

Supervision of Udbetaling Danmark's processing of personal data

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Decision

Public authorities

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Summary

In 2019, the Danish Data Protection Agency carried out a planned inspection at Udbetaling Danmark. The Authority focused on the Authority's compliance with the rules on the data subject's right of access, in accordance with Articles 15 and 12 of the Data Protection Regulation.

In connection with the audit, the Danish Data Protection Agency has expressed criticism that Udbetaling Danmark's processing of personal data had not taken place in accordance with Article 15 and Article 12 (1) of the Regulation. 3.

The Danish Data Protection Agency's concluding statement states, among other things, that Udbetaling Danmark may, in connection with some services, make decisions based solely on automatic processing, cf. Article 22 of the Regulation, and that in five cases the authority has not provided the data subject with the necessary information. on the existence of automatic decisions in accordance with Article 15 (1) of the Regulation. 1, letter h.

In addition, it appears that in four cases Udbetaling Danmark has not responded to a request for insight later than one month after receipt of the request, where one of these cases was due to an excusable misunderstanding between Udbetaling Danmark and the data subject regarding the scope of the request.

You can read the Danish Data Protection Agency's guide on data subjects' rights [here](#).

Decision

Udbetaling Danmark was among the public authorities selected by the Danish Data Protection Agency for supervision in the spring of 2019. The Danish Data Protection Agency's planned supervision of Udbetaling Danmark focused in particular on the authority's compliance with the rules on the data subject's right of access, cf. Article 15 and Article 12 of the Data Protection Regulation.

At the request of the Danish Data Protection Agency, Udbetaling Danmark had completed a questionnaire before the inspection visit and submitted this together with additional material to the inspection. The actual inspection visit took place on

13 May 2019.

Decision

Following the audit of Udbetaling Danmark, the Danish Data Protection Agency finds reason to conclude:

That Udbetaling Danmark has to a large extent prepared guidelines, procedures, etc. for the Authority's compliance with Articles 15 and 12 of the Data Protection Regulation.

That Udbetaling Danmark has to a large extent prepared templates that can help to ensure and facilitate the authority's compliance with Articles 15 and 12 of the Regulation.

That Udbetaling Danmark has received and responded to 12 requests for insight in the period 25 May 2018 at the time of notification of the supervision.

That Udbetaling Danmark in five cases has not provided the data subject with the necessary information about the occurrence of automatic decisions, cf. Article 15 (1) of the Data Protection Regulation. 1, letter h.

That Udbetaling Danmark in three cases has not responded to a request for insight in accordance with the deadlines in Article 12 (1) of the Data Protection Regulation. 3.

That Udbetaling Danmark in one case - as a result of a misunderstanding - has not responded to a request for insight in accordance with the deadlines in Article 12 (1) of the Data Protection Regulation. 3.

In relation to points 4 and 5, the Danish Data Protection Agency finds grounds for expressing criticism that Udbetaling Danmark's processing of personal data has not taken place in accordance with the rules in Article 15 and Article 12 (1) of the Data Protection Regulation. 3.

Below is a more detailed review of the information that has emerged in connection with the audit and a justification for the Danish Data Protection Agency's decision.

Payment Denmark's guidelines and procedures

Payment Prior to the inspection visit, Denmark has sent a copy of the authority's procedures and guidelines, which were in force at the date of notification of the inspection, regarding the handling of access requests in accordance with Articles 15 and 12 of the Data Protection Regulation.

Payment Denmark has stated that the procedures and guidelines can be accessed by the employees on the intranet, and that these function as a working tool for the employees.

In addition, Udbetaling Danmark has stated that all the authority's procedures and guidelines are targeted at employees across different departments. Payment Denmark has prepared a knowledge solution, where the authority i.a. shares knowledge about handling insight requests, and where employees can quickly find information about the insight rules using keywords.

Employees are also made aware of the data protection rules, including the right of access, in connection with status meetings, annual meetings and by participating in training regarding the data protection rules. In addition, the employees conduct an annual e-learning game regarding data protection, just as Udbetaling Danmark has a number of customer ambassadors who share knowledge with the employees. In this way, employees are also made aware that the existing procedures, guidelines and templates, etc. can be found on the intranet. Here

The submitted procedures and guidelines contain i.a. information that the employees - once they have identified a request for insight - must forward the inquiry to the department "Quality & Complaints", just as it is described how the employees in Quality & Complaints can seek the information about the data subject and how to send the information to the data subject. In addition, the procedures and guidelines provide information on the time limit for replying to requests for access under Article 12 (1) of the Regulation. And information on what information is to be provided to the data subject in answering requests for access pursuant to Article 15 (3) of the Regulation. 1, letters a-h.

