

Request for a preliminary ruling from the Tribunal de première instance de Liège (Belgium) lodged on 28 January 2022 — PL v État belge

(Case C-56/22)

(2022/C 148/22)

Language of the case: French

Referring court

Tribunal de première instance de Liège

Parties to the main proceedings

Applicant: PL

Defendant: État belge

Question referred

Does EU law, essentially the provisions of the Charter of Fundamental Rights of the European Union and Directive 2008/115/EC, ⁽¹⁾ apply to a practice of a Member State allowing it to regularise in situ a foreign national staying there illegally? If it does, must Articles 5, 6 and 13 of Directive 2008/115/EC, read in accordance with [recitals 6 and 24] thereof, and Articles 1, 7, 14, 20, 21, 24 and 47 of the Charter of Fundamental Rights of the European Union be interpreted as meaning that, where a Member State is considering granting an autonomous residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other reasons to a third-country national staying illegally on its territory, it is entitled to: (i) require that national, first of all, to prove that it is impossible to make his or her application in his or her country of origin; and (ii) not set out in its legislation the, a fortiori objective, conditions and criteria for proving those compassionate, humanitarian or other reasons (whether as far as admissibility is concerned, by requiring that exceptional circumstances be demonstrated but not defining them, or as far as substance is concerned, by failing to lay down any objective criteria for defining the, inter alia humanitarian, reasons justifying a residence authorisation), thereby rendering the response to such an application unpredictable, or even arbitrary? If it is permissible for those criteria not to be laid down by legislation, in the event of a refusal, is the right to an effective remedy not undermined by the fact that the only remedy provided is based on strict legality, excluding any considerations of appropriateness?

⁽¹⁾ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).

Request for a preliminary ruling from the Verwaltungsgericht Wiesbaden (Germany) lodged on 2 February 2022 — AB v Land Hesse

(Case C-64/22)

(2022/C 148/23)

Language of the case: German

Referring court

Verwaltungsgericht Wiesbaden

Parties to the main proceedings

Applicant: AB

Defendant: Land Hesse

Joined party: SCHUFA Holding AG

Questions referred

1. Is Article 77(1) of Regulation (EU) 2016/679 ⁽¹⁾ ('GDPR'), read in conjunction with Article 78(1) thereof, to be understood as meaning that the outcome that the supervisory authority reaches and notifies to the data subject
 - (a) has the character of a decision on a petition? This would mean that judicial review of a decision on a complaint taken by a supervisory authority in accordance with Article 78(1) of the GDPR is, in principle, limited to the question of whether the authority has handled the complaint, investigated the subject matter of the complaint to the extent appropriate and informed the complainant of the outcome of the investigation,
 - or
 - (b) is to be understood as a decision on the merits taken by a public authority? This would mean that a decision on a complaint taken by a supervisory authority would be subject to a full substantive review by the court in accordance with Article 78(1) of the GDPR, whereby, in individual cases — for example where discretion is reduced to zero — the supervisory authority may also be obliged by the court to take a specific measure within the meaning of Article 58 of the GDPR.
2. Is the storage of data at a private credit information agency, where personal data from a public register, such as the 'national databases' within the meaning of Article 79(4) and (5) of Regulation (EU) 2015/848, ⁽²⁾ are stored without a specific reason in order to be able to provide information in the event of a request, compatible with Articles 7 and 8 of the Charter of Fundamental Rights of the European Union?
3. (a) Are private databases (in particular databases of a credit information agency) which exist in parallel with, and are set up in addition to, the State databases and in which the data from the latter (*in casu*, insolvency announcements) are stored for longer than the period provided for within the narrow framework of Regulation (EU) 2015/848, read in conjunction with the national law, permissible in principle?
 - (b) If Question 3a is answered in the affirmative, does it follow from the 'right to be forgotten' under Article 17(1)(d) of the GDPR that such data must be deleted where the processing period provided for in respect of the public register has expired?
4. In so far as point (f) of Article 6(1) of the GDPR enters into consideration as the sole legal basis for the storage of data at private credit information agencies with regard to data also stored in public registers, is a credit information agency already to be regarded as pursuing a legitimate interest in the case where it imports data from the public register without a specific reason so that those data are then available in the event of a request?
5. Is it permissible for codes of conduct which have been approved by the supervisory authorities in accordance with Article 40 of the GDPR, and which provide for time limits for review and erasure that exceed the retention periods for public registers, to suspend the balancing of interests prescribed under point (f) of Article 6(1) of the GDPR?

⁽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, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1).

⁽²⁾ Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (OJ 2015 L 141, p. 19).

Action brought on 8 February 2022 — European Commission v Republic of Bulgaria**(Case C-85/22)**

(2022/C 148/24)

*Language of the case: Bulgarian***Parties***Applicant:* European Commission (represented by: Gr. Koleva, C. Hermes)*Defendant:* Republic of Bulgaria