

Court (first alternative), or is refugee protection afforded even before that threshold is reached and the applicant for asylum thus has no criminal prosecution to fear but is nevertheless unable to reconcile the performance of the military service with his conscience (second alternative)?

7. If the answer to Question 6 is that the second alternative applies:

Does the fact that the applicant for asylum has not availed himself of the ordinary conscientious objection procedure — even though he would have had the opportunity to do so — preclude refugee protection pursuant to the above-mentioned provisions, or is refugee protection also a possibility in the case of a particular decision based on conscience?

8. Does a dishonourable discharge from the army, the imposition of a prison sentence and the social ostracism and disadvantages associated therewith constitute an act of persecution within the meaning of Article 9(2)(b) or (c) of Directive 2004/83/EC?

(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).

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 3 September 2013 — Adala Bero

(Case C-473/13)

(2013/C 336/20)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant: Adala Bero

Authority involved: Regierungspräsidium Kassel

Question referred

Does Article 16(1) of 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 (¹) also require a Member State to carry out detentions for the

purpose of removal as a rule in specialised detention facilities when such facilities exist in only one part of the federal subdivisions of that Member State but not in others?

(¹) OJ 2008 L 348, p. 98.

Request for a preliminary ruling from the Bundesgerichtshof (Germany) lodged on 3 September 2013 — Thi Ly Pham

(Case C-474/13)

(2013/C 336/21)

Language of the case: German

Referring court

Bundesgerichtshof

Parties to the main proceedings

Appellant: Thi Ly Pham

Authority involved: Stadt Schweinfurt, Amt für Meldewesen und Statistik

Question referred

Is it consistent with Article 16(1) of 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 (¹) to place a pre-deportation detainee in accommodation together with prisoners if he consents to such accommodation?

(¹) OJ 2008 L 348, p. 98.

Action brought on 6 September 2013 — European Commission v Republic of Poland

(Case C-478/13)

(2013/C 336/22)

Language of the case: Polish

Parties

Applicant: European Commission (represented by: D. Bianchi and M. Owsiany-Hornung, Agents)

Defendant: Republic of Poland

Form of order sought

The Commission claims that the Court should:

- declare that, in view of (a) its failure to impose, within the national legal system, an obligation to notify the competent Polish authorities of the locations at which GMO crops are being grown pursuant to Part C of Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC, ⁽¹⁾ (b) its failure to establish a register for recording the locations at which such GMO crops are being grown, and (c) its failure to provide information to the public on the locations at which such GMO crops are being grown, the Republic of Poland has failed to meet its obligations under Article 31(3)(b) of Directive 2001/18/EC;
- order the Republic of Poland to pay the costs of the proceedings.

Pleas in law and main arguments

The period within which Directive 2001/18/EC had to be transposed expired on 17 October 2002.

⁽¹⁾ OJ 2001 L 106, p. 1.

Appeal brought on 24 September 2013 by Metropolis Inmobiliarias y Restauraciones, SL against the judgment of the General Court (Eighth Chamber) delivered on 11 July 2013 in Case T-197/12 Metropolis Inmobiliarias y Restauraciones, SL v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-509/13 P)

(2013/C 336/23)

Language of the case: German

Parties

Appellant: Metropolis Inmobiliarias y Restauraciones, SL (represented by: J. Carbonell Callicó, lawyer)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), MIP Metro Group Intellectual Property GmbH & Co. KG

Form of order sought

The appellant claims that the Court of Justice should:

- set aside the judgment of the General Court (Eighth Chamber) of 11 July 2013 in Case T-197/12 and, consequently, reject the application to register Community figurative mark No 7585045 METRO for services in Class 36;

- order the other parties to the proceedings to bear the costs of the proceedings.

Grounds of appeal and main arguments

The appellant essentially raises three grounds of appeal against the judgment of the General Court referred to above.

First, the appellant accuses the General Court of having infringed Article 8(1)(b) of Community trade mark Regulation No 207/2009, ⁽¹⁾ as a result of a misinterpretation of the services covered by the mark in conflict and a failure to assess the marks at issue as a whole.

Second, the General Court has delivered contradictory judgments in cases involving the same parties and in which similar marks were at issue. The judgment in Case T-284/11, which is very closely related to the present case, was not taken into account even though it was submitted in the proceedings in good time and in accordance with the procedure.

Third, the appellant submits that there were errors in the proceedings before the General Court which adversely affected its interests and which deprived it repeatedly of legal protection. In particular, the oral proceedings were carried out without the applicant, even though it had applied for them to be postponed for an important reason, and did so in accordance with the relevant procedure.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Appeal brought on 25 September 2013 by the Kingdom of Spain against the judgment of the General Court (Eighth Chamber) delivered on 11 July 2013 in Case T-358/08 Spain v Commission

(Case C-513/13 P)

(2013/C 336/24)

Language of the case: Spanish

Parties

Appellant: Kingdom of Spain (represented by: A. Rubio González, acting as Agent)

Other party to the proceedings: European Commission