

**Notice:** This document is an unofficial translation of the Swedish Authority for Privacy Protection's (IMY) final decision, no. DI-2021-3397. Only the Swedish version of the decision is deemed authentic.

**Case number:**  
DI-2021-3397

**Date of decision:**  
2025-06-30

# Final decision pursuant to Article 60 under the General Data Protection Regulation – Flightradar24 AB

## Decision of the Swedish Authority for Privacy Protection (IMY)

IMY finds that Flightradar24 AB (company no. 556895-1213) has processed personal data in violation of Articles 12(2) and 12(6) of the General Data Protection Regulation<sup>1</sup> (GDPR) during the period 25 May 2018-22 June 2021 (the relevant period).

IMY gives Flightradar24 AB a reprimand under Article 58(2)(b) of the GDPR for the infringement of Articles 12(2) and 12(6), due to Flightradar24 AB having a routine to request personal registration certificates and thereby not facilitating the exercise of the complainants' right to erasure regarding complaints 1-3, and regarding specifically complaint 3, requesting additional information to confirm the identity of the complainant without demonstrating reasonable grounds to doubt the complainant's identity.

IMY orders Flightradar24 AB, pursuant to Article 58(2)(d) of the GDPR, to take measures so that the complainants' requests for erasure, regarding complaints 1 and 2, are handled in accordance with the rules laid down in Articles 12 and 17 of the GDPR and to cease the publication of data relating to the complainants' aircraft on [www.flightradar24.com](http://www.flightradar24.com), with the result that the information on the website no longer makes it possible to identify the complainants. The order is issued on the condition that Flightradar24 AB does not have reasonable grounds to doubt the identity of the complainants pursuant to Article 12(6) of the GDPR and does not need to request additional information, and the obligation to comply with the request for erasure is not subject to any applicable exceptions in Article 17(3) of the GDPR. The measures must be taken no later than one month after this decision has become final.

IMY orders Flightradar 24 AB, pursuant to Article 58(2)(c) of the GDPR, to comply with the complainant's request for erasure, regarding complaint 3, by ceasing the processing which entails the publication of data relating to the complainant's aircraft on [www.flightradar24.com](http://www.flightradar24.com), with the result that the information on the website no longer makes it possible to identify the complainant. The order is issued on the condition that the obligation to comply with the requests for erasure are not subject to any applicable

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<sup>1</sup> REGULATION (EU) 2016/679 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 and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

exceptions in Article 17(3) of the GDPR. The measures must be taken no later than one month after this decision has become final.

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## Report on the supervisory case

### The case handling

The Swedish Authority for Privacy Protection (IMY) has initiated supervision of Flightradar24 AB (Flightradar or the company) due to several complaints. One complaint was submitted directly to IMY. The other complaints have been submitted to IMY by the supervisory authorities of the countries where the respective complainants lodged their complaints, in its capacity as lead supervisory authority under Article 56 of the GDPR. The handover has been made by the supervisory authorities of the countries where the complainants lodged their complaints (Germany and Denmark), in accordance with the GDPR's provisions on cooperation concerning cross-border processing.

The investigation in the case has been carried out through correspondence. In light of the fact that the supervisory case concerns cross-border processing, IMY has used the mechanisms for cooperation and consistency provided for in Chapter VII of the GDPR. The supervisory authorities concerned have been the data protection authorities in Poland, Germany, Slovakia, the Netherlands, Latvia, Italy, France, Denmark, Hungary, Portugal, Austria, Finland, Spain and Cyprus.

### The complaints

The complainants have mainly stated the following.

In a complaint lodged directly with IMY (complaint 1) it is stated that Flightradar tracks the complainant's privately-owned aircraft and publishes information on its location and flight routes. Flightradar did not comply with the complainant's request to cease this processing. The complainant has not given their consent to the processing.

In a complaint from Germany (complaint 2), the complainant states that they privately own an aircraft of a certain type with a certain registration number. If the registration number is published on [www.flightradar24.com](http://www.flightradar24.com) (Flightradar's website), the complainant's movement patterns and location data can be seen, such as details of departure and destination, routes, speed and altitude. The data is collected with electronic tools and receivers that are forwarded to a central office. The complainant considers that this constitutes a violation of their personal integrity. Flightradar offers to quickly handle requests by aircraft owners to block their aircraft through a payment service (500 USD).

In a complaint from Denmark (complaint 3), the complainant states that they are the only pilot of a helicopter with a specific registration number. The complainant uses the helicopter for transport in their capacity as CEO of a company. It is public information in Denmark who owns the helicopter. The helicopter has a transmitter that sends out signals about location and altitude for air traffic safety reasons. On the ground, the data is collected through receivers set up by hobbyists and sold or donated to companies such as Flightradar. The location of the helicopter can be seen by searching its registration number on the Flightradar website. The complainant has previously had the visibility of the helicopter blocked on Flightradar's website, but it has reappeared.

Another complaint from Germany (complaint 4) states that Flightradar discloses personal data about the complainant's privately-owned aircraft, such as identification

number<sup>2</sup>, movement pattern and location. After making a complaint to the data protection authority in Hessen in Germany, Flightradar has anonymized the registration number to D-xxxx. However, this has not been the case for some time, as shown by the attached screenshot from the service from 10 October 2020.

## What Flightradar has stated

Flightradar has mainly stated the following.

### Aircraft registration numbers are not personal data

The company does not consider aircraft registration numbers to be personal data. Registration numbers are merely a means of identifying a specific aircraft, not a specific person. There are no public registers to look up owners of private aircraft and thereby make a connection to a specific person (cf. the Swedish Transport Agency's (Transportstyrelsen) aircraft register, where there are no names for private individuals who are registered owners, partners or holders).<sup>3</sup>

The data that the company collects and displays to provide the service do not relate to individuals in a manner that is necessary to constitute personal data. The content of the data does not per se relate to any individual. The purpose of the processing is not to attribute certain characteristics to an individual or to disseminate information about such persons. The effect of the treatment is typically minimal for individuals.

It is also worth adding that most aircraft have complicated ownership constellations with different owners, partners, users, holders and pilots, which can make it very complex to link an aircraft to a particular individual. Moreover, the link with a particular individual is even weaker regarding complaints 2 and 3, as these aircraft are owned by companies, one of which is an American company.

Flightradar does not handle, save or display any names or address details of privately-owned aircraft. The company only shows the registration number of the aircraft on their website.

