

Insufficient security when delivering debt collection letters

Date: 11-06-2020

Decision

Private companies

On the basis of a complaint, the Danish Data Protection Agency has expressed criticism of the data processor RoestNielsen ApS, as the company did not live up to the requirements for an appropriate level of security in connection with the delivery of debt collection letters from Alektum A / S to a citizen.

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Summary

On the basis of a complaint about the delivery of debt collection letters from Alektum A / S, the Danish Data Protection Agency criticizes the data processor RoestNielsen ApS (hereinafter RoestNielsen), which has not acted in accordance with the instructions to which RoestNielsen had been subject by Alektum A / S (hereinafter Alektum) , as data controller.

In the decision, the Danish Data Protection Agency has criticized that RoestNielsen has not complied with the data protection law requirements for an appropriate level of security, as a consultant employed by RoestNielsen handed over debt collection letters to a citizen by placing the letters at the citizen's front door.

In the assessment, the Danish Data Protection Agency has emphasized that the consultant did not deliver the letters in the citizen's mailbox, despite the fact that the citizen had a mailbox, and that RoestNielsen placed the envelopes so accessible that there was a great risk that they would be lost in a possible storm. or that unauthorized persons would be able to access them. The Danish Data Protection Agency has also emphasized that the letters contained information on debt collection and debt, and that exposure to such information could entail serious violations for the citizen.

Decision

The Danish Data Protection Agency hereby returns to the case, where XX on 15 September 2019 complained to the Authority that Alektum A / S had delivered two letters to complainants on 10 September and 15 September 2019 by placing them at the complainant's front door.

Alektum has entered into a data processor agreement with RoestNielsen, after which RoestNielsen delivers letters to debtors on behalf of Alektum. The Danish Data Protection Agency has assessed that the present case should be directed against

RoestNielsen, who is the data processor. A more detailed justification for this can be found under pkt. 3.

Decision

Following an examination of the case, the Danish Data Protection Agency finds that there are grounds for expressing criticism that RoestNielsen's processing of personal data has not taken place in accordance with the rules in Article 32 (1) of the Data Protection Regulation [1]. 1.

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

2. Case presentation

Complainants have on 15 September 2019 contacted the Danish Data Protection Agency with a complaint that Alektum has delivered letters to complainants on 10 September and 15 September 2019, respectively, by placing them at the complainant's front door.

By letter dated 2 October 2019, the Danish Data Protection Agency has requested a statement from Alektum for the purpose of processing the case. By letter dated 23 October 2019, Alektum has issued a statement on the matter. In the statement, Alektum has stated that the company is data responsible for the processing of information about complaints, and that Alektum has entered into a data processor agreement with RoestNielsen, after which consultants at RoestNielsen visit and deliver letters to debtors on behalf of Alektum.

By letter dated 19 November 2019, the Danish Data Protection Agency has requested Alektum to send a copy of the data processor agreement entered into between Alektum and RoestNielsen as well as a copy of the instructions concerning the delivery of letters for Alektum. By letter dated 9 December 2019, Alektum has sent a copy of the data processor agreement between Alektum and RoestNielsen, of which Alektum's instructions to RoestNielsen appear in section 2.1.

As a result, the Danish Data Protection Agency has by letter of 25 February 2020 requested RoestNielsen for an opinion for the purpose of processing the case. By letter dated 9 March 2020, RoestNielsen issued a statement in the case, in which RoestNielsen, among other things, confirms that a data processor agreement has been entered into between the parties, and that the processing of information consists of consultants employed by RoestNielsen visiting and delivering letters to debtors on behalf of Alektum.

2.1. Complainant's remarks

Complainants have stated that on 10 September 2019 she was contacted by a neighbor who handed her an envelope with her

handwriting on it. The letter in the envelope came from Alektum and it had been found outside in front of her property.

Complainants suspect that the envelope has flown around in front of her property as she lives in a cottage area close to the water and as in the days around 10 September 2019 there had been strong winds and rain.

Complainants have further stated that on 15 September 2019, she found a similar envelope stuck loosely on her front door, and that it must have been a coincidence that the envelope had not been blown away.

Prior to the visit on 10 September 2019, the complainant had received a letter from Alektum in her mailbox, in which they announced that they would visit her on that date between 08: 00-12: 00. Complainants did not want the visit in question, which she informed Alektum in an e-mail on 9 September 2019.

Complainants have stated about the location of her mailbox that the mailboxes in the holiday home area YY, where the complainant lives, are gathered centrally in the middle of ZZvej, and that each individual holiday home thus does not have a mailbox on the plot.

2.2. Alektum's remarks

Alektum has stated that the consultant from RoestNielsen, who visited complainants on 10 September and 15 September 2019, could not locate a mailbox at the complainant's address, and that the consultant therefore placed the letters in a sealed envelope affixed to the complainant's name at the complainant's front door. The letters provided information on the complainant's full name, address, case numbers, debt information and social security number.

Alektum has also stated that Alektum - in its capacity as data controller - has instructional powers vis-à-vis RoestNielsen, and that it is not in accordance with the instruction given to RoestNielsen to deliver letters in front of debtors' front doors. Alektum has a fixed practice, according to which letters may only be delivered in a sealed envelope in a mailbox with a clear indication of the data subject's name or by personal contact directly with the data subject.

2.3. RoestNielsen's remarks

RoestNielsen has stated that one of their consultants visited the complainants' address on 10 September and 15 September 2019, and that complainants had been notified of this before the visit on 10 September 2019.

