

Decision

Diary no

2019-04-03

DI-2018-19920

Your diary no

2018-2523

The Coast Guard

Box 536

371 23 Karlskrona

Supervision according to the Criminal Data Act (2018:1177) –

The Coast Guard's list of

treatments

The Swedish Data Protection Authority's decision

1.

The Data Inspectorate notes that the Coast Guard's list of

treatments lack contact details for the personal data controller and data protection officer according to ch. 3 Section 3 of the Criminal Data Ordinance (2018:1202).

The Swedish Data Protection Authority orders according to ch. 5. 7 § 2 of the Criminal Data Act The Coast Guard to indicate contact details for the personal data controller and data protection officer in the list of processing, no later than 31 October 2019.

2. The Data Inspectorate notes that the Coast Guard's list of

treatments, for each category of treatment, indicate the categories of

recipients to whom the data may be disclosed

according to ch. 3 § 4 of the Criminal Data Ordinance in an unclear manner.

The Swedish Data Protection Authority orders according to ch. 5. 7 § 2 of the Criminal Data Act, the Coast Guard that in the list of treatments, for each category

of processing, specify the categories of recipients to whom the data may be disclosed to in the manner stated in the justification for this decision, no later than 31 October 2019.

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3. The Coast Guard is ordered to leave a

written report to the Swedish Data Protection Authority of the measures that the Coast Guard has taken due to the orders in points 1-2.

Account of the supervisory matter

On October 17, 2018, the Swedish Data Protection Authority started supervision of the Coast Guard for the purpose of reviewing the Coast Guard's list of treatments of personal data is in accordance with ch. 3 Section 3 of the Criminal Data Ordinance.

In its review of the Coast Guard's list, the Data Inspectorate has over treatments mainly observed the following. The list of treatments contain the following columns.

- Responsible,
- categories of officials who have access,
- objectives in three different levels,
- name of treatment,
- legal basis,
- comment on legal basis,

- categories of data subjects affected by the processing,
- categories of personal data that may be processed,
- categories of recipients to whom the data may be disclosed out, including third countries or international organizations,
- collections of transfers of personal data to third countries or international organizations,
- if possible, deadlines for how long the categories of personal data may be treated,
- if possible, a general description of which security measures have taken as well
- use of profiling.

The Coast Guard has essentially stated the following. The columns "collections of transfers of personal data to third countries or international organizations" and "use of profiling" are empty. That means it doesn't occur.

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Justification of the decision

What the Swedish Data Protection Authority has to decide on

In the supervisory matter, the Data Inspectorate has to take a position on whether the Coast Guard's list of treatments meets the requirements of ch. 3. Section 3 of the Criminal Data Ordinance.

Applicable regulations

On August 1, 2018, the Criminal Data Act entered into force with supplementary provisions of the Criminal Data Ordinance. The Criminal Data Act applies according to ch. 1 Section 2 for the processing of personal data carried out for the purpose of

prevent, prevent or detect criminal activity, investigate or prosecute crime or enforce criminal penalties. It also applies to treatment of personal data carried out for the purpose of maintaining public order and security. In addition to the Criminal Data Act, the Coast Guard applies since on 1 January 2019 also the Act (2018:1695) on the Coast Guard's processing of personal data within the scope of the Criminal Data Act.

According to ch. 3 § 3 of the Criminal Data Ordinance, the personal data controller must keep a list of the categories of processing of personal data which he is responsible for. The list must contain the name and contact details of the personal data controller, joint personal data controller and data protection officer. The list must also, for each category of treatment, contain the following information:

1. the legal basis for the processing,
2. the purposes of the processing,
3. the categories of officials who have access to the personal data which treated,
4. the categories of recipients to whom the data may be disclosed, also in third countries or international organizations,
5. the categories of data subjects affected by the processing,
6. the categories of personal data that may be processed,
7. collections of transfers of personal data to third countries or international organizations,
8. use of profiling,
9. if possible, deadlines for how long the categories of personal data may be processed, and

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10. if possible, a general description of which security measures are
has been taken.

