Langue du document :

ECLI:EU:C:2025:326

Provisional text

JUDGMENT OF THE COURT (Fifth Chamber)

8 May 2025 (*)

(Reference for a preliminary ruling – Asylum policy – Directive 2013/32/EU – Article 4(1) and point (b) of the third subparagraph of Article 31(3) – Procedures for granting international protection – Extension by the determining authority of the six-month examination period – Large number of applications for international protection lodged simultaneously – Concept – Consideration of other circumstances)

In Case C662/23 [Zimir], (i)

REQUEST for a preliminary ruling under Article 267 TFEU from the Raad van State (Council of State, Netherlands), made by decision of 8 November 2023, received at the Court on 9 November 2023, in the proceedings

Staatssecretaris van Justitie en Veiligheid

v

X,

THE COURT (Fifth Chamber),

composed of M.L. Arastey Sahún, President of the Chamber, D. Gratsias, E. Regan, J. Passer (Rapporteur) and B. Smulders, Judges,

Advocate General: L. Medina,

Registrar: A. Lamote, Administrator,

having regard to the written procedure and further to the hearing on 23 October 2024,

after considering the observations submitted on behalf of:

– X, by F. Wijngaarden, advocaat, and S. Rafi, experte,

– the Netherlands Government, by M.K. Bulterman and A. Hanje, acting as Agents,

– the Czech Government, by A. Edelmannová, M. Smolek and J. Vláčil, acting as Agents,

– the French Government, by R. Bénard, B. Dourthe, O. Duprat-Mazaré and B. Fodda, acting as Agents,

– the Hungarian Government, by Zs. Biró-Tóth and M.Z. Fehér, acting as Agents,

– the European Commission, by A. Azema, A. Baeckelmans, F. Blanc and S. Van den Bogaert, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 12 December 2024,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of point (b) of the third subparagraph of Article 31(3) 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 (OJ 2013 L 180, p. 60), read in conjunction with Article 4(1) thereof.

2 The request has been made in proceedings between the Staatssecretaris van Justitie en Veiligheid (State Secretary for Justice and Security, Netherlands) and X, a third-country national, concerning the failure of the former to take a decision, within the statutory six-month time limit, on the application for the grant of a temporary asylum residence permit.

Legal context

European Union law

3 Recitals 3 and 18 of Directive 2013/32 state:

‘(3) The European Council, at its special meeting in Tampere on 15 and 16 October 1999, agreed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951 [United Nations Treaty Series, Vol. 189, p. 150, No 2545 (1954)], as amended by the New York Protocol of 31 January 1967 (“the Geneva Convention”), thus affirming the principle of *non-refoulement* and ensuring that nobody is sent back to persecution.

…

(18) It is in the interests of both Member States and applicants for international protection that a decision is made as soon as possible on applications for international protection, without prejudice to an adequate and complete examination being carried out.’

4 Under Article 1 of that directive, entitled ‘Purpose’:

‘The purpose of this Directive is to establish common procedures for granting and withdrawing international protection pursuant to Directive 2011/95/EU [of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (OJ 2011 L 337, p. 9)].’

5 Article 4 of that directive, entitled ‘Responsible authorities’, provides in paragraph 1 thereof:

‘Member States shall designate for all procedures a determining authority which will be responsible for an appropriate examination of applications in accordance with this Directive. Member States shall ensure that

such authority is provided with appropriate means, including sufficient competent personnel, to carry out its tasks in accordance with this Directive.'

6 Article 31 of that directive, entitled 'Examination procedure', provides:

'1. Member States shall process applications for international protection in an examination procedure in accordance with the basic principles and guarantees of Chapter II.

2. Member States shall ensure that the examination procedure is concluded as soon as possible, without prejudice to an adequate and complete examination.

3. Member States shall ensure that the examination procedure is concluded within six months of the lodging of the application.

Where an application is subject to the procedure laid down in Regulation (EU) No 604/2013 [of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (OJ 2013 L 180, p. 31)], the time limit of six months shall start to run from the moment the Member State responsible for its examination is determined in accordance with that Regulation, the applicant is on the territory of that Member State and has been taken in charge by the competent authority.

