

Request for a preliminary ruling from the Helsingin hallinto-oikeus (Finland) lodged on 6 July 2023 — Metsä Fibre Oy

(Case C-414/23, Metsä Fibre)

(2023/C 338/15)

Language of the case: Finnish

Referring court

Helsingin hallinto-oikeus

Parties to the main proceedings

Applicant: Metsä Fibre Oy

Questions referred

1. Are the provisions of Articles 70 and 40 of the Commission Registry Regulation ⁽¹⁾ regarding the timeframes for reversal of transactions and the final and irrevocable nature of transactions invalid when the right to property under Article 17 of the Charter of Fundamental Rights of the European Union and the other rights protected in the Charter of Fundamental Rights are taken into account, in as much as the provisions at issue prevent the retransfer of the allowances to Metsä Fibre Oy in a situation where the surrender of excessive allowances to the Union Registry was based on the application of the provisions which were found in the *Schaefer Kalk* judgment ⁽²⁾ to be invalid, and the company cannot use the positive compliance status of the compliance account because of the current low level of emissions from the Äänekoski installation?
2. If Question 1 is answered in the negative, are the provisions of Articles 70 and 40 of the Commission Registry Regulation at all applicable in a situation where the surrender of excessive allowances to the Union Registry was based on application of the provisions which were found in the *Schaefer Kalk* judgment to be invalid and not on a transaction unintentionally or erroneously initiated by an account holder or a national administrator acting on behalf of the account holder?
3. If Question 1 is answered in the negative and Question 2 is answered in the affirmative, is there any other way made possible by EU law to put Metsä Fibre Oy in the position, with respect to use of the allowances, in which it would have been if the provisions which were found in the *Schaefer Kalk* judgment to be invalid had not existed and the company had not surrendered excessive allowances on the basis of them?

⁽¹⁾ Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to Directive 2003/87/EC of the European Parliament and of the Council, Decisions No 280/2004/EC and No 406/2009/EC of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011 (OJ 2013 L 122, p. 1).

⁽²⁾ Judgment of 19 January 2017, *Schaefer Kalk* (C-460/15, EU:C:2017:29).

Request for a preliminary ruling from the Østre Landsret (Denmark) lodged on 6 July 2023 — Slagelse Almennyttige Boligselskab — Afdeling Schackenborgvænge, XM, ZQ, FZ, DL, WS, JI, PB, VT, YB, TJ, RK v MV, EH, LI, AQ, LO, Social-, Bolig- og Ældreministeriet

(Case C-417/23, Slagelse Almennyttige Boligselskab — Afdeling Schackenborgvænge)

(2023/C 338/16)

Language of the case: Danish

Referring court

Østre Landsret

Parties to the main proceedings

Applicants: Slagelse Almennyttige Boligselskab — Afdeling Schackenborgvænge, XM, ZQ, FZ, DL, WS, JI, PB, VT, YB, TJ, RK

Defendants: MV, EH, LI, AQ, LO, Social-, Bolig- og Ældreministeriet

Questions referred

1. Must the term 'ethnic origin' in Article 2(2)(a) and (b) of Directive 2000/43⁽¹⁾ be interpreted as meaning that that term, in circumstances such as those in the present case — where, under the Danish Law on social housing, there must be a reduction in the proportion of social family housing in 'transformation areas', and where it is a condition for categorisation as a transformation area that more than 50 % of residents in a housing area are 'immigrants and their descendants from non-Western countries' — covers a group of persons defined as 'immigrants and their descendants from non-Western countries'?
2. If the answer to the first question is wholly or partly in the affirmative, must Article 2(2)(a) and (b) be interpreted as meaning that the scheme described in this case constitutes direct or indirect discrimination?

⁽¹⁾ Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJ 2000 L 180, p. 22).

Request for a preliminary ruling from the Tribunale di Bologna (Italy) lodged on 21 July 2023 — Criminal proceedings against OB

(Case C-460/23, Kinshasa⁽¹⁾)

(2023/C 338/17)

Language of the case: Italian

Referring court

Tribunale di Bologna

Party to the main proceedings

OB

Questions referred

1. Does the Charter of Fundamental Rights, in particular the principle of proportionality referred to in Article 52(1), read in conjunction with the right to personal liberty and the right to property referred to in Articles 6 and 17, as well as the rights to life and physical integrity referred to in Articles 2 and 3, the right to asylum referred to in Article 18 and respect for family life referred to in Article 7, preclude the provisions of Directive 2002/90/EC⁽²⁾ and Framework Decision 2002/946/JHA⁽³⁾ (implemented in Italian law by the rules laid down in Article 12 of Legislative Decree No 286⁽⁴⁾), in so far as they impose on Member States the obligation to provide for penalties of a criminal nature against any person who intentionally facilitates or engages in acts intended to facilitate the unauthorised entry of foreign nationals into the territory of the Union, even where the conduct is carried out on a non-profit-making basis, without providing, at the same time, an obligation on Member States to exclude from criminalisation conduct facilitating unauthorised entry aimed at providing humanitarian assistance to the foreign national?
2. Does the Charter of Fundamental Rights, in particular the principle of proportionality referred to in Article 52(1), read in conjunction with the right to personal liberty and the right to property referred to in Articles 6 and 17, as well as the rights to life and physical integrity referred to in Articles 2 and 3, the right to asylum referred to in Article 18 and respect for family life referred to in Article 7, preclude the criminal offence provisions laid down in Article 12 of Legislative Decree No 286, in so far as it penalises the conduct of a person who engages in acts intended to procure the unauthorised entry of a foreign national into the territory of the State, even where the conduct is carried out on a non-profit-making basis, without at the same time excluding from criminalisation conduct facilitating unauthorised entry aimed at providing humanitarian assistance to the foreign national?

⁽¹⁾ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

⁽²⁾ Council Directive of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (OJ 2002 L 328, p. 17).

⁽³⁾ Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence (OJ 2002 L 328, p. 1).

⁽⁴⁾ Legislative Decree No. 286 of 25 July 1998 (Consolidated Act of Provisions concerning immigration and the condition of third country nationals)