

Questions referred

The questions referred for a preliminary ruling are identical to those in referred in Case C-224/19. ⁽¹⁾

⁽¹⁾ OJ 2019 C 246, p. 4.

Request for a preliminary ruling from the Verwaltungsgericht Köln (Germany) lodged on 24 January 2020 — Telekom Deutschland GmbH v Bundesrepublik Deutschland

(Case C-34/20)

(2020/C 137/47)

Language of the case: German

Referring court

Verwaltungsgericht Köln

Parties to the main proceedings

Applicant: Telekom Deutschland GmbH

Defendant: Bundesrepublik Deutschland

Questions referred

1. (a) In the case where a mobile communications tariff including a monthly data allowance and providing for reduced transmission speed once that data volume has been used can be extended by a free option which allows certain services provided by content partners of the telecommunications company to be used without offsetting the data volume used for those services against the monthly data allowance included in the mobile communications tariff, and the end-user agrees to limitation of the bandwidth to a maximum of 1,7 Mbit/s for video-streaming, irrespective of whether the video-streaming service is provided by content partners or other providers, is Article 3(2) of Regulation (EU) 2015/2120 ⁽¹⁾ to be understood as meaning that agreements on the characteristics of internet access services within the meaning of Article 3(2) of that regulation must fulfil the requirements of Article 3(3) thereof?
- (b) If the answer to Question 1.(a) is in the affirmative: Is Article 3(3), third subparagraph, of Regulation (EU) 2015/2120 to be understood as meaning that, in a situation such as that at issue in the present case, bandwidth limitation qualifies as the slowing down of one category of service?
- (c) If the answer to Question 1.(b) is in the affirmative: Is the term ‘impending network congestion’ within the meaning of Article 3(3), third subparagraph, point c), of Regulation (EU) 2015/2120 to be understood as meaning that it covers only (impending) exceptional or temporary network congestion?
- (d) If the answer to Question 1.(b) is in the affirmative: Is Article 3(3), third subparagraph, point (c), of Regulation (EU) 2015/2120 to be understood as meaning that, in a situation such as that at issue in these proceedings, the need for equal treatment of equivalent categories of traffic precludes bandwidth limitation that applies in the case of one optional add-on only, but not in the case of other mobile communication tariffs, and applies, moreover, to video-streaming alone? [**Or. 3**]
- (e) If the answer to Question 1.(b) is in the affirmative: Is Article 3(3), third subparagraph, of Regulation (EU) 2015/2120 to be understood as meaning that, in a situation such as that at issue in these proceedings, bandwidth limitation that depends on the addition of the optional add-on and that the end-user can, moreover, deactivate at any time for up to 24 hours fulfils the requirement that one category of service may be slowed down only for as long as is necessary to achieve the objectives of Article 3(3), third subparagraph, points (a) to (c), of Regulation (EU) 2015/2120?

2. (a) If the answer to Question 1.(b) is in the negative: Is Article 3(3), second subparagraph, second sentence, of Regulation (EU) 2015/2120 to be understood as meaning that, in a situation such as that at issue in these proceedings, bandwidth limitation for video-streaming alone is based on objectively different technical quality of service requirements of specific categories of traffic?
 - (b) If the answer to Question 2.(a) is in the affirmative: Is Article 3(3), second subparagraph, third sentence, of Regulation (EU) 2015/2120 to be understood as meaning that identification of the traffic generated from video-streaming from IP addresses, protocols, URLs and SNIs and using pattern matching, during which certain header information is compared with typical video-streaming values, constitutes monitoring of the specific content of the traffic?
3. If the answer to Question 1.(a) is in the negative: Is Article 3(1) of Regulation (EU) 2015/2120 to be understood as meaning that, in a situation such as that at issue in these proceedings, bandwidth limitation for video-streaming alone restricts end-users' rights within the meaning of Article 3(1) of Regulation (EU) 2015/2120?

(¹) Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ 2015 L 310, p. 1).

Request for a preliminary ruling from the Juzgado de Instrucción n.º 3 de San Bartolomé de Tirajana (Spain) lodged on 25 January 2020 — Ministerio Fiscal v VL

(Case C-36/20)

(2020/C 137/48)

Language of the case: Spanish

Referring court

Juzgado de Instrucción n.º 3 de San Bartolomé de Tirajana

Parties to the main proceedings

Applicant: Ministerio Fiscal

Defendant: VL

Questions referred

1. The second subparagraph of Article 6(1) of Directive 2013/32/EU (¹) provides for the situation where applications for international protection are made before other authorities that are not competent to register them under national law, in which event Member States are to ensure that the registration takes place no later than six working days after the application is made.

Is the foregoing to be interpreted as meaning that examining magistrates who are competent to adjudicate on the detention or otherwise of foreign nationals under Spanish national law are to be regarded as one of those 'other authorities', which are not competent to register an application for international protection but before which applicants may nonetheless indicate their intention to make such an application?

2. If an examining magistrate is deemed to be one of those authorities, is Article 6(1) of Directive 2013/32/EU to be interpreted as meaning that he or she must provide applicants with information on where and how to make an application for international protection, and, if such an application is made, transfer it to the body competent under national law to register and process it, as well as to the competent administrative body, so that the applicant can be granted the reception measures provided for in Article 17 of Directive 2013/33/EU? (²)