JUDGMENT OF THE COURT (Grand Chamber)

1 October 2019 (1)

(Reference for a preliminary ruling – Protection of natural persons with regard to the processing of personal data Directive 95/46/EC – Scope – Processing of personal data by the operator of a website consisting in the storage on its server hosted in the European Union of IP addresses which, in the case of persons who have accessed that website, do not enable the identification of those persons – Processing of personal data which, in the case of persons who have accessed a subsequent administrative website, enables

120 Therefore, it follows from the provisions cited in paragraphs 115 to 119 above that it is for the competent national authorities which have been authorised by a court or an independent administrative body to access the data stored to inform the data subjects, within the framework of the applicable national procedural rules, of the grounds on which that authorisation is based, as soon as such information is not liable to jeopardise the investigations carried out by those authorities, and to make available to them all the information referred to in Article 13(1) of Directive 2016/680. That information is indeed necessary to enable those persons to exercise, inter alia, the right to a remedy expressly provided for in Article 54 of Directive 2016/680 (see, to that effect, judgment of 17 November 2022, *Spetsializirana prokuratura (Retention of traffic and location data)*, C-350/21, EU:C:2022:896, paragraph 70 and the case-law cited).

121 By contrast, national legal rules which exclude as a general rule any right to obtain such information are not consistent with EU law (see, to that effect, judgment of 17 November 2022, *Spetsializirana prokuratura (Retention of traffic and location data)*, C-350/21, EU:C:2022:896, paragraph 71).

122 In the present case, it is apparent from the order for reference that CG knew that his mobile telephone had been seized when the Austrian police attempted in vain to unlock it in order to access the data contained therein. In those circumstances, it does not appear that informing CG of the fact that those authorities were going to attempt to access those data was liable to prejudice the investigations; accordingly, he should have been informed of those attempts beforehand.

123 It follows from the foregoing that the answer to the third question is that Articles 13 and 54 of Directive 2016/680, read in the light of Article 47 and Article 52(1) of the Charter, must be interpreted as precluding national legal rules which authorise the competent authorities to attempt to access data contained in a mobile telephone without informing the data subject, within the framework of the applicable national procedural rules, of the grounds on which the authorisation to access such data, issued by a court or an independent administrative body, is based, once the communication of that information is no longer liable to jeopardise the tasks of those authorities under that directive.

Costs

124 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Grand Chamber) hereby rules:

1. Articles 4(1)(c) of Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, read in the light of Articles 7, 8 and Article 52(1) of the Charter of Fundamental Rights of the European Union,

must be interpreted as not precluding national legal rules which afford the competent authorities the possibility to access data contained in a mobile telephone for the purposes of the prevention, investigation, detection and prosecution of criminal offences in general, provided those rules:

- **define with sufficient precision the nature or categories of offences concerned,**
- **ensure respect for the principle of proportionality, and**
- **make reliance on that possibility, except in duly justified cases of urgency, subject to prior review by a judge or an independent administrative body.**

2. Articles 13 and 54 of Directive 2016/680, read in the light of Article 47 and Article 52(1) of the Charter of Fundamental Rights,

must be interpreted as precluding national legal rules which authorise the competent authorities to attempt to access data contained in a mobile telephone without informing the data subject, within the framework of the applicable national procedural rules, of the grounds on which the authorisation to access such data, issued by a court or an independent administrative body, is based, once the communication of that information is no longer liable to jeopardise the tasks of those authorities under that directive.

[Signatures]

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* Language of the case: German