Reports of Cases

JUDGMENT OF THE COURT (Second Chamber)

4 October 2018 *

(Reference for a preliminary ruling — Area of freedom, security and justice — Borders, asylum and immigration — Regulation (EU) No 604/2013 — Article 3 — Determining the Member State responsible for examining an application for international protection made in one of the Member States by a third-country national — Examination of an application for international protection without an express decision on the determination of the Member State responsible for the examination — Directive 2011/95/EU — Articles 9 and 10 — Reasons for persecution based on religion — Evidence — Iranian legislation on apostasy — Directive 2013/32/EU — Article 46(3) — Effective remedy)

In Case C-56/17,

REQUEST for a preliminary ruling under Article 267 TFEU from the Administrativen sad Sofia-grad (Administrative Court, Sofia, Bulgaria), made by decision of 23 January 2017, received at the Court on 3 February 2017, in the proceedings

Bahtiyar Fathi

v

Predsedatel na Darzhavna agentsia za bezhantsite,

THE COURT (Second Chamber),

composed of M. Ilešič (Rapporteur), President of the Chamber, A. Rosas, C. Toader, A. Prechal and E. Jarašiūnas, Judges,

Advocate General: P. Mengozzi,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

– the Hungarian Government, by M.Z. Fehér, G. Koós and E. Tóth, acting as Agents,

– the Polish Government, by B. Majczyna, acting as Agent,

– the United Kingdom Government, by S. Brandon, acting as Agent, and M. Gray, Barrister,

– the European Commission, by M. Condou-Durande and I. Zaloguin, acting as Agents,

* Language of the case: Bulgarian.

after hearing the Opinion of the Advocate General at the sitting on 25 July 2018,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 4(2) and (5)(b), Article 9(1) and (2) and Article 10(1) and (2) of 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), Article 3(1) of 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; 'the Dublin III Regulation'), and Article 46(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).

2 The request has been made in proceedings between Mr Bahtiyar Fathi and the predsedatel na Darzhavna agentsia za bezhantsite (Director of the State Agency for Refugees, 'the DAB') concerning the latter's refusal to grant the application for international protection made by Mr Fathi.

Legal framework

International law

The Geneva Convention

3 The Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (*United Nations Treaty Series*, vol. 189, p. 150, No 2545 (1954)), entered into force on 22 April 1954 and was supplemented and amended by the Protocol Relating to the Status of Refugees, concluded in New York on 31 January 1967, which entered into force on 4 October 1967 ('the Geneva Convention').

4 The first subparagraph of Article 1(A)(2) of the Geneva Convention provides that the term 'refugee' is to apply to any person who 'owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it'.

The ECHR

5 Article 15 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950 ('the ECHR'), is headed 'Derogation in time of emergency' and provides:

'1. In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.

2. No derogation from Article 2 ["Right to life"], except in respect of deaths resulting from lawful acts of war, or from Articles 3 ["Prohibition of torture"], 4 (paragraph 1) ["Prohibition of slavery"] and 7 ["No punishment without law"] shall be made under this provision.

…'

EU law

Directive 2011/95

6 Directive 2011/95 repealed, with effect from 21 December 2013, Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (OJ 2004 L 304, p. 12).

7 Recital 16 of Directive 2011/95 provides:

'This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. ...'

8 Under Article 2 of that directive:

'For the purposes of this Directive the following definitions shall apply:

…

(h) "application for international protection" means a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection, outside the scope of this Directive, that can be applied for separately;

…'

9 Article 4 of that directive provides:

'1. Member States may consider it the duty of the applicant to submit as soon as possible all the elements needed to substantiate the application for international protection. In cooperation with the applicant, it is the duty of the Member State to assess the relevant elements of the application.

2. The elements referred to in paragraph 1 consist of the applicant's statements and all the documentation at the applicant's disposal regarding the applicant's age, background, including that of relevant relatives, identity, nationality(ies), country(ies) and place(s) of previous residence, previous asylum applications, travel routes, travel documents and the reasons for applying for international protection.

3. The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account:

(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application, including laws and regulations of the country of origin and the manner in which they are applied;

(b) the relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm;

(c) the individual position and personal circumstances of the applicant, including factors such as background, gender and age, so as to assess whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;

…

4. The fact that an applicant has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, is a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.

5. Where Member States apply the principle according to which it is the duty of the applicant to substantiate the application for international protection and where aspects of the applicant's statements are not supported by documentary or other evidence, those aspects shall not need confirmation when the following conditions are met:

(a) the applicant has made a genuine effort to substantiate his application;

(b) all relevant elements at the applicant's disposal have been submitted, and a satisfactory explanation has been given regarding any lack of other relevant elements;

(c) the applicant's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the applicant's case;

(d) the applicant has applied for international protection at the earliest possible time, unless the applicant can demonstrate good reason for not having done so; and

(e) the general credibility of the applicant has been established.'

10 Article 9(1) and (2) of that directive provides:

'1. In order to be regarded as an act of persecution within the meaning of Article 1(A) of the Geneva Convention, an act must:

(a) be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the [ECHR]; or

(b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in point (a).

2. Acts of persecution as qualified in paragraph 1 can, inter alia, take the form of:

…

(b) legal, administrative, police and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;

(c) prosecution or punishment which is disproportionate or discriminatory;

…'

11 Article 10 of Directive 2011/95 provides that:

'1. Member States shall take the following elements into account when assessing the reasons for persecution:

…

(b) the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

…

2. When assessing if an applicant has a well-founded fear of being persecuted it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.'

