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Judgment of the Court in Case C-199/24 | Legal Newsdesk Sweden

GDPR: The mere placing online, in return for payment, of decisions on criminal convictions, does not in principle constitute processing of personal data for ‘journalistic purposes’

It follows that such placing online is not such as to warrant derogations from the guarantees and remedies provided for by the GDPR

A Swedish company operates, in return for payment, a database which enables searches to be carried out on persons who have been the subject of criminal proceedings, and to consult the conviction decisions concerning them. A person, who was convicted in 2011, requested the erasure of his personal data from that database. That erasure, however, was only carried out subsequently, on the basis of the internal data storage policy of that company. That person then brought an action before the Swedish courts seeking damages on the basis of the General Data Protection Regulation (GDPR).¹

In its defence, the company relied on the constitutional protection enjoyed by that database in respect of the freedom of expression. Under Swedish law, such protection precludes the application of the GDPR and leaves to the person concerned only the possibility of bringing proceedings for defamation, of either a criminal or a civil nature, for the purposes of asserting his or her rights.

Harbouring doubts as to the compatibility of that legislation with the GDPR, the Swedish court referred questions to the Court of Justice.

In its judgment, the Court observes that **the GDPR requires Member States by law to reconcile the right to the protection of personal data with the freedom of expression and information**, including for journalistic purposes and the purposes of academic, artistic or literary expression.² They may provide for exemptions and derogations from certain provisions of the GDPR, if that is necessary to allow that reconciliation.

Nevertheless, **the Member States may not preclude the application of the GDPR in respect of the processing of data for purposes other than those referred to above.**

Nor can they deprive the person concerned of remedies guaranteed by the GDPR, by leaving that person only the possibility of bringing criminal or civil proceedings for defamation. **That person must be able to exercise, so far as concerns the processing of his or her personal data, the remedies which are granted to him or her under that regulation directly.**³

According to the Court, personal data are processed for ‘journalistic purposes’ where the objective of that processing is to inform the public or to disclose opinions or ideas, where the content is prepared according to ethical rules or codes of conduct and has been edited or adapted, or at least is in line with an editorial policy. The facts presented must have been verified. **The act of placing online, in return for payment, criminal convictions, does not appear**, subject to a verification to be carried to be carried out by the national court, **to fulfil those conditions or, consequently, to be capable of being regarded as carried out for journalistic purposes.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106.

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¹ [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.

² Article 85(1) and (2) of the GDPR.

³ Article 77(1), Article 78(1) and (2), Article 79(1) and Article 82(1) of the GDPR.