Member States may extend the time limit of six months set out in this paragraph for a period not exceeding a further nine months, where:

…

(b) a large number of third-country nationals or stateless persons simultaneously apply for international protection, making it very difficult in practice to conclude the procedure within the six-month time limit;

…

By way of exception, Member States may, in duly justified circumstances, exceed the time limits laid down in this paragraph by a maximum of three months where necessary in order to ensure an adequate and complete examination of the application for international protection.

…

5. In any event, Member States shall conclude the examination procedure within a maximum time limit of 21 months from the lodging of the application.

6. Member States shall ensure that, where a decision cannot be taken within six months, the applicant concerned shall:

(a) be informed of the delay; and

(b) receive, upon his or her request, information on the reasons for the delay and the time-frame within which the decision on his or her application is to be expected.

…'

Netherlands law

7 Article 42 of the Vreemdelingenwet 2000 (Law on foreign nationals of 2000) of 23 November 2000 (Stb. 2000, No 495) provides:

‘1. A decision on an application for the grant of a temporary residence permit as referred to in Article 28 or a residence permit of unlimited duration as referred to in Article 33 shall be adopted within six months of receipt of the application.

…

4. The time limit referred to in the first subparagraph may be extended for a period not exceeding a further nine months, where:

…

b. a large number of third-country nationals or stateless persons simultaneously apply for international protection, making it very difficult in practice to conclude the procedure within the six-month time limit; or

…’

8 On 21 September 2022, the State Secretary for Justice and Security adopted, on the basis of Article 42(4)(b) of the Law on foreign nationals of 2000, which transposes point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 into Netherlands law, the Besluit houdende wijzthe van de Vreemdelingencirculaire 2000 (Decree amending the circular on foreign nationals of 2000; ‘the WBV 2022/22’), which entered into force on 27 September 2022. By means of WBV 2022/22, the State Secretary for Justice and Security extended by nine months the six-month time limit for the examination of applications for the grant of temporary asylum residence permits. That decree applies to all applications lodged before 1 January 2023 for which the examination period had not expired by 27 September 2022.

The dispute in the main proceedings and the questions referred for a preliminary ruling

9 On 10 April 2022, X, a Turkish national, lodged an application for international protection in the Netherlands.

10 On 21 September 2022, the State Secretary for Justice and Security adopted WBV 2022/22, extending by nine months the statutory six-month time limit for the examination of applications for the grant of temporary asylum residence permits.

11 On 13 October 2022, X served a notice of default on the State Secretary for Justice and Security for failure to take a decision within the six-month time limit.

12 With no response from the State Secretary for Justice and Security in the two weeks following that notice of default, X brought an action before the rechtbank Den Haag (District Court, The Hague, Netherlands).

13 By judgment of 6 January 2023, that court declared X’s action well founded and held that, by WBV 2022/22, the State Secretary for Justice and Security had unlawfully extended the time limit for the examination of applications for the grant of temporary asylum residence permits. By that judgment, that court also ordered that authority to conduct an initial hearing within eight weeks of the date of the judgment and to take a decision on X’s application within eight weeks of that initial hearing, failing which a penalty payment of EUR 100 per day of delay would be imposed.

14 The State Secretary for Justice and Security brought an appeal against that judgment before the Raad van State (Council of State, Netherlands), which is the referring court.

15 In support of that appeal, he argues that, for the purposes of applying point (b) of Article 42(4) of the Law on foreign nationals of 2000 and point (b) of the third subparagraph of Article 31(3) of Directive 2013/32, it is not necessary for a national authority to be faced with a sudden increase or ‘peak’ in the number of applications for international protection lodged simultaneously. That authority may also extend

the time limit for the examination of those applications in the event of a gradual increase in the number of applications, in combination with other circumstances, where such an extension is necessary to ensure an adequate and complete examination of asylum applications as required by Article 31(2) of Directive 2013/32. The State Secretary for Justice and Security further contends that he may take into account the number of backlogged cases when considering whether to extend the time limit for the examination of applications for international protection, since that backlog puts constraints on his capacity to process those applications and adds to it being very difficult in practice to conclude the procedure diligently within six months of lodging.

16 On 14 April 2023, the State Secretary for Justice and Security issued X with a temporary asylum residence permit and paid him the amount due in respect of the penalty payment.