Flightradar is aware that information about objects and places in certain contexts may be considered personal data. In the case of objects and places that have a distinctly personal character, this can often be presumed. For example, this applies to information such as IP addresses or about a private home. However, not all data on objects and locations can reasonably be considered personal data, even if such data can be linked to a natural person using certain other information. All information about hotel rooms cannot be considered personal data just because other information makes it possible to identify who has stayed in a particular hotel room or who owns the hotel, for example. Where the object or place is of a more collective nature, the presumption must be the opposite, that is to say, that the data do not relate to a natural person. The presumption may be disproven in an individual case if the content, purpose or effect of the data processed are such that they may be considered to be related to a natural person. Information about a particular hotel room can be considered as personal data when it appears in a booking system.

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<sup>2</sup> 'Identification number' and 'registration number' are synonymous with each other. From here onwards 'registration number' only is used for reference.

<sup>3</sup> <https://etjanster-luffart.transportstyrelsen.se/en-se/sokluffartyg>

Aircraft (and ships) have a clear public character compared to cars, for example. Most aircraft are owned by companies. The possibilities to find out if an aircraft is owned by a private individual differs from country to country. There is no open record of which pilots have flown a particular aircraft.

The international regulation of air traffic is focused on public access and transparency. Anyone who owns or flies a plane has, as a consequence, entered into a public context to some extent. It is therefore reasonable to presume that data relating to aircraft, which are processed without a particular focus on attributing characteristics to natural persons, do not constitute personal data. It is not reasonable to require Flightradar to investigate on its own whether, in some exceptional cases, there is a more private connection between an aircraft and a natural person who is the owner or pilot (cf. Article 11 GDPR).

It could possibly be argued that, in an individual case, certain details of an aircraft change in nature when the company is informed that there is a more personal connection between the details of the aircraft and a natural person. However, it has doubts as to such an interpretation based on the information contained in the service and the way in which it is organised.

### **Description of the procedure for collecting and publishing the data**

A good overview of how Flightradar's service works can be found on the company's website.<sup>4</sup> Flightradar obtains the registration number of a particular aircraft by collecting the aircraft's so-called 24bit HEX code and its call sign, which in most cases corresponds to the aircraft's registration number. In some cases, the call sign may differ from the aircraft registration number due to air traffic control regulations.

Most modern aircraft are equipped with an Automatic Dependent Surveillance-Broadcast (ADS-B) transponder that sends out a signal. The signal is open to everyone. The idea is that this information should be public (i.e. not encrypted) in order to allow other aircraft and stakeholders to keep track of air traffic. An ADS-B transponder continuously sends out said information above.

The company captures these signals using more than 30,000 signal receivers around the world, which in turn upload data to the company's network. The company also receives data from various government organizations as well as from satellite networks.

### **Description of the types of data processed**

IMY has asked Flightradar to provide all types of data on aircraft processed in the service during the relevant period, such as aircraft registration numbers as well as their movement patterns and location – departures, destination, routes, speed and altitude.

The company states that it processes data that the aircraft themselves send out. This data consists of an ICAO 24 Bit-address, position, latitude, longitude, altitude, speed, direction and Squawk code. From this data, the company sometimes extrapolates the airport of departure, the airport of arrival, the country of registration and the registration number.

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<sup>4</sup> <https://www.flightradar24.com/how-it-works>.

Flightradar cannot precisely specify the number of aircraft registration numbers with the above-mentioned data processed in the relevant period. The most relevant figure is that at the time of Flightradar's initial statement, the company had about 282,000 active planes in its database.

### **Purpose of data collection and publication**

The purpose of the collection and publication of the above-mentioned data is to provide a very popular service used by individuals, companies, organisations and public authorities. Each month the service has 30 million users. Private individuals use the service to e.g. keep track of loved ones who are flying or to know when the plane they are about to take will land. In addition, many aviation enthusiasts spend a large amount of time browsing Flightradar's website.

Many of the largest companies in the aviation industry use the service for research and development. After virtually every major aviation accident around the world, Flightradar receives requests from various accident investigation authorities (or court of inquiries) to send the data that Flightradar has. This data is requested in order to help assess what went wrong. Flightradar is also the service that the media and news agencies around the world turn to when they need accurate flight data. Since flight MH370 went missing in 2014, data from Flightradar's service played a crucial role in the rapid transmission of accurate information in about 100 aviation accidents worldwide. One of CNN's aviation experts has stated that media coverage of aviation accidents can be divided into two categories – before and after Flightradar<sup>24</sup>. Flightradar has played a crucial role in obtaining accurate and objective data before authorities can obtain the data. Many equivalents of the Swedish central bank use Flightradar's data as an indication of economic activity.

Data from Flightradar has been used as evidence in numerous criminal investigations around the world, most often related to drug smuggling. In May 2021, Flightradar provided data to the Ukrainian police, via the Swedish police, in the criminal investigation against Iran regarding the shooting down of flight PS752 in Tehran in January 2020. Authorities in New Zealand have also used data from Flightradar to locate a plane crash and rescue a survivor.

The Swedish Accident Investigation Authority (Statens haverikommission) was helped by data from Flightradar regarding a crash in Örebro on 8 July 2021. The aircraft was of a smaller model without a black box, which means that very limited information was available. However, Flightradar had nine data points from the flight, which the company sent to Statens haverikommission upon their request. The datapoints were crucial to the investigation. Flightradar has worked a long time with the counterparts of Statens haverikommission around the world, but want to highlight this case as an example of the usefulness of the data the company collects.

### **Handling of requests from data subjects**

Flightradar has not kept any statistics on how many requests for access or erasure nor objections to the processing it has received during the relevant period.

However, Flightradar estimates that it has not received any requests for access. The data that the company processes is to a large extent already public on Flightradar's website and shows all the information that the company has. Regarding requests for erasure and objections to the processing, the company has received between 10 and

20 such requests. In those situations, the company has requested a copy of the registration certificate to ensure that the request comes from the owner of the aircraft. Flightradar has received a response from about half of them. Flightradar considers that it is worth noting how small this number is proportionally to the total number of active planes on Flightradar's website.

In cases where the company has received a response containing registration certificates for privately-owned aircraft, the company has blocked the aircraft so that it does not appear on Flightradar's website. The company has not requested payment for this. However, the company has previously offered an express service where someone could request to have a plane blocked within 24 hours via a payment of 500 euros. Flightradar does not have any knowledge of a private person ever using this service, only that it was ever used by companies.

It is not possible for the company to erase data relating to an aircraft with the result that the data is no longer be processed from a technical standpoint. Aircraft continuously emit signals intended for general reception (i.e. having no specific recipient in mind) that Flightradar must catch and decipher before the company can determine what to do with it. When Flightradar blocks an airplane, the company flags a specific aircraft in its database so that the aircraft in question cannot be identified by its registration number. When a blocked aircraft is airborne and displayed on Flightradar's website, only general information about the aircraft model, such as 'Cessna 172' or 'Piper PA28' is displayed. It is also not possible to find historical flights when searching by aircraft registration number. Once an aircraft has been flagged in Flightradar's blocking database, it will be blocked until further notice.

