



The Constitutional Court adopts the decision to refer a question to the Court of Justice of the European Union for a preliminary ruling the second time

On 4 June 2019, the Constitutional Court adopted a decision on referring a question to the Court of Justice of the European Union (hereinafter CJEU) for a preliminary ruling in case No. 2018-18-01 “On Compliance of Section 14¹ (2) of the Road Traffic Law with Article 96 of the *Satversme* of the Republic of Latvia”.

The Constitutional Court established that in the present case there were doubts, whether the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereinafter – Regulation 2016/679) and of the Directive of the European Parliament and of the Council of 17 November 2003 2003/98/EC on the re-use of public sector information, which had been amended by the Directive of the European Parliament and the Council of 26 June 2013 2013/37/EU (hereinafter the amended Directive – Directive 2003/98/EC) prohibited the Member States from establishing the status of a generally accessible information for the information on the registered demerit points for drivers of vehicles, thus allowing processing of the respective personal data through disclosure, and to transfer these personal data for re-use.

The first part of Article 267 of the Treaty on the Functioning of the European Union provides that the Court of Justice of the European Union has the jurisdiction to provide preliminary rulings on the interpretation of treaties as well as the validity and interpretation of the legal acts by the institutions or structures of the European Union. Pursuant to the second and third part of this Article, the Constitutional Court also has the right but, in some cases, – the obligation to turn to the CJEU.

In the present case, the Constitutional Court has identified the need to refer questions to CJEU for a preliminary ruling regarding interpretation of the norms of Regulation 679/2016 and Directive

2003/98/EC, as well as the principles of the supremacy of the European Union law and legal certainty. The Constitutional Court decided to refer the following questions to CJEU:

1. Whether the concept used in Article 10 of Regulation 2016/679 “processing of personal data relating to criminal convictions and offences or related security measures” should be interpreted to mean that it applies to the processing of information about the registered demerit points for violations of the drivers of vehicles envisaged in the contested nor?
2. Irrespective of the answer to the first question – should the norms of Regulation 2016/679, in particular, the principle of “integrity and confidentiality”, enshrined in sub-para” f” of Para 1 of Article 5, be interpreted to mean that it prohibits the Member States from establishing the status of a generally accessible information for information on the registered demerit points of drivers of vehicles and allowing processing these data in the form of disclosure?
3. Whether the recital 50 and recital 154 of the Preamble to Regulation 2016/679 , sub-para “b” of Para of Article 5 and Article 10, as well as sub-para”cc” of Para 2 of Article 1 of Directive 2003/98/EC should be interpreted to mean that they prohibit such legal regulation of the Member States that prohibits transferring the information on the demerit points of drivers of vehicles registered for violations for re-use?
4. If the answer of the any above questions is affirmative – whether the principle of the supremacy of the European Union laws and the principle of legal certainty should be interpreted to allow application of the contested norm and maintaining the legal consequences thereof until the date when the final ruling by the Constitutional Court enters into force?

The Constitutional Court decided to suspend legal proceedings in the case until the date when the ruling by CJEU enters into force.

The text of the decision is available on the homepage of the Constitutional Court:
http://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2018/08/2018-18-01_Lemums-par-jautajumiem-EST-1.pdf#search=2018-18-01

The press release was prepared with the aim to facilitate understanding of cases heard by the Constitutional Court. It shall not be regarded as part of the ruling and is not binding to the Constitutional Court. The judgements, decisions and other information regarding the Constitutional Court are available at the homepage of the Constitutional Court www.satv.tiesa.gov.lv.

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