Directive 2013/32

12 Recitals 12, 53 and 54 of Directive 2013/32 are worded as follows:

'(12) The main objective of this Directive is to further develop the standards for procedures in Member States for granting and withdrawing international protection with a view to establishing a common asylum procedure in the Union.

…

(53) This Directive does not deal with procedures between Member States governed by [the Dublin III Regulation].

(54) This Directive should apply to applicants to whom [the Dublin III Regulation] applies, in addition and without prejudice to the provisions of that Regulation.'

13 Under Article 2 of that directive:

‘For the purposes of this Directive:

…

(b) “application for international protection” or “application” means a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status, and who does not explicitly request another kind of protection outside the scope of Directive [2011/95], that can be applied for separately;

…’

14 Article 31(8) of that directive is worded as follows:

‘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:

…

(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]; …

…’

15 Article 32(2) of that directive provides:

‘In cases of unfounded applications in which any of the circumstances listed in Article 31(8) apply, Member States may also consider an application to be manifestly unfounded, where it is defined as such in the national legislation.’

16 Article 46(1) and (3) of Directive 2013/32 provides:

‘1. Member States shall ensure that applicants have the right to an effective remedy before a court or tribunal, against the following:

(a) a decision taken on their application for international protection, including a decision:
   (i) considering an application to be unfounded in relation to refugee status and/or subsidiary protection status;
   (ii) considering an application to be inadmissible pursuant to Article 33(2);
   (iii) taken at the border or in the transit zones of a Member State as described in Article 43(1);
   (iv) not to conduct an examination pursuant to Article 39;

(b) a refusal to reopen the examination of an application after its discontinuation pursuant to Articles 27 and 28;

(c) a decision to withdraw international protection pursuant to Article 45.

…

3. In order to comply with paragraph 1, Member States shall ensure that an effective remedy provides for a full and *ex nunc* examination of both facts and points of law, including, where applicable, an examination of the international protection needs pursuant to Directive [2011/95], at least in appeals procedures before a court or tribunal of first instance.'

The Dublin III Regulation

17 Recitals 4, 5 and 19 of the Dublin III Regulation state:

'(4) The conclusions [of the special meeting of European Council in Tampere on 15 and 16 October 1999] also stated that the [Common European Asylum System] should include, in the short-term, a clear and workable method for determining the Member State responsible for the examination of an asylum application.

(5) Such a method should be based on objective, fair criteria both for the Member States and for the persons concerned. It should, in particular, make it possible to determine rapidly the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of the rapid processing of applications for international protection.

…

(19) In order to guarantee effective protection of the rights of the persons concerned, legal safeguards and the right to an effective remedy in respect of decisions regarding transfers to the Member State responsible should be established, in accordance, in particular, with Article 47 of the Charter of Fundamental Rights of the European Union. In order to ensure that international law is respected, an effective remedy against such decisions should cover both the examination of the application of this Regulation and of the legal and factual situation in the Member State to which the applicant is transferred.'

18 Article 1 of that regulation provides:

'This Regulation lays down 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 …'

19 Article 2 of that regulation is worded as follows:

'For the purposes of this Regulation:

…

(b) "application for international protection" means an application for international protection as defined in Article 2(h) of Directive [2011/95];

…

(d) "examination of an application for international protection" means any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with Directive [2013/32] and Directive [2011/95], except for procedures for determining the Member State responsible in accordance with this Regulation;

…'

20 Article 3(1) of that regulation provides:

‘Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones. The application shall be examined by a single Member State, which shall be the one which the criteria set out in Chapter III indicate is responsible.’

21 Articles 4 and 5 of the Dublin III Regulation provide, respectively, for a right of the applicant for international protection to information and for the rules on how the interview with that applicant is to be conducted.

22 The first and second subparagraphs of Article 17(1) of that regulation are worded as follows:

‘By way of derogation from Article 3(1), each Member State may decide to examine an application for international protection lodged with it by a third-country national or a stateless person, even if such examination is not its responsibility under the criteria laid down in this Regulation.

The Member State which decides to examine an application for international protection pursuant to this paragraph shall become the Member State responsible and shall assume the obligations associated with that responsibility. ...’

23 Under Article 20(1) of that regulation:

‘The process of determining the Member State responsible shall start as soon as an application for international protection is first lodged with a Member State.’

24 Article 27 of the Dublin III Regulation provides for the remedies available to an applicant for international protection within the framework of the application of that regulation.

Bulgarian law

25 In Bulgaria, applications for international protection are examined in accordance with the Zakon za ubezhishteto i bezhantsite (Law on asylum and refugees), in the version published in DV No 103 of 27 December 2016 (‘the ZUB’).

26 Article 6(1) of the ZUB provides:

‘The powers conferred by the present law are exercised by the officials of the State Agency for Refugees. Those officials shall establish all the facts and circumstances which are relevant to the procedure for granting international protection and shall assist foreign applicants seeking such protection.’

27 Articles 8 and 9 of the ZUB concern refugee status in Bulgaria and humanitarian status.

28 Article 67a(2) of the ZUB provides:

‘The procedure provided for in this section shall be initiated:

1. by a decision of the authority before which the interviews are conducted, where there is information establishing that the responsibility for examining the application for international protection lies with another EU Member State;

2. by a referral from the Ministry of the Interior and the State Agency for national security regarding the foreign national's illegal stay on the territory of the Republic of Bulgaria;

3. by a request to take charge of or take back the foreign national.'

