



**Request for a preliminary ruling from the Sofiyski rayonen sad (Bulgaria) lodged on 29 April 2024 –
CL v Prokuratura na Republika Balgaria**

(Case C-312/24, Darashev) ⁽¹⁾

(C/2024/4715)

Language of the case: Bulgarian

Referring court

Sofiyski rayonen sad

Parties to the main proceedings

Applicant: CL

Defendant: Prokuratura na Republika Balgaria

Questions referred

Is **Article 2(1) of the GDPR** to be interpreted as meaning that data processing includes activities within one and the same organisational structure, in which some of its directorates perform the duties of an employer while one other directorate has the function of an investigating authority in criminal proceedings against employees of the other directorates? **If the answer is in the affirmative:**

1. Is the expression **‘processing of personal data’** in Article 4(2) of the GDPR to be interpreted as covering an activity in the context of which information concerning a particular employee which has been obtained by the employer, in its capacity as the investigating authority, through one of its directorates is added to that employee’s personal file?
2. Is the expression **‘filing system’** in Article 4(6) of the GDPR to be interpreted as covering the personal file of an employee or worker working in a directorate of the employer where the information has been collected by another directorate of the employer which has the status of an investigating authority?
3. Is **Article 9(2)(b) of the GDPR** to be interpreted as meaning that an organisational entity of an employer may gather and store data indicating that a particular employee was suspected of, charged with or put on trial for a criminal offence in criminal proceedings if that information was collected by another organisational entity of the employer which has the status of an investigating authority?
4. Is the **‘right to be forgotten’** within the meaning of Article 17(1)(a) of the GDPR to be interpreted as meaning that an employer is required to erase from the personal file of the employee any data which it has collected and stored through another of its directorates, which has the status of a public authority for the purposes of investigating its employees, and which indicate that the employee:
 - 4.1. is suspected of, charged with or on trial for a criminal offence in pending criminal proceedings, or
 - 4.2. was suspected of, charged with or put on trial for a criminal offence for which criminal proceedings were stayed or abandoned?
5. Must personal data **‘unlawfully processed’** within the meaning of Article 17(1)(d) of the GDPR be interpreted as including data which the employer has received, collected and stored through another of its organisational entities which performs investigative functions in criminal proceedings against employees of other organisational entities of the employer, where those data are recorded in the personal file and relate to the fact that the employee has been suspected of, charged with or on trial for a criminal offence, that is to say:

⁽¹⁾ The name of the present case is a fictitious name. It does not correspond to the real name of any party to the proceedings.

- 5.1. is suspected of, charged with or on trial for a criminal offence in pending criminal proceedings, or
- 5.2. was suspected of, charged with or on trial for a criminal offence for which criminal proceedings were stayed or abandoned?
6. Are **'personal data'** within the meaning of Article 3(1) of Directive (EU) 2016/680 ⁽²⁾ 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 prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data and repealing Council Framework Decision 2008/977/JHA, read in conjunction with Article 52 of the Charter of Fundamental Rights of the European Union, to be interpreted as meaning data which have been obtained, collected and stored by the employer through one of its organisational entities which performs the functions of an investigating authority in criminal proceedings against an employee serving in another organisational entity of the employer?
7. Is **'processing'** within the meaning of Article 3(2) 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 prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data and repealing Council Framework Decision 2008/977/JHA, read in conjunction with Article 52 of the Charter of Fundamental Rights of the European Union, to be interpreted as meaning that it encompasses an activity consisting in the employer storing in the employee's personal file data which the employer has obtained, collected and stored through one of its organisational entities which performs the duties of an investigating authority in criminal proceedings against any of the employer's employees serving in another of its organisational entities?
8. Is **Article 9(1)** 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 prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data and repealing Council Framework Decision 2008/977/JHA, read in conjunction with Article 52 of the Charter of Fundamental Rights of the European Union, to be interpreted as meaning that it permits the employer to collect and store information on an employee who is suspected of, charged with or on trial for a criminal offence in cases where the employer collected that information through another of its organisational entities which has the status of an investigating authority in criminal proceedings against that employee?
9. Is **Article 16(2)** 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 prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data and repealing Council Framework Decision 2008/977/JHA, read in conjunction with Article 52 of the Charter of Fundamental Rights of the European Union, to be interpreted as meaning that the employer must erase from the employee's personal file any data which the employer has collected and stored through another of its organisational entities which has the status of an investigating authority in criminal proceedings against that employee and which relate to the fact that the employee:
- 9.1. is suspected of, charged with or on trial for a criminal offence in pending criminal proceedings, or
- 9.2. was suspected of, charged with or put on trial for a criminal offence for which criminal proceedings were stayed or abandoned?

⁽²⁾ OJ 2016 L 119, p. 89.

10. Is **Article 1** of Council Directive 2000/78/EC ^(?) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation to be interpreted as not permitting an employer, one of whose organisational entities undertakes investigative actions against an employee of another organisational entity, to deny an employee promotion on the sole ground that he or she:
- 10.1. is suspected of, charged with or on trial for a criminal offence in pending criminal proceedings, or
 - 10.2. was suspected of, charged with or put on trial for a criminal offence for which criminal proceedings were stayed or abandoned?
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^(?) OJ 2000 L 303, p. 16.