### **Legal basis**

Flightradar considers that registration numbers do not constitute personal data and that Flightradar therefore does not process personal data. In the event that IMY makes a different assessment, Flightradar wishes to explain their view on the legal basis for the processing.

The collection and publication of data on aircraft may take place on the basis of a legitimate interest pursuant to Article 6(1)(f) of the GDPR. The legitimate interest of Flightradar is to provide a service that makes it possible to gain knowledge about the global air traffic. As stated above, the service has a variety of positive uses and is very popular. Air traffic information is a societal matter.

The data processing is necessary for the provision of the service. In particular, it should be noted that the service does not contain any information directly attributable to natural persons. The positive effects of the service clearly outweigh any negative effects that the service may cause to individuals. Account must be taken to the public and collective nature of the data, as well as of the fact that the company offers the possibility of removing aircraft with a clear personal connection from the service. It should also be taken into account that the number of aircraft owned by private individuals is limited.

### **The complaints**

Regarding complaint 1, the complainant contacted Flightradar on 7 March 2021. Flightradar offered to block the aircraft and, in accordance with Flightradar's blocking management procedure, requested a copy of the aircraft registration certificate. The

complainant did not reply with a registration certificate. Since Flightradar did not receive the registration certificate, Flightradar does not know whether the complainant is the actual owner of the aircraft. Flightradar would therefore have been at risk of blocking an aircraft belonging to someone else if the complainant's request had been fulfilled without Flightradar having been provided the registration certificate, which is why the request was left unfulfilled.

Regarding complaint 2, the complainant contacted Flightradar in 2021. In accordance with Flightradar's blocking management procedure, Flightradar requested a copy of the registration certificate for the aircraft. The registration certificate was never shared by the complainant. It can be noted however, according to the US Department of Transportation, that the aircraft in this complaint is registered in the US and owned by a US trustee. This means that the owner of the aircraft in question is not a private individual. As explained above, since the complaint concerns an aircraft owned by a legal person, there is no link between the aircraft and the complainant. Therefore, the GDPR does not apply to the processing of data relating to the aircraft owned by the US trust. For this reason, Flightradar also objects to the fact that the aircraft registration number makes it possible to see the complainant's movement patterns and location data.

Regarding complaint 3, Flightradar requested the registration certificate for the aircraft when the complainant contacted Flightradar. The complainant refused to submit the registration certificate. Flightradar nevertheless chose to fulfil the complainant's request by blocking an aircraft based on an identification code ('HEX code') provided by the complainant. However, the identification code provided by the complainant was an old and incorrect HEX code that applied when the helicopter was used by a previous owner and registered in the UK. In connection with the transfer of aircraft between countries, the aircraft in question are assigned a new HEX code. The aircraft in the complaint has had its HEX code reprogrammed in connection with the transfer and registration in Denmark, but not until one year after the transfer, which is why the aircraft was once again visible on Flightradar's website after some time had passed. If Flightradar had received the Danish registration certificate from the complainant, Flightradar would have been able to verify that the information provided by the complainant was consistent and this inaccuracy could have been avoided. It also demonstrates the need for Flightradar to be provided with a copy of the registration certificate in order to be able to block the right aircraft. Flightradar also wants to clarify that the aircraft in the complaint is owned by a company and there is therefore no link between the aircraft and the complainant personally. The GDPR does not apply to the processing of this registration number either.

Regarding complaint 4, Flightradar has not been able to verify that the complainant has ever contacted Flightradar and has therefore not been able to comply with their request.

In a statement dated 25 March 2025, Flightradar further states that the aircraft in complaint 1 and 3 are on the blocking list of the Federal Aviation Administration (FAA).<sup>5</sup> As a consequence, the visibility of the aircraft are now also blocked by Flightradar on its website.

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<sup>5</sup> See information about FAA's *Limiting Aircraft Data Displayed* (LADD) Program at <https://www.faa.gov/pilots/ladd>

## Justification of the decision

### Scope of the investigation

IMY has examined whether the aircraft registration numbers in the complaints, which are processed by Flightradar, constitute personal data within the meaning of Article 4(1) of the GDPR. IMY concludes that registration numbers may constitute personal data under certain conditions. If the registration number is to be regarded as personal data, this also means that certain other positional data related to the registration numbers are also personal data, namely the position, latitude, longitude, altitude and direction of the aircraft.

IMY has then examined whether Flightradar has a legal basis to process personal data under Article 6(1)(f) of the GDPR, specifically aircraft registration numbers and associated location data on Flightradar's website.

In light of the complainants' requests that they do not wish their aircraft to be displayed on Flightradar, IMY also examined the company's approach to the handling of requests for erasure under Article 17 of the GDPR, including the measures the company took in the context of that handling, in particular regarding identification of the complainants pursuant to Article 12(6) of the GDPR.

The supervisory case is limited in time to the relevant period, specifically 25 May 2018-22 June 2021. IMY notes that the processing in the present case is ongoing, however.

### Aircraft data may constitute personal data

The first question IMY intends to answer is whether certain data relating to aircraft that Flightradar processes constitute personal data within the meaning of Article 4(1) of the GDPR, for this supervisory case primarily aircraft registration numbers.

### Applicable provisions

According to Article 2 of the GDPR, the regulation applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

Article 4(1) of the GDPR defines 'personal data' as any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

It follows from the term 'any information' in Article 4(1) of the GDPR that the concept of 'personal data' must be given a broad meaning. The concept of 'personal data' may include all information, both objective and subjective, provided that it 'relates' to a particular person. The data relate to a specific person if they are linked to that person by reason of their content, purpose or effect.<sup>6</sup> The use of the term 'indirectly' in the

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<sup>6</sup> See CJEU, judgment of 20 December 2017, Case C-434/16, *Nowak* (ECLI:EU:C:2017:994), paras. 34-35.

article means that it is not necessary that the data subject is directly identifiable by certain types of information in order for that information to constitute personal data.<sup>7</sup>

Recital 26 of the GDPR states that account should be taken of any means reasonably likely to be used, either by the controller or by another person, to identify the natural person, directly or indirectly, in order to determine whether a natural person is identifiable. An example of a method in this regard is ‘singling out’, used either by the controller or by another person, to directly or indirectly identify a natural person. To ascertain whether certain means are reasonably likely to be used to identify the natural person, account should be taken of all objective factors, such as the costs of and the amount of time required for identification, taking into consideration the available technology at the time of the processing and technological developments. The wording of recital 26 suggests, by referring to all the means reasonably likely to be used *by the controller or another person*, that it is not necessary for a single person to hold all the information necessary to identify the data subject.<sup>8</sup>

Furthermore, so-called ‘online identifiers’ – such as IP addresses or information stored in cookies – can be used to identify a data subject, in particular when those identifiers are combined with other similar types of information. Recital 30 of the GDPR states that natural persons may be associated with online identifiers provided by their devices, applications, tools and protocols, such as internet protocol addresses, cookie identifiers or other identifiers such as radio frequency identification tags. This may leave traces which, in particular when combined with unique identifiers and other information received by the servers, may be used to create profiles of the natural persons and identify them.