29 Article 68 of the ZUB is worded as follows:

'The ordinary procedure shall be initiated:

(1) by the registration of the foreign national following his lodging of an application for international protection;

…

(2) Where the Republic of Bulgaria is designated as responsible or has taken back a foreign national …, the procedure provided for in this section shall be initiated as a result of the registration of the foreign national with the State Agency for Refugees following his transfer.

…'

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

30 Mr Fathi is an Iranian national of Kurdish origin who, on 1 March 2016, lodged an application for international protection with the DAB, based on the persecution by the Iranian authorities he claimed to have suffered on grounds of religion and, in particular, because he had converted to Christianity between late 2008 and early 2009.

31 In his interviews with the Bulgarian authorities, Mr Fathi stated that he possessed an illegal satellite dish which he used to receive the prohibited Christian television channel 'Nejat TV' and that, on one occasion, he participated by telephone in a live television programme. As proof, Mr Fathi produced before those authorities a letter from Nejat TV dated 29 November 2012. Mr Fathi also claimed that he was in possession of a Bible in a language which he understood and declared that he had been in contact with other Christians at meetings, but that he was not, however, a member of a religious community.

32 He stated that he had in September 2009 been detained for two days by the Iranian secret services and that he had been questioned about his participation in the abovementioned television programme. He stated that during his detention he was forced to confess that he had converted to Christianity.

33 By decision of 20 June 2016, the DAB rejected Mr Fathi's application for international protection as being unfounded, taking the view that Mr Fathi's account contained significant contradictions and that neither the existence of persecution or the risk of future persecution, nor the existence of a risk of the death penalty, had been established. The DAB also considered, in light of the fact that the account given by Mr Fathi was, as a whole, implausible, that the document dated 29 November 2012, submitted by Mr Fathi to substantiate his conversion to Christianity, was a forgery.

34 Mr Fathi sought the annulment of that decision before the referring court, the Administrativen sad Sofia-grad (Administrative Court, Sofia, Bulgaria). He submits that the DAB incorrectly assessed the document referred to in the preceding paragraph, which attests to his conversion to Christianity. He also considers that that authority did not take sufficient account of the information according to which the 'Islamic law on apostasy' (law on recantation) provides for the death penalty for such

conversion as being proselytism, 'enmity against God' and 'insulting the Prophet'. The referring court states that Mr Fathi is of Kurdish origin, but that, according to Mr Fathi, his difficulties in Iran are caused by his relationships with Christians and by his conversion to Christianity.

35 With regard to the situation of Christians in Iran, the referring court points out that it has been reported that the Iranian Government had executed at least 20 people who were accused of 'enmity against God', including a number of Sunni Kurds. According to a United Nations (UN) report dated 15 April 2015, individuals who had recently converted to Christianity had been sentenced, in Iran, to one year's imprisonment and were prohibited from leaving Iran for two years.

36 Mr Fathi submits that he should be recognised as a refugee on the basis of his religious affiliation and, as regards proof of the relevant circumstances, that the principle of giving the applicant the benefit of the doubt should be applied.

37 In those circumstances, the Administrativen sad Sofia-grad (Administrative Court, Sofia) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Does it follow from Article 3(1) of [the Dublin III] Regulation …, interpreted in conjunction with recital 12 and Article 17 of that 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 that regulation if, in the particular case, there is nothing to give rise to a derogation pursuant to Article 17 of that regulation?

(2) Does it follow from the second sentence of Article 3(1) of [the Dublin III] Regulation …, interpreted in conjunction with recital 54 of Directive 2013/32, that, in the circumstances of the main proceedings, where there is no derogation pursuant to Article 17(1) of that regulation, a decision must be issued in respect of an application for international protection within the meaning of Article 2(b) of that 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 [Dublin III Regulation] apply to the applicant?

(3) Is Article 46(3) of Directive 2013/32 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 [the Dublin III] Regulation … 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 that regulation? Must it be presumed on the basis of recital 54 of Directive 2013/32 that, where there are no indications suggesting that Article 17 of [the Dublin III] Regulation … applies and the application for international protection was examined on the basis of Directive 2011/95 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 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 affiliation of the person concerned to a particular religion?

(5) Does it follow from Article 10(2) of Directive 2011/95 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

religious affiliation but has not made any statements or presented any evidence regarding the circumstances that are characteristic of a person's particular religious affiliation and would be a reason for the actor of persecution to believe that the person concerned had such a religious affiliation — 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, 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 punishable by 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, interpreted in conjunction with Article 4(5)(b) of that directive, Article 10 of the Charter of Fundamental Rights of the European Union and Article 46(3) of Directive 2013/32, 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, 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?'

The questions referred for a preliminary ruling

The first and second questions

38 As a preliminary point, it should be noted that the referring court states, in the reasons for its request for a preliminary ruling, that the action brought before it is directed against the decision by which the DAB rejected on the merits Mr Fathi's application for international protection.

39 In that context, the referring court emphasises that, after that application was lodged, it was registered and Mr Fathi was heard in person on two occasions. The referring court adds that, from a formal point of view, only a decision on the merits of Mr Fathi's application for international protection was taken and that no express decision was made pursuant to Article 3(1) of the Dublin III Regulation,

establishing that that application was examined by the Republic of Bulgaria as the State which the criteria set out in Chapter III of that regulation indicate as being responsible. The referring court therefore asks whether the Dublin III Regulation applies to all applications for international protection which are lodged on the territory of a Member State or only to procedures for transferring applicants for international protection.

