

Supervision of fulfillment of the disclosure obligation at SOS International A / S

Date: 17-03-2021

Decision

Private companies

The Danish Data Protection Agency found that SOS International A / S 'observance of the duty to provide information was in accordance with the rules.

Journal number: 2021-431-0128

Summary

In March 2021, the Danish Data Protection Agency completed an audit of three providers who offer COVID-19 tests without prior appointment. The Danish Data Protection Agency has supervised SOS International A / S and Carelink A / S, which in January 2021 won the tender for rapid tests in the regions. The Danish Data Protection Agency has further supervised the Statens Serum Institut, which offers PCR tests without prior appointment at one of TestCenter Denmark's mobile test sites.

The inspections focused on the providers' compliance with the data protection regulation's rules on disclosure, including whether the test providers complied with the rules that notification must be given to the data subject in a concise, transparent, easy-to-understand and easily accessible form and in clear and simple language.

The Danish Data Protection Agency found that the test providers' observance of the duty to provide information was in accordance with the rules. To a single provider, however, the inspectorate recommended that the provider supplement the notification of the citizen, which took place in connection with receipt of the test result, with general information at the test site itself.

Decision

The Danish Data Protection Agency hereby returns to the case of SOS International A / S 'observance of the duty to provide information when processing personal data in connection with COVID-19 rapid tests of citizens.

Decision

Following a review of SOS International A / S 'opinion, the Danish Data Protection Agency finds that SOS International A / S' processing of personal data has taken place within the framework of the Data Protection Regulation [1], cf. Article 12 (1). 1 and Article 13.

Below is a more detailed review of the case and a justification for the Danish Data Protection Agency's decision.

2. Case presentation

In connection with the public's open offer of COVID-19 tests, there has been press coverage of various actors' observance of the data protection rules.

On the basis of this, the Danish Data Protection Agency decided to investigate how the duty to provide information is observed when SOS International A / S conducts COVID-19 rapid tests of citizens.

The Danish Data Protection Agency therefore requested SOS International A / S on 4 February 2021 to state how SOS International A / S ensures that citizens are made aware of how SOS International A / S processes information about the persons in question.

On 10 February 2021, SOS International A / S issued a statement.

2.1. SOS International A / S 'comments

SOS International A / S has stated that there are various ways in which the citizen is made aware of SOS International A / S 'information about the processing of personal data for which the company is data responsible.

When the citizen visits SOS International A / S 'website to see which test sites SOS International A / S makes available, the citizen can find SOS International A / S' privacy policy.

In addition, the citizen receives an SMS message with a link to the test result immediately after the test is performed. When the citizen clicks on the link, an encrypted pdf file is accessed, where a code must be entered before the test result is displayed.

On this page (before entering the code) there is a link to SOS International A / S 'privacy policy. The citizen obtains the same access if the test result is sent per. email instead of text message.

SOS International A / S 'privacy policy was attached to the statement.

Justification for the Danish Data Protection Agency's decision

3.1.

It follows from Article 13 (1) of the Data Protection Regulation 1, that if personal data has been collected from the data subject, the data controller shall, at the time when the personal data is collected, provide the data subject with a number of information, which appears from letter a-f of the provision. In addition to the information mentioned in para. In accordance with Article 13 (1) of the Regulation, the data controller shall provide the data subject with a number of additional information necessary to ensure

fair and transparent processing of the data subject in accordance with Article 13 (1) of the Regulation. 2.

The Danish Data Protection Agency is of the opinion that when the information is collected from the data subject, the data controller must in principle provide the information covered by Article 13 at the same time as the data controller collects the information from the data subject [2]. However, when the data controller himself approaches the data controller, he can provide the information to the data subject as soon as possible.

The fact that the data controller must provide the information to the data subject means that the data controller must take active steps to provide the information, and it will therefore not be sufficient to have the information on a website or similar, and where it is left to the data subject himself to find the information.

It also follows from Article 12 (1) of the Data Protection Regulation 1, that the data controller, when communicating with the data subject, shall provide any information as covered by Article 13 in a concise, transparent, easily understandable and easily accessible form and in a clear and simple language.

3.2.

Following a review of SOS International A / S 'privacy policy - which the Danish Data Protection Agency assumes constitutes notification pursuant to Article 13 of the Data Protection Ordinance - it is the Data Inspectorate's assessment that the privacy policy contains the information set out in Article 13 (1) of the Data Protection Regulation. 1 and 2.

With regard to the way in which the notification is to be made, the Danish Data Protection Agency finds that a solution where the information (privacy policy) is only available on SOS International A / S's website does not live up to the requirement that the information must be provided to the registered in a clear, concise and easily accessible manner, in accordance with Article 13 (2) of the Data Protection Regulation. Article 12 (1) 1.

The Danish Data Protection Agency notes in this connection that it must be assumed that not all citizens who have a rapid test performed at SOS International A / S can be expected to visit SOS International A / S 'website before the test is performed. However, the Danish Data Protection Agency understands SOS International A / S 'statement in such a way that when the citizen receives an SMS message with a link to the test result immediately after the test has been performed, through a (other) link with a clear reference to the privacy policy with the information referred to in Article 13 (2). 1.

As SOS International A / S provides the information to the individual citizen who has had a COVID-19 rapid test, in immediate extension of this, the Danish Data Protection Agency finds, depending on the circumstances, that SOS International A / S

'observance of the duty to provide information in the specific case is within within the framework of Article 13 of the Data Protection Regulation, in accordance with Article 12 (2). 1.

However, the Danish Data Protection Agency must recommend that SOS International A / S supplement with general information at the test site with a reference to where the citizen can find information on the website.

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals 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).

[2] <https://www.datatilsynet.dk/Media/C/0/Registreredes%20rettigheder.pdf>, section 3.3.