The Court of Justice of the European Union (CJEU) has held in the judgments *M.I.C.M.* and *Breyer*, that dynamic IP addresses constitute personal data for whomever processes them, if that actor also has the legal means to identify the users by using additional information available to a third party.<sup>9</sup> However, the dynamic IP address is not personal data if the *de facto* identification of the individual is prohibited by law or if the natural person is impossible to identify in practice, e.g. because it would require unreasonable resources in terms of time, costs and manpower to identify the person, resulting in a risk of identification that is negligible in practice.<sup>10</sup>

CJEU has in its judgment in *Gesamtverband Autoteile-Handel* held that vehicle identification numbers (VIN) are personal data for whomever may have reasonable means at their disposal to enable a link between a VIN and a specific person, for example through the registration certificate for a vehicle. The VIN-number becomes personal data for an independent operator (e.g. a workshop or dealer) who has access to the registration certificate of the vehicle and consequently also becomes ‘indirect’ personal data for the vehicle manufacturer.<sup>11</sup> This applies even if the VIN does not in itself constitute personal data for the vehicle manufacturer. However, the VIN-number does not constitute personal data when the VIN-number is assigned to a vehicle that does not belong to a natural person.<sup>12</sup>

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<sup>7</sup> See CJEU, judgment of 19 October 2016, Case C-582/14, *Breyer* (ECLI:EU:C:2016:779), para. 41.

<sup>8</sup> See CJEU, judgment of 19 October 2016, Case C-582/14, *Breyer* (ECLI:EU:C:2016:779), para. 43.

<sup>9</sup> See CJEU, judgment of 17 June 2021, Case C-597/19, *M.I.C.M.* (EU:C:2021:492), paras. 102-104 and CJEU, judgment of 19 October 2016, Case C-582/14, *Breyer* (ECLI:EU:C:2016:779), para. 49.

<sup>10</sup> See CJEU, judgment of 19 October 2016, Case C-582/14, *Breyer* (ECLI:EU:C:2016:779), para. 46.

<sup>11</sup> See CJEU, judgement of 9 November 2023, *Gesamtverband Autoteile-Handel*, Case C-319/22 (ECLI:EU:C:2023:837), paras. 46-50.

<sup>12</sup> See CJEU, judgement of 9 November 2023, *Gesamtverband Autoteile-Handel*, Case C-319/22 (ECLI:EU:C:2023:837), para. 49.

The EDPB's Guidelines 3/2019 for the processing of personal data through video devices state that the GDPR does not apply to the processing of data that has no reference to a person, e.g. where a person cannot be directly or indirectly identified. The guidelines include an example of an integrated video camera in a car whose purpose is to provide parking assistance. If the camera is designed or adjusted in such a way that it does not collect any information about natural persons (such as registration plates or information that can identify passers-by), the GDPR does not apply. If registration plates are filmed the GDPR applies, however, provided that a natural person can be identified.<sup>13</sup>

### **IMY:s assessment**

As detailed in the case file, Flightradar obtains the registration number for a particular aircraft by collecting the aircraft's so-called ICAO 24-bit hex code and call sign. The call sign corresponds to the aircraft registration number in most cases. The company also collects information about the aircraft's position, latitude, longitude, altitude, speed, direction and its so-called squawk code. Sometimes Flightradar extrapolates the departure airport, arrival airport, country of registration and registration number from the abovementioned data. In this regard, IMY notes that the registration number consists of a country code and subsequent number combination that is unique within the nation it is registered in. Registration numbers are therefore unique to each individual aircraft. IMY notes that aircrafts' registration numbers and their location data such as position, latitude, longitude, altitude and direction, are published on Flightradar's website.

Flightradar has stated that it does not consider aircraft registration numbers to be personal data. Flightradar *inter alia* motivates this by the fact that there are no public registers to search for owners of private aircraft and that it therefore is not possible to make a connection between a registration number and a specific person. In addition to this, the aircraft in complaints 2 and 3 are owned by companies. Flightradar considers in these cases that there is no clear personal connection between the registration number and a private individual and that the information therefore does not constitute personal data.

IMY concludes that aircraft registration numbers may constitute personal data under certain conditions, however. It is not necessary that aircraft registration numbers directly enable the identification of natural persons for the registration numbers to be personal data. Possibilities to identify natural persons with the registration number indirectly may also mean that they constitute personal data. In this regard, IMY notes that the statements of the CJEU in *M.I.C.M.* and *Breyer* apply to all types of indirect personal data. According to this case law, the controller does not by itself need to have all the necessary information to identify a data subject, but the data they have may nevertheless constitute personal data if the means of identification of a specific individual are available from other sources, for example where a third party has complementary information or means that enables the identification of a data subject.<sup>14</sup>

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<sup>13</sup> See EDPB Guidelines 3/2019 on the processing of personal data by video devices (adopted on 29 January 2020), paras. 8-9.

<sup>14</sup> See CJEU, judgment of 17 June 2021, Case C-597/19, *M.I.C.M.* (EU:C:2021:492), paras. 102-104 and CJEU, judgment of 19 October 2016, Case C-582/14, *Breyer* (ECLI:EU:C:2016:779), para. 49.

In this regard, account must also be taken to the 'singling-out' method of identification.<sup>15</sup>

IMY notes that the regulatory framework in question sets out a flexible approach to the types of data that can identify data subjects and therefore constitute personal data. The limits of what does not constitute personal data in this regard is when the risk of identification is negligible, i.e. *'if the identification of the person concerned is prohibited by law or impossible in practice'* or requires *'means that cannot reasonably be used'* for identification.<sup>16</sup>

The registration numbers of the complainants' aircraft that Flightradar publishes therefore constitutes personal data as long as there are means of identifying each respective complainant. Even if Flightradar itself is not able to identify information with the information it processes, there may be information held by third parties that enables such identification.<sup>17</sup> IMY therefore finds that aircraft registration numbers may constitute personal data and in such a case constitutes *indirect personal data*. The fact that the data is indirect presumes that Flightradar or a third party is able to identify individuals with the data published on Flightradar, albeit only in combination with data from other sources or through other means.

