

Request for a preliminary ruling from the Administrativen sad Sofia-grad (Bulgaria) lodged on 3 February 2017 — Bahtiar Fathi v Predsedatel na Darzhavna agentsia za bezhantsite

(Case C-56/17)

(2017/C 112/36)

Language of the case: Bulgarian

Referring court

Administrativen sad Sofia-grad

Parties to the main proceedings

Applicant: Bahtiar Fathi

Defendant: Predsedatel na Darzhavna agentsia za bezhantsite

Questions referred

1. Does it follow from Article 3(1) of Regulation (EU) No 604/2013, ⁽¹⁾ interpreted in conjunction with recital 12 and Article 17 of the regulation, that a Member State may issue a decision that constitutes an examination of an application made to it for international protection within the meaning of Article 2(d) of the regulation, without expressly deciding on the responsibility of that Member State under the criteria in the regulation if, in the particular case, there are no indications for a derogation pursuant to Article 17 of the Regulation?
2. Does it follow from the second sentence of Article 3(1) of Regulation (EU) No 604/2013, interpreted in conjunction with recital 54 of Directive 2013/32/EU, ⁽²⁾ that, in the circumstances of the main proceedings, where there is no derogation pursuant to Article 17(1) of the regulation, a decision must be issued in respect of an application for international protection within the meaning of Article 2(b) of the regulation by which the Member State undertakes to examine the application in accordance with the criteria in the regulation and which is based on the fact that the provisions of the regulation apply to the applicant?
3. Is Article 46(3) of Directive 2013/32/EU to be interpreted as meaning that, in proceedings against a decision refusing international protection, the court must rule pursuant to recital 54 of the directive on whether the provisions of Regulation (EU) No 604/2013 apply to the applicant if the Member State has not expressly decided on its responsibility for examining the application for international protection in accordance with the criteria in the regulation? Must it be presumed on the basis of recital 54 of Directive 2013/32/EU that, where there are no indications suggesting that Article 17 of Regulation (EU) No 604/2013 applies and the application for international protection was examined on the basis of Directive 2011/95/EU ⁽³⁾ by the Member State to which it was made, the legal situation of the person concerned is within the scope of the regulation even if the Member State has not expressly decided on its responsibility in accordance with the criteria in the regulation?
4. Does it follow from Article 10(1)(b) of Directive 2011/95/EU that, in the circumstances of the main proceedings, the reason for persecution of 'religion' exists where the applicant has not made statements and presented documents relating to all the components covered by the concept of religion as defined in this provision which are of fundamental importance for the membership of the person concerned of a particular religion?
5. Does it follow from Article 10(2) of Directive 2011/95/EU that reasons for persecution based on religion within the meaning of Article 10(1)(b) of the directive exist where the applicant, in the circumstances of the main proceedings, claims that he has been persecuted on grounds of his membership of a religion but has not made any statements or presented any evidence regarding the circumstances that are characteristic of a person's membership of a particular religion and would be a reason for the actor of persecution to believe that the person concerned belonged to this religion — including circumstances linked to taking part in or abstaining from religious actions or religious expressions of view — or regarding the forms of individual or communal conduct based on or mandated by a religious belief?

6. Does it follow from Article 9(1) and (2) of Directive 2011/95/EU, interpreted in conjunction with Articles 18 and 10 of the Charter of Fundamental Rights of the European Union and the concept of religion as defined in Article 10(1)(b) of the directive, that in the circumstances of the main proceedings:
- a) the concept of religion as defined in EU law does not encompass any acts considered to be criminal in accordance with the national law of the Member States? Is it possible for such acts that are considered to be criminal in the applicant's country of origin to constitute acts of persecution?
 - b) In connection with the prohibition of proselytism and the prohibition of acts contrary to the religion on which the laws and regulations in the country in question are based, are limitations to be regarded as permitted that are established to protect the rights and freedoms of others and public order in the applicant's country of origin? Do these prohibitions as such constitute acts of persecution within the meaning of the cited provisions of the directive when violation of them is threatened with the death penalty even if the laws are not explicitly aimed against a particular religion?
7. Does it follow from Article 4(2) of Directive 2011/95/EU, interpreted in conjunction with Article 4(5)(b) of the directive, Article 10 of the Charter of Fundamental Rights of the European Union and Article 46(3) of Directive 2013/32/EU, that, in the circumstances of the main proceedings, an appraisal of the facts and circumstances may be conducted only on the basis of the statements made and the documents presented by the applicant, but it is still permitted to require proof of the missing components covered by the concept of religion as defined in Article 10(1)(b) of the directive where:
- without this information the application for international protection would be considered unfounded within the meaning of Article 32 in conjunction with Article 31(8)(e) of Directive 2013/32/EU and
 - national legislation provides that the competent authority must establish all the relevant circumstances for the examination of the application for international protection and the court, should the refusal decision be contested, must point out that the person concerned has not offered and presented any evidence?

⁽¹⁾ 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 for 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).

⁽²⁾ 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).

⁽³⁾ 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).

**Request for a preliminary ruling from the Conseil d'État (France) lodged on 3 February 2017 — SCI
Château du Grand Bois v Etablissement national des produits de l'agriculture et de la mer
(FranceAgriMer)**

(Case C-59/17)

(2017/C 112/37)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: SCI Château du Grand Bois

Defendant: Etablissement national des produits de l'agriculture et de la mer (FranceAgriMer)