

Humanistische Union

Constitutional complaint against automatic passenger car license plate mass alignment in Baden-Wuerttemberg submitted

Complaint leader criticize overall monitoring possibilities of the traffic after the police regulation of Baden-Wuerttemberg. The state law contradicts the constitutional borders, which the highest court drew in the past year for the employment of the disputed search method.

Three drivers submitted complaint at the Federal Constitutional Court against a law, which since one year empowers the police in Baden-Wuerttemberg to track passenger car characteristics and in great quantities. The drivers residing in Freiburg and in the Black Forest region criticize in their complaint, that the black-yellow federal state parliament majority decided in 2008 police regulation permitting "in absence of each danger" automated mass control of the public traffic. Drivers, in whom police or secret services were interested, would have to reckon with "the production movement profiles" due to the characteristic alignment.

Automatic characteristic readers make it possible to scan entire vehicle traffic on a road on searched license plates. The Federal Constitutional Court has with judgement of the 11. March 2008 waived comparable regulations of the countries Schleswig-Holstein and Hesse as incompatible with the constitution and therefore futile. After examination of the law of Baden-Wuerttemberg for the introduction of a car license plates mass alignment which was passed on 18. November 2008 of decided we came to the conclusion that also this law is incompatible with the requirements of the Federal Constitutional Court for the protection of blameless citizens:

1. Into Baden-Wuerttemberg the automatic license plate reading is to be used also for prosecution. This contradicts the authority distribution, which assigns legislative jurisdiction for this range exclusively to the federation, specified in the Basic Law, thus the German Bundestag. In the code of criminal procedure a massive alignment of car license plates is not intended for good reason.
2. The power of Baden-Wuerttemberg is so indefinitely and vague that is not foreseeable, when and how the police will make use of it. Leaving this decision to police discretion, offends against the certainty requirement of the Basic Law.
3. If the citizen is not stopped, he does learn, when and under which circumstances his license plate was captured and possibly stored. Therefore the courts regularly cannot examine the legal standard of the measure. After the Basic Law national acting must however always be examinable by the courts.

A similar complaint concerning a law in Lower Saxony has already been brought before the Federal Constitutional Court (Az. 1 BvR 1443/08). A complaint against car license plate mass alignment in Bavaria backed by General German Automobile Association is pending with the administrative court in Munich (Az. 10 BV 09.2641). In October the Bavarian state parliament posed 20 critical questions placed to the measure to the state's executive, i.e. approximately in how many cases "subsequent measures were taken, which were not only based on coincidence finds,". The new black-yellow-green coalition in the Saarland agreed in its coalition contract to annul car license plate mass alignments.

A decision of the Federal Constitutional Court over the complaint raised now can expected for 2010 or 2011.

The complaint leaders request the federal state parliament of Baden-Wuerttemberg independently to waive the law on car license plate mass alignment voluntarily or at least suspend its execution. "The car license plate scanning only primarily yields coincidental finds concerning petty misdeeds. And it binds personnel, who could be used in other places more meaningfully ", justifies attorney Udo Kaus of the Humanistische Union - German Civil Liberties Union, which represents the complaint leaders before the Federal Constitutional Court.

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