After a review of the procedures and guidelines, the Danish Data Protection Agency can not immediately establish that information is provided on how employees should handle requests for insight, where there is doubt about the data subject's identity, and where the authority will therefore have to request further information from the data subject. in order to confirm the identity of the person in accordance with Article 12 (1) of the Regulation. 6.

Against this background, the Danish Data Protection Agency must recommend that Udbetaling Danmark - to the extent that the authority has not already done so - add information about this in the procedures and / or guidelines.

It appears from one of the submitted guidelines (Compendium on the data subject's rights) regarding the right of access that "if the data subject so wishes, the data controller must provide a copy of the personal data being processed as part of the right of access". The same does not appear from the other guidelines, etc.

In this connection, the Danish Data Protection Agency should note that it follows from Article 12 (1) of the Regulation. 3, that the data controller provides a copy of the personal data that is processed, and that this is not conditional on the data subject requesting to receive a copy of the data.

The Danish Data Protection Agency must therefore recommend that this also be clarified in the mentioned guidelines.

Payment Denmark's standard texts

Udbetaling Danmark has sent a copy of the templates that the authority's employees use when responding to requests for insight, including a template that is used for the actual response to the request and a template that is used for information on extended case processing time.

It appears from the template for responding to requests for insight that Udbetaling Danmark can make decisions that are solely based on automatic processing. It also appears that the automatic decisions are made, for example, by Udbetaling Danmark obtaining information from public registers, which are automatically compared with information in the data subject's case, and which together determine whether the data subject is entitled to the service in question.

In that regard, it follows from Article 15 (1) of the Regulation Article 22 (1) (h) requires the data controller to provide the data subject with information on the occurrence of automatic decisions, including profiling, as referred to in Article 22 (1). 1 and 4, and as a minimum meaningful information about the logic therein as well as the significance and the expected consequences of such processing for the data subject.

Asked about this during the inspection visit, Udbetaling Danmark stated that in the case of certain types of benefits (for example income-based benefits such as housing benefit), automatic decisions are made with the data subject.

The Danish Data Protection Agency asked whether it is possible for Udbetaling Danmark to provide the registered person with specific information on whether automatic decisions have been made against the person in question.

Payment Denmark stated that it is possible to provide more specific information about this in relation to the individual services. When asked, Udbetaling Danmark further stated that no automatic decisions are made in connection with all services, and that it will therefore only be relevant to provide information about this in some cases.

In relation to the above, the Danish Data Protection Agency has noted that Udbetaling Danmark has stated after the inspection visit that the background for the general wording on automatic decisions in Udbetaling Danmark's insight response is that the preparation of the letter template is based on the Data Inspectorate's templates for observing the duty to provide information , but that Udbetaling Danmark will, after the discussions on the inspection visit, change the wording in the template so that in future it will be stated in each insight response whether specific decisions have been made vis-à-vis the data subject.

Payment Denmark's handling of requests for insight

4.1. Udbetaling Danmark has informed the Danish Data Protection Agency that the authority has received and responded to 12 requests for insight in the period from 25 May 2018 to 9 April 2019. Udbetaling Danmark has sent a copy of the responses to the Danish Data Protection Agency prior to the inspection visit.

As stated in the submitted template for responding to requests for insight, Udbetaling Danmark can make decisions that are solely based on automatic processing.

During the inspection visit, the Danish Data Protection Agency asked whether automatic decisions had been made against the data subjects who had requested access in the period from 25 May 2018 to 9 April 2019.

Payment Denmark has stated after the inspection visit that the authority, after a review of the submitted insight cases, has established that the citizens in five of the cases have been the subject of an automatic decision, which does not appear from the responses.

The automatic decisions in the five cases concern pensions and housing benefits. In two of the cases, automatic decisions have been made on both pension and housing benefit, in two other cases, automatic decisions have been made on pension, while in the last case, automatic decision has been made on housing benefit.

Payment Denmark has confirmed to the Danish Data Protection Agency that the data subjects have not been informed that they have specifically been the subject of an automatic decision in accordance with Article 15 (1) of the Regulation. 1, letter h.

4.2. After a closer examination of the 12 answered requests for insight, the Danish Data Protection Agency can state that Udbetaling Danmark in three cases has responded to a request later than 1 month after receipt of the request.

Payment On 3 September 2018, Denmark received a request for insight, which the authority replied to on 8 November 2018, ie. 2 months and 5 days after receipt of the request. Payment Denmark has stated that the request was only identified late.

When Udbetaling Danmark became aware that the deadline had been exceeded, the authority prioritized responding to the request instead of giving the data subject a notification of the extension of the response.

In addition, Udbetaling Danmark received a request for insight on 12 November 2018, which was answered on 3 January 2019, ie. 1 month and 22 days after receipt of the request. Payment Denmark has also stated that the request was only identified late. When Udbetaling Danmark became aware that the deadline had been exceeded, the authority prioritized responding to the request instead of giving the data subject a notification of the extension of the response.

