Case C-50/24 [Danané] [i]

Summary of the request for a preliminary ruling pursuant to Article 98(1) of the Rules of Procedure of the Court of Justice

Date lodged:

26 January 2024

Referring court:

Conseil du contentieux des étrangers (Belgium)

Date of the decision to refer:

22 January 2024

Applicant:

X

Defendant:

Commissaire général aux réfugiés et aux apatrides

Preliminary remark

1 The present reference for a preliminary ruling is one of a group of seven cases (bearing case numbers C-50/24 to C-56/24) received by the Court on the same day from the same referring court, the Conseil du contentieux des étrangers (Council for Asylum and Immigration Proceedings, Belgium), concerning the arrival by air at Brussels Airport (Belgium) of third-country nationals who all lodged applications for international protection at the border on the day of their arrival. In each of those cases, decisions to refuse entry followed by decisions ‘to detain in an assigned place at the border’ and then ‘to detain in an assigned place’ were adopted in respect of the applicants prior to the adoption of decisions ‘to refuse refugee status and refuse subsidiary protection status’, which are the contested decisions.

[i] The name of the present case is fictious and does not correspond to the real name of any party to the proceedings.

Succinct presentation of the facts and procedure in the main proceedings

2 On 17 October 2023, the applicant arrived by air at Brussels Airport, where she lodged an application for international protection the same day.

3 The same day, the applicant received a decision to refuse her entry and a 'decision to detain in an assigned place at the border', in this case the Caricole Transit Centre.

4 On 23 October 2023, the Office des étrangers (Immigration Office, Belgium) [a directorate-general within the Service public fédéral Intérieur (Home Affairs Federal Public Service), which is responsible for applying the loi du 15 décembre 1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (Law of 15 December 1980 on the entry to Belgian territory, stay, settlement and removal of foreign nationals; 'the Law of 15 December 1980') and the arrêté royal du 8 octobre 1981 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers (Royal Decree of 8 October 1981 on the entry to Belgian territory, stay, settlement and removal of foreign nationals)], after collecting the applicant's statements, sent the 'border procedure' file to the Commissaire général aux réfugiés et aux apatrides (Commissioner General for Refugees and Stateless Persons, Belgium; 'the CGRA'). Under Belgian law, the CGRA is the competent authority for examining applications for international protection (corresponding to the concept of 'determining authority') for the purposes of 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 ('Directive 2013/32').

5 On 31 October 2023, the CGRA invited the applicant to a personal interview scheduled for 17 November 2023.

6 On 14 November 2023, the Minister issued a 'decision to detain in an assigned place' (an 'Annex 39a decision') which, inter alia, authorised the applicant to enter Belgium while detaining her 'in order to determine those elements on which the application for international protection is based which could not be obtained if the applicant were not detained, in particular where there is a risk of absconding'.

7 That new decision did not result in any actual physical change in the applicant's place of detention, and she remained detained at the Caricole Transit Centre.

8 On 17 November 2023, the applicant was interviewed by the CGRA.

9 The applicant submitted remarks on the content of that interview on 22 November 2023.

10 On 7 December 2023, the CGRA took a decision 'to refuse refugee status and refuse subsidiary protection', notified to the applicant on 8 December 2023.

11 By application of 18 December 2023, the applicant brought an action before the Council for Asylum and Immigration Proceedings.

Legal framework

The 'border procedure'

12 On arrival in Belgium, 'a foreign national who arrives at the border without being in possession of the required documents and who has been refused refugee or subsidiary protection status, or whose application for asylum has not been considered by the CGRA, shall be […] turned back and, where appropriate, […] may be returned to the border of the country which he or she has fled, and where, according to him or her, his or her life or freedom is in danger' (Article 72(3) of the Royal Decree of 8 October 1981 on the entry to Belgian territory, stay, settlement and removal of foreign nationals).

13 Where an applicant makes an application for international protection to the border control authorities, the federal police carry out initial checks before forwarding the file to the Immigration Office, which registers the application (in particular the applicant's statements concerning his or her identity, origin and route of travel, and his or her answers to a questionnaire regarding the reasons that led him or her to submit an application for international protection) and lodges it.

14 After registering the application, the Immigration Office forwards the file to the CGRA.

15 The CGRA normally processes an application for international protection under the 'standard' procedure (within six months – 21 months in specific exceptional cases – of receiving the application for international protection).