Regarding complaints 1 and 4, IMY notes that the information on private ownership of an aircraft with a specific registration number is available in national aircraft registers.<sup>18</sup> For Sweden, Denmark and Germany, such registers are kept by the Swedish Transport Agency (Transportstyrelsen), the Danish Transport Agency (Trafikstyrelsen) and the German Luftfahrt-Bundesamt.<sup>19</sup> The occurrence of these aircraft registers is enough to determine that aircraft registration numbers are personal data, because there is information in the national aircraft registers that, together with the information published on Flightradar, can be used to identify individual data subjects. For example, registration numbers can be used by a third party to research who owns an aircraft by searching the corresponding national aircraft registers. Data relating to the complainants' aircraft on Flightradar's website for the purposes of complaints 1 and 4 are therefore personal data insofar the complainants' personal data, e.g. their name, appear in a national aircraft register.

IMY also considers that registration numbers regarding complaints 2 and 3 could constitute personal data, even if a registration listing or certificate shows that an aircraft is registered to a company. On the one hand, it is unlikely that the information can be linked to a private individual only with the information contained in the national aircraft register since it's registered to a company. On the other hand, it is possible that an aircraft is used exclusively by only one person at a company. Both complainants have stated in their complaints that the aircraft are used only by them. In addition to

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<sup>15</sup> See recital 26 of the GDPR, which includes the term 'singling-out'. The notion of 'singling-out' is not present in 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 personal data and on the free movement of such data ('the Data Protection Directive'), which was in force at the time of the judgment of the CJEU in the Breyer case.

<sup>16</sup> See recital 26 of the GDPR and CJEU, judgment of 19 October 2016, Case C-582/14, *Breyer* (ECLI:EU:C:2016:779).

<sup>17</sup> CJEU, judgement of 9 November 2023, *Gesamtverband Autoteile-Handel*, Case C-319/22 (ECLI:EU:C:2023:837), paras. 46-50.

<sup>18</sup> Each civil aircraft must be registered in a national register, cf. Article 3(c) of the Convention on International Civil Aviation. Sweden, Denmark, the United States and Germany are parties to and bound by the Convention.

<sup>19</sup> See <https://www.transportstyrelsen.se/en/Aviation/Aircraft-and-Aircraft-Authority/Aircraft-Register/>, <https://www.trafikstyrelsen.dk/arbejdsomraader/aviation/Ansogninger-individuelle/Flyvejer/Aviationoejsregister> and [https://www.lba.de/EN/Airworthiness/AircraftRegistration/AircraftRegistration\\_node.html](https://www.lba.de/EN/Airworthiness/AircraftRegistration/AircraftRegistration_node.html)

this, complaint 3 states that it is a well-known fact that only the complainant uses the aircraft in his role as the CEO of a company.

IMY also notes that it may in some cases be notorious fact that a specific aircraft is used only by certain persons, e.g. in the case of very famous persons. It therefore cannot be completely excluded that the registration number of an aircraft registered to a company cannot be linked to a natural person, in which case the registration number would constitute personal data. The aircraft registration numbers in complaints 2 and 3 therefore constitute personal data if they relate to a natural person and the risk of identification is not negligible.<sup>20</sup> IMY also notes that if Flightradar is unable to demonstrate that the risk of identification is negligible on a case-by-case basis, it should be aware that the registration number of company-owned aircraft may constitute personal data.<sup>21</sup>

In addition to this, the EDPB considers that the GDPR is applicable when video recordings of car registration plates are made, if the recording makes it possible to identify natural persons.<sup>22</sup> The recording and publication of aircraft registration numbers and location data by Flightradar is similar to the example provided by the EDPB. Flightradar's statement that commercial air traffic is more widespread than private air traffic, if it is accurate, does not in itself have any significance for the outcome of the assessment of whether aircraft registration numbers can be regarded as personal data. What is significant in ascertaining whether an aircraft registration number constitutes personal data is if the data in question can be used to identify natural persons.

IMY concludes that registration numbers belonging to aircraft can, in certain cases, be used to identify natural persons. IMY notes that aircraft location data therefore also can constitute personal data, i.e. aircraft position, latitude, longitude, altitude and direction, in such cases.

### **Summarizing conclusion**

IMY finds that there are national authorities that have information that, together with the information that Flightradar collects and publishes on their website, can be used to identify the owner of an aircraft by viewing the aircraft register of the country the aircraft is registered. If e.g. the names of the complainants regarding complaints 1 and 4 appear on those lists of registers, the registration numbers of the aircraft in question constitute their personal data.

Complainants 2 and 3 each claim that they are the only pilots of the respective aircraft, which Flightradar have pointed out are registered to companies. As far as what is apparent from the file, Flightradar have not disputed that the complainants are the only pilots. Flightradar's only intervention is that the aircraft are registered to companies. The registration numbers of those aircraft can therefore constitute the complainants' personal data if they can be used to identify the complainants, that is to say, if the complainants are in any way able to prove that they are the only pilots of the respective aircraft.

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<sup>20</sup> CJEU, judgment of 19 October 2016, Case C-582/14, *Breyer* (ECLI:EU:C:2016:779).

<sup>21</sup> CJEU, judgment of 17 June 2021, Case C-597/19, *M.I.C.M.* (EU:C:2021:492), paras. 102-104 and CJEU, judgment of 19 October 2016, Case C-582/14, *Breyer* (ECLI:EU:C:2016:779), para. 47.

<sup>22</sup> See EDPB Guidelines 3/2019 on processing of personal data through video devices (adopted on 29 January 2020), paras. 8-9.

In conclusion, IMY finds that Flightradar processes personal data relating to complainants 1 and 4 by collecting, compiling and publishing on Flightradar's website, the aircraft registration number of the complainants as well as location data such as position, latitude, longitude, altitude and direction, assuming the complainants are identifiable through the respective national aircraft registers. Flightradar may also process personal data in the same way regarding complainants 2 and 3, if they are identifiable by the registration numbers of the respective aircraft.

These circumstances also mean that the GDPR applies for the processing of personal data on Flightradar's website.

### **Flightradar has a legal basis for processing in article 6(1)(f)**

The second question that IMY has to consider is whether Flightradar has a legal basis for its processing of personal data. Flightradar has stated that it bases the processing on Article 6(1)(f) of the GDPR (legitimate interest) in the present case, if IMY were to consider that aircraft registration numbers constitute personal data.