40 The referring court states in that regard that, on the date when Mr Fathi's application for international protection was lodged, Article 67a of the ZUB was in force, in accordance with which the procedure for determining the Member State responsible for examining an application for international protection is initiated by a decision of the authority before which the interviews are conducted, 'where there is information establishing that the responsibility for examining the application for international protection lies with another EU Member State'.

41 In the absence of information establishing that the responsibility for examining Mr Fathi's application for international protection lay with another Member State, the 'ordinary procedure' to rule on the merits of that application was initiated by the DAB, in accordance with Article 68(1) of the ZUB. In that regard, the referring court does not indicate that Mr Fathi was not informed that that procedure had been initiated, or that he had raised any objection in that regard.

42 In those circumstances, it must be considered that, by its first and second questions, which should be examined together, the referring court asks, in essence, whether, in a situation such as that at issue in the main proceedings, Article 3(1) of the Dublin III Regulation must be interpreted as meaning that it precludes the authorities of a Member State from conducting an examination on the merits of an application for international protection, within the meaning of Article 2(d) of that regulation, where there is no express decision by those authorities determining, on the basis of the criteria laid down by the regulation, that the responsibility for conducting such an examination lies with that Member State.

43 It should be noted from the outset that, under Article 1 of the Dublin III Regulation, that regulation lays down 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. Article 2(b) of that regulation defines, for the purposes of applying the regulation, an 'application for international protection' as an application for international protection as defined in Article 2(h) of Directive 2011/95. In accordance with the latter provision, an application for international protection means 'a request made by a third-country national or a stateless person for protection from a Member State, who can be understood to seek refugee status or subsidiary protection status'.

44 In the present case, it follows from the order for reference that the application that was rejected by the DAB was one made by Mr Fathi, a third-country national, seeking refugee status or humanitarian status, which corresponds to subsidiary protection status, provided for in Articles 8 and 9 respectively of the ZUB. It follows that, as the Advocate General has also observed in point 14 of his Opinion, Mr Fathi's application, made by a third-country national in Bulgaria, falls within the scope of that regulation, pursuant to Article 1 thereof.

45 Under Article 3(1) of the Dublin III Regulation, an application for international protection by a third-country national or a stateless person who applies on the territory of any one of the Member States is, in principle, to be examined by the single Member State which the criteria set out in Chapter III indicate as being responsible. Chapter IV of that regulation precisely identifies the situations in which a Member State may be deemed to be responsible for examining an asylum application by way of derogation from those criteria.

46 Moreover, a Member State with which an application for international protection has been lodged is required to follow the procedures laid down in Chapter VI of that regulation for the purposes of determining the Member State responsible for examining that application (see, to that effect, judgment of 16 February 2017, *C. K. and Others*, C-578/16 PPU, EU:C:2017:127, paragraph 58).

47 The provisions in Chapter VI of the Dublin III Regulation include Article 20(1), which provides that the process of determining the Member State responsible laid down in that regulation is to start 'as soon as an application for international protection is first lodged with a Member State'.

48 Accordingly, the mechanisms set up by the Dublin III Regulation to collect the necessary information in the context of that process are intended to be applied after an application for international protection has been lodged. Moreover, Article 4(1) of that regulation expressly provides that it is after such an application has been lodged that the applicant must be informed, in particular, of the criteria for determining the Member State responsible, the organisation of a personal interview and the possibility of submitting information to the competent authorities (see, to that effect, judgment of 26 July 2017, *Mengesteab*, C-670/16, EU:C:2017:587, paragraphs 86 and 87).

49 In the present case, as the Advocate General observed in point 20 of his Opinion, it is in no way apparent from the order for reference that the Bulgarian authorities did not establish that they were competent on the basis of the criteria laid down in the Dublin III Regulation after having found that the responsibility for examining the application for international protection did not lie with another Member State under Article 67a of the ZUB. The doubts expressed by the referring court in that regard in the order for reference concern solely the fact that no express decision had been adopted by the competent Bulgarian authority following the process of determining the Member State responsible.

50 As to the question whether, in circumstances such as those at issue in the main proceedings, that process must be concluded by an express decision establishing, on the basis of the criteria laid down in that regulation, that that Member State is responsible for undertaking such an examination, it is necessary to take into account not only the wording of Article 3(1) of the Dublin III Regulation, but also its context and the general scheme of the rules of which it forms part and the objectives pursued thereby (judgment of 5 July 2018, *X*, C-213/17, EU:C:2018:538, paragraph 26).

51 First, and with regard to the wording of Article 3(1) of the Dublin III Regulation, it must be pointed out that that provision does not expressly require the Member State on whose territory an application for international protection has been lodged to adopt, expressly, a decision establishing that it is responsible under the criteria laid down in that regulation, nor does it specify the form that such a decision should take.

52 Second, with regard to the context in which that provision arises, it should be noted, first of all, that Article 3(1) of the Dublin III Regulation is part of Chapter II of that regulation, which concerns the general principles and safeguards for the purpose of applying that regulation. Those safeguards, which must be respected by the determining Member State, include the applicant's right to information, provided for in Article 4 of that regulation. That right to be informed concerns not only the criteria for determining the Member State responsible, the hierarchy of such criteria in the different steps of the procedure and the duration of that procedure, but also the fact that an application for international protection lodged in one Member State can result in that Member State becoming responsible under that regulation, even if such responsibility is not based on those criteria.

