

2008 on measures of inquiry, did not enable the Court to review the lawfulness of Decision 2008/583/EC and infringed the right to effective judicial protection.

⁽¹⁾ Council Decision of 15 July 2008 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2007/868/EC (OJ 2008 L 188, p. 21).

Action brought on 22 January 2009 — Commission of the European Communities v Portuguese Republic

(Case C-30/09)

(2009/C 82/27)

Language of the case: Portuguese

Parties

Applicant: Commission of the European Communities (represented by: A. Sipos and P. Guerra e Andrade, acting as Agents)

Defendant: Portuguese Republic

Forms of order sought

- Declare that, by not drawing up external emergency plans for the establishments requiring such plans, the Portuguese Republic has failed to fulfil its obligations under Article 11 of Council Directive 96/82/EC ⁽¹⁾ of 9 December 1996 on the control of major-accident hazards involving dangerous substances, as amended by Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003;
- Order the Portuguese Republic to pay the costs.

Pleas in law and main arguments

It is apparent from the letters sent by the Portuguese Administration to the Commission in this matter that none of the establishments required to draw up emergency plans has had its external emergency plan approved in accordance with the directive.

Article 11 of Directive 96/82 requires Member States to ensure that operators supply to the competent authorities the information necessary to draw up external emergency plans. The competent authorities must prepare such emergency plans.

Under Article 11(4) of the directive, internal and external emergency plans must be reviewed, tested, revised and updated at intervals of no longer than three years.

According to the Portuguese Administration's own information, none of those obligations has been fulfilled in Portugal.

⁽¹⁾ OJ 1997 L 10, p. 13.

Reference for a preliminary ruling from the Fővárosi Bíróság (Hungary) lodged on 26 January 2009 — Bolbol Nawras v Bevándorlási és Állampolgársági Hivatal

(Case C-31/09)

(2009/C 82/28)

Language of the case: Hungarian

Referring court

Fővárosi Bíróság

Parties to the main proceedings

Applicant: Bolbol Nawras

Defendant: Bevándorlási és Állampolgársági Hivatal

Questions referred

For the purposes of Article 12(1)(a) of Council Directive 2004/83/EC ⁽¹⁾

1. Must someone be regarded as a person receiving the protection and assistance of a United Nations agency merely by virtue of the fact he is entitled to assistance or protection or is it also necessary for him actually to avail himself of that protection or assistance?
2. Does cessation of the agency's protection or assistance mean residence outside the agency's area of operations, cessation of the agency and cessation of the possibility of receiving the agency's protection or assistance or, possibly, an objective obstacle such that the person entitled thereto is unable to avail himself of that protection or assistance?
3. Do the benefits of this directive mean recognition as a refugee, or either of the two forms of protection covered by the directive (recognition as a refugee and the grant of subsidiary protection), according to the choice made by the Member State, or, possibly, neither automatically but merely inclusion in the scope *ratione personae* of the directive?

⁽¹⁾ 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).