[DE] Wiesbaden Administrative Court Submits Data Retention Questions to ECJ

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The *Verwaltungsgericht Wiesbaden* (Wiesbaden Administrative Court - VG) has submitted to the Court of Justice of the European Communities (ECJ) a reference for a preliminary ruling concerning, *inter alia* , the compatibility of the Data Retention Directive with fundamental rights.

The underlying case concerns the compatibility with EC data protection law of agricultural law provisions requiring information about the recipients of certain EC agricultural subsidies to be published annually online. The VG considers the rules to be a disproportionate intrusion on the European basic right to data protection. It also believes that the publication of data exclusively on the Internet, as required by the implementing Regulation (EC) No. 259/2008, contradicts the stricter rules on telecommunications surveillance. Citizens are obliged to allow their data to be stored in order to access the information they need to participate in public affairs. In the VG's opinion, data retention is unnecessary in a democratic society. It refers in this connection to the judgment in the Promusicae case, which expressed doubt over the storage of traffic data without specific reason.

In case the ECJ only confirms the validity of the implementing regulation and the Data Retention Directive is annulled, the VG has also asked the ECJ to examine the legality of the Directive.

Finally, if the ECJ decides that the Directive is valid, the VG would like to know whether the storage of dynamic IP addresses by the website on which the data concerning the plaintiffs was published is compatible with the Data Protection Directive. The VG considers dynamic IP addresses, as personal data, to be particularly worthy of protection.

Pressemitteilung des VG zum Beschluss vom 27. Februar 2009 (Az. 6 K 1045/08.WI)

http://www.vg-wiesbaden.justiz.hessen.de/irj/VG_Wiesbaden_Internet?rid=HMdJ/VG_Wiesbaden_Internet/sub/1a3/1a360441-98a3-bf11-f3ef-ef97ccf4e69f,,,11111111-2222-3333-4444-100000005003%26overview=true.htm

VG press release on the decision of 27 February 2009 (case no. 6 K 1045/08.WI)

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