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Judgment of the Court in Case C-474/24 | NADA Austria and Others

The online publication of the names of professional athletes who have infringed anti-doping rules may be compatible with EU law

Nevertheless, it must be possible to weigh up the interests at issue prior to the publication

The Court of Justice specifies that the Member States may, in principle, make provision for publication on the internet of the names of professional athletes who have infringed anti-doping rules, the duration of the ban imposed on them and the reasons for that ban. Nevertheless, such legislation must comply with the General Data Protection Regulation. It follows, in particular, that the entity responsible for the publication must be able to weigh up the interests at issue prior to it. Furthermore, the publication must observe the principle of proportionality, in particular as regards the length of the publication period. In addition, any athlete concerned must be able to lodge, as a preventive measure, a complaint with the competent data protection authority where there are specific indications that a publication concerning him or her is imminent or will take place in the near future.

The Austrian Anti-Doping Legal Committee (the ÖADR) and the Austrian Independent Arbitration Committee (the USK) ¹ banned four athletes from participating in national and international competitions for a fixed period or for life, on account of their having infringed anti-doping rules.

Pursuant to the Austrian legislation, such bans are to be published ² on the website of the Austrian anti-doping agency (NADA Austria). That publication is to include the first name and surname of the athlete concerned, the sports discipline practised, the infringement of the anti-doping rules committed, the sanction imposed, and the start and end dates of that sanction. The ÖADR is also to publish, on its own website, those data as well as the name of the prohibited substance in question.

The four athletes have challenged ³ before the Austrian Federal Administrative Court the publication on the websites in question of their names and the sport concerned. They have submitted, inter alia, that the information published is covered by the concept of 'data concerning health', whose processing is prohibited in principle, as well as that of personal data relating to criminal convictions and offences, whose processing may only be carried out under the control of official authority. Furthermore, they have asserted that the undifferentiated publication system provided for in Austria is incompatible with the General Data Protection Regulation (GDPR). ⁴ The Federal Administrative Court has put questions ⁵ to the Court of Justice in that regard.

The Court of Justice answers, first of all, that the information published **is not covered, in principle, by the concept of 'data concerning health', unless reference is made in the publication to the name or category of the prohibited method or substance concerned by that infringement and that reference, combined with other information** concerning the data subject, **is capable of revealing**, even indirectly, by means of an intellectual operation involving collation or deduction, **information relating to the past, current or future physical or mental health status of that person**.

Next, the Court of Justice answers that the personal data relating to offences provided for under national anti-doping legislation and to the sanctions imposed for such offences **do not constitute personal data relating to criminal**

convictions and offences. Those offences and those sanctions are directed only at a particular group of persons, namely athletes, in the same way as disciplinary sanctions whose purpose is to ensure that the members of a group comply with the rules of conduct specific to that group.

Lastly, the Court answers that **the GDPR⁶ does not preclude, in principle, the names of professional athletes who have infringed anti-doping rules, the duration of the ban imposed on them and the reasons for that ban from being published on the internet.**

The fight against doping, whose purpose is to safeguard the fairness, integrity and objectivity of the conduct of competitive sport, ensure equal opportunities for athletes, protect their health and uphold the ethical values in sport, **is an objective of general interest.**

The **publication of infringements** of anti-doping rules **is appropriate for contributing** to the attainment of that objective, by contributing to **deterrence, prevention and to the effectiveness of the sanctions.**

Moreover, publication beyond a limited circle of persons does not appear to exceed what is necessary in order to attain that objective and, in particular, to inform persons who are indirectly concerned by the sanction and whose interests are affected by it, such as current or potential employers and sponsors of the professional athlete who has been sanctioned.

Nevertheless, the entity responsible for the publication must be able, **prior to the publication**, to carry out **an individual balancing exercise weighing up the interests** involved in order to ensure that that publication is made in a manner consistent with the GDPR, and, in particular, in observance of the principle of proportionality.⁷

Furthermore, the athlete concerned must be able to lodge, **as a preventive measure**, a **complaint** with the competent data protection authority where there are specific indications that a publication concerning him or her is imminent or will take place in the near future.

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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¹ The USK is competent to review the decisions of the ÖADR.

² Exceptions are provided for recreational athletes, particularly vulnerable persons and whistleblowers.

³ After having, without success, submitted requests to NADA Austria and to the ÖADR and lodged complaints with the Austrian Data Protection Authority. The Austrian Data Protection Authority rejected the complaints of three of the four athletes as unfounded. It rejected the complaint of the fourth athlete for lack of interest in lodging a complaint, on the ground that her data had not yet been published.

⁴ [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 (General Data Protection Regulation).

⁵ After the Court of Justice dismissed as inadmissible a request for a preliminary ruling made by the USK (see judgment of 7 May 2024, *Nada and Others*, [C-115/22](#), and Press Release [No 80/24](#)).

⁶ Which does apply to the publication at issue. In particular, that publication is not covered by the exception applying to the safeguarding of national security.

⁷ The Court of Justice emphasises, *inter alia*, that high-level athletes enjoying a certain renown have a special responsibility. By contrast, publication, including athletes' names, of the information at issue on the internet for a period exceeding that during which the sanctions in question apply is disproportionate, having regard to the seriousness of the interference entailed by such a publication with the fundamental rights to respect for private life and to the protection of personal data.