

EUROSAI Seminar

CJEU case law

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Applicability of EU data protection rules

- C-465/00, C-138/01 and C-139/01, Österreichischer Rundfunk and others
- C-33/22, Österreichische Datenschutzbehörde

Article 2 GDPR:

“1. This Regulation applies to the processing of personal data wholly or partly by automated means [...]

2. This Regulation does not apply to the processing of personal data:

(a) in the course of an activity which falls outside the scope of Union law; [...]

- ECJ: Article 2(2)(a) has “the sole purpose of excluding from the scope of the GDPR the processing carried out by State authorities in the course of an activity which is intended to safeguard national security or which can be classified in the same category”

Applicability of EU data protection rules

- **C-245/20, Autoriteit Persoonsgegevens**
- Article 55(3) GDPR: “Supervisory authorities shall not be competent to supervise processing operations of courts acting in their judicial capacity.”
- ECJ: “processing operations whose supervision by the supervisory authority would be likely, whether directly or indirectly, to have an influence on the independence of their members or to weigh on their decisions are excluded from that authority’s competence.”

Data processing

- **C-184/20, Vyriausioji tarnybinės etikos komisija**

- Article 6(1) GDPR:

„Processing shall be lawful only if and to the extent that at least one of the following applies:

[...]

(c) processing is necessary for compliance with a legal obligation to which the controller is subject;

[...]

(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;

- Legitimate objective? Appropriate? Necessary? Proportionate?

Data processing

- **C-37/20 and C-601/20, Luxembourg Business Registers and Sovim**
- Article 30(5) Anti-Money Laundering Directive 2015/849, as amended by Directive 2018/843:

„Member States shall ensure that the information on the beneficial ownership is accessible in all cases to:

- (a) competent authorities and [Financial Intelligence Units], without any restriction;
- (b) obliged entities, within the framework of customer due diligence in accordance with Chapter II;
- (c) any member of the general public.”

Data processing

- **C-634/21, SCHUFA Holding**
- Article 4(4) GDPR: “Profiling”: “any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person [...]”.
- Article 22(1) GDPR: “The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.”