

Decision

Diary no

2019-04-03

DI-2018-19919

Your diary no

2018-24874

Correctional Service

Box 306

Slottsgatan 78

601 80 Norrköping

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

The Prison Service's list of

treatments

The Swedish Data Protection Authority's decision

1.

The Data Inspectorate states that the Prison Service's list of

treatments are missing the name and contact details of 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 correctional service to enter the name of in the list of treatments

and contact details for the personal data controller and data protection officer, no later than 31 October 2019.

2. The Data Inspectorate states that the Prison Service's list of

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

officials who have access to the personal data being processed

and the categories of recipients to whom the data may reach

disclosed to according to ch. 3 § 3 § 3 and 4 of the criminal data regulation in one

unclear way.

The Swedish Data Protection Authority orders according to ch. 5. 7 § 2 of the Criminal Data Act

The correctional service that in the list of treatments, for each category of treatment, indicate the categories of officials who have access to the personal data processed and the categories of

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recipients to whom the data may be disclosed in this way

as stated in the justification for this decision, no later than 31 October 2019.

3. The Data Inspectorate notes that the Prison Service's list of treatments, for each category of treatment, lacks information on use of profiling according to ch. 3 3 § 8 of the Criminal Data Ordinance.

The Swedish Data Protection Authority orders according to ch. 5. 7 § 2 of the Criminal Data Act

The correctional service that in the list of treatments, for each category of processing, indicate whether profiling is used, at the latest on 31 October 2019.

4. The correctional service is ordered to leave a written report to the Data Inspectorate of the measures which

The Correctional Service has taken due to the orders in points 1-3.

Account of the supervisory matter

On October 17, 2018, the Data Inspectorate started supervision of the Prison and Probation Service i
purpose of reviewing the Probation Service's list of treatments of
personal data comply with ch. 3 Section 3 of the Criminal Data Ordinance.

The Data Inspectorate has, within the framework of the supervisory matter, visited the Prison Service
on 4 December 2018. The Norwegian Prison and Probation Service has presented the list of treatments at the inspection
(hereinafter the Register list) and the Data Inspectorate has asked questions about it. During the inspection, the Data
Inspectorate has reviewed certain selected registrations (hereinafter Register descriptions) i

The index list. The selection consisted of the two central systems in the Prison Service's operations, the Prison Service
Register (KVR) and LIFT administrative

transport planning system as well as a number of randomly selected Register Descriptions. The Correctional Service has
commented on the inspection report

which was drawn up in connection with the inspection occasion.

The Correctional Service has essentially stated the following. The list of treatments is managed in a proprietary system called
the Registry List.

Several of the Register descriptions will be updated due to
upcoming constitutional amendments. Information that it is the Correctional Service

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who is responsible for personal data and contact details for the authority are available
in addition to the intranet, also on the authority's external website. The Correctional Service is not jointly responsible for
personal data for any personal data processing. The field "To which recipients the data is provided" includes both
internal and external recipients. There is no use of profiling in the Prison Service's register.

In its review of the Prison Service's list of
treatments observed mainly the following. Each Registry description
contains a number of fields which are either free text fields, yes or no questions or alternatively contain a number of cross

options. The fields are as follows.

- Name of the register/treatment,
- date,
- belonging,
- responsible boss,
- purpose,
- categories (groups) of persons affected by the processing,
- personal data processed,
- sensitive personal data,
- social security number,
- to which recipients the data is provided,
- legal basis according to GDPR,
- legal basis according to the Criminal Data Act,
- legal basis according to the Patient Data Act,
- contact person,
- the information is provided abroad,
- left abroad,
- thinning of information in the register,
- general description of security measures taken,
- Other information,
- description status and
- unique ID for description.

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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 the Prison Service

list of treatments, meets the requirements ch. 3 Section 3 of the Criminal Data Ordinance. The inspectorate has chosen to limit supervision by selecting

certain categories of treatments (Register descriptions) in the list of special review.

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. For the Correctional Service, the Criminal Data Act applies since

on 1 January 2019 also the Act (2018:1699) on the correctional service's treatment of personal data within the area of the Criminal Data Act (penal services

criminal data act) with supplementary provisions in the regulation (2018:1746)

on the correctional