17 The referring court considers that the Secretary of State for Justice and Security retains an interest in bringing his appeal in so far as he seeks to challenge the judgment of 6 January 2023 in which the rechtbank Den Haag (District Court, The Hague) held that, by adopting WBV 2022/22, that authority had unlawfully extended the time limit for the examination of applications for the grant of temporary asylum residence permits referred to therein.

18 That court observes that the word 'simultaneously' in point (b) of the third subparagraph of Article 31(3) of Directive 2013/32, if interpreted broadly, would mean 'within a short period', given that applications for international protection are, in fact, rarely lodged literally at the same time. However, in the view of that court, it is still necessary to determine the period during which there is an increase in those applications, which may indicate a peak. Moreover, since those increases are not immediately apparent, the Raad van State (Council of State) notes that that provision can only be applied after a certain period of time has elapsed.

19 The referring court asks whether Directive 2013/32, in the context of a broader interpretation, allows the time limit for the examination of applications for international protection to be extended where the number of those applications increases only gradually, whereas, in that case, the State Secretary for Justice and Security would have ample time and the opportunity to increase his capacity to process those applications. That interpretation could be valid, in the view of that court, since it corresponds to the aim of Directive 2013/32, which is that the determining authority should take a decision on applications for international protection as soon as possible, albeit in a diligent manner.

20 In addition, that court notes that Article 31(2) of Directive 2013/32 also plays a role in the interpretation of point (b) of the third subparagraph of Article 31(3) thereof, since it provides that the examination procedure must be concluded as soon as possible, without prejudice to an adequate and complete examination. There is therefore a significant but unclear correlation between those two requirements.

21 Furthermore, the referring court states that the expression 'a large number', associated with third-country nationals or stateless persons lodging applications for international protection, is also unclear. It asks whether that number must be determined in absolute terms or whether it is possible to take into account the figures relating to application flows in a given Member State.

22 The referring court also asks whether the difficulty in practice to conclude the procedure for the examination of applications for international protection within the six-month time limit referred to in point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 can result from circumstances other than a large number of applications lodged simultaneously.

23 It is in those circumstances that the Raad van State (Council of State) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) (a) Can the determining authority make use of its power to extend the [six]-month decision period, in the event of a large number of applications for international protection being lodged at the same time, within the meaning of point (b) of the third subparagraph of Article 31(3) of [Directive 2013/32] if the increase in the large number of applications for international protection occurs gradually over a certain period of time and, as a result, it is very difficult in practice to conclude the procedure within the [six]-month time limit? How should “simultaneously” be interpreted in this context?

(b) What criteria should be used to assess whether there is a “large number” of applications for international protection, as referred to in point (b) of the third subparagraph of Article 31(3) of [Directive 2013/32]?

(2) Is there a time limit on the period during which there must be an increase in the number of applications for international protection in order still to fall within the scope of point (b) of the third subparagraph of Article 31(3) of [Directive 2013/32]? And, if so, how long might this period last?

(3) When assessing whether it is very difficult in practice to conclude the procedure within the [six]-month time limit referred to in point (b) of the third subparagraph of Article 31(3) of [Directive 2013/32] – partly in the light of Article 4(1) of [that directive] – may account be taken of circumstances that cannot be traced back to the increase in the number of applications for international protection, such as the circumstance that the determining authority has to deal with backlogs that already existed before the increase in the number of applications for international protection or with a lack of staff capacity?’

Admissibility of the request for a preliminary ruling

24 In its written observations, the French Government expressed doubts as to the admissibility of the request for a preliminary ruling, claiming, in essence, that the dispute in the main proceedings had become moot, since X had obtained a temporary asylum residence permit.

25 As the Court has consistently held, the procedure provided for in Article 267 TFEU is an instrument of cooperation between the Court of Justice and the national courts, by means of which the Court provides the national courts with the points of interpretation of EU law which they need in order to decide the disputes before them. The justification for a reference for a preliminary ruling is not that it enables advisory opinions on general or hypothetical questions to be delivered but rather that it is necessary for the effective resolution of a dispute. As is apparent from the actual wording of Article 267 TFEU, the question referred for a preliminary ruling must be ‘necessary’ to enable the referring court to ‘give judgment’ in the case before it (judgment of 26 March 2020, *Miasto Łowicz and Prokurator Generalny*, C558/18 and C563/18, EU:C:2020:234, paragraphs 44 and 45 and the case-law cited).