16 In that type of procedure, the CGRA focuses its examination and assessment on the substance of the application for international protection.

17 Pursuant to Article 57/6(1) of the Law of 15 December 1980, the CGRA may then decide to:

– grant refugee status;

– refuse refugee status and grant subsidiary protection status;

– refuse refugee status and subsidiary protection status;

– refuse refugee status and exclude subsidiary protection status;

– exclude refugee status.

18 Particularly where the applicant is detained in an assigned place (for example, a place of detention in Belgian territory or at the border, which is the case here), the decision must be taken as a matter of priority (Article 57/6(2) of the Law of 15 December 1980, which transposes Article 31(7) of Directive 2013/32).

19 In a priority procedure, the CGRA deals with these cases as a matter of priority, 'before all other cases', and takes the same decisions as under a 'standard' procedure.

20 There is also an 'accelerated' procedure (see paragraphs 22 and 23 below).

21 Under Article 43 of Directive 2013/32, entitled 'Border procedures',

> '1. Member States may provide for procedures, in accordance with the basic principles and guarantees of Chapter II, in order to decide at the border or transit zones of the Member State on:
>
> (a) the admissibility of an application, pursuant to Article 33, made at such locations; and/or
>
> (b) the substance of an application in a procedure pursuant to Article 31(8).
>
> 2. Member States shall ensure that a decision in the framework of the procedures provided for in paragraph 1 is taken within a reasonable time. When a decision has not been taken within four weeks, the applicant shall be granted entry to the territory of the Member State in order for his or her application to be processed in accordance with the other provisions of this Directive.
>
> …'

22 The procedure provided for in Article 31(8) to which Article 43(1)(b) refers is the 'accelerated' examination procedure. Under that provision, 'Member States may provide that an examination procedure in accordance with the basic principles and guarantees of Chapter II be accelerated and/or conducted at the border or in transit zones in accordance with Article 43 if:

> (a) the applicant, in submitting his or her application and presenting the facts, has only raised issues that are not relevant to the examination of whether he or she qualifies as a beneficiary of international protection by virtue of Directive 2011/95/EU; or
>
> (b) the applicant is from a safe country of origin within the meaning of this Directive; or
>
> (c) the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents

with respect to his or her identity and/or nationality that could have had a negative impact on the decision; or

(d) it is likely that, in bad faith, the applicant has destroyed or disposed of an identity or travel document that would have helped establish his or her identity or nationality; or

(e) the applicant has made clearly inconsistent and contradictory, clearly false or obviously improbable representations which contradict sufficiently verified country-of-origin information, thus making his or her claim clearly unconvincing in relation to whether he or she qualifies as a beneficiary of international protection by virtue of Directive 2011/95/EU; or

(f) the applicant has introduced a subsequent application for international protection that is not inadmissible in accordance with Article 40(5); or

(g) the applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his or her removal; or

(h) the applicant entered the territory of the Member State unlawfully or prolonged his or her stay unlawfully and, without good reason, has either not presented himself or herself to the authorities or not made an application for international protection as soon as possible, given the circumstances of his or her entry; or

(i) the applicant refuses to comply with an obligation to have his or her fingerprints taken …; or

(j) the applicant may, for serious reasons, be considered a danger to the national security or public order of the Member State, or the applicant has been forcibly expelled for serious reasons of public security or public order under national law.'

23 That accelerated procedure was provided for in Belgian law in Article 57/6/1(1) of the Law of 15 December 1980, which is worded similarly to Article 31(8) of Directive 2013/32. Under Article 57/6(2) of that law, the accelerated procedure is also to apply in the event of detention 'at the border' or 'in the Kingdom [of Belgium]' (see paragraphs 29 *et seq.* below). Belgian law sets a time limit of 15 working days for the file forwarded by the Immigration Office to be examined. That time limit is non-mandatory, meaning there are no consequences for failure to comply with it.

24 Article 43 of Directive 2013/32 ('Border procedures') was transposed in Belgian law by Article 57/6/4 of the Law of 15 December 1980, which provides:

‘In respect of a foreign national who attempts to enter the Kingdom [of Belgium] without satisfying the conditions laid down in Articles 2 and 3 and who has lodged an application for international protection at the border, the [CGRA] shall be competent to declare the application inadmissible pursuant to Article 57/6(3) or to take a decision on the substance of the application in one of the situations referred to in points (a), (b), (c), (d), (e), (f), (g), (i) or (j) of the first subparagraph of Article 57/6/1(1).