53 Further, Article 17 of the Dublin III Regulation, headed 'Discretionary clauses', provides specifically, in paragraph 1, that, by way of derogation from Article 3(1) of that regulation, each Member State may decide to examine an application for international protection lodged with it by a third-country national, even if such examination is not its responsibility under the criteria laid down in that regulation, and that that Member State becomes the Member State responsible and is to assume the obligations associated with that responsibility. The Court has noted in that regard that the aim of that

option is to allow each Member State to decide, in the exercise of its sovereignty, for political, humanitarian or practical considerations, to agree to examine an application for asylum even if it is not responsible under those criteria (see, to that effect, judgment of 30 May 2013, *Halaf*, C-528/11, EU:C:2013:342, paragraph 37).

54 Last, Section IV, headed 'Procedural safeguards', in Chapter VI of the Dublin III Regulation, provides, in the event of a decision being adopted to transfer the applicant, for the notification of that decision, which is also to contain information on the legal remedies available. However, without prejudice to the safeguards provided for in Articles 4 and 5, that regulation does not contain specific procedural safeguards of that kind where, as in the case in the main proceedings, the determining Member State concludes that there is no need to transfer the applicant to another Member State given the lack of information establishing that the responsibility for examining that application lies with another Member State and that, on the basis of the criteria established by that regulation, the determining Member State is responsible for examining the application for international protection.

55 Third, one of the objectives pursued by the Dublin III Regulation is to introduce organisational rules governing relations between Member States for the purpose of determining the Member State responsible and, as is apparent from recitals 4 and 5 thereof, to ensure rapid determination of the Member State responsible, so as to guarantee effective access to the procedures for granting international protection and not to compromise the objective of processing applications for international protection expeditiously (see, to that effect, judgment of 16 February 2017, *C. K. and Others*, C-578/16 PPU, EU:C:2017:127, paragraph 57).

56 In the light of those textual, contextual and teleological factors, the answer to the first and second questions is that Article 3(1) of the Dublin III Regulation must, in a situation such as that in the main proceedings, be interpreted as not precluding the authorities of a Member State from conducting an examination on the merits of an application for international protection, within the meaning of Article 2(d) of that regulation, where there is no express decision by those authorities determining, on the basis of the criteria laid down by the regulation, that the responsibility for conducting such an examination lies with that Member State.

The third question

57 As a preliminary point, it should be noted that the referring court states that Mr Fathi has brought an action before it against the DAB decision which rejected on the merits his application for international protection and that it has jurisdiction to carry out the examination provided for in Article 46(3) of Directive 2013/32. It adds that, under national law, it must examine whether the procedure for adopting that decision has been observed.

58 The referring court notes, in that context, that it is clear from recital 54 of Directive 2013/32 that that directive should apply to applicants covered by the Dublin III Regulation 'in addition and without prejudice to the provisions of that Regulation'.

59 The referring court seeks, therefore, to ascertain whether it, as a court of first instance before which an action has been brought challenging a decision refusing to grant international protection, must review of its own motion whether the criteria and mechanisms for determining the Member State responsible for examining the application for international protection, laid down in the Dublin III Regulation, have been observed.

60 In those circumstances, it must be considered that, by its third question, the referring court seeks, in essence, to ascertain whether Article 46(3) of Directive 2013/32 must, in a situation such as that in the main proceedings, be interpreted as meaning that, in an action brought by an applicant for international protection against a decision dismissing his application for international protection as

being unfounded, the court or tribunal with jurisdiction in a Member State is required to examine of its own motion whether the criteria and mechanisms for determining the Member State responsible for examining that application, as provided for by the Dublin III Regulation, were correctly applied.

61 As is clear from Article 46(1)(a) of Directive 2013/32, read in conjunction with Article 2(b) thereof, Member States are to ensure that an applicant for international protection has the right to an effective remedy before a court or tribunal against, inter alia, the decision which considers as unfounded an application for protection made to the Member States by that applicant, who may be understood to seek refugee status or subsidiary protection status.

62 Article 46(3) of that directive defines the scope of the right to an effective remedy which applicants for international protection must have against decisions concerning their applications. To that end, it provides that, in order to comply with paragraph 1 of that article, Member States are to ensure that an effective remedy provides for a full and *ex nunc* examination of both facts and points of law, including, where applicable, an examination of the international protection needs pursuant to Directive 2011/95, at least in appeals procedures before a court or tribunal of first instance.

63 The Court has emphasised, in that regard, that the words 'shall ensure that an effective remedy provides for a full and *ex nunc* examination of both facts and points of law' must, in order not to deprive them of their ordinary meaning, be interpreted as meaning that the Member States are required, by virtue of Article 46(3) of Directive 2013/32, to order their national law in such a way that the processing of the appeals referred to includes an examination, by the court or tribunal, of all the facts and points of law necessary in order to make an up-to-date assessment of the case at hand (judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraph 110).

64 In that regard, the expression '*ex nunc*' emphasises the court or tribunal's obligation to make an assessment that takes into account, should the need arise, new evidence which has come to light after the adoption of the decision under appeal. For its part, the adjective 'full', used in Article 46(3) of Directive 2013/32, confirms that the court or tribunal is required to examine the evidence which the determining authority took into account or could have taken into account (judgment of 25 July 2018, *Alheto*, C-585/16, EU:C:2018:584, paragraphs 111 and 113).

