

R (on the application of TN (Vietnam)) v Secretary of State for the Home Department and another (Respondents)

Case ID: UKSC 2020/0031

Case summary

Issue

This appeal concerns the legal consequences of a ruling that the Asylum and Immigration Tribunal (Fast Track Procedure) Rules 2005 (the 2005 Rules) were ultra vires. The UKSC is asked to decide:

1. Are individual appeal decisions taken under the 2005 Rules automatically a nullity?
2. If not, what is the correct approach to take when considering applications to quash or set aside appeal decisions taken under the 2005 Rules?
3. Was there procedural unfairness on the facts of TN's case?

Facts

TN is a Vietnamese national. She initially arrived in the United Kingdom in December 2003 and claimed asylum on several occasions before being removed to Vietnam in 2012.

She returned to the UK in May 2014 and made fresh asylum claims. Amongst other things, TN alleged that she had been a victim of trafficking and sexual abuse. On 14 August 2014, TN's asylum claim was rejected. Her appeal, which was determined under the 2005 Rules, was dismissed by the First-tier Tribunal a week later. The First-tier Tribunal found that TN's account was not credible because she had given conflicting evidence and there were discrepancies in her account.

TN seeks an order quashing this decision. At first instance, the judge held that the 2005 Rules were ultra vires. However, this did not mean that all appeal decisions made under them were automatically a nullity. Rather, affected persons had to show that there had been procedural unfairness in their particular case. There was no procedural unfairness on the facts of TN's case.

The Court of Appeal agreed, and dismissed TN's appeal. TN now appeals to the Supreme Court.

Judgment appealed

[\[2017\] EWHC Admin 59](#)

Parties

Appellant(s)

R (on the application of TN (Vietnam))

Respondent(s)

Secretary of State for the Home Department and another

Appeal

Justices

Lord Lloyd-Jones, Lord Briggs, Lady Arden, Lord Sales, Lord Stephens.

Hearing start date

30 Nov 2020

Hearing finish date

01 Dec 2020

Watch hearing

30 Nov 2020 [Morning session](#) [Afternoon session](#)

1 Dec 2020 [Morning session](#) [Afternoon session](#)

Judgment details

Judgment date

22 September 2021

Neutral citation

[2021] UKSC 41