

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)

3. Are Article 26 of Directive 2013/32/EU and Article 8 of Directive 2013/33/EU to be interpreted as meaning that a third-country national may not be held in detention unless the conditions laid down in Article 8(3) of Directive 2013/33/EU are met, on the ground that the applicant is protected by the principle of non-refoulement from the point at which he indicates his intention [to apply for international protection] before the examining magistrate?

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- (¹) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection OJ 2013 L 180, p. 60
- (²) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection OJ 2013 L 180, p. 96

Request for a preliminary ruling from the Tribunal Superior de Justicia de Andalucía (Spain) lodged on 27 January 2020 — ZP v Delegación del Gobierno en Melilla

(Case C-38/20)

(2020/C 137/49)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Andalucía, Ceuta y Melilla

Parties to the main proceedings

Applicant: ZP

Defendant: Delegación del Gobierno en Melilla

Questions referred

1. Are Articles 18, 49, 63 and 65 TFEU to be construed as precluding national legislation such as that made up of Articles 18, 4 and 29 of Law 8/1975 of 12 March 1975 on areas and facilities of national defence interest, and Article 37 of Royal Decree 689/1978 of 10 February 1978 laying down the rules governing areas and facilities of national defence interest, which implements Law 8/1975 of 12 March 1975 on areas and facilities of national defence interest, in so far as it imposes serious restrictions on the exercise of the right to own property by foreign nationals, including the requirement to obtain military authorisation in order to exercise that right in full, failure to comply with which attracts the imposition of an administrative penalty from the application of which Spanish nationals are excluded in any circumstances, in the case where such restrictions are imposed on third-country nationals engaging in activities subject to limitations in conjunction with nationals of the European Union?
 2. If the answer to the foregoing question is in the affirmative, are Articles 18, 49, 63 and 65 TFEU to be construed as precluding national legislation such as that made up of Articles 18, 4 and 29 of Law 8/1975 of 12 March 1975 on areas and facilities of national defence interest, and Article 37 of Royal Decree 689/1978 of 10 February 1978 laying down the rules governing areas and facilities of national defence interest, which implements Law 8/1975 of 12 March 1975 on areas and facilities of national defence interest, in so far as it imposes serious restrictions on the exercise of the right to own property by foreign nationals, including the requirement to obtain military authorisation in order to exercise that right in full, failure to comply with which attracts the imposition of an administrative penalty from the application of which Spanish nationals are excluded in any circumstances, if such restrictions are justified on overriding reasons in the general interest relating to national defence, regard being had *exclusively* to the significance of the public interest in relation to national defence that lies in safeguarding enclaves of particular strategic importance?
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