

Decision

Diarienr

2019-02-21

DI-2018-XXXX

Supervision according to the Data Protection Ordinance

2016/679 - camera surveillance

The Data Inspectorate's decision

The Data Inspectorate closes the case without further action.

Report on the supervisory matter

The Data Inspectorate has received complaints regarding unauthorized use

camera surveillance on property. On the occasion of the complaint has

The Data Inspectorate has initiated supervision of the property owner.

During the examination of the camera surveillance, it has emerged mainly

following.

The property in question is used exclusively as a private home.

Camera surveillance takes place through a permanently mounted camera on the inside of one

balcony windows. The camera is of the make and model Denver hsc5003, a camera

which is activated during movement. The camera's motion detector (PIR) has the capacity to

activate the camera up to 20 meters from the camera position and

over 100 degree angle. The camera can record both audio and video at

activation.

The property owner has stated that the camera is pointing obliquely downwards so that only

the own, private plot is filmed. He has come in with a still image from

the camera which - in the form in which it was submitted - complies with this

statement. Furthermore, he has stated that when testing audio recording only

noise is heard. The reason he is being monitored by cameras is said to be that he

previously had problems with vandalism and domestic violence. Then the camera

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installed, the problems have stopped. The camera is said to be on only when no one is home. The camera has only been activated on a few occasions since it was installed. On all occasions, it was due to severe storms.

The whole plot is fenced with a fence or hedge. Two signs about camera surveillance is set up on the plot.

The notifier has stated that the current camera is filming on his private plot, against kitchen window, front door and garden. Of pictures that the notifier has come in with it appears that the camera is located at the bottom of a window and is directed towards the neighboring plot. The notifier has later during the supervisory case once stated that the camera is still facing his plot, but angled more downwards.

Justification of the decision

Provisions on which the decision is based

The Data Protection Ordinance 2016/6791 and the Camera Surveillance Act (2018: 1200) regulates how and to what extent camera surveillance is permitted. About one surveillance camera captures an identifiable person or someone else personal data in the picture, the rules in the Data Protection Ordinance apply. This is clear of Article 2 (1) of the Data Protection Regulation.

Of Article 2 (2) (c) of the Data Protection Ordinance and Section 5 of the Camera Surveillance Act

it appears, however, that the rules do not apply to such

personal data processing or camera surveillance performed by a physical

person as part of a purely private nature or related

with his or her household. This is called the private exemption.

Of Case C 212/13 of the European Court of Justice, where the private exemption in relation to

camera surveillance was tried, it appears that a private person as through camera

guarding place that is outside its private sphere is not covered by

the private exemption.

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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 that

free flow of such data and repealing Directive 95/46 / EC (General

Data Protection Regulation).

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When a private person camera surveillance a place outside their private sphere must

therefore all legal requirements in the Data Protection Regulation and

the Camera Surveillance Act is complied with. This means, among other things, that it

personal data controller must have a legitimate interest in monitoring that

outweighs the interest in the integrity of the site. About the purpose of surveillance

can be achieved in a less intrusive way, this alternative must be chosen

instead. In addition, the person monitoring must, among other things, clearly inform about who

who guards, what purpose the guard has, and where the guard can

turn for further information and demand of their

data protection rights.2

The Data Inspectorate's assessment

With the support of the investigation in the case, the Data Inspectorate finds it proven that it camera surveillance the property owner conducts, at the time of the decision, takes place within his private plot. The provisions of the Data Protection Regulation and the Camera Surveillance Act therefore does not apply.

At the same time, the Data Inspectorate finds that with the camera equipment which the property owner uses is possible to also monitor the place outside the plot boundary. In case the property owner's camera use would result in personal data being processed - by either image or sound - outside its plot boundary, the rules of the Data Protection Regulation and the Camera Surveillance Act is followed. To camera monitor someone else's private plot is a serious invasion of privacy. According to the Data Protection Regulation, it is not allowed as a private person to camera monitor their neighbors against their will.

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Follows from Articles 5, 6 and 12-15 of the Data Protection Regulation.

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This decision was made by unit manager Charlotte Waller Dahlberg after presentation by the lawyer Frida Orring. At the final processing has General Counsel Hans-Olof Lindblom also participated.

How to appeal

If you want to appeal the decision, you must write to the Data Inspectorate. Enter i the letter which decision you are appealing and the change you are requesting.

The appeal must have been received by the Data Inspectorate no later than three weeks from

the day you received the decision. If the appeal has been received in time, send

The Data Inspectorate forwards it to the Administrative Court in Stockholm for review.

You can e-mail the appeal to the Data Inspectorate if it does not contain

any privacy-sensitive personal data or data that may be covered by

secrecy. The authority's contact information can be found on the first page of the decision.

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