



Satversmes tiesa

Press Release

Case No. 2018-18-01

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Setting the status of generally accessible information for information about a person's demerit points is incompatible with the *Satversme*

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On 12 November 2021, the Constitutional Court delivered judgement in case No. 2018-18-01 “On Compliance of Section 14<sup>1</sup> (2) of the Road Traffic Law with Article 96 of the *Satversme* of the Republic of Latvia”.

#### THE CONTESTED NORM

- Section 14<sup>1</sup> (2) of the Road Traffic Law (hereafter – the contested norm):

“Information on a vehicle owned by a legal person, except for the information specified in Paragraph one of this Section, on the rights of a person to drive vehicles, on the fines imposed on a person for offences in road traffic which have not paid within the time period specified in the law, and also any other information contained in the State Register of Vehicles and Drivers Thereof and the State Information System of Tractor-type Machinery and Drivers Thereof shall be treated as generally accessible information.”

#### THE NORM OF HIGHER LEGAL FORCE

- Article 96 of the *Satversme* of the Republic of Latvia (hereafter – the *Satversme*):

“Everyone has the right to inviolability of his or her private life, home and correspondence.”

#### THE FACTS

The case was initiated on the basis of an application by person B (hereafter – the Applicant). It is noted in the application that the Applicant has eight points registering offences entered into the State Register of Vehicles and Drivers (hereafter – demerit

points). Pursuant to the contested norm, the aforementioned information is said to be generally accessible. The Applicant holds that it infringes upon his right to inviolability of private life, included in Article 96 of the *Satversme*.

The Constitutional Court, in reviewing the case, found that the Regulation (EU) 2016/679 of the European Parliament and 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 (hereafter – the General Data Protection Regulation) was applicable to information about a person’s demerit points.

Since several provisions of the General Data Protection Regulation that regulate the processing of personal data, in particular, personal data on previous convictions, applicable in the case, were unclear, on 4 June 2019, the Constitutional Court suspended legal proceedings in the case and submitted a question to the Court of Justice of the European Union for a preliminary ruling.

By the judgement of 22 June 2021 by the Court of Justice of the European Union in case C-439/19 “Latvijas Republikas Saeima (*Points de pénalité*)”, it was recognised on merits, that the contested norm was contrary to the General Data Protection Regulation since disclosure of information about a person’s demerit points was incompatible with the principle of data minimisation and was excessive.

At the assignments sitting of 1 July 2021, the Constitutional Court decided to review the case *de novo* in full composition of the Court in written procedure and resumed legal proceedings in the case.

### THE COURT’S FINDINGS

#### On the limits of reviewing the case

The contested norm establishes the status of generally accessible information to various types of information and applies to a set of different situations. One kind of this information is information about demerit points of drivers of vehicles. In view of the above and the need to ensure objective and comprehensive examination of the case and also the fact that the Applicant objected against the norm exactly because it made information about his demerit points available, the Constitutional Court decided to review the compatibility of the contested norm with Article 96 of the *Satversme*, insofar the contested norm provided that information about the points of registered offences committed by a person was generally accessible information. [14.]

### On the importance of the European Union law within the Latvian legal system

Pursuant to the second part of Article 68 of the *Satversme*, upon entering into international agreements, Latvia, with the purpose of strengthening democracy, may delegate a part of its State institution competencies to international institutions. This means that since ratification of the Latvia's Accession Treaty to the European Union, Latvia has recognised the openness of its legal system to the European Union law and the European Union law has become part of the Latvian legal system.

Thus, Latvia, in adopting and applying the national legal provisions, must take into account legal acts of the European Union that strengthen democracy and interpretation thereof consolidated in the judicature of the Court of Justice of the European Union. The Constitutional Court, likewise, in protecting the basic norm of Latvia, i.e., a democratic state governed by the rule of law, is obliged to ensure such application of provisions of the European Union law that strengthens Latvia as democratic state governed by the rule of law and a state founded on the respect and freedom inherent in each person. [15.2.]

