

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)