costs

61 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fourth Chamber) hereby rules:

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, read in the light of Articles 19(2) and 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as not precluding national legislation which does not confer suspensory effect on an appeal brought against a decision, such as the one at issue in the main proceedings, not to further examine a subsequent application for asylum.

[Signatures]