

**Reference for a preliminary ruling from the Asylgerichtshof (Austria) lodged on 23 May 2011 - K
(Case C-245/11)**

Language of the case: German

Referring court

Asylgerichtshof

Parties to the main proceedings

Applicant: K

Defendant: Bundesasylamt

Questions referred

1. Must Article 15 of Regulation No 343/2003¹ be interpreted as meaning that a Member State prima facie not responsible for examining the asylum claim of a person in accordance with the rules of Articles 6 to 14 of that regulation becomes automatically responsible if in that country the asylum-seeker has a daughter-in-law who is seriously ill and, on account of cultural factors, at risk or has grandchildren below the age of majority who, as a result of the daughter-in-law's illness, are in need of care and the asylum-seeker is both willing and able to support her daughter-in-law and grandchildren? Does the same apply even if the Member State prima facie responsible has not made a request in accordance with the second sentence of Article 15(1) of Regulation No 343/2003?
2. Must Article 3(2) of Regulation No 343/2003 be interpreted as meaning that in the circumstances mentioned in Question 1 the Member State prima facie not responsible becomes automatically responsible if the responsibility otherwise provided for by Regulation No 343/2003 will result in an infringement of Article 3 or Article 8 of the European Convention on Human Rights (ECHR) (Article 4 or Article 7 of the Charter of Fundamental Rights of the European Union)? In that case, in the accessory interpretation and application of Article 3 or Article 8 of the ECHR (Article 4 or Article 7 of the Charter), may more extensive notions of 'inhuman treatment' or 'family', at variance with the interpretation developed by the European Court of Human Rights, be applied?

¹ - Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ 2003 L 50, p. 1).