

Press and Information

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Judgment of the Court of Justice in Case C-524/06

Heinz Huber v Germany

**A CENTRALISED REGISTER OF FOREIGN NATIONALS MAY CONTAIN ONLY
THOSE DATA WHICH ARE STRICTLY NECESSARY FOR THE APPLICATION OF THE
RULES RELATING TO THE RIGHT OF RESIDENCE**

The processing and storage of those data relating to Union citizens for statistical purposes or with a view to fighting crime is contrary to Community law.

German law has established a centralised register which contains certain personal data relating to foreign nationals who are resident in Germany for a period of more than three months. The Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge) is responsible for maintaining that register and assists, amongst others, the public authorities who have the duty of implementing the legislation concerning the law relating to foreign nationals. In particular, the register is used for statistical purposes and by the security and police services and by the judicial authorities in exercising their powers in relation to the prosecution and investigation of criminal activities or which threaten public security.

Mr Huber, an Austrian national, moved to Germany in 1996 in order to carry on business there as a self-employed insurance agent. Since he took the view that he was discriminated against because the personal data concerning him are contained in the centralised register and, in particular, because a database of that kind does not exist for German nationals, Mr Huber requested that those data be deleted.

The Higher Administrative Court for the *Land* North-Rhine Westphalia (Oberverwaltungsgericht für das Land Nordrhein-Westfalen), before which proceedings were brought, asks the Court of Justice whether the processing of personal data of the kind undertaken in the centralised register is compatible with Community law.

The Court of Justice holds, first of all, that the data in question constitute personal data within the meaning of the Data Protection Directive¹. The directive provides that such data may lawfully be processed only if it is necessary to do so for the performance of a task carried out in the public interest or in the exercise of official authority.

¹ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of data and on the free movement of such data (OJ 1995 L 281, p. 31).

The Court notes that the right of residence of a Union citizen in a Member State of which he is not a national is not unconditional but may be subject to limitations. Thus, it is, in principle, legitimate for a Member State to have relevant particulars and documents relating to foreign nationals available to it and to use a register for the purpose of providing support to the authorities responsible for the application of the legislation relating to the right of residence, provided that there is compliance with the requirement of necessity laid down by

the Directive on the Protection of Personal Data.

The Court concludes that **such a system for processing personal data complies with Community law if it contains only the data which are necessary for the application by those authorities of that legislation and if its centralised nature enables that legislation to be more effectively applied as regards the right of residence of Union citizens who are not nationals of that State.**

As regards **the storage and processing of those data** for statistical purposes, the Court observes that Community law does not exclude the power of Member States to adopt measures enabling the national authorities to have an exact knowledge of population movements affecting their territory. Those statistics presuppose that certain information will be collected by those States. However, the exercise of that power does not, of itself, mean that the collection and storage of individualised personal information of the kind undertaken in the register at issue is, of itself, necessary. Consequently, the Court decides that such processing of personal data **does not satisfy the requirement of necessity laid down by the directive.**

Lastly, as regards the question of **the use of the data contained in the register for the purposes of fighting crime**, the Court holds, in particular, that that objective involves the prosecution of crimes and offences committed, irrespective of the nationality of their perpetrators. The register at issue does not contain personal data relating to nationals of the Member State concerned. Consequently, use for the purposes of fighting crime **is contrary to the principle of non-discrimination and hence contrary to Community law.**

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Languages available: FR CS DE EN ES EL HU IT NL PL RO SK

*The full text of the judgment may be found on the Court's internet site
<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-524/06> It
can usually be consulted after midday (CET) on the day judgment is delivered.*

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