Judgment of the Court in Case C-798/24 | [Jautiva] [1]

Press release No 115/26

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EU law does not require the disclosure of information relating to all shareholders of public limited liability companies, including minority shareholders

Furthermore, EU law precludes the online disclosure of personal data relating to such shareholders where access to those data is not subject to any conditions, such as demonstrating a legitimate interest, even if such disclosure pursues an objective of general interest recognised by the European Union

A constitutional complaint has been brought before the Constitutional Court of Latvia by 17 minority shareholders of a public limited liability company who are challenging the compatibility with the right to respect for privacy and the protection of personal data, guaranteed by the Latvian Constitution, of a provision of national law [2] requiring that information relating to the shareholders of public limited liability companies be made available to the public.

Where such a shareholder is a natural person, that information is to include the surname, first name, personal identification number or, in the absence of such a number, the date of birth, the number and date of issue of an identity document, the country and issuing authority, and the address at which the shareholder can be contacted. In addition, and regardless of whether the shareholder is a natural person, that information is also to include the shareholder's email address, the class, number and nominal value of the shares held by that shareholder, and the number of votes attaching to the shares. That information is to be accessible online and may be downloaded in bulk, including by any unidentified user.

The applicants contend that the Latvian legislature has failed to justify the need to disclose that information to the public, pointing to a high risk of it being used for dishonest purposes. Moreover, once disclosed, it is not possible to place any restrictions on its subsequent use. They rely, in particular, on the judgment of the Court of Justice of 22 November 2022, *Luxembourg Business Registers*, [3] concerning public access to information about the beneficial owners of companies.

The Constitutional Court of Latvia considers that, in this instance, that disclosure pursues three objectives, namely, first, to ensure a transparent business environment so as to protect the interests of third parties, second, to prevent money laundering and the financing of terrorism and the proliferation of weapons of mass destruction, and, third, to provide the information necessary for the implementation of national, international and EU sanctions.

Harbouring doubts as to whether EU law and, in particular, Directive 2017/1132 [4] imposes a disclosure requirement, the Constitutional Court of Latvia made a reference to the Court of Justice for a preliminary ruling. That reference also concerns whether the General Data Protection Regulation (GDPR) [5] precludes national legislation requiring personal data relating to all shareholders of public limited liability companies, including minority shareholders, to be made available to the public in order to achieve the three objectives referred to above, where access to those data is **not subject to any conditions**, such as demonstrating a legitimate interest.

In today's judgment, the Court holds, first, that, having regard to its wording, context and the objectives it pursues, the relevant provision of Directive 2017/1132 does **not** require the disclosure of information relating to all shareholders of public limited liability companies, including the minority shareholders of such companies.

Next, as regards the interpretation of the GDPR, the Court recalls that the fundamental rights to respect for privacy and the protection of personal data, guaranteed in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union, **are not absolute rights**, but must be considered in relation to their function in society and be weighed against other fundamental rights. **Limitations** may therefore be imposed, so long as they are provided for by law, respect the essence of the fundamental rights and observe the principle of proportionality.

In the present case, according to the Court, the making available to the public of the data at issue is provided for by law and does not undermine the essence of the fundamental rights in question. However, it nevertheless constitutes a **serious interference** with those rights. Those data are capable of enabling a profile to be drawn up concerning, inter alia, the state of the wealth of the shareholder concerned and the economic sectors and specific undertakings in which he or she invests. In addition, those data are accessible to a **potentially unlimited number of persons**, with the result that their processing is liable to enable those data to be freely accessed also by persons who, for reasons unrelated to the objective pursued by making those data available, seek to find out about, inter alia, the material and financial situation of such a shareholder. The potential consequences for data subjects of possible **abuse** of their data are exacerbated by the fact that, once those data have been made available to the public, they can not only be freely consulted but also retained and disseminated.

In that regard, concerning the objective consisting in ensuring a transparent business environment so as to protect the interests of third parties, the Court holds that the disclosure of data relating to all shareholders of a public limited liability company and, in particular, its minority shareholders does not appear to serve any useful purpose in the light of that objective. Consequently, the national legislation in question does **not** appear to be **either appropriate or necessary** to attain that objective.

As regards the other two objectives, consisting in preventing money laundering and the financing of terrorism and the proliferation of weapons of mass destruction, and in providing the information necessary for the implementation of national, international and EU sanctions, the Court finds that the national legislation in question does **not** appear to be **either necessary or proportionate** in relation to those objectives. It states in particular that, as regards the shareholders, including the minority shareholders, of those companies, it does not appear to be strictly necessary for their data to be accessible to any person without that person being required to demonstrate a legitimate interest, since less prejudicial means are available, such as limiting access to persons who are able to demonstrate a legitimate interest, combined – as regards the objective relating to the implementation of sanctions – with restricting the disclosure requirement solely to data relating to persons included on sanctions lists.

The Court further observes that the national legislation at issue is not accompanied by **sufficient safeguards** to protect data subjects effectively against the **risk of abuse**, since their data are accessible on the internet and may be downloaded in bulk, including by any unidentified user.

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 name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

[2] Point 2(b) of the first subparagraph of Article 4.[15] of the Law on the companies register, read in conjunction with the fifth subparagraph of Article 4.[10] of that law and Article 235(1) of the Commercial Code.

[3] Judgment in Joined Cases C-37/20 and C-601/20 (see also Press Release No 188/22).

[4] Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law, in particular Article 14(d) of that directive.

[5] 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), in particular Articles 5 and 6 of that regulation, read in the light of Articles 7 and 8 of the Charter of Fundamental Rights.