According to ch. 5 Section 7 of the Criminal Data Act allows the Data Inspectorate to use the corrective powers if it is
established that personal data is being processed in violation
by law or other constitution or that the person in charge of personal data or
the personal data processor does not fulfill its obligations in any other way.

The Coast Guard's list of treatments

The coast guard for a list according to ch. 3. Section 3 of the Criminal Data Ordinance
over the categories of processing of personal data by the authority
responsible for according to the Criminal Data Act. For each category of treatment it must
according to the provision, certain enumerated information is specified (items 1-10).

The Coast Guard's list of treatments includes for each category
of treatment items 1-10. The Swedish Data Protection Authority has no comments
regarding points 1-3 and 5-10.

Contact details

The Swedish Data Protection Authority's assessment

The Data Inspectorate notes that the Coast Guard's list of processing does not contain contact details for the person in charge
of personal data and the data protection officer.

The reasons for Datainspektionen's assessment are as follows

A list of treatments must according to ch. 3. Section 3 of the Criminal Data Ordinance
contain the name and contact details of the personal data controller,
joint data controller and data protection officer.

The Coast Guard's list of treatments contains only the name
on the personal data controller. The Swedish Data Protection Authority therefore notes that

The Coast Guard's list of treatments lacks contact details

the personal data controller and data protection officer. The inspection has included

reason for this found reason to use the corrective powers

in ch. 5 Section 7 of the Criminal Data Act.

The Swedish Data Protection Authority orders according to ch. 5. Section 7 § 2 of the Criminal Data Act, the Coast Guard to enter contact information for in the list of processing

the personal data controller and data protection officer.

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Point 4 – categories of recipients

The Swedish Data Protection Authority's assessment

The Data Inspectorate notes that the Coast Guard's list of

treatments, for each category of treatment, indicate the categories of

recipients to whom the data may be disclosed in an unclear manner.

The reasons for Datainspektionen's assessment are as follows

According to ch. 3 § 4 of the criminal data regulation, a list of processing, for each category of processing, must contain information about the categories

of recipients to whom the data may be disclosed, also in third countries

or international organizations.

The Swedish Data Protection Authority has observed that for all categories of processing,

except one, specified: Internal, external and to some extent also to third countries after

examination. The list does not indicate which type of external recipient is

referred to.

From the preparatory work for the crime data act, it appears that when it comes to categories of

recipient, it may be sufficient to indicate the type of authority to which the personal data may be provided, for example

prosecutor or court

(see SOU 2017:29 p. 322). The Swedish Data Protection Authority considers that due to that

it is clear from the preparatory work that it is not enough to simply state "external".

The inspection therefore notes that the Coast Guard's list of treatments, for each category of treatment, indicate the categories of recipients to whom the data may be disclosed in an unclear manner.

Because of this, the inspection has found reasons to use them correcting the powers in ch. 5 Section 7 of the Criminal Data Act.

The Swedish Data Protection Authority orders according to ch. 5. 7 Section 2 of the Criminal Data Act The Coast Guard that in the list of treatments, for each category of

processing, clarify the categories of recipients to which the data can be disclosed to. Examples of how recipients can be specified can be seen from

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the preparatory work that is reproduced above.

This decision has been made by unit manager Charlotte Waller Dahlberg after presentation by lawyer Maria Andersson.

Charlotte Waller Dahlberg

Maria Andersson

How to appeal

If you want to appeal the decision, you must write to the Swedish Data Protection Authority. Enter in the letter which decision you are appealing and the change you are requesting.

The appeal must have been received by the Swedish Data Protection Authority no later than three weeks from the day the decision was announced. If the appeal has been received in time the Swedish Data Protection Authority forwards it to the Administrative Court in Stockholm for examination.

You can e-mail the appeal to the Swedish Data Protection Authority if it does not contain any privacy-sensitive personal data or information that may be covered by secrecy. The authority's contact details appear on the first page of the decision.

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