26 The Court has thus repeatedly held that it is clear from both the wording and the scheme of Article 267 TFEU that a national court or tribunal is not empowered to bring a matter before the Court by way of a request for a preliminary ruling unless a case is pending before it in which it is called upon to give a decision which is capable of taking account of the preliminary ruling (judgment of 26 March 2020, *Miasto Łowicz and Prokurator Generalny*, C558/18 and C563/18, EU:C:2020:234, paragraph 46 and the case-law cited).

27 Therefore, the Court may verify of its own motion that the dispute in the main proceedings is continuing (judgment of 13 September 2016, *Rendón Marín*, C165/14, EU:C:2016:675, paragraph 24).

28 In that regard, it is apparent from the documents before the Court that the judgment of 6 January 2023 by which the rechtbank den Haag (District Court, The Hague) declared X’s action well founded and ordered the State Secretary for Justice and Security to conduct a hearing and to take a decision on X’s application, within the time limits set by him, is challenged on appeal before the referring court. It is also apparent that the issue of a temporary asylum residence permit to X by that authority on 14 April 2023 did

not put an end to that dispute, which was pending on the date on which the request for a preliminary ruling was made, and that the referring court considers that that authority retains an interest in its appeal, on the ground that it was held in the judgment which is the subject of that appeal that it had unlawfully extended the time limit for taking an asylum decision.

29 Consequently, it must be found that the dispute in the main proceedings is still pending before the referring court, which is required to rule on the lawfulness of that extension, and that an answer from the Court to the questions referred is necessary to resolve that dispute.

30 In those circumstances, the request for a preliminary ruling is admissible.

Consideration of the questions referred

The first and second questions

31 By its first and second questions, which it is appropriate to examine together, the referring court asks, in essence, whether point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 must be interpreted as meaning that the six-month time limit laid down for the examination of applications for international protection, referred to in that provision, may be extended by a period of nine months by the determining authority in the event of a gradual increase in the number of those applications over an extended period or whether, for the purposes of applying that provision, the period during which there must be an increase in the number of applications is limited in time.

32 Point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 provides that Member States may extend the six-month time limit for the examination of applications for international protection where simultaneous applications for international protection by a large number of third-country nationals or stateless persons make it very difficult in practice to conclude the procedure within that time limit.

33 Accordingly, for Member States to be able to extend the six-month time limit for the examination of applications for international protection, under that provision, three closely linked and cumulative conditions must be satisfied, namely (i) the applications for international protection must be lodged ‘simultaneously’, (ii) those applications must be lodged by ‘a large number’ of third-country nationals or stateless persons, and (iii) it must then be ‘very difficult in practice to conclude the procedure within the six-month time limit’. These conditions are interdependent and must be interpreted in conjunction with each other.

34 In the first place, as regards the condition that applications for international protection be lodged simultaneously, it should be noted that no provision of Directive 2013/32 defines the meaning and scope of the term ‘simultaneously’. It must therefore be interpreted in accordance with its usual meaning in everyday language, while also taking into account the context in which it occurs and the purposes of the rules of which it is part (see, by analogy, judgment of 6 July 2023, *Staatssecretaris van Justitie en Veiligheid (Particularly serious crime)*, C402/22, EU:C:2023:543, paragraph 24 and the case-law cited).

35 According to its usual meaning in everyday language, that term is synonymous with the expression ‘concomitantly’, which implies, in principle, that the large number of applications for international protection referred to in point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 must be lodged at the same time.

36 That being the case, since, as the Advocate General pointed out in point 45 of her Opinion, applications for international protection are in practice rarely lodged at exactly the same time, in order not to deprive that provision of any useful effect, the word ‘simultaneously’ must be understood as meaning ‘within a short period’, which suggests that that provision is not intended to cover the case of a gradual increase in the number of such applications over a prolonged period.