65 As the Court has also stated, the obligation imposed in Article 46(3) of Directive 2013/32 must be interpreted in the context of the procedure for the examination of applications for international protection as a whole, as governed by that directive (see, to that effect, judgment of 26 July 2017, *Sacko*, C-348/16, EU:C:2017:591, paragraph 42), as the legal remedies established specifically in connection with the application of the Dublin III Regulation are set out in Article 27 of that regulation, which is also apparent from recital 19 of the same regulation.

66 As is clear inter alia from recital 12 of Directive 2013/32, the main objective of that directive is to further develop the standards for procedures in Member States for granting and withdrawing international protection.

67 Indeed, recital 54 of Directive 2013/32 stipulates that that directive should apply to applicants to whom the Dublin III Regulation applies, in addition and without prejudice to that regulation.

68 It cannot be inferred therefrom, however, that, in the context of proceedings brought under Article 46(1) of Directive 2013/32 by an applicant for international protection against a decision which considers his application for international protection to be unfounded, the court or tribunal of a Member State with jurisdiction must review of its own motion the correct application of the criteria and mechanisms, laid down in the Dublin III Regulation, for determining the Member State responsible for examining an application for international protection.

69 Recital 53 of Directive 2013/32 expressly indicates that that directive is not applicable to procedures between Member States governed by the Dublin III Regulation.

70 Further, Article 2(d) of the Dublin III Regulation provides that, for the purposes of that regulation, the 'examination of an application for international protection' means 'any examination of, or decision or ruling concerning, an application for international protection by the competent authorities in accordance with Directive [2013/32] and Directive [2011/95], except for procedures for determining the Member State responsible in accordance with [that] Regulation'.

71 Accordingly, as the Advocate General stated in point 38 of his Opinion, the national court before which an action has been brought against a decision adopted following the procedure for examining the application for international protection, as defined in that provision, is not required to examine of its own motion whether the procedure for determining the Member State responsible under the Dublin III Regulation has been applied correctly.

72 In the light of the foregoing considerations, the answer to the third question is that Article 46(3) of Directive 2013/32 must, in a situation such as that in the main proceedings, be interpreted as meaning that, in an action brought by an applicant for international protection against a decision dismissing his application for international protection as being unfounded, the court or tribunal with jurisdiction of a Member State is not required to examine of its own motion whether the criteria and mechanisms for determining the Member State responsible for examining that application, as provided for by the Dublin III Regulation, were correctly applied.

The fourth, fifth and seventh questions

73 In its request for a preliminary ruling, the referring court notes that the applicant for international protection at issue in the main proceedings regards himself simply as a 'Christian', but does not identify himself as a member of a traditional religious community, and that he has not submitted any evidence or made any statements to determine if and how he practises his religion. The referring court also states that it is unclear whether the applicant's beliefs require the performance of acts in the public sphere and whether the applicant's statements are sufficient ground to regard particular beliefs as a religion within the meaning of Article 10(1)(b) of Directive 2011/95. It is only on the basis of the public elements relating to Christianity that the actor of persecution is able to link an applicant for international protection to that religion.

74 The referring court also notes that Article 32(2) of Directive 2013/32, read in conjunction with Article 31(8)(e) thereof, enables an application for international protection to be rejected as being manifestly unfounded where the conditions laid down in those provisions are met. It considers, however, that a lack of clarification regarding the relevant circumstances which would result in an application for international protection being deemed to be manifestly unfounded cannot be the result of the administrative authority's inaction in the procedure.

75 However, in the present case, the evidence that enables the components covered by the concept of 'religion', within the meaning of Article 10(1)(b) of Directive 2011/95, to be established falls within the scope of the right to the protection of privacy. The referring court states that the Court has ruled out proof being required of certain matters relating to privacy in the context of applications for international protection. It is therefore necessary to clarify whether, in the context of the examination of his application, the applicant may lawfully be questioned as to the manifestation of his beliefs or his conduct in relation to the religion on which the application for international protection is based.

76 In those circumstances, it must be considered that, by its fourth, fifth and seventh questions, the referring court seeks, in essence, to ascertain whether Article 10(1)(b) of Directive 2011/95 must be interpreted as meaning that an applicant for international protection who claims, in support of his

application, that he is at risk of persecution for reasons based on religion must, in order to substantiate his claims concerning his religious beliefs, submit statements or produce documents concerning all the components of the concept of 'religion' referred to in that provision.

77 Under Article 10(1)(b) of Directive 2011/95, 'Member States shall take the following elements into account when assessing the reasons for persecution: … the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief'.

78 The Court has already had occasion to point out, with regard to the interpretation of Directive 2004/83, that that provision gives a broad definition of 'religion' which encompasses all its constituent components, be they public or private, collective or individual (see, to that effect, judgment of 5 September 2012, *Y and Z*, C-71/11 and C-99/11, EU:C:2012:518, paragraph 63).

79 In that regard, it is clear from the wording of that provision, and particularly the use of the words 'in particular', that the definition of the concept of 'religion' contained therein provides only a non-exhaustive list of components that may characterise that concept in the context of an application for international protection that is based on the fear of being persecuted for reasons of religion.

80 In particular, as is clear from that definition, the concept of 'religion' covers, on the one hand, the holding of theistic, non-theistic and atheistic beliefs, which, given the general nature of the words used, highlights that it covers both 'traditional' religions and other beliefs and, on the other, the participation in, either alone or in community with others, or the abstention from, formal worship, which implies that the fact that a person is not a member of a religious community cannot, in itself, be decisive in the assessment of that concept.