During the visit on 10 September 2019, the consultant stated that the complainant's name was on the door and that there were lights on the property and that the place was characterized by habitation. After repeatedly knocking on the complainant's door without the complainant opening, the consultant looked for a mailbox in which he could deliver a letter to the complainant. The

consultant could not locate the complainant's mailbox, either at the complainant's house or at the road at the entrance to the address. The consultant therefore prepared a closed letter bearing the complainant's name and affixed it under the eaves of the roof at the front door of the complainant's house. The consultant assessed that the envelope was securely fastened so that the wind could not take it.

During the visit on 15 September 2019, the consultant stated that the letter from 10 September 2019 had been removed, but that the case - despite this - had not been deregistered by Alektum, so the consultant would hand in a new letter. After another futile attempt to find the complainant's mailbox, the consultant placed a sealed envelope bearing the complainant's name in front of the front door. The consultant once again assessed that the envelope was placed in a safe and secure manner so that the envelope neither got wet nor was taken by the wind.

Only the name of the complainant appeared on the envelopes, whereas the letters contained information that there had been a debt collection consultant at the address and that the debtor was requested to contact her about her current debt with a view to a grace period, installment plan or redemption. It was further stated that complainants would avoid receiving more visits if she contacted the creditor or the debt collection company.

RoestNielsen has stated that it is not standard practice to deliver letters by placing them at the debtors' front door, but that an error has occurred in connection with the incident in question, which is contrary to the instructions to which the consultants are subject. RoestNielsen's consulting instructions state:

If the debtor is not met at the visit, a letter will be handed in informing them of the completed visit and that there will be a return visit at another time. The letter is delivered in the debtor's mailbox in a sealed envelope and with the debtor's name on the envelope. ”

RoestNielsen has also stated that the company holds consultancy meetings 3-4 times a year, where the consultants are trained in contacting the debtors. In this connection, it is emphasized to the consultants that they may never deliver documents to an address without these documents being placed in a closed envelope, and that the debtor's name must appear on the address, so that it is certain that it is the correct address at which the consultant is located.

As a result of the incident, RoestNielsen has emphasized to the consultants that letters must be delivered to the debtor's mailbox and that the debtor's name must appear at the address so that similar situations cannot arise.

Justification for the Danish Data Protection Agency's decision

3.1.

On the basis of the information provided, the Danish Data Protection Agency assumes that Alektum is data responsible for the processing of information on complaints, and that Alektum has entered into a data processor agreement with RoestNielsen, after which a consultant at RoestNielsen - on behalf of Alektum - has delivered letters to complainants, by place them at the complainant's front door.

Furthermore, the Danish Data Protection Agency assumes that RoestNielsen has not delivered the letters in accordance with the instruction that RoestNielsen has received from Alektum, and that a consultant at RoestNielsen has committed an error in connection with the delivery, which is contrary to the instructions given by RoestNielsen consultants are subject.

Based on this, the Danish Data Protection Agency finds that the present case must be directed against RoestNielsen, who is the data processor.

3.2.

In addition, the Danish Data Protection Agency assumes that the complainant had a mailbox and that the mailbox was not located on the complainant's property, but that it was centrally located on ZZvej together with the holiday home area's other mailboxes.

It follows from Article 32 (1) of the Data Protection Regulation 1, that the person responsible for the processing - data controller or data processor - must provide an appropriate level of security for the processing of information that is carried out.

The Danish Data Protection Agency finds that RoestNielsen has not complied with the requirements for an appropriate level of security in Article 32 (1) of the Data Protection Regulation. 1.

In assessing this, the Danish Data Protection Agency has emphasized that RoestNielsen did not deliver the letters to complainants in complainants' mailboxes during the visits on 10 September 2020 and 15 September 2020, despite the fact that complainants had a mailbox. The Danish Data Protection Agency finds that RoestNielsen, who deals professionally with mail delivery, should be aware that there may be centrally located mailbox facilities in holiday home areas. The Danish Data Protection Agency therefore finds that RoestNielsen should have investigated this in more detail, by possibly inspecting the area around the complainant's property or by examining whether mailboxes had been set up on the properties around the complainant's residence.

In this connection, the Danish Data Protection Agency must note that it follows from section 9, subsection 5, in the Executive

Order on postal services and postal activities, [2] that in holiday home areas with holiday homes, including holiday homes, subdivided after 1 January 1973, centrally located letterbox systems must be set up.

It has also been included in the Danish Data Protection Agency's assessment that the location of the two envelopes was so accessible that there was an increased risk that the envelopes would be lost in a possible storm, or that unauthorized persons would be able to access the envelopes.

The Danish Data Protection Agency has also emphasized the nature of the information that appeared in the letters, including the information that the complainants have debts that have been submitted for collection. The Danish Data Protection Agency finds that exposure to such information can entail serious violations of complaints if they come to the knowledge of unauthorized persons, for example by violating the integrity and reputation of complainants.

Against this background, the Danish Data Protection Agency finds grounds for criticizing the fact that RoestNielsen has not complied with the requirements for an appropriate level of security in Article 32 (1) of the Data Protection Regulation. 1.

In assessing the sanction, the Danish Data Protection Agency has, as an aggravating circumstance, emphasized the nature of the information that appeared in the letters. As a mitigating circumstance, the Danish Data Protection Agency has emphasized that the incident is isolated and that it is a single consultant who has acted in violation of the guidelines to which the consultant is subject.

The Danish Data Protection Agency has noted that RoestNielsen - as a result of the incident - has emphasized to the consultants that letters must be delivered to the debtor's mailbox and that the debtor's name must appear at the address so that similar situations cannot arise in the future.

[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] Executive Order no. 727 of 24 June 2011, pursuant to § 2, § 3, § 5, § 6, § 8, § 9, § 12, § 22, § 23, § 24, § 25, § 27, § 29 and § 30 of the Postal Act, Act no. 1536 of 21 December 2010.