37 In the second place, as regards the condition that applications for international protection be lodged by a ‘large’ number of third-country nationals or stateless persons, according to its usual meaning in everyday language, the term ‘large’ refers to a ‘high’ number of applicants for international protection.

38 Since Directive 2013/32 does not contain any criteria allowing such a number to be quantified, even in relative terms, as the Advocate General observed, in essence, in points 46 and 48 of her Opinion, the assessment of whether there is a ‘large number’ of such applicants must be made in the light of the usual and foreseeable flow of applications for international protection in the Member State concerned, on the basis of current and historical statistical trends. Accordingly, in order for there to be ‘a large number’ of applications for international protection lodged ‘simultaneously’, within the meaning of point (b) of the third subparagraph of Article 31(3) of Directive 2013/32, the determining authority must determine, on the basis of a comparative analysis of numerical data, whether there has been a significant increase in the number of those applications within a short period in relation to the normal and foreseeable trend in the Member State concerned.

39 In the third place, as regards the condition relating to the existence of practical difficulties in concluding, within the six-month time limit, the processing of a large number of applications for international protection lodged at the same time, the assessment of the existence of such difficulties must be carried out in the light, inter alia, of the obligations incumbent on the Member States under Article 4(1) of Directive 2013/32.

40 In that regard, it should be recalled that, according to that provision, Member States, first, are to designate for all procedures a determining authority which will be responsible for an appropriate examination of applications in accordance with that directive and, second, are to ensure that such authority is provided with appropriate means, including sufficient competent personnel, to carry out its tasks in accordance with that directive.

41 Since the determining authority must be provided with the necessary means to process the usual and foreseeable flow of applications for international protection within the six-month time limit, that authority is likely to encounter problems in terms of its capacity to process those applications in an adequate and complete manner within that period only if there is a significant increase in the number of such applications within a short period compared to the normal and foreseeable trend in the Member State concerned.

42 On the other hand, if the number of applications for international protection increases gradually over an extended period, the Member State concerned must take measures, in accordance with Article 4(1) of Directive 2013/32, to adapt its capacity to process those applications. Accordingly, the duration of the period to be taken into consideration for the purposes of interpreting point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 cannot exceed the time needed by a Member State to increase the means made available to the determining authority and to have sufficient capacity to resume processing of those applications in accordance with that directive.

43 In the fourth place, it follows from recitals 3 and 18 of Directive 2013/32 that that directive seeks to establish a Common European Asylum System, in which a decision should be made as soon as possible on applications for international protection, without prejudice to an adequate and complete examination being carried out.

44 It is true that the possibilities for extending the six-month time limit set out in Article 31(3) of Directive 2013/32 were introduced in order to respond to specific situations which justify a longer examination period, in order to ensure an adequate and complete examination of those situations.

45 As is apparent from paragraphs 41 and 42 above, the determining authority is likely to encounter problems in terms of its capacity to process those applications during the six-month examination period

only if there is a significant increase in the number of such applications within a short period justifying an extension of that time limit under point (b) of the third subparagraph of Article 31(3) of Directive 2013/32.

46 Therefore, if point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 were interpreted as allowing a Member State to extend the six-month time limit for the examination of applications for international protection in the event of a gradual increase in the number of those applications over an extended period, that would undermine the objective pursued by that directive.

47 It follows from all of the foregoing that point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 is applicable if there is a significant increase in the number of applications for international protection within a short period compared to the normal and foreseeable trend in the Member State concerned and that, consequently, point (b) of the third subparagraph of Article 31(3) does not cover a gradual increase in the number of applications for international protection over an extended period.

48 Accordingly, there is a time limit on the period during which an increase in the number of applications for international protection is required in order to fall within the scope of point (b) of the third subparagraph of Article 31(3) of Directive 2013/32, the duration of which cannot exceed the time needed by a Member State to increase the means made available to the determining authority and to return to having sufficient capacity to process the applications for international protection received within the six-month time limit laid down in that provision, in accordance with the obligations arising from Article 4(1) of that directive. The time needed must be assessed in the light of the time required to recruit and train competent personnel to process applications for international protection received in an adequate and complete manner.