#### **Applicable provisions**

The lawfulness of the processing of personal data requires that at least one of the conditions set out in Articles 6(1)(a)-(f) of the GDPR are met.

In order to process personal data on the basis of legitimate interest under Article 6(1)(f) of the GDPR, a controller must meet three conditions. The controller or a third party has a (i) legitimate interest, the processing is (ii) necessary for the purposes of the legitimate interest, and (iii) the interests or fundamental rights and freedoms of the data subject do not override the controller's or third party's legitimate interest.<sup>23</sup>

According to the EDPB, the notion of legitimate interest should be interpreted broadly.<sup>24</sup> An interest can be considered legitimate as long as it is real, clearly delimited and the controller can process the data in a way that is compatible with data protection legislation as well as other legislation.<sup>25</sup>

The notion of 'necessity' has an independent legal meaning in EU law, meaning that 'necessity' must be interpreted in a way that strives to achieve the objectives of data protection law.<sup>26</sup> In this context, the CJEU has held that exceptions and limitations to the protection of personal data must be limited to what is *strictly* necessary.<sup>27</sup> Furthermore, there must be a clear link between the processing of the personal data and the legitimate interest.<sup>28</sup> Processing may be necessary if it contributes to gains in

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<sup>23</sup> CJEU, judgment of 4 May 2017, Case C-13/16, *Rigas satiksme* (EU:C:2017:336), para. 28 and EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 17.

<sup>24</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 16.

<sup>25</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), paras. 16-17. In that regard, it should be noted that an economic interest may constitute a legitimate interest, cf. CJEU, judgement of 4 October 2024, Case C-621/2, *Tennisbond* (EU:C:2024:857).

<sup>26</sup> See CJEU, judgement of 16 December 2008, Case C 524/06, *Heinz Huber v Germany* (EU:C:2008:724), para. 52. See also EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 28 et seq.

<sup>27</sup> CJEU, judgment of 4 May 2017, Case C-13/16, *Rigas satiksme* (EU:C:2017:336), para. 30. See also EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 29.

<sup>28</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 19.

efficiency.<sup>29</sup> The requirement of ‘necessity’ must also be examined in conjunction with the principle of data minimization under Article 5(1)(c) of the GDPR.<sup>30</sup> According to this principle, personal data must be adequate, relevant and not excessive in relation to the purposes for which they are processed. Recital 39 of the GDPR further states that personal data should only be processed if the purpose of the processing cannot reasonably be achieved by other means. The EDPB notes that it, in practice, is easier for a controller to demonstrate that processing is necessary on the basis of its own legitimate interest than the legitimate interest of a third party, as the latter is more difficult to foresee for data subjects.<sup>31</sup>

Finally, any legitimate interest pursued by the controller must be weighed against all the relevant interests or fundamental rights and freedoms of the data subjects in a balancing test.<sup>32</sup> The use of the expression ‘interests or fundamental rights and freedoms’ in the provision confers greater protection on data subjects in such a way that not only their fundamental rights and freedoms should be considered, but also the ‘interests’ of data subjects.<sup>33</sup>

In the balancing test, the controller shall consider both positive and negative consequences of the personal data processing for the data subject. Account must be taken to factors such as the nature of the data, the way in which the data are processed, the reasonable expectations of the data subject and the positions of the controller and the data subject.<sup>34</sup> After carrying out an analysis and weighing the two sides against each other, a provisional ‘balance’ can be established.<sup>35</sup>

### **IMY:s assessment**

The first question that IMY has to consider is whether Flightradar has a *legitimate interest* in collecting and publishing registration numbers and associated location data of aircraft, which constitute personal data, on its website.

Flightradar has stated that it has a legitimate interest in providing a service that makes it possible to monitor and gain knowledge of the global air traffic. According to Flightradar, the service has a number of positive uses. Some examples that Flightradar present pertain to criminal investigations and alleviating the investigation of aircraft accidents. IMY has found no reason to question that Flightradar is used in such ways. The reasoning put forward by Flightradar in this regard is understood by IMY in such a way that data, including personal data, is partly collected for and disclosed to the benefit of third parties.

IMY notes that the collection and publication of the complainants’ personal data in the present case is not directly contrary to the GDPR or any other legislation. In addition to this, the documentation in the case shows that the information published on

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<sup>29</sup> See CJEU, judgement of 16 December 2008, Case C 524/06, *Heinz Huber v Germany* (EU:C:2008:724), para. 62.

<sup>30</sup> See CJEU, judgment of 11 December 2019, Case C-708/18, *Asociația de Proprietari bloc M5A-Scara A* (ECLI:EU:C:2019:1064), para. 48. See also EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 29.

<sup>31</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 30.

<sup>32</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), paras. 31 et seq.

<sup>33</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), paras. 32, 35-36.

<sup>34</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 32.

<sup>35</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 33.

Flightradar's website is used, *inter alia*, for research and development by the aviation industry, in media reporting and by national authorities in investigations regarding accidents and criminal activity<sup>36</sup>. As such, Flightradar acts not only in a presumable self-interest, but also to some extent in a public interest, which may be considered to weigh relatively heavy in the assessment of whether Flightradar's interest is legitimate.<sup>37</sup>

In the light of the above and that the notion of legitimate interest should be interpreted broadly, IMY considers that Flightradar's interest in providing the service for the benefit of third parties' interest to monitor and gain knowledge of the global air traffic is legitimate.

The second question that IMY has to consider is whether the processing of personal data by Flightradar is *necessary* for the pursued legitimate interest of third parties.

IMY notes initially that Flightradar publishes large numbers of registration numbers for over thirty million monthly users, both regarding private and commercial aircraft. Registration numbers may constitute personal data in both scenarios, but the investigation has not shown that registration numbers of aircraft in a general sense always provide real and effective means of identifying data subjects. As far as can be gathered from the investigation, Flightradar also has no possibility of initially determining which aircraft potentially may refer back to natural persons at the time of collection. On the one hand, IMY notes that Flightradar is able to de-identify aircraft and that it would be possible for them not to display registration numbers or other identifying information at all. On the other hand, a general de-identification of aircraft would mean that the legitimate interest in following and gaining knowledge of global aircraft traffic would not be possible, i.e. without the possibility to track aircraft. It would be possible to follow the global air traffic, but it would not be possible to gain any closer knowledge in the absence of other information about specific aircraft. IMY therefore considers that it would not be possible for third parties to follow and gain knowledge of global air traffic without the possibility to identify aircraft.

