

## **\*Hatungimana v Secretary of State for the Home Department**

COURT OF APPEAL, CIVIL DIVISION  
BROOKE, JONATHAN PARKER AND MAURICE KAY LJJ  
21 FEBRUARY 2006

*Court of Appeal – Jurisdiction – Appeal from asylum and immigration tribunal – Permission to appeal – Whether Court of Appeal having jurisdiction at hearing of permission to appeal to remit case to tribunal for supplementary reasons.*

The claimant was a Burundi national. She was of half Tutsi and half Hutu ethnicity. She arrived in the United Kingdom in 2003 and claimed asylum. Although she herself had never been detained by the authorities, she contended that she had a well-founded fear of persecution on the grounds, inter alia, that her ethnicity would attract hostility from both Tutsi and Hutu groups and that her husband had been abducted due to his political views. After some earlier consideration and appeals, the defendant Secretary of State rejected her claim. She appealed to the Asylum and Immigration Tribunal (AIT), which dismissed the appeal. She applied for permission to appeal to the Court of Appeal.

She contended that the AIT had failed to deal adequately with an expert report which had provided strong support in several places for the factual basis of her claim for asylum. The issue arose as to whether the Court of Appeal had, at the stage of applying for permission to appeal, jurisdiction to remit a case to the AIT for further reasoning.

The appeal would be allowed.

(1) The Court of Appeal did not have, at the stage of applying for permission to appeal, jurisdiction to remit a case to the AIT to supplement its reasons.

Although there was such a power in employment cases, the statutory scheme regulating the Employment Appeal Tribunal was different from that regulating the AIT and there was no equivalent power in respect of the latter.

*Barke v SEETEC Business Technology Centre Ltd* [2005] All ER (D) 216 (May) distinguished.

(2) On the facts, the AIT had failed to deal adequately with the expert report on which the claimant had relied.

The reasoning had been insufficient. The claimant was an intelligent person who was entitled to know why her case had failed.

The case would be remitted to the AIT.