



Omission of data vis-à-vis the public in judicial proceedings

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In accordance with its obligations, the General Court ensures, when acting in its judicial capacity, that the principle of open courts and public information is reconciled with:

- the protection of personal data of natural persons¹
- and
- the protection of data other than personal data of natural persons mentioned in the cases brought before it.

¹ See Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ 2018 L 295, p. 39).

Direct actions²

Omission of personal data of natural persons

Any representative of a party to a dispute before the General Court may apply for the personal data of a natural person, whether that person is a party he is representing or a third party, to be omitted in the context of the proceedings so that the identity of the person concerned is not disclosed to the public. Such an application may also be made by the representative of an applicant for leave to intervene.

In that regard, **Article 66(1)** of the Rules of Procedure of the General Court provides that, 'in the course of the proceedings, the General Court may decide to omit, of its own motion or on an application by a party made by a separate document, the full names of natural persons, whether parties or third parties, and any other personal data of those natural persons mentioned in the documents and information which relate to a case and to which the public has access'.

As a result of the development of internet search engines and the fact that anyone can access information relating to judicial proceedings that is published or disseminated by the General Court, the Registrar of that court consistently draws the attention of the representatives of parties before that court to Article 35(3) of the Rules of Procedure of the General Court, as well as Articles 79 and 122 thereof, concerning the publication and the dissemination on the internet of documents relating to cases brought before that court, and to Article 66 of those rules, as cited above. All representatives are therefore invited to consider whether, in the case concerned, the identity of the party they represent, the identity of a third party, or any other personal data of those natural persons, should be kept confidential and, if so, to make an application, by a separate document, for the omission of those personal data, specifying the data concerned.

Omission of data other than personal data of natural persons

Any representative of a party to a dispute before the General Court may apply for data other than personal data of a natural person, such as the name of a legal person or data covered by trade or business secrets, to be omitted in the context of the proceedings. Such an application may also be made by the representative of an applicant for leave to intervene.

In that regard, **Article 66a(1)** of the Rules of Procedure of the General Court provides that, 'in the course of the proceedings, the General Court may decide to omit, of its own motion or on a reasoned application by a party made by a separate document, data other than personal data of natural persons mentioned in

² The expression 'direct actions' is defined in Article 1(2)(j) of the Rules of Procedure as meaning 'all of the actions that may be brought before the General Court, with the exception of requests for a preliminary ruling'.

documents and information to which the public has access if there are legitimate reasons why those data should not be publicly disclosed’.

Points to note

- The application for omission of data must be submitted to the Registry of the General Court **as soon as the first procedural document is lodged** and, in any event, before the publication or the dissemination on the internet of information about the case concerned, in order not to jeopardise the practical effect of omitting the data.
- The application must be made by a **separate document**.
- The application must **accurately identify the data covered** by the application.
- The application for omission of **data other than personal data of natural persons** referred to in Article 66a of the Rules of Procedure must state the legitimate reasons why those data should not be publicly disclosed.

The parties should refer to the Rules of Procedure of the General Court and to the Practice Rules for the implementation of the Rules of Procedure of the General Court (in particular points 62 to 68 thereof).

Preliminary ruling cases³

Anonymisation and omission of data by the referring court or tribunal

Where the referring court or tribunal has redacted the names of the natural persons mentioned in the request for a preliminary ruling or has decided to omit other information that may enable them to be identified, or data relating to natural persons or entities concerned by the main proceedings, whether they are parties or third parties to those proceedings, the General Court is to respect that redaction or that omission in the proceedings pending before it (**Article 201(1)** of the Rules of Procedure).

However, where a party to a preliminary ruling case before the General Court wishes for his identity and the data concerning him to be disclosed in that case, he may apply to the General Court for a reversal of the redaction already made (**point 70** of the Practice Rules).

Anonymisation and omission of personal data by the General Court of its own motion

After the request for a preliminary ruling has been lodged, except in specific circumstances, the General Court will redact the names of natural persons mentioned in the request for a preliminary ruling and, if necessary, other information that may enable them to be identified, if this has not been done by the referring court or tribunal prior to the submission of its request or by the Court of Justice prior to the transmission of the request to the General Court. The interested persons referred to in Article 23 of the Statute must respect such redactions in their observations (**point 69** of the Practice Rules).

However, where a party to a preliminary ruling case before the General Court wishes for his identity and the data concerning him to be disclosed in that case, he may apply to the General Court for a reversal of the redaction already made (**point 70** of the Practice Rules).

³ The General Court has jurisdiction to hear and determine requests for a preliminary ruling, transmitted by the Court of Justice, that come exclusively within one or several of the following six specific areas:

- the common system of value added tax;
- excise duties;
- the Customs Code;
- the tariff classification of goods under the Combined Nomenclature;
- compensation and assistance to passengers in the event of denied boarding or delay or cancellation of transport services;
- the scheme for greenhouse gas emission allowance trading.

Anonymisation and omission of personal data of natural persons on request

Where the referring court or tribunal or a party to the main proceedings considers it necessary that certain personal data concerning that party or relating to one or more natural persons concerned by the main proceedings, whether those persons are parties or third parties to those proceedings, be omitted in the context of preliminary ruling proceedings pending before the General Court, that court or tribunal or that party to the main proceedings may apply to the General Court so that those data are not disclosed to the public.

In that regard, **Article 201(2)** of the Rules of Procedure of the General Court provides that, 'at the request of the referring court or tribunal [or] of a party to the main proceedings ..., the General Court may ... render anonymous the request for a preliminary ruling or decide to omit personal data relating to one or more natural persons concerned by the main proceedings, whether parties or third parties to those proceedings'.

Points to note

- The General Court is responsible, in all the publications carried out in connection with a preliminary ruling case, for replacing the names of natural persons mentioned in that case with random initials. Where this proves to be necessary, the General Court will also neutralise additional information that may enable the persons concerned to be identified.
- The General Court retains the possibility to derogate, at the express request of the person concerned or if this is justified by the particular circumstances of the case concerned, from the practice of automatically replacing the names of natural persons mentioned in the case with random initials.
- To be effective, an application for omission of personal data must be made as quickly as possible, and in any event before the publication of the notice relating to the case in the *Official Journal of the European Union* or the service of the request for a preliminary ruling on the interested persons referred to in Article 23 of the Statute (**point 70** of the Practice Rules).

- As a general rule, in order to facilitate the designation and identification of a preliminary ruling case from which data that may enable the natural persons concerned by the main proceedings to be identified have been redacted, the General Court will assign a fictitious name to the preliminary ruling case in question. That fictitious name will not correspond to the real name of any of the parties to the proceedings; nor, in principle, will it correspond to any existing names (**point 71** of the Practice Rules).
- The protection of personal data applies to all publications made as part of the handling of the case, from its lodging until its closure (for example, notices to the *Official Journal of the European Union*, information made available on the Curia website, Opinions of Advocates General, orders made in the course of the proceedings and decisions closing the proceedings), as well as to the name of the case itself and the associated metadata. Data relating to entities concerned by the main proceedings which have been redacted by the referring court or tribunal in its request for a preliminary ruling will also be protected in an equivalent manner.

The parties and the interested persons referred to in Article 23 of the Statute should refer to the Rules of Procedure of the General Court and to the Practice Rules for the implementation of the Rules of Procedure of the General Court (in particular points 69 to 71 thereof).