

Client alert

## Data protection

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### CJEU Reiterates Relative Nature of What Is 'Personal Data' In Case on Access to Vehicle Spare Part Information

On 9 November 2023, the Court of Justice of the European Union (**CJEU**) handed down its judgment in Case [C 319/22](#), *Gesamtverband Autoteile-Handel eV v. Scania CV AB*. The judgment highlights the nuanced nature of personal data, particularly in the context of Vehicle Identification Numbers (**VINs**). The decision further establishes that a requirement to give access to vehicle repair and maintenance information to independent operators under [Regulation 2018/858](#) on the approval and market surveillance of motor vehicles and their components (the **Market Surveillance Regulation**) provides a valid legal basis for the processing of personal data under Article 6(1) of the General Data Protection Regulation (**GDPR**).

#### Background

The case before the CJEU concerns a dispute between Gesamtverband Autoteile-Handel eV (**Gesamtverband**), a German trade association for wholesalers of vehicle parts, and Scania CV AB (**Scania**), a Swedish vehicle manufacturer. The legal dispute concerned Scania's provision of vehicle on-board diagnostic (**OBD**) information in the context of the Market Surveillance Regulation, which concerns the approval and market surveillance of motor vehicles and their components. The Market Surveillance Regulation [aims](#), among others, to raise the quality level and independence of vehicle type approval and testing, and to ensure that new types of motor vehicles and their trailers conform to EU-approved requirements on safety and environmental protection.

Under the Market Surveillance Regulation (Article 3(40)), Scania must grant independent operators access to information, on a website, that is relevant to maintenance and repair a vehicle. To find the relevant information, independent operators can search for vehicles by several criteria, one of which is (the last seven numbers of) the VIN.

Scania only provided this information to repairers, and therefore not to Gesamtverband and its members. Gesamtverband lodged a complaint before the Regional Court of Cologne (**Referring Court**), claiming that Scania fell short of its obligations of the Market Surveillance Regulation (Articles 61(1)-(2)) to enable such operators to access and download the vehicle maintenance and repair information. The Referring Court stayed the case and referred several questions to the CJEU. While the Referring Court asked various questions, we will focus on the data protection aspects for the purpose of this note.

## The CJEU's decision

Concerning EU data protection law, the Referring Court asks whether Article 61(1) of the Market Surveillance Regulation imposes a legal obligation on vehicle manufacturers, within the meaning of the GDPR, to make the VINs of vehicles that they manufacture available to independent operators. The Referring Court thereby considered that these operators act as independent data controllers under Article 4(7) GDPR.

In its answer, the CJEU holds that it is first necessary to determine if a VIN may be considered personal data (Article 4(1) GDPR) in this specific context. It recalls that information should be considered personal data if, by *“reason of its content, purpose and effect, the information in question is linked to a natural person”* (para. 45). On the other hand, the CJEU refers to its *Breyer* judgment ([C-582/14](#)), where it held that to determine whether information can be linked to an individual, it is necessary to consider all means *“likely reasonably to be used”* by either the data controller or by a third party to identify the data subject.

The CJEU then draws on the Opinion of the Advocate General (**AG**) Sánchez-Bordona, in which the AG observes that, in of itself, an alphanumeric code for vehicle identification cannot be considered as ‘personal data’ within the meaning of the GDPR. However, once someone reasonably has the means to enable that datum to be associated with a specific person, a VIN may then be considered personal data. The CJEU notes that the VIN will appear on the registration certificate of the vehicle, alongside *e.g.*, the purchaser’s name and address. On this basis, if a party had access to this information, for this party the VIN constitutes personal data.

It follows that since the VIN may constitute personal data for the manufacturer, then the VIN must be processed on one of the grounds set out in the GDPR.

The CJEU examines the Market Surveillance Regulation requiring vehicle manufacturers to provide repair and maintenance information to independent operators. Notably, it emphasizes the need for an unequivocal vehicle identification and inclusion of VIN in manufacturers’ databases (Annex X and Article 61(4), particularly point 6.1). The CJEU considered that together these requirements provide a legal basis for processing VIN data under Article 6(1)(c) GDPR, which permits the processing of personal data that is necessary to comply with a legal obligation. It also considered that this legal obligation pursues a public interest objective of ensuring effective competition on the market for vehicle repair and maintenance information services. Moreover, the CJEU, considering the necessity and proportionality of such an obligation, finds that VIN searches represent the most effective means of identification, maintaining the delicate balance between the public interest and the constraints of limiting the use of personal data to what is strictly necessary.

## Key Takeaways

This case illustrates that a same dataset may be personal data for one party, but not for another. The judgment thereby appears to oppose an expansive interpretation of what information should be considered personal data. For example, in an earlier case, in *SIA ‘SS’ v. Valsts ieņēmumu dienests* ([C-175/20](#)), AG Bobek labels VINs as personal data (para. 36). By contrast, the AG in the present case [suggests](#) narrowing down the scope of VINs as personal data and opts for a more context-specific interpretation of this concept when he states that *“the VIN is not, in itself and in all cases, a personal datum. At least, it is not ‘as a general rule, ... with respect to the [vehicle] manufacturer”* (para. 34). While a less expansive definition of personal data should be welcomed by business, the CJEU did not provide clear guidance on which criteria should be considered to determine whether a party reasonably has the means to identify a person and, consequently, if the piece of information in question constitutes personal data.

Furthermore, the CJEU’s interpretation of the legal basis for processing in this case is of note. The CJEU considers that rules requiring a party to share information in its possession for an objective to enable competition in the market for manufacturing and repairs provides a sufficiently clear legal basis permitting the sharing of personal data. Still, the CJEU clarified that personal data which are shared should still be limited to what is necessary for the purpose at hand.

Thibaut D’hulst  
Dariusz Kloza  
Orla Murnaghan

## Lawyer to contact



**Thibaut D'Hulst**  
Counsel  
[tdhulst@vbb.com](mailto:tdhulst@vbb.com)

### **Brussels office**

Glaverbel Building  
Chaussée de La Hulpe 166  
B-1170 Brussels  
Belgium

Phone: +32 (0)2 647 73 50

### **Geneva office**

26, Bd des Philosophes  
CH-1205 Geneva  
Switzerland

Phone: +41 (0)22 320 90 20

### **London office**

Holborn Gate  
330 High Holborn  
London  
WC1V 7QH  
United Kingdom

Phone: +44 (0)20 7406 1471

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