Questions referred

1. Must the provisions of Directive 2009/72/EC, ([1]) in particular Articles 3(5) and (6) and 28, be interpreted as meaning that a system created and operated by a private person, to which a limited number of generation and consumption units are connected, and which in turn is connected to the public network, necessarily constitutes an electricity network, and thus a 'distribution system' for the purposes of that directive, without it being possible to exclude from that classification private systems with those characteristics created before the entry into force of that directive and set up originally for the purpose of self-generation?

2. If the preceding question is answered in the affirmative, is the only possibility offered by the directive of taking advantage of the particular features of a private electricity network that of including it in the category of closed distribution systems referred to in Article 28 of the directive, or is the national legislature permitted to identify another category of distribution systems subject to a simplified set of rules which are different from those laid down in respect of closed distribution systems?

3. Independently of the previous questions, must the directive be interpreted as meaning that the obligation to connect third parties is applicable in all cases to the closed distribution systems referred in Article 28?

4. Independently of the previous questions, does the classification of a private electricity network as a closed distribution system within the meaning of Article 28 of Directive 2009/72/EC, permits the national legislature to allow, in favour of such a system, only the derogations from the general scheme for distribution systems expressly referred to in Articles 28 and 26(4) of the directive, or is the Member State — in the light of what is stated in recitals 29 and 30 of the directive — permitted or required to provide for other exceptions to the application of the general rules governing distribution systems in such a way as to ensure attainment of the objectives set out in those recitals?

5. In the event that the Court of Justice considers that the Member State may or must lay down rules which take account of the specific nature of closed distribution systems, do the provisions of Directive 2009/72/EC — in particular recitals 29 and 30 and Articles 15(7), 37(6)(b) and 26(4) — preclude national legislation, such as that under consideration in the present case, which subjects closed distribution systems to rules on dispatching and unbundling that are very similar to those imposed in respect of public networks and which, as regards general electricity charges, provides that payment of those charges should in part also be commensurate with the energy consumed within the closed system?

([1]) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ 2009 L 211, p. 55).

Request for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 23 May 2017 — Ibrahim Bashar v Federal Republic of Germany

(Case C-297/17)

(2017/C 309/26)

Language of the case: German

Referring court

Bundesverwaltungsgericht

Parties to the main proceedings

Applicant: Ibrahim Bashar

Defendant: Federal Republic of Germany

Questions referred

1. Does the transitional provision contained in the first paragraph of Article 52 of Directive 2013/32/EU ([1]) preclude the application of national legislation which, in transposition of the power conferred in Article 33(2)(a) of Directive 2013/32/EU, which is more extensive than that conferred in the directive that preceded it, provides that an application for international protection is inadmissible if the applicant has been granted subsidiary protection in another Member State, in so far as the national legislation, in the absence of any national transitional provisions, is applicable even to applications lodged before 20 July 2015?

In particular, does the transitional provision contained in the first paragraph of Article 52 of Directive 2013/32/EU allow the Member States, in particular, to transpose the extended power conferred in Article 33(2)(a) of Directive 2013/32/EU retroactively, with the result that even applications which were lodged before that extended power was transposed into national law but which were not yet the subject of a final decision at the time of transposition are inadmissible?

2. Does Article 33 of Directive 2013/32/EU confer on the Member States a right to choose whether to reject an application for asylum as inadmissible either on the ground that responsibility lies with another Member State (the Dublin Regulation) or under Article 33(2)(a) of Directive 2013/32/EU?

3. If the answer to Question 2 is in the affirmative, does EU law prevent a Member State from rejecting an application for international protection as inadmissible on the ground that subsidiary protection has been granted in another Member State, in transposition of Article 33(2)(a) of Directive 2013/32/EU, where

   a) the applicant seeks to have the subsidiary protection granted to him in another Member State enhanced (by the award of refugee status) and the asylum procedure in the other Member State was (and continues to be) vitiated by systemic flaws, or

   b) the form which the international protection takes, that is to say the living conditions of those benefiting from subsidiary protection, in the other Member State which has already granted the applicant subsidiary protection,

      — infringes Article 4 of the Charter and Article 3 ECHR or

      — does not satisfy the requirements of Article 20 et seq. of Directive 2011/95/EU but does not in and of itself infringe Article 4 of the Charter or Article 3 ECHR?

4. If Question 3b is to be answered in the affirmative, is this also the case where, although the persons benefiting from subsidiary protection do not receive any subsistence benefits at all or those which they do receive are very limited by comparison with those available in other Member States, they are to this extent not treated any differently from nationals of that Member State?

5. If Question 2 is answered in the negative:

   a) Is the Dublin III Regulation applicable in a procedure for the grant of international protection if the asylum application was lodged before 1 January 2014 but the take back request was not lodged until after 1 January 2014 and the applicant had previously (in February 2013) been granted subsidiary protection in the requested Member State itself?

   b) Do the Dublin provisions support the inference of an — unwritten — transfer of responsibility to the Member State which has requested that an applicant be taken back, where the requested responsible Member State has refused to grant a take back request made, within the prescribed time limit, under the Dublin provisions and has instead referred to an international readmission agreement?

(1) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (OJ 2013 L 180, p. 60).

Request for a preliminary ruling from the Landgericht Berlin (Germany) lodged on 23 May 2017 — VG Media Gesellschaft zur Verwertung der Urheber- und Leistungsschutzrechte von Medienunternehmen mbH v Google Inc.

(Case C-299/17)

(2017/C 309/27)

Language of the case: German

Referring court

Landgericht Berlin

Parties to the main proceedings

Applicant: VG Media Gesellschaft zur Verwertung der Urheber- und Leistungsschutzrechte von Medienunternehmen mbH