The Danish Data Protection Agency thus assumes that the extension of the response to the two requests mentioned was not

due to the complexity and number of requests, but rather that Udbetaling Danmark has not been aware that these were requests for insight and that the deadline in Article 12 (1) of the Regulation. 3, for answering the requests as a result has not been observed by Udbetaling Danmark.

Payment Denmark also received on 18 September 2018 a request for insight, which the authority replied on 24 October 2018, ie. 1 month and 6 days after receipt of the request.

Payment On 11 October 2018, Denmark notified the data subject of the extension of the answer. It appears from the notification that Udbetaling Danmark could not respond to the data subject within 1 month of receipt of the request due to the complexity of the case.

In its reply of 24 October 2018, Udbetaling Danmark regrets the long case processing time, which was due to the authority having erroneously understood that the registered person had requested insight into all the information that Udbetaling Danmark may have registered about the person in question. During a conversation between the data subject and Udbetaling Danmark's data protection adviser, however, it was clarified that the data subject only wanted insight into the personal data that was processed about him or her in a specific case.

In relation to this case, the Danish Data Protection Agency has noted that the extension of the response to the request was due to an excusable misunderstanding between Udbetaling Danmark and the data subject regarding the scope of the request. The Danish Data Protection Agency has emphasized that Udbetaling Danmark responded to the request shortly after the misunderstanding had been clarified.

4.3. In reviewing the submitted examples of responses to requests for insight, the Danish Data Protection Agency was able to establish that three of the 12 requests - as described above - were answered later than 1 month after receipt of the request, and that the other requests were answered exactly within 1 month after the reception.

When asked, Udbetaling Danmark stated that the authority is aware that the answers are generally close to the deadline. The challenge is that it is difficult for employees to identify the requests, as the requests are typically hidden in a longer correspondence with the citizen in question. Payment Denmark has stated that the authority is trying to optimize the process so that employees become better at identifying requests for insight.

4.4. Payment Denmark has stated to the Danish Data Protection Agency that in two of the requests for insight received, there were doubts about the identity of the natural person. The authority was therefore required to request additional information in

order to confirm the identity of the data subject, in accordance with Article 12 (1) of the Regulation. 6.

Payment Denmark thus received on 12 and 14 February 2019, respectively, two requests for insight, where based on the content of the inquiries it was not possible to identify the data subjects in question.

Payment Denmark requested on 27 March 2019, ie. 1 month and 15 days and 1 month and 13 days after receipt of the requests, respectively, both of them registered to contact via Digital Post on borger.dk or by calling Udbetaling Danmark, as it was not possible for Udbetaling Danmark to apply for the cases were registered on the basis of their names or the e-mail address from which they had applied. Alternatively, the registered could choose to send their civil registration number by e-mail to Udbetaling Danmark.

The Danish Data Protection Agency has no comments that Udbetaling Danmark has found it necessary to request the data subjects for further information in order to have their identity verified.

However, the Danish Data Protection Agency finds that Udbetaling Danmark in the two cases mentioned - by first requesting additional information for verification 1 month and 13 days and 1 month and 15 days after receipt of the requests - has not complied with the deadlines in Article 12 of the Regulation, PCS. 3.

5. Conclusion

Following the audit of Udbetaling Danmark, the Danish Data Protection Agency finds reason to conclude:

That Udbetaling Danmark has to a large extent prepared guidelines, procedures, etc. for the Authority's compliance with Articles 15 and 12 of the Data Protection Regulation.

That Udbetaling Danmark has to a large extent prepared templates that can help to ensure and facilitate the authority's compliance with Articles 15 and 12 of the Data Protection Regulation.

That Udbetaling Danmark has received and responded to 12 requests for insight in the period 25 May 2018 at the time of notification of the supervision.

That Udbetaling Danmark in five cases has not provided the data subject with the necessary information about the occurrence of automatic decisions, cf. Article 15 (1) of the Data Protection Regulation. 1, letter h.

That Udbetaling Danmark in three cases has not responded to a request for insight in accordance with the deadlines in Article 12 (1) of the Data Protection Regulation. 3.

That Udbetaling Danmark in one case - as a result of a misunderstanding - has not responded to a request for insight in

accordance with the deadlines in Article 12 (1) of the Data Protection Regulation. 3.

In relation to points 4 and 5, the Danish Data Protection Agency finds grounds for expressing criticism that Udbetaling Danmark's processing of personal data has not taken place in accordance with the rules in Article 15 and Article 12 (1) of the Data Protection Regulation. 3.

The Danish Data Protection Agency then considers the audit to be completed and does not take any further action on that occasion.

[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).