

Reference for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 31 August 2010 — Tomasz Ziolkowski v Land Berlin

(Case C-424/10)

(2010/C 301/18)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Tomasz Ziolkowski

Defendant: Land Berlin

Questions referred

1. Is the first sentence of Article 16(1) of Directive 2004/38/EC ⁽¹⁾ to be interpreted as conferring on Union citizens who have resided legally for more than five years on the basis only of national law in the territory of a Member State, but who did not during that period fulfil the conditions laid down in Article 7(1) of Directive 2004/38/EC, a right of permanent residence in that Member State?
2. Are periods of residence of Union citizens in the host Member State which took place before the accession of their Member State of origin to the European Union also to be counted towards the period of lawful residence under Article 16(1) of Directive 2004/38/EC?

⁽¹⁾ OJ 2004 L 158, p 77.

Reference for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 31 August 2010 — Barbara Szeja, Maria-Magdalena Szeja, Marlon Szeja v Land Berlin

(Case C-425/10)

(2010/C 301/19)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicants: Barbara Szeja, Maria-Magdalena Szeja, Marlon Szeja

Defendant: Land Berlin

Questions referred

1. Is the first sentence of Article 16(1) of Directive 2004/38/EC ⁽¹⁾ to be interpreted as conferring on Union citizens who have resided legally for more than five years on the basis only of national law in the territory of a Member State, but who did not during that period fulfil the conditions laid down in Article 7(1) of Directive 2004/38/EC, a right of permanent residence in that Member State?
2. Are periods of residence of Union citizens in the host Member State which took place before the accession of their Member State of origin to the European Union also to be counted towards the period of lawful residence under Article 16(1) of Directive 2004/38/EC?

⁽¹⁾ OJ 2004 L 158, p. 77.

Appeal brought on 2 September 2010 by X Technology Swiss GmbH against the judgment of the General Court (Second Chamber) delivered on 15 June 2010 in Case T-547/08 X Technology Swiss GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-429/10 P)

(2010/C 301/20)

Language of the case: German

Parties

Appellant: X Technology Swiss GmbH (represented by: A. Herbertz and R. Jung, Rechtsanwälte)

Other party to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

— Set aside the judgment of the General Court of [15] June 2010 in Case T-547/08 and annul the decision of the Fourth Board of Appeal of OHIM of 6 October 2008 — R 846/2008-4;

— Order the respondent to pay the costs.

Pleas in law and main arguments

The present case seeks the setting aside of the judgment of the General Court by which the appellant's claim seeking annulment of the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market of 6 October 2008 concerning the rejection of its application for registration of a position mark consisting of the orange colouration of the toe area of a sock.