If the first subparagraph cannot be applied, the [CGRA] shall decide that a subsequent examination is necessary, after which the applicant shall be authorised by the Minister or his or her representative to enter the Kingdom [of Belgium] in accordance with Article 74/5(4)(4).

If the [CGRA] has not taken a decision within four weeks of receipt of an application for international protection forwarded by the Minister or his or her representative, the applicant shall also be authorised by the Minister or his or her representative to enter the Kingdom [of Belgium] pursuant to Article 74/5(4)(5).’

25 Under that procedure, four situations are possible:

(1) A decision of inadmissibility is adopted, normally within 15 working days of receipt of an application forwarded by the Immigration Office, in the cases listed in Article 57/6(3) of the Law of 15 December 1980, namely where:

‘(1) the applicant already benefits from genuine protection in a first country of asylum …;

(2) a third country can be considered as a safe third country …;

(3) the applicant already benefits from international protection in another Member State of the European Union;

(4) the applicant is a national of a Member State of the European Union …, unless he or she submits elements showing that he or she will risk persecution or serious harm in that Member State …;

(5) the applicant is lodging a subsequent application for international protection for which no new elements or findings … have arisen or been presented by the applicant;

(6) after a final decision has been taken on an application for international protection which has been lodged on his or her behalf … a foreign national who is a minor does not rely on particular facts which justify a separate application. …’

(2) A decision on the substance is taken under the accelerated procedure if one of the situations listed applies (all the abovementioned situations where the accelerated procedure applies, except for a refusal to provide fingerprints).

(3) A decision to conduct a subsequent examination is taken if none of the above decisions can be taken.

(4) No decision is taken.

26 The *travaux préparatoires* for the Belgian legislation state that 'if a foreign national does not comply with the conditions for entry to [Belgian] territory and lodges an application for international protection at the border, he or she falls within the scope of Directive 2013/32/EU (Procedures Directive) and Directive 2013/33/EU (Reception Directive). While his or her application is being examined, he or she may "remain in the territory, including at the border or in transit zones, of the Member State" (Article 2(p) of Directive 2013/32/EU)'.

Places of detention: detention at the border and detention in Belgium

27 An applicant may be detained while his or her examination is examined.

28 The Immigration Office is responsible for detaining in closed facilities foreign nationals who are in an irregular situation. The Law of 15 December 1980 lists the situations in which an applicant for international protection may be subject to administrative detention in an assigned place.

29 That 'assigned place of detention' may be situated 'at the border' or 'within the Kingdom [of Belgium]'.

Detention at the border

30 As regards detention at the border, Article 74/5(1) of the Law of 15 December 1980 provides:

'The following persons may be detained at an assigned place at the border pending authorisation to enter the [K]ingdom [of Belgium] or being turned back:

(1) a foreign national who, pursuant to the provisions of this Law, may be turned back by the border control authorities;

(2) a foreign national who attempts to enter the Kingdom [of Belgium] without fulfilling the conditions laid down in Articles 2 and 3 and who makes an application for international protection at the border.

No foreign national may be detained on the sole ground that he or she has made an application for international protection.'

31 It should be noted in that regard that Belgium does not in fact have any places of detention that are geographically situated at the border.

32 However, by means of a legal fiction, any place within Belgian territory is (following the adoption of a royal decree to that effect) treated as a place at the border.

33 It follows that 'a foreign national who is detained in one of those other locations shall not be regarded as having been authorised to enter the [K]ingdom [of Belgium]' (second subparagraph of Article 74/5(2) of the Law of 15 December 1980).

34 Belgium currently has five such places (out of a total of six places of detention), including the Caricole Transit Centre. The Centre is situated not far from Brussels Airport but outside its perimeter. It is therefore located in Belgian territory from a geographical point of view but legally treated as a place at the border, even though its site (in Steenokkerzeel) does not correspond to any of the country's borders.

Detention in Belgium

35 As regards detention 'in the Kingdom [of Belgium]', Article 74/6(1) of the Law of 15 December 1980 provides:

'Where it proves necessary on the basis of an individual assessment and a less coercive measure cannot be applied effectively, the Minister or his or her representative may detain an applicant for international protection in an assigned place in the Kingdom [of Belgium]:

(1) in order to determine or verify the applicant's identity or nationality; or

(2) in order to determine the elements on which the application for international protection is based which could not be obtained if the applicant were not detained, in particular where there is a risk of absconding of the applicant; or

(3) where the applicant is detained subject to a return procedure, in order to prepare the return and/or to carry out the removal, and where it can be shown on the basis of objective criteria, including that the applicant had the opportunity to access the asylum procedure, that there are reasonable grounds to believe that the person concerned is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision; or

(4) when protection of national security or public order so requires.