49 In the light of the foregoing considerations, the answer to the first and second questions is that point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 must be interpreted as meaning that the six-month time limit laid down for the examination of applications for international protection, referred to in that provision, may be extended by a period of nine months by the determining authority in the event of a significant increase in the number of those applications, within a short period, compared to the normal and foreseeable trend in the Member State concerned, which excludes a situation characterised by a gradual increase in the number of those applications over an extended period.

The third question

50 By its third question, the referring court asks, in essence, whether point (b) of the third subparagraph of Article 31(3) of Directive 2013/32, read in conjunction with Article 4(1) thereof, must be interpreted as meaning that the difficulty, in practice, of concluding the procedure for the examination of applications for international protection within the six-month time limit can result from circumstances other than a large number of applications lodged simultaneously, such as a significant backlog of applications or insufficient personnel at the determining authority.

51 It is apparent from the wording of point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 that the practical difficulties in complying with the six-month time limit for the examination of applications for international protection justifying an extension of that time limit under that provision must be due to the large number of third-country nationals or stateless persons who have simultaneously applied for international protection.

52 If circumstances other than the large number of applications for international protection lodged simultaneously were accepted to justify an extension of the time limit for examination under that provision, that would undermine the Member State's obligations under Article 4(1) of that directive, as set out in paragraph 40 above.

53 In so far as that provision implies that the Member State concerned must ensure that the determining authority is in a position to deal with fluctuations in the number of applications for international protection, where the number of those applications corresponds to a normal and foreseeable trend, that Member State should have provided means enabling that authority to have appropriate processing capacity. In contrast, where unforeseeable circumstances arise, such as a sharp increase in the number of applications lodged simultaneously, a Member State cannot be expected to fulfil its obligations within the prescribed six-month time limit, since the means which were initially provided might not be sufficient and the Member State concerned might not be able immediately to meet the additional needs required by that increase, especially in terms of personnel.

54 Although Member States must ensure that the human resources of the determining authority are strengthened in the event of an increase in the number of applications for international protection, they cannot be expected to be able immediately to meet the additional personnel needs required by a significant increase in the number of those applications within a short period compared to the normal and foreseeable trend in the Member State concerned. Therefore, they must have the necessary time to increase the means made available to the determining authority and to have sufficient capacity to resume the processing of those applications in accordance with that directive. That is why point (b) of the third subparagraph of Article 31(3) of Directive 2013/32 provides for the possibility of extending the time limit for the examination of such applications by a period not exceeding a further nine months.

55 It follows that the number of applications for international protection awaiting processing at the time when the significant increase in the number of applications lodged simultaneously occurs cannot in itself constitute a circumstance justifying an extension under point (b) of the third subparagraph of Article 31(3) of Directive 2013/32. When the number of applications remains continuously high over an extended period, it is for the Member State to provide the determining authority with appropriate means to ensure that it has sufficient processing capacity, in accordance with Article 4(1) of that directive.

56 In the light of the foregoing considerations, the answer to the third question is that point (b) of the third subparagraph of Article 31(3) of Directive 2013/32, read in conjunction with Article 4(1) thereof, must be interpreted as meaning that the difficulty, in practice, of concluding the procedure for the examination of applications for international protection within the six-month time limit cannot result from circumstances other than a large number of applications lodged simultaneously, such as a significant backlog of applications or insufficient personnel at the determining authority.

Costs

57 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Fifth Chamber) hereby rules:

1. **Point (b) of the third subparagraph of Article 31(3) 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**

must be interpreted as meaning that the six-month time limit laid down for the examination of applications for international protection, referred to in that provision, may be extended by a period of nine months by the determining authority in the event of a significant increase in the number of those applications, within a short period, compared to the normal and foreseeable trend in the Member State concerned, which excludes a situation characterised by a gradual increase in the number of those applications over an extended period.

2. **Point (b) of the third subparagraph of Article 31(3) of Directive 2013/32, read in conjunction with Article 4(1) thereof,**

must be interpreted as meaning that the difficulty, in practice, of concluding the procedure for the examination of applications for international protection within the six-month time limit cannot result from circumstances other than a large number of applications lodged simultaneously, such as a significant backlog of applications or insufficient personnel at the determining authority.

[Signatures]

* Language of the case: Dutch.

i The name of the present case is a fictitious name. It does not correspond to the real name of any of the parties to the proceedings.