

SUMMARY

ECJ 19 December 2024, C-65/23 (K GmbH), Right to Privacy

MK - v - K GmbH, German Case

Summary

Article 88(1) and (2) of the GDPR requires national laws on personal data processing in employment to comply with Articles 5, 6(1), and 9(1) and (2) of the GDPR. Article 88(1) of the GDPR allows national courts to fully review collective agreements on the necessity of personal data processing, despite the discretion given to the parties.

Questions

Must Article 88(1) and (2) of the GDPR be interpreted as meaning that a provision of national law which concerns the processing of personal data for the purposes of employment relationships and has been adopted pursuant to Article 88(1) of that regulation must have the effect of requiring its addressees to comply not only with the requirements arising from Article 88(2) of that regulation, but also with those arising from Article 5, Article 6(1) and Article 9(1) and (2) thereof?

Must Article 88(1) of the GDPR be interpreted as meaning that, where a collective agreement falls within the scope of that provision, the margin of discretion that the parties to that agreement have to determine whether the processing of personal data is 'necessary', within the meaning of Article 5, Article 6(1) and Article 9(1) and (2) of that regulation, has the effect of preventing the national court from carrying out a full judicial review in that regard?

Ruling

Article 88(1) and (2) of 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), must be interpreted as meaning that a provision of national law which concerns the processing of personal data for the purposes of employment relationships and has been adopted pursuant to Article 88(1) of that regulation must have the effect of requiring its addressees to comply not only with the requirements arising from Article 88(2) of that regulation, but also with those arising from Article 5, Article 6(1) and Article 9(1) and (2) thereof.

2Article 88(1) of Regulation 2016/679 must be interpreted as meaning that, where a collective agreement falls within the scope of that provision, the margin of discretion that the parties to that agreement have to determine whether the processing of personal data is ‘necessary’, within the meaning of Article 5, Article 6(1) and Article 9(1) and (2) of that regulation, does not prevent the national court from carrying out a full judicial review in that regard.

Creator: European Court of Justice (ECJ)

Verdict at: 2024-12-19

Case number: C-65/23