

3. If Question 2 is answered in the negative: Is Article 2(d) of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data to be interpreted as meaning that it definitively regulates liability and responsibility in such a way that it precludes civil claims against a third party who, although not a 'controller', nonetheless creates the cause for the processing operation, without influencing it?
4. Whose 'legitimate interests', in a situation such as the present one, are the decisive ones in the balancing of interests to be undertaken pursuant to Article 7(f) of Directive 95/46/EC? Is it the interests in embedding third-party content or the interests of the third party?
5. To whom must the consent to be declared under Articles 7(a) and 2(h) of Directive 95/46/EC be made in a situation such as that in the present case?
6. Does the duty to inform under Article 10 of Directive 95/46/EC also apply in a situation such as that in the present case to the operator of the website who has embedded the content of a third party and thus creates the cause for the processing of personal data by the third party?

⁽¹⁾ OJ 1995 L 281, p. 31.

**Request for a preliminary ruling from the Rechtbank Den Haag, sitting in Haarlem (Netherlands)
lodged on 1 February 2017 — X v Staatssecretaris van Veiligheid en Justitie**

(Case C-47/17)

(2017/C 112/33)

Language of the case: Dutch

Referring court

Rechtbank Den Haag, sitting in Haarlem

Parties to the main proceedings

Applicant: X

Defendant: Staatssecretaris van Veiligheid en Justitie

Questions referred

- (1) Should the requested Member State, having regard to the objective, the content and the scope of the Dublin Regulation ⁽¹⁾ and the Procedures Directive, ⁽²⁾ respond within two weeks to a re-examination request as contained in Article 5(2) of the Implementing Regulation? ⁽³⁾
- (2) If the answer to the first question is in the negative, does the time limit of a maximum of one month as provided for in Article 20(1)(b) of Regulation No 343/2003 ⁽⁴⁾ (now Article 25(1) of the Dublin Regulation) apply, having regard to the last sentence of Article 5(2) of the Implementing Regulation?
- (3) If the answer to the first and second questions is in the negative, does the requested Member State, due to the use of the word 'beijvert' [English: 'shall endeavour'] in Article 5(2) of the Implementing Regulation, have a reasonable period of time to respond to the re-examination request?
- (4) If there is indeed a reasonable period of time within which the requested Member State should respond to the re-examination request under Article 5(2) of the Implementing Regulation, can there, after **over six months** have passed, as in the present case, still be talk of a reasonable period of time? If the answer to that question is in the negative, what qualifies as a reasonable period of time?
- (5) What should be the consequence of the requested Member State not responding within two weeks, one month or a reasonable period of time to a re-examination request? Is the requesting Member State then responsible for the substantive assessment of the foreign national's asylum application or is that the responsibility of the requested Member State?

- (6) If one should proceed on the assumption that the requested Member State becomes responsible for the substantive examination of the asylum application due to the lack of a timely response to the re-examination request as referred to in Article 5(2) of the Implementing Regulation, within what period of time should the requesting Member State, the defendant in the present case, notify the foreign national of that?

- ⁽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⁾ Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ 2003 L 222, p. 3).
- ⁽⁴⁾ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ 2003 L 50, p. 1).

**Request for a preliminary ruling from the Rechtbank Den Haag, sitting in Haarlem (Netherlands)
lodged on 3 February 2017 — X v Staatssecretaris van Veiligheid en Justitie**

(Case C-48/17)

(2017/C 112/34)

Language of the case: Dutch

Referring court

Rechtbank Den Haag, sitting in Haarlem

Parties to the main proceedings

Applicant: X

Defendant: Staatssecretaris van Veiligheid en Justitie

Questions referred

- (1) Should the requested Member State, having regard to the objective, the content and the scope of the Dublin Regulation⁽¹⁾ and the Procedures Directive,⁽²⁾ respond within two weeks to a re-examination request as laid in Article 5(2) of the Implementing Regulation?⁽³⁾
- (2) If the answer to the first question is in the negative, does the time limit of a maximum of one month as provided for in Article 20(1)(b) of Regulation No 343/2003⁽⁴⁾ (now Article 25(1) of the Dublin Regulation) apply, having regard to the last sentence of Article 5(2) of the Implementing Regulation?
- (3) If the answer to the first and second questions is in the negative, does the requested Member State, due to the use of the word 'beijvert' [English: 'shall endeavour'] in Article 5(2) of the Implementing Regulation, have a reasonable period of time within which to respond to the re-examination request?
- (4) If there is indeed a reasonable period of time within which the requested Member State should respond to the re-examination request under Article 5(2) of the Implementing Regulation, can there, after the passage of seven and a half weeks, as in the present case, still be talk of a reasonable period of time? If the answer to that question is in the negative, what qualifies as a reasonable period of time?
- (5) What should be the consequence be of the requested Member State not responding within two weeks, or a reasonable period of time, to a re-examination request? Is the requesting Member State then responsible for the substantive assessment of the foreign national's asylum application or is that the responsibility of the requested Member State?