

*Defendant:* Autorità per l'energia elettrica e per il gas e il sistema idrico

### Questions referred

1. Must the provisions of Directive 2009/72/EC, <sup>(1)</sup> 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, permit 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?

<sup>(1)</sup> 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 Tribunale Amministrativo Regionale per la Lombardia (Italy) lodged on 10 May 2017 — Sol Gas Primari Srl v Autorità per l'energia elettrica e per il gas e il sistema idrico**

**(Case C-273/17)**

(2017/C 309/25)

*Language of the case: Italian*

### Referring court

Tribunale Amministrativo Regionale per la Lombardia

### Parties to the main proceedings

*Applicant:* Sol Gas Primari Srl

*Defendant:* Autorità per l'energia elettrica e per il gas e il sistema idrico

### Questions referred

1. Must the provisions of Directive 2009/72/EC, <sup>(1)</sup> 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?

<sup>(1)</sup> 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).

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### 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 <sup>(1)</sup> 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?