### On the scope of Article 96 of the *Satversme*

The Constitutional Court noted that Article 96 of the *Satversme* protected personal data. Moreover, in the present case, the Constitutional Court, in specifying the right to inviolability of private life, included in Article 96 of the *Satversme*, must ensure harmony with other rights of a person to the protection of their data, reflected in Article 8 of the Charter of Fundamental Rights of the European Union (hereafter – the Charter) as a general legal principle of the European Union. In this respect, the Constitutional Court must take into account, in particular, the principles of personal data protection included in Article 6 and Article 7 of the Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and Article 5 and Article 6 of the General Data Protection Regulation and the compliance with which falls within the scope of rights guaranteed in Article 96 of the *Satversme* [15.1. un 15.2.]

Information defined in the contested norm regarding a person's demerit points is linked to their private life, and processing of such information, *inter alia*, making such information accessible, is interference into a person's private life. [15.3.]

### On whether the restriction on fundamental rights had been established by law

The Constitutional Court concluded that the contested norm had been adopted, promulgated and was publicly accessible in accordance with statutory requirements and was sufficiently clear. [17.1. and 17.2.]

In adopting the contested norm, the legislator, contrary to the principle of good legislation, had not assessed its compliance with the provisions of the European Union law in the area of data protection. However, in the present case, it was not sufficient grounds for establishing that the restriction on fundamental rights, included in the contested norm, had not been established by law. [17.3.]

#### On whether the restriction on fundamental rights has a legitimate aim

The measure envisaged by the contested norm – disclosing information on a person's registered demerit points – is aimed at deterring this person from reoffending in road traffic as well as to deter other persons from committing such offences. Namely, the legislator's intention in adopting the contested norm, substantially, was to improve road traffic safety and protect the rights of persons, participating in road traffic, to life and health. Hence, the legitimate aim of the restriction on fundamental rights, included in the contested norm, was protection of public security and other persons' rights. [18.]

#### On whether the restriction on fundamental rights is proportionate

Disclosure of information about demerit points, envisaged in the contested norm, belongs to the set of measures constituting the system of demerit points, making society's access to this information easier, thus, in some cases, decreasing the possibilities for a person, who violates road traffic rules regularly, to participate in road traffic. This promotes compliance with the road traffic rules and increases the safety of road traffic. Hence, the measure chosen by the legislator is suitable for the protection of public security and other persons' rights. [20.]

The Constitutional Court concluded that, by envisaging in the contested norm disclosure of information about a person's registered demerit points to anyone requesting this information, also persons, who did not need it in relation to ensuring and promoting road traffic safety, were allowed to obtain this information. Moreover, those persons, who, indeed, need this information regarding the registered demerit points of a particular person, could obtain this information even if it had the status of restricted access information, and, thus, appropriate guarantees for the rights and freedoms a

data subject would be ensured. In view of the above, the Constitutional Court recognised that, in the particular case, measures existed that would be less restrictive upon a person's rights and would allow reaching the legitimate aim of the restriction on fundamental rights, included in the contested norm, in the same quality. Hence, the restriction on fundamental rights, included in the contested norm, is incompatible with the proportionality principle. [21.]

#### On the date as of which the contested norm becomes void

Being aware of the importance of the European Union law in the area of data protection and the need to reinforce the space of freedom, security and justice within the European Union, the Constitutional Court decided that the contested norm became void as of the date in entered into force, i.e., 29 June 2005. [23.]

#### **The Constitutional Court held:**

to recognise Section 14<sup>1</sup>(2) of the Road Traffic Law, insofar it provides that information about demerit points is generally accessible information, as being incompatible with Article 96 of the *Satversme* of the Republic of Latvia and void as of the date in entered into force.

The judgement by the Constitutional Court is final and not subject to appeal, it enters into force on the date of its publication.

The text of the judgement is available on the Constitutional Court's homepage: [https://www.satv.tiesa.gov.lv/wp-content/uploads/2018/08/2018-18-01\\_Spriedums.pdf](https://www.satv.tiesa.gov.lv/wp-content/uploads/2018/08/2018-18-01_Spriedums.pdf)

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The press release was prepared to inform society about the Constitutional Court's work. More detailed information about recent developments, cases initiated and heard by the Constitutional Court is available on the Constitutional Court's webpage [www.satv.tiesa.gov.lv](http://www.satv.tiesa.gov.lv). Please follow also information published on the Court's *Twitter* account [@Satv\\_tiesa](https://twitter.com/Satv_tiesa) and *Youtube* [channel](#).

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