



## Summary of Judgment

**The Hong Kong Journalists Association (“Applicant”)  
v The Commissioner for Transport (“Commissioner”)  
HCAL 559/2024; [2026] HKCFI 917**

**Decision** : **Judicial review dismissed on all grounds with costs reserved**

**Date of Hearing** : **24 September 2024**

**Date of Judgment/Decision** : **6 March 2026**

### Background

1. In this judicial review application, the Applicant challenged **(1)** the policy (“Policy”) contained in the “Guidance Notes on the Applications for a Certificate of Particulars of Vehicle” (“Guidance Notes”) as announced by the Commissioner on 5 January 2024 and implemented on 8 January 2024, **(2)** the form for an application for a Certificate of Particulars of Vehicle (“Certificate”) as revised in January 2024 by the Commissioner for use under the Policy, **(3)** the Commissioner’s alleged failure to make decisions promptly and within reasonable time on the applications for Certificates made by journalists, and **(4)** the Commissioner’s decisions in rejecting three applications for Certificates made by journalists (“Rejections”). Leave for judicial review was granted on 17 April 2024.
2. Under the Policy, a Certificate will only be issued under the following conditions (“General Conditions”):- **(1)** the applicant is the registered owner of the vehicle concerned, or **(2)** the applicant has obtained the written consent of the registered vehicle owner, or **(3)** the particulars of the vehicle would only be used for one of the specified purposes (“Specified Purposes”) set out in the Guidance Notes (“Automatic Route”).
3. Applications that do not meet the General Conditions may be made under “exceptional circumstances” (“Public Interest Route”). An application under exceptional circumstances would only be approved if the Commissioner is satisfied that (1) the disclosure of the vehicle particulars to the applicant is lawful and legitimate, (2) the public interest in disclosure outweighs the registered owner’s right to privacy, and the lawful rights and interests of other persons and society as a whole in the overall circumstances of the case, and (3) the particulars will be used solely for the stated purpose(s) without any misuse or abuse.



4. Under the Policy, applications for Certificates made for journalistic purposes do not fall within any of the Specified Purposes or General Conditions. Accordingly, applications for journalistic purposes shall be made under the Public Interest Route.

### **Issues in dispute**

5. The main issues in dispute are:-

- (i) whether the Policy is:-
  - (a) *ultra vires* section 6(1)(e) of the Road Traffic Ordinance (Cap. 374) (“RTO”) and/or Regulation 4 (“Reg 4”) of the Road Traffic (Registration and Licensing of Vehicles) Regulation (Cap. 374E) (“Cap. 374E”) (Ground 1);
  - (b) unconstitutional and constitutes a disproportionate restriction on the freedom of expression, the freedom of the press and/or the right to seek, receive and impart information<sup>1</sup> (Ground 2);
  - (c) unreasonable in the public law sense (Ground 3);
  - (d) unlawful and/or unconstitutional<sup>2</sup> insofar as it requires disclosure of the applicant’s personal data to the owner of the vehicle, with no exception for confidentiality (Ground 4);
- (ii) whether the alleged delay (“Alleged Delay”) in processing applications for Certificates and the Rejections are unlawful and/or unconstitutional<sup>3</sup> (Ground 5).

### **Department of Justice’s Summary of the Court’s rulings**

(Full text of the judgment at

[https://legalref.judiciary.hk/lrs/common/ju/ju\\_frame.jsp?DIS=178089&currpage=T](https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=178089&currpage=T))

#### *Ground 1 – ultra vires RTO and/or Reg 4*

6. The Court accepted that the Applicant’s contention that the purposes of the Register of Vehicles (“Register”) as worded in the Policy, i.e. “providing relevant information to persons *directly* affected by the ownership or use of a vehicle who as a result need to ascertain the particulars of that vehicle”, is a misinterpretation of the broad statutory purposes of RTO and Reg 4, i.e. that *bona fide* journalism relating to the use of traffic should not be excluded from the statutory ambit. While the Court considers that the description in the Policy should be corrected, this does not render the Policy *ultra vires* because the Policy in substance foresees the possibility of journalistic applications, and allows for journalists’ access to the

<sup>1</sup> under Article 27 of the Basic Law and/or Article 16 of the Hong Kong Bill of Rights.

<sup>2</sup> ditto.

<sup>3</sup> ditto.



Register under the Public Interest Route: §§109-120, 249.

7. The Personal Data (Privacy) Ordinance, Cap. 486 does not place a positive duty on the Commissioner to disclose personal data for journalistic purposes, nor does it provide a blanket exemption (on the basis of news activity) from the Commissioner's duty to protect personal data of vehicle owners: §§121-124.

*Ground 2 – disproportionate restriction on the right to freedom of expression and freedom of press*

8. There are two sets of rights engaged by the Policy, namely (1) the right to freedom of expression and freedom of press which are restricted by the Public Interest Route; and (2) the right to privacy of the vehicle owners which is interfered with through the disclosure of private information to third parties, and there is presumptive parity in that neither right has precedence over the other: §§147-148. Dealing with the issue by a single proportionality test may lead to a neglect of the right to privacy of the vehicle owners, and thus the appropriate approach is the double proportionality test: §§137-139.
9. On the application of the double proportionality test and on the ultimate balancing exercise, the Court was not convinced that the Applicant has suffered an unacceptably harsh burden because of the restrictions imposed by the Public Interest Route, as the Policy does not result in a blanket refusal of all journalistic applications: §181; on the other hand, the Court held that it would be an unjustifiable incursion into the right to privacy if vehicle particulars are allowed to be disclosed to unrelated third parties under the vague umbrella of "journalistic purposes": §§182-183.

*Ground 3 – unreasonable in the public law sense*

10. The Policy does not aim to specifically exclude journalistic applications and requiring applicants to demonstrate that they have safeguarded the security of the personal data to be disclosed is a legitimate aim. It is true that there are some limitations in the Public Interest Route such that it is not as expedient as the Automatic Route, but this is for good reason. The Commissioner exercises a duty to protect the right to privacy of vehicle owners: §§193-194. The Court thus held that the Policy is not *Wednesbury* unreasonable.

*Ground 4 – disclosure of the applicant's personal data to the owner of the vehicle unlawful and/or unconstitutional*



11. It is not the case that all applicants' personal data would be disclosed, nor would it be disclosed to a wide and uncertain range of recipients; there is no unlawful fetter on the Commissioner's discretion: §§206-207, 217. Such disclosure is rationally connected to the legitimate aim of protection of vehicle owners' privacy, and is no more than necessary: §§212-215.

*Ground 5 – Alleged Delay and Rejections unlawful and/or unconstitutional*

12. In relation to the Alleged Delay, the Court found no unreasonable delay given the time spent on reviewing the applications manually, consulting other departments and active communication with the applicants, as well as the relatively recent introduction of the Policy: §§232-235.

13. As for the Rejections, the Court exercises a supervisory jurisdiction only, and is not entitled to substitute its own views in place of that of the Commissioner on the facts. On the evidence, the Court is satisfied that the Rejections were reached in accordance with the guidance and discretion afforded to the Commissioner by the Policy, and are not irrational or unconstitutional: §§243-245.

14. On costs, the Court will deal with those matters on paper submissions: §250.

15. At the postscript, the Court remarked that given that the Policy has been implemented for some time, the period for any "teething problems" must have ended and thus it might reasonably be expected that the application process time would have become much faster. Further, the time taken in responding to an application should not vary depending on the Commissioner's view as to whether it is urgent or not: §§252-253.

**Civil Division**

**Department of Justice**

**6 March 2026**