

Spain Must Pay for Non-Transposition of EU Data Protection Directive



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News

Thomas Wahl

On 25 February 2021, the CJEU ordered Spain to pay a lump sum of € 15 million and a daily penalty payment of €89,000 for its ongoing failure to transpose Directive 2016/680 regarding the protection of personal data by law enforcement authorities (for the Directive → [eucrim 2/2016, 78](#)). The deadline for transposing the rules of the Directive into national law ended on 6 May 2018. Since Spain had not notified any information on transposition measures, the Commission initiated infringement proceedings in July 2018 and referred the case to the CJEU on 25 July 2019 (→ [eucrim 2/2019, 104](#)).

In the proceedings before the Court (C-658/19), Spain did not contest the failure of transposition, but pointed out the exceptional political and institutional circumstances which hindered the country to adopt the necessary organic law transposing the Directive and which should be taken into consideration for the proportionality of the penalties.

The CJEU found that the imposition of both a lump sum and a penalty payment are justified in the present case since Spain persisted in its failure to fulfil its obligations. It is the first time that the CJEU imposes both types of financial penalties concurrently in a judgment following the action for failure to fulfil obligations pursuant to Art. 260(3) TFEU. The penalty payment of €89,000 applies from the date of delivery of the judgment until the infringement established has been brought to an end.

AUTHOR

Thomas Wahl

Senior Researcher
Max Planck Institute for the
Study of Crime, Security and
Law

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