81 Moreover, as regards the concept of 'religion' referred to in Article 10 of the Charter of Fundamental Rights of the European Union ('the Charter'), which, as is apparent from recital 16 of Directive 2011/95, must be taken into account when interpreting that directive, the Court has emphasised the broad understanding of that concept, covering both the *forum internum*, that is the fact of having a belief, and the *forum externum*, that is the manifestation of religious faith in public, as religion may be expressed in either form (see, to that effect, judgments of 29 May 2018, *Liga van Moskeeën en Islamitische Organisaties Provincie Antwerpen and Others*, C-426/16, EU:C:2018:335, paragraph 44, and of 10 July 2018, *Jehovan todistajat*, C-25/17, EU:C:2018:551, paragraph 47 and the case-law cited).

82 In the light of those factors, an applicant for international protection who claims that he is at risk of persecution for reasons based on religion cannot be required to make statements or produce documents concerning each of the components covered by Article 10(1)(b) of Directive 2011/95 in order to substantiate his religious beliefs.

83 As the Advocate General has also observed in points 43 and 44 of his Opinion, if the applicant is returned to his country of origin, the acts which may be committed by the authorities of those countries against the applicant on grounds of religion must be assessed according to their gravity. On the basis of that criterion, they may therefore be classified as 'persecution' even though they do not affect each of the components of the concept of religion.

84 However, the applicant must duly substantiate his claims as to his alleged religious conversion, since the statements and no more relating to his religious beliefs or membership of a religious community constitute merely the starting point in the process of assessment of the facts and circumstances envisaged under Article 4 of Directive 2011/95 (see, by analogy, judgments of 2 December 2014, *A and Others*, C-148/13 to C-150/13, EU:C:2014:2406, paragraph 49, and of 25 January 2018, *F*, C-473/16, EU:C:2018:36, paragraph 28).

85 In that regard, it is clear from the very wording of Article 4(1) of that directive that the Member States may consider it to be the applicant's duty to submit as soon as possible all elements needed to substantiate the application for international protection (see, by analogy, judgment of 2 December 2014, *A and Others*, C-148/13 to C-150/13, EU:C:2014:2406, paragraph 50).

86 In verifications carried out by the competent authorities, pursuant to Article 4 of the directive, when certain aspects of the statements of an applicant for international protection are not substantiated by documentary or other evidence, those aspects may be taken into account only if the cumulative conditions laid down in Article 4(5)(a) to (e) of that directive are met.

87 Those conditions include, in particular, the fact that the applicant's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to his case, as well as the fact that the applicant's general credibility has been established (see, to that effect, judgment of 25 January 2018, *F*, C-473/16, EU:C:2018:36, paragraph 33). Where necessary, the competent authority must also take account of explanations provided regarding a lack of evidence, and of the applicant's general credibility (judgment of 25 January 2018, *F*, C-473/16, EU:C:2018:36, paragraph 41 and the case-law cited).

88 As the Advocate General stated in point 47 of his Opinion, in the context of applications for international protection based on a fear of persecution on grounds of religion, account must be taken, in addition to the individual position and personal circumstances of the applicant, of, inter alia, his religious beliefs and how he developed such beliefs, how he understands and lives his faith or atheism, its connection with the doctrinal, ritual or prescriptive aspects of the religion to which he states he is affiliated or from which he intends to distance himself, his possible role in the transmission of his faith or even a combination of religious factors and factors regarding identity, ethnicity or gender.

89 Finally, with regard to the referring court's doubts as to the possibility of adducing evidence of certain matters that relate to privacy in the context of applications for international protection, it should be noted that, although, in the judgment of 2 December 2014, *A and Others* (C-148/13 to C-150/13, EU:C:2014:2406), the Court did take the view that the methods used by the competent authorities to assess the statements and documentary or other evidence submitted in support of such applications must be consistent with the right to respect for private and family life, that judgment was specifically concerned with detailed questioning as to the sexual practices of an applicant, which specifically fall within the scope of an individual's personal private life. However, the referring court makes no mention of similar considerations in the main proceedings.

90 In the light of the foregoing considerations, the answer to the fourth, fifth and seventh questions is that Article 10(1)(b) of Directive 2011/95 must be interpreted as meaning that an applicant for international protection who claims, in support of his application, that he is at risk of persecution for reasons based on religion does not, in order to substantiate his claims concerning his religious beliefs, have to submit statements or produce documents concerning all the components of the concept of 'religion', referred to in that provision. The onus is, however, on the applicant to substantiate those claims in a credible manner by submitting evidence which permits the competent authority to satisfy itself that those claims are true.

The sixth question

91 The referring court states that, according to the information provided to it, in Iran, the 'Islamic law on apostasy' (law on recantation) provides for the death penalty for a change of religious affiliation by Iranian nationals, as being proselytism, 'enmity against God' and 'insulting the Prophet'. The referring court adds that, even though such legislation is not specifically aimed at Christianity, individuals who have converted to Christianity in Iran have been sentenced to one year's imprisonment and prohibited

from leaving Iran for two years. In the main proceedings, the application for international protection made by Mr Fathi is based on the persecution he claims to have suffered on account of that conversion.

92 In those circumstances, it must be considered that, by its sixth question, the referring court seeks, in essence, to ascertain whether Article 9(1) and (2) of Directive 2011/95 must be interpreted as meaning that the prohibition, on pain of execution or imprisonment, of conduct which is contrary to the State religion of the country of origin of the applicant for international protection may constitute an 'act of persecution', within the meaning of that article.

