

Questions referred

1. Is the right to be heard in all proceedings, which is an integral part of the fundamental principle of respect for the rights of the defence and is furthermore enshrined by Article 41 of the Charter of Fundamental Rights of the European Union, to be interpreted as requiring that, where the administration intends to issue a return decision in respect of an illegally staying alien, irrespective of whether or not that return decision is taken after a refusal of a residence permit, and in particular in a situation where there is a risk of absconding, the administration must enable the interested party to present observations?
2. Does the suspensive effect of the misuse of powers proceedings before the administrative court mean that it is possible to dispense with the prior right of an illegally staying alien to make his observations known with regard to the proposed removal measure to be taken against him?

Request for a preliminary ruling from the Conseil régional d'expression française de l'ordre des médecins vétérinaires (Belgique) lodged on 27 March 2013 — Jean Devillers

(Case C-167/13)

(2013/C 164/21)

Language of the case: French

Referring court

Conseil régional d'expression française de l'ordre des médecins vétérinaires

Party to the main proceedings

Applicant: Jean Devillers

Question referred

Must Article 3 of Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and Annex I thereto, Chapter I, entitled 'Fitness for transport', ⁽¹⁾ paragraphs 1, 2 and 3, which provide that in cases of doubt veterinary advice is to be sought regarding the fitness for transport of an injured animal and, more specifically, regarding the assessment of the additional suffering that the transport would cause, be interpreted as precluding Article 11(4) of the Royal Decree of 9 July 1999 concerning the protection of animals during transport, ⁽²⁾ which allows the transport of an injured animal only where that transport does not cause unnecessary suffering?

⁽¹⁾ Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ 2005 L 3, p. 1).

⁽²⁾ Royal Decree of 9 July 1999 concerning the protection of animals during transport and the conditions of registration of transporters and certification of traders, starting points and assembly centres (*Moniteur belge*, 2 September 1999, p. 32437).

Request for a preliminary ruling from the Tribunal de grande instance de Bayonne (France) lodged on 15 April 2013 — Raquel Gianni Da Silva v Préfet des Pyrénées-Atlantiques

(Case C-189/13)

(2013/C 164/22)

Language of the case: French

Referring court

Tribunal de grande instance de Bayonne

Parties to the main proceedings

Applicant: Raquel Gianni Da Silva

Defendant: Préfet des Pyrénées-Atlantiques

Question referred

Does European Union law preclude national legislation under which illegal entry by a third-country national who has not been subjected to the coercive measures provided for in Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 is punishable by a sentence of imprisonment? ⁽¹⁾

⁽¹⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).

Action brought on 17 April 2013 — European Commission v Republic of Bulgaria

(Case C-203/13)

(2013/C 164/23)

Language of the case: Bulgarian

Parties

Applicant: European Commission (represented by: O. Beynet, M. Heller and P. Mihaylova, acting as Agents)

Defendant: Republic of Bulgaria