IMY therefore considers that the collection and publication of registration numbers on Flightradar's website is necessary in order for the company to pursue the legitimate interests set out above. IMY hereby also finds that the processing is adequate, relevant and not excessive in relation to the purposes for which the data are processed and therefore complies with the principle of data minimization.

The third question that IMY has to consider is whether the legitimate interest in publishing registration numbers and location data outweighs the interests or fundamental rights of the data subjects.

As detailed above, IMY considers that the legitimate interest in carrying out the processing weighs quite heavily, especially considering the described benefits that the processing has brought so far. In balancing the interests and rights and freedoms of data subjects, IMY notes that aircraft registration numbers are publicly available data for anyone that possesses the equipment to collect them. In addition to this,

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<sup>36</sup> IMY notes in this regard that a controller that primarily pursues an economic interest in processing of personal data cannot, as a general rule, rely on a legitimate interest in processing personal data for the purposes of preventing, detecting or prosecuting criminal offences, when this is unrelated to its commercial activities, cf. recital 50 of the GDPR and see CJEU, judgment of 4 July 2023, Case C-252/21, *Meta v. Bundeskartellamt* (ECLI:EU:C:2023:537), paras. 119 et seq.

<sup>37</sup> See EDPB Guidelines 1/2024 on the processing of personal data under Article 6(1)(f) GDPR (adopted for public consultation on 8 October 2024), para. 20.

registration numbers constitute indirect personal data, which must be combined with other data kept by third parties in order to identify individual data subjects. The data subjects are therefore not easily identifiable. The category of data subjects concerned in this case, i.e. likely adults holding a pilot's license, should also have a reasonable expectation that different actors have an interest in identifying and locating their aircraft, for example for air traffic safety reasons. IMY's overall assessment is that the processing by Flightradar entails only a low likelihood of negative consequences for the interests or fundamental rights and freedoms of data subjects.

IMY therefore considers that the interests or fundamental rights of the data subjects do not override the legitimate interest in carrying out the processing.

In summary, IMY considers that Flightradar has a legal basis in Article 6(1)(f) of the GDPR for collecting and publishing aircraft registration numbers as well as location data such as position, latitude, longitude, altitude and direction (which constitute personal data) on their website.

## **Requests by data subjects to exercise their rights**

### **Applicable provisions**

According to Article 12(2) of the GDPR, the controller shall facilitate the exercise of the data subject's rights under, *inter alia*, Articles 15 and 17.

According to Article 12(6) of the GDPR, where the controller has reasonable doubts concerning the identity of the natural person making the request referred to in Articles 15 to 21, the controller may request the provision of additional information necessary to confirm the identity of the data subject.

According to Article 15 of the GDPR, the data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the information referred to in that article.

According to Article 17(1)(c) of the GDPR, the data subject has a right to erasure of personal data concerning him or her if he or she objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing by the controller.

According to Article 21(1) of the GDPR, the data subject shall have the right to object, on grounds relating to his or her particular situation, at any time to processing of personal data concerning him or her which is based on *inter alia* Article 6(1)(f) of the GDPR, including profiling based on those provisions. The controller shall no longer process their personal data unless the controller demonstrates compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject, or for the establishment, exercise or defence of legal claims.

### **IMY's assessment**

Flightradar has stated that it has provided for the removal of information on aircraft on Flightradar's website in certain cases. From the documentation in the case, mainly regarding complaint 3, it seems that Flightradar requires that a holder of a particular

aircraft must be able to demonstrate private ownership of an aircraft by showing the aircraft's registration certificate before it accommodates blocking of the aircraft.

Flightradar has stated that, regarding complaint 1, the complainant has not submitted a registration certificate and is therefore unable to get their request fulfilled. Furthermore, the complainants in complaints 2 and 3 have been unable to show that they own the aircraft, because the aircraft are registered to companies. The complainant in complaint 4 has not been in contact with the company and has not made a request.

IMY has assessed that Flightradar processes personal data in some cases. IMY notes that under Article 12(6) GDPR, a data subject must identify himself or herself before a data controller can comply with a request for erasure under Article 17. In the present cases, however, it is not necessary for the aircraft to be a privately owned in order for the data relating to the aircraft to be regarded as personal data. Information about an aircraft may in certain cases still be attributed to a specific person even if it is registered to a company, for example in cases where the aircraft is used exclusively by a single person. In such a case, a registration certificate proving the ownership, joint ownership or possession of a particular aircraft cannot reasonably be a requirement for the fulfillment of an erasure request. It is possible that the registration number can be attributed to a particular person in some other way and not solely by a personal aircraft registration certificate.

If the data subject is able to identify himself or herself, he or she then has the right, with regard to the processing of his or her personal data, to object to the processing by the company on the basis of Article 6(1)(f) of the GDPR pursuant to Article 21(1) of the GDPR, after which the controller may continue to process the data only if it can justify it with reference to compelling legitimate grounds.

IMY notes that, as a rule, the complainants should be considered to have identified themselves if they have been able to produce certificates of registration proving that the aircraft is registered to them personally. In any other case, Flightradar is required to consider all other circumstances that may indicate that the complainants have identified themselves and to handle their requests accordingly. It is only where there are reasonable grounds to doubt the identity of the data subject that the controller may request additional information pursuant to Article 12(6) of the GDPR. This may in practice mean that, in certain cases, Flightradar is justified to require a data subject to present a personal registration certificate. However, the company should also consider other information relating to the identity of the complainant that is provided to the company by the complainant.

Regarding complaint 3, IMY notes that the complainant has stated that the aircraft is used only by him in his capacity as CEO of a company. It is commonly known that he is the only pilot of this aircraft in Denmark. The complainant has contacted Flightradar through his professional e-mail and has also submitted documentation showing that he is the CEO of that particular company. IMY has found no reason to question the information provided by the complainant. Under these circumstances, IMY considers that the complainant has identified himself and that it is therefore clear that the registration number and the location data of that aircraft constitute the complainant's personal data.

Flightradar has stated that it had previously blocked this complainant's aircraft on the basis of a HEX code submitted by the complainant, which was subsequently replaced by another HEX code. This resulted in the aircraft reappearing on Flightradar's

website. Flightradar believes that this demonstrates that the company needs to be provided with a copy of a registration certificate in order to be able to block the right aircraft.

IMY takes the view that Flightradar cannot be held responsible for the aircraft's reappearance when the submitted HEX code was no longer correct, although the HEX code related to the correct aircraft at that time. IMY observes that this also demonstrates that Flightradar in fact does have means to block aircraft without requiring a registration certificate. The complainant's submission of a registration certificate should therefore not be a prerequisite for complying with a request for erasure, if the complainant can identify himself by other means, which IMY believes that the complainant has done now as well as in the past.

