

# Legal Developments regarding the person who stole nearly 300 000 document photos in Estonia

March 2024

## Background

Artur Boiko was recently convicted in Estonia for unauthorized access to computer systems, a case that gained attention for its unique circumstances. Boiko claimed to have identified systemic flaws in the state's data infrastructure and hoped to earn a reward from the government by exposing these issues. To achieve his goals, Mr. Boiko stole nearly 300 000 document photos of people from the Police and Border Guard database.

## Legal Proceedings

Mr. Boiko's conviction took place on 1 June 2022, under the charges of threat and illegal obtaining of access to computer systems. The County Court, in a subsequent decision, ordered the return of data storage devices seized during the investigation. However, the situation took a turn when Boiko, dissatisfied with the proceedings, allegedly launched an identity attack against a government negotiator, leading to additional legal complications.

## Recent Court Decisions

The legal saga continued with the prosecutor's office seeking clarification on the return of specific data storage devices. The court, in a decision on 9 March 2023, supported the prosecutor's request, citing the need to further clarify the initial court ruling.

In a surprising turn of events, the Tallinn Circuit Court, on 20 April 2023, overturned the lower court's decision, arguing that it violated essential procedural rights.

## Focus on Data Protection Concerns

The appellant raised concerns regarding the return of facial images downloaded from the Police and Border Guard Board's database. The Circuit Court acknowledged the need to consider data protection laws in the context of returning unlawfully obtained data.

## Obligation to Delete Illegally Acquired Data

The Circuit Court highlighted that the lower court's decision lacked specificity on returning seized data storage devices, emphasizing the obligation to return items in the condition they were seized. However, this obligation should not compel the authorities to commit legal violations.

## Data Protection Legislation and Human Rights

The Supreme Court delved into the implications of the General Data Protection Regulation (GDPR) and national data protection laws, emphasizing the right to personal data protection under the European Union Charter of Fundamental Rights and national legislation.

## Legal Basis for Data Retention

The Supreme Court concluded that once the purpose of processing data, i.e., elucidating the circumstances of the case, is fulfilled, there is no legal basis for retaining unlawfully acquired personal data. Consequently, the responsible authority, in this case, the Police and Border Guard as the data controller, must delete the contested personal data before returning the seized items. The National Criminal Police estimated that it would have taken around 34 weeks to manually review all the five million files on Mr. Boiko's hard drive. Therefore, the National Criminal Police deliberately wiped the computers in such a way that their contents could not be recovered. As this was in breach of the Supreme Court's order, Boiko claimed damages of €3 000.