93 Under Article 9(1) of Directive 2011/95, in order to be regarded as an 'act of persecution' within the meaning of Article 1(A) of the Geneva Convention, an act must be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the ECHR, or be an accumulation of various measures, including violations of human rights, which is sufficiently severe as to affect an individual in a similar manner. In accordance with Article 9(2)(b) and (c) of that directive, 'acts of persecution', within the meaning of Article 9(1) thereof, can, inter alia, take the form of 'legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner' and 'prosecution or punishment which is disproportionate or discriminatory'.

94 As the Court has noted, it is apparent from the wording of Article 9(1) of that directive that a prerequisite of the acts in question being regarded as acts of persecution is that there must be a 'severe violation' of religious freedom that has a significant effect on the person concerned (judgment of 5 September 2012, *Y and Z*, C-71/11 and C-99/11, EU:C:2012:518, paragraph 59).

95 That requirement is met where the applicant for international protection, as a result of exercising that freedom in his country of origin, runs a genuine risk of, inter alia, being prosecuted or subject to inhuman or degrading treatment or punishment by one of the actors referred to in Article 6 of that directive (see, to that effect, judgment of 5 September 2012, *Y and Z*, C-71/11 and C-99/11, EU:C:2012:518, paragraph 67).

96 In the present case, it must be considered that the fact that legislation, such as the law on apostasy at issue in the main proceedings, imposes the death penalty or a custodial sentence, is capable, in itself, of constituting an 'act of persecution', within the meaning of Article 9(1) of Directive 2011/95, provided that such penalties are actually applied in the country of origin which adopted such legislation (see, by analogy, judgment of 7 November 2013, *X and Others*, C-199/12 to C-201/12, EU:C:2013:720, paragraph 56).

97 Such penalties constitute punishment which is disproportionate or discriminatory within the meaning of Article 9(2)(c) of that directive (see, by analogy, judgment of 7 November 2013, *X and Others*, C-199/12 to C-201/12, EU:C:2013:720, paragraph 57).

98 As the Advocate General has observed, in essence, in point 61 of his Opinion, in cases concerning the criminalisation of acts related to the exercise of the freedom of religion, it is for the authorities of the Member States which are responsible for examining applications for international protection to determine, on the basis of the applicant's statements and any documents which he may submit, or any information from reliable sources, whether, in the applicant's country of origin, the death penalty or custodial sentence provided for by such legislation is applied in practice. It is in the light of that information that the national authorities must decide whether it should be held that the applicant has in fact a well-founded fear of being persecuted on return to his country of origin (see, by analogy, judgment of 7 November 2013, *X and Others*, C-199/12 to C-201/12, EU:C:2013:720, paragraphs 59 and 60).

99 The point raised by the referring court concerning whether, in the country of origin, the prohibition which is criminalised in that manner is considered necessary in order to safeguard public order or to protect the rights and freedoms of others is irrelevant. When examining an application for refugee status, the competent authority must determine whether there is a well-founded fear of persecution in the sense referred to in Directive 2011/95, regardless of whether or not the measure in the country of origin giving rise to the risk of persecution falls within the scope of conceptions of public order or rights and freedoms in that country.

100 With regard to Articles 10 and 18 of the Charter, which are also mentioned by the referring court, it is sufficient to point out that they do not, in respect of the answer to the present question referred, provide any further specific guidance.

101 In the light of the foregoing considerations, the answer to the sixth question is that Article 9(1) and (2) of Directive 2011/95 must be interpreted as meaning that the prohibition, on pain of execution or imprisonment, of conduct which is contrary to the State religion of the country of origin of the applicant for international protection may constitute an 'act of persecution', within the meaning of that article, if that prohibition may, in practice, be enforced by such penalties by the authorities of that country, which it is for the referring court to ascertain.

Costs

102 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national 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 (Second Chamber) hereby rules:

1. **Article 3(1) of 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, must, in a situation such as that in the main proceedings, be interpreted as not precluding the authorities of a Member State from conducting an examination on the merits of an application for international protection, within the meaning of Article 2(d) of that regulation, where there is no express decision by those authorities determining, on the basis of the criteria laid down by the regulation, that the responsibility for conducting such an examination lies with that Member State.**

2. **Article 46(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, in a situation such as that in the main proceedings, be interpreted as meaning that, in an action brought by an applicant for international protection against a decision dismissing his application for international protection as being unfounded, the court or tribunal with jurisdiction of a Member State is not required to examine of its own motion whether the criteria and mechanisms for determining the Member State responsible for examining that application, as provided for by Regulation No 604/2013, were correctly applied.**

3. **Article 10(1)(b) of 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, must be interpreted as meaning that an applicant for international protection who claims, in support of his application, that he is at risk of persecution for reasons based on religion does**

not, in order to substantiate his claims concerning his religious beliefs, have to submit statements or produce documents concerning all components of the concept of 'religion', referred to in that provision. The onus is, however, on the applicant to substantiate those claims in a credible manner by submitting evidence which permits the competent authority to satisfy itself that those claims are true.

4. **Article 9(1) and (2) of Directive 2011/95 must be interpreted as meaning that the prohibition, on pain of execution or imprisonment, of conduct which is contrary to the State religion of the country of origin of the applicant for international protection may constitute an 'act of persecution', within the meaning of that article, if that prohibition may, in practice, be enforced by such penalties by the authorities of that country, which it is for the referring court to ascertain.**

[Signatures]