

2. If 'yes', can Article 7(1) (b) be satisfied where the employment is deemed precarious solely by reason of its unlawful character?

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<sup>(1)</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004, L 158, p. 77).

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**Reference for a preliminary ruling from High Court (Ireland) made on 12 February 2018 — Nalini Chenchooliah v Minister for Justice and Equality**

**(Case C-94/18)**

(2018/C 152/17)

*Language of the case: English*

**Referring court**

High Court (Ireland)

**Parties to the main proceedings**

*Applicant:* Nalini Chenchooliah

*Defendant:* Minister for Justice and Equality

**Questions referred**

1. Where the spouse of an EU citizen who has exercised free movement rights under Article 6 of Directive 2004/38/EC <sup>(1)</sup> has been refused a right of residence under Article 7 on the basis that the EU citizen in question was not, or was no longer, exercising EU Treaty Rights in the host Member State concerned, and where it is proposed that the spouse should be expelled from that Member State, must that expulsion be pursuant to and in compliance with the provisions of the Directive, or does it fall within the competence of the national law of the Member State?
2. If the answer to the above question is that the expulsion must be made pursuant to the provisions of the Directive, must the expulsion be made pursuant to and in compliance with the requirements of Chapter VI of the Directive, and particularly Articles 27 and 28 thereof, or may the Member State, in such circumstances, rely on other provisions of the Directive, in particular Articles 14 and 15 thereof?

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<sup>(1)</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004, L 158, p. 77).

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**Request for a preliminary ruling from the College van Beroep voor het Bedrijfsleven (Netherlands) lodged on 12 February 2018 — T. Boer & Zonen BV v Staatssecretaris van Economische Zaken**

**(Case C-98/18)**

(2018/C 152/18)

*Language of the case: Dutch*

**Referring court**

College van Beroep voor het Bedrijfsleven

**Parties to the main proceedings**

*Applicant:* T. Boer & Zonen BV

*Defendant:* Staatssecretaris van Economische Zaken

### Question referred

Should the provisions of Annex III, Section I, Chapter VII, points 1 and 3, to Regulation No 853/2004<sup>(1)</sup> be interpreted as meaning that the cooling of meat must take place in the slaughterhouse itself — such that the loading of the meat into a refrigerated truck may commence once that meat has attained a maximum temperature of 7 degrees Celsius — or may the cooling of the meat also take place in the refrigerated truck, provided that the truck does not leave the premises of the slaughterhouse?

<sup>(1)</sup> Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ 2004 L 139, p. 55).

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**Appeal brought on 13 February 2018 by Koton Mağazacılık Tekstil Sanayi ve Ticaret AŞ against the judgment of the General Court (Second Chamber) delivered on 30 November 2017 in Case T-687/16: Koton Mağazacılık Tekstil Sanayi ve Ticaret AŞ v European Union Intellectual Property Office**

**(Case C-104/18 P)**

(2018/C 152/19)

*Language of the case: English*

### Parties

*Appellant:* Koton Mağazacılık Tekstil Sanayi ve Ticaret AŞ (represented by: J. Güell Serra, E. Stoyanov Edisonov, lawyers)

*Other parties to the proceedings:* European Union Intellectual Property Office, Joaquín Nadal Esteban

### Form of order sought

The appellant claims that the Court should:

- set aside the judgment under appeal;
- annul the contested decision;
- declare invalid the contested EUTM No. 9917436; and
- order Joaquín Nadal Esteban and EUIPO to pay the costs.

### Pleas in law and main arguments

The General Court stated in the judgment under appeal as regards the assessment of the conditions for the application of Article 52(1)(b) of Regulation No. 207/2009<sup>(1)</sup> that it was apparent from the judgment of the Court of Justice of 11 June 2009, *Chocoladefabriken Lindt & Sprüngli*, C-529/07, EU:C:2009:361, that bad faith presupposed the existence of a likelihood of confusion and that it consequently required the goods and services at stake to be similar or identical.

The appellant claims that it does not follow from the judgment in *Chocoladefabriken Lindt & Sprüngli* that bad faith on the part of the applicant for registration presupposes the existence of a likelihood of confusion between the marks/signs of the parties, but that the existence of such a likelihood of confusion is just an example of factors that can be taken into account, and not a *sine qua non* condition for the application of Article 52(1)(b) of Regulation No. 207/2009.