…'.

Examination of the action

36 If a decision is not taken within the four-week period referred to in the third paragraph of Article 57/6/4 of the Law of 15 December 1980 (see paragraph 24 above), the applicant is automatically authorised to enter Belgium. That four-week period is a fixed time limit, and accordingly the applicant must be granted entry to Belgian territory if it is exceeded.

37 In the present case, however, the expiry of the time limit did not result in any change to the applicant's situation of detention.

38 The procedure was therefore conducted, both before and after the expiry of the abovementioned four-week time limit, in a place of detention geographically located in Belgium but treated by legislation as a place located at the border.

39 It seems that, in practice, as in the present case, sometimes a procedure is initiated 'at the border' but the CGRA does not take its decision until after the four-week period provided for under that procedure has expired.

40 The seven cases raise the same problem of the time limit being exceeded while the applicants continued in reality to be detained in the same place until the contested decisions were adopted.

41 First, it transpires that the CGRA continued the examination of the application by taking a decision on the substance under the priority procedure while the applicant continued to be detained in the same place as the place of detention at the border.

42 The question therefore arises as to whether that detention in the same place as for the border procedure leads to the application of the temporal (four weeks) and substantive ('competence [limited to] the situations listed in Article 31(8) of Directive 2013/32') [1] restrictions inherent to the border procedure.

43 Advocate General Pikamäe also took the view that, in order to determine whether a procedure for examining an application for international protection lodged by an applicant falls within the scope of Article 43 of Directive 2013/32, 'it is important to consider the actual procedure conducted by the competent national authorities,

[1] See Opinion of Advocate General Pikamäe in Joined Cases *Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság* (C-924/19 PPU and C-925/19 PPU, EU:C:2020:294, point 135). Advocate General Pikamaë added that 'Article 43 of that directive therefore defines a legal regime that forms an indissoluble whole and authorises the Member States to use the border procedures only if they comply with the conditions and guarantees it lays down, thereby contradicting the Hungarian Government's understanding of an "à la carte" regime that allows it to conduct what are essentially border procedures whilst dispensing with the provisions governing them'.

and specifically where it took place, which is the decisive factor in determining how it should be classified in the light of Article 43 of Directive 2013/32'. [2]

44 To date, the Court has not ruled on this criterion of where the procedure took place.

45 The defendant contends that the 'border' procedure was no longer applicable in the present case since, in the absence of a decision upon the expiry of the four-week time limit, the applicant was no longer at the border.

46 On that point, it states that the abovementioned authorisation to enter does not preclude a situation where a detention that initially begins at the border continues in Belgian territory. It observes that a situation of detention may be continued on another legal basis (an 'Annex 39a' detention decision adopted pursuant to Article 74/6 of the Law of 15 December 1980) without resulting in any change in the physical place of detention while at the same time ending the border procedure.

47 According to the defendant, the Caricole Transit Centre is not regarded solely as a place treated as an assigned place at the border. That categorisation has not removed its status as an 'assigned place in the Kingdom [of Belgium]' as referred to in Article 76/6 of the Law of 15 December 1980. Consequently, the Centre does not solely serve the purpose of accommodating foreign nationals who do not meet the conditions for entry and stay and, even if a foreign national is allowed to enter Belgian territory (which is automatically the case on expiry of the four-week time limit after receipt of an application for international protection), he or she may, according to the defendant, be placed in detention in the same place, this time pursuant to Article 74/6(1)(2) of that Law (see paragraph 35 above).

48 That is what the defendant refers to as the Centre's 'two hats', in the sense that its dual status enables it to receive applicants who have submitted applications for international protection at the border while continuing to accommodate them after they have been authorised by right and by law to enter Belgium but have been subject to a fresh decision to detain them (in Belgium), the first decision to detain them (at the border) having lapsed.

49 The defendant concludes that, in the present case, as the 'Annex 39a' decision shows, the Immigration Office took the view that, for the reasons that it states, the applicant's detention should continue pursuant to Article 74/6(1)(2) of the Law of 15 December 1980.

50 That detention, which initially took place at the Caricole Transit Centre as a centre deemed to be at the border, was extended in the same place of detention as a

[2] See Opinion of Advocate General Pikamäe in Joined Cases *Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság* (C-924/19 PPU and C-925/19 PPU, EU:C:2020:294, point 136).

centre located in Belgian territory. Therefore, since the applicant was able to enter Belgian territory, the border procedure was no longer applicable. In the defendant's view, it was thus no longer substantively and temporally limited by the 'border procedure', which had ended. It could therefore take a decision without committing a substantial irregularity, even though the new place of detention coincided in practice with the 'assigned place at the border' where the applicants had been living since arriving in Belgium.

51 The applicant disputes that assessment and refers to the referring court's previous case-law, namely Judgments No 294 093 of 12 September 2023 [3] and No 294 112 of 13 September 2023, [4] which annulled the contested decisions in similar circumstances.

52 Secondly, it transpires that all, or a greater or lesser part, of the examination of the applications for international protection and the relating procedural steps took place under the border procedure:

– The forwarding of files by the Immigration Office to the CGRA implies that the Minister took all the steps for which he is responsible in an international protection procedure.

– In some cases, the CGRA conducted a personal interview with the applicant on the substance of an application for international protection, particularly in respect of his or her personal and family circumstances, travel route, documents filed in support of the application, fears, free narrative and further details of that narrative.

53 Sometimes, only the decision on the application for international protection was taken after the four-week time limit, that is to say, all the investigative steps, including the personal interview, took place before the expiry of the four-week period and no steps were taken subsequently. In other cases, the personal interview took place after the four-week period, without it being apparent from the documents in the file that the applicant was responsible for the delay.

54 The Belgian 'border procedure' is characterised by very short time limits. Those short time limits and the detention at the border may compromise the basic principles and guarantees provided for in Chapter II of Directive 2013/32/EU (including access to a lawyer, the necessary time to collect all the useful documentation to support the application and the possibility to receive a copy of the notes of the personal interview before the decision is taken).

55 At the hearing, all the applicants argued that Article 57/6/4 of the Law of 15 December 1980 had been infringed. They submitted that failure to comply with the four-week time limit must, as an infringement of the third paragraph of

[3] https://www.rvv-cce.be/sites/default/files/arr/a294093.an_.pdf

[4] https://www.rvv-cce.be/sites/default/files/arr/a294112.an_.pdf

Article 57/6/4 of that law, lead automatically to the annulment of the decision if it was taken in a procedure initiated at the border.

Succinct presentation of the reasoning in the request for a preliminary ruling and the questions referred for a preliminary ruling

56 The question arises as to the implications of the situation at issue in the present case in the light of Article 43 of Directive 2013/32 and of Article 8 of Directive 2013/33 EU of the European Parliament and of the Council of 26 June 2013 laying down standards on the reception of persons seeking international protection, which establishes that an applicant for international protection should be detained only in exceptional circumstances.

57 The Council for Asylum and Immigration Proceedings also asks whether the fact that a decision was taken after the expiry of the four-week time limit when the procedure was initiated at the border is compatible with Article 46 of Directive 2013/32, which establishes a right to an effective remedy against decisions taken on an application for international protection, and which provides that Member States must ensure that that remedy 'provides for a full and *ex nunc* examination of both facts and points of law', read in conjunction with Article 47 of the Charter of Fundamental Rights of the European Union (right to an effective remedy).

58 In order to be able to resolve the present dispute, the Council for Asylum and Immigration Proceedings considers it necessary to refer the following questions for a preliminary ruling:

'(1) Does a procedure for examining an application for international protection made at the border or in a transit zone by an applicant who, during that procedure, is detained in a place located geographically in the national territory but treated by legislation as a place at the border fall within the scope of Article 43 of Directive 2013/32/EU?

(2) Does the examination of such an application for international protection made by an applicant who, after the four-week period laid down in Article 43(2) of Directive 2013/32/EU, is automatically admitted to the national territory under national law, but on the basis of a new detention decision remains detained at the same place of detention initially considered to be a place at the border and now categorised by the authorities as a place in the national territory, still fall within the scope of Article 43 of Directive 2013/32/EU?

– May the same place of detention, in the same international protection procedure, be initially treated by legislation as a place at the border and, after the applicant has been authorised to enter the national territory owing to the expiry of the four-week time limit or following a decision to conduct a subsequent examination, be regarded as a place in the national territory?

– What is the implication of the applicant's detention in the same place, which is geographically situated in the national territory but which was treated initially as a place at the border and subsequently categorised by the Belgian authorities as a place of detention in the national territory owing to the expiry of the four-week period, for the temporal and substantive competence of the determining authority?

(3.1) May a determining authority which initiated an examination of an application for international protection in a border procedure and which allows the four-week time limit laid down in Article 43(2) of Directive 2013/32/EU for taking a decision on that application to elapse or which has previously taken a decision to carry out a subsequent examination, even though all the investigative steps, including the personal interview, were carried out prior to the expiry of the time limit, continue the examination of that application as a matter of priority as provided for in Article 31(7) of that directive, while the applicant remains detained, further to a decision of another authority, in the same place of detention, initially treated as a place at the border, on the ground that his or her detention is necessary 'in order to determine those elements on which the application for international protection is based which could not be obtained if the applicant were not detained, in particular where there is a risk of the absconding of the applicant'?

(3.2) May a determining authority which initiated an examination of an application for international protection in a border procedure and which allows the four-week time limit laid down in Article 43(2) of Directive 2013/32/EU for taking a decision on that application to elapse or which has previously taken a decision to carry out a subsequent examination, without carrying out a personal interview with the applicant within this period, continue the examination of that application as a matter of priority as provided for in Article 31(7) of that directive, while the applicant remains detained, further to a decision of another authority, in the same place of detention initially treated as a place at the border, on the ground that his or her detention is necessary 'in order to determine those elements on which the application for international protection is based which could not be obtained if the absence of detention, in particular when there is a risk of the absconding of the applicant'?

(4) Is such an application of national legislation compatible with the exceptional nature of the applicant's detention deriving from Article 8 of Directive 2013/33/EU and the general objective of Directive 2013/32/EU?

(5) Must Articles 31(7), 31(8), 43 and 46 of Directive 2013/32/EU, in conjunction with Article 47 of the Charter, be interpreted as meaning that the [Council for Asylum and Immigration Proceedings], when hearing an action against a decision taken in a procedure initiated at the border, must raise of its own motion a failure to comply with the four-week time limit?'

Request for the urgent preliminary ruling procedure to be applied

59 The Council for Asylum and Immigration Proceedings requests that the present reference for a preliminary ruling and the references for a preliminary ruling bearing case numbers C-51/24 and C-52/24 be dealt with under the urgent preliminary ruling procedure provided for in Article 107 of the Rules of Procedure of the Court of Justice.

60 In that regard, it should be stated that the applicant is currently deprived of liberty, as she is being held at the Caricole Transit Centre.

61 Furthermore, the Court's answers to the questions referred will have a direct and decisive impact on the outcome of the case in the main proceedings.

62 In that connection, it should be stated that the present reference for a preliminary ruling concerns the interpretation of Directive 2013/32/EU, which comes under Title V of Part Three of the TFEU, on the area of freedom, security and justice. Consequently, the reference may be dealt with under the urgent preliminary ruling procedure.

63 Moreover, as regards the condition relating to urgency, it should be noted, first, that that condition is satisfied, in particular, when the person concerned in the main proceedings is currently deprived of his or her liberty. From that point of view, the situation of the person concerned must be assessed as it stands at the time when consideration is given to whether the reference should be dealt with under the urgent procedure (judgment of 17 March 2016, *Mirza*, C-695/15 PPU, EU:C:2016:188, paragraph 34 and the case-law cited).

64 According to settled case-law, the placing of a third-country national in a detention centre, whether in the course of his or her application for international protection or with a view to his or her removal, constitutes a measure that deprives the person concerned of his or her freedom (judgments of 19 July 2012, *Adil*, C-278/12 PPU, EU:C:2012:508, paragraphs 34 and 35; of 10 September 2013, *G. and R.*, C-383/13 PPU, EU:C:2013:533, paragraphs 23 and 25; of 15 February 2016, *N.*, C-601/15 PPU, EU:C:2016:84, paragraphs 40 and 41; of 17 March 2016, *Mirza*, C-695/15 PPU, EU:C:2016:188, paragraphs 31 and 35; and order of 5 July 2018, *C. and Others*, C-269/18 PPU, EU:C:2018:544, paragraphs 35 and 37).

65 In any event, should the conditions characterising urgency no longer exist when the Court rules, the questions referred remain relevant to the outcome of the case.