Regarding complaints 1 and 2, IMY notes that the contents in the file are not such that make it possible to determine whether the complainants have identified themselves. Flightradar should, however, consider any information with which it has been provided and how it may indicate that the complainants have identified themselves, even if an aircraft is registered to a company like in complaint 2.<sup>38</sup> It is not sufficient for Flightradar to refuse the complainant's request simply by stating that the aircraft is owned by a company. Flightradar should consider all the circumstances or evidence provided to them by the complainants, in order to determine whether the complainants have identified themselves in the handling and facilitation of their requests.

If Flightradar is unable to identify the complainants, it is then entitled to request additional information about the identity of the complainants, for example the registration certificate of the aircraft. However, the company cannot routinely request a registration certificate as a prerequisite in order to a request for erasure, if such a registration certificate is not necessary to identify a natural person.

In light of the above, IMY finds that Flightradar processed personal data in breach of Articles 12(2) and 12(6) of the GDPR by having a routine to request personal registration certificates and thereby not facilitating the exercise of the complainants' right to erasure regarding complaints 1-3, and regarding specifically complaint 3, requesting additional information to confirm the identity of the complainant without demonstrating reasonable grounds to doubt the complainant's identity.

However, the investigation does not show that Flightradar processed personal data in breach of Article 17 of the GDPR, since it deleted data relating to the aircraft in complaint 3 at an earlier stage and did not subsequently have any influence over the change in HEX code which led to the reappearance of the aircraft on its website.

IMY finds no reason to question the information provided by Flightradar that the complainant in complaint 4 did not make a request for erasure to the company. The complainant does not allege this, but merely states that the data relating to the aircraft was previously blocked through mediation by another data protection authority. IMY has not examined whether there is a possible infringement of Article 17 of the GDPR in relation to this complaint.

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<sup>38</sup> IMY has found that an aircraft registration number can constitute personal data even if it is registered to a company.

Furthermore, IMY finds no reason to question Flightradar's statement that the aircraft in complaints 1 and 3 are blocked on Flightradar's website because they appear on the FAA's blocking list.

## **Choice of intervention**

### **Applicable provisions**

IMY has a number of corrective powers available under Article 58(2)(a) to (j) of the GDPR, including reprimands, orders and fines, in case a controller has infringed the GDPR. IMY shall impose fines, in addition to or instead of, other remedial measures referred to in Article 58(2) GDPR, depending on the circumstances of each case.

According to recital 148 of the GDPR, in the case of a minor infringement, IMY may issue a reprimand under Article 58(2)(b) instead of imposing a fine.

### **IMY:s assessment**

IMY has found that Flightradar has failed in its obligations under Article 12 of the GDPR in handling requests for erasure.

Flightradar has been mistaken in taking the view that their processing of aircraft registration numbers does not at all fall within the scope of the GDPR. In response to the requests concerning the exercise of the right to erasure, the company has routinely required a personal registration certificate as a prerequisite to handle each complainant's request and therefore not facilitated the exercise of the complainants' right to erasure pursuant to Article 12(2), with regard to complaints 1-3.

When it comes to complaint 3, Flightradar has made the assessment that the aircraft was registered to a company and therefore took the view that the registration number was not personal data, which also meant that the company disregarded evidence that the aircraft's registration number could be linked to the complainant in such a way that the complainant could be identified even without a personal registration certificate. Flightradar therefore requested additional information from the complainant despite the fact that it was not necessary.

However, despite Flightradar's view that the GDPR was not applicable, the company took certain measures in order to handle the complainants' requests. Even if not all measures were motivated and the complainants' requests therefore were not fully handled in accordance with the rules of the GDPR, the inadequacies in Flightradar's handling of the requests are of a less serious nature than if the complainants' requests had been left entirely unanswered. IMY notes that, despite the fact that Flightradar were wrong to routinely request registration certificates, and in that the registration number in complaint 3 was not the complainant's personal data and thereby had not identified himself, Flightradar nonetheless took measures to block the visibility of aircraft.

IMY therefore finds that the infringement of Article 12(2) and (6) is a minor infringement and that it is therefore not appropriate to impose a fine on Flightradar in this regard. Flightradar should instead be subject to a reprimand under Article 58(2)(b) of the GDPR.

IMY notes that the aircraft in complaint 1 and 3 are now blocked on the Flightradar website due to their inclusion on FAA:s blocking list. Nevertheless, IMY considers it important that Flightradar ensures that the complainants' requests for erasure are handled in accordance with the GDPR, which *inter alia* includes that the complainants can no longer be identified with the information that is published on Flightradar's website, provided that the conditions for handling the request for erasure are otherwise met, such as with complaint 3.

IMY considers that it is important that the company re-examines the complainant's request in complaint 2 in accordance with the rules laid down in the GDPR, even if it is not clear from the case documentation whether the complainant's identified himself. Flightradar should not routinely rely on personal registration certificates when such a registration certificate is not necessary for a data subject to identify himself or herself.

Regarding complaint 1, which similarly to complaint 3 is blocked due to appearing on FAA:s blocking list, the company should investigate and ensure that the information that continues to be published on Flightradar's website no longer enables the identification of the complainant, insofar as the conditions for fulfilling the complainant's request for erasure are otherwise met.

IMY therefore orders Flightradar, pursuant to Article 58(2)(c) of the GDPR, to comply with the complainant's request for erasure in complaint 3 by ceasing the processing which entails the publication of data relating to the complainant's aircraft on Flightradar's website, with the result that the complainant can no longer be identified with the information that is published on Flightradar's website, in accordance with the rules laid down in Article 17 of the GDPR.

IMY also orders Flightradar, pursuant to Article 58(2)(d) of the GDPR, to take the required measures to ensure that the complainants' requests for erasure in complaints 1 and 2 are handled in accordance with the rules laid down in Articles 12 and 17 of the GDPR.

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This decision was taken by Head of Unit [REDACTED] after a presentation by the Legal Advisor [REDACTED]

### **Annex**

1. The complainants' personal data

## How to appeal

If you wish to appeal IMY:s decision, please write to IMY. Please indicate in your letter the decision you are appealing and the amendment that you are requesting. The appeal must reach IMY no later than three weeks from the date on which you received the decision. If the appeal has been received in due time, IMY forwards it to the Administrative Court in Stockholm for trial.

You can send the appeal by email to IMY if the appeal does not contain any sensitive personal data or information that may be subject to confidentiality. IMY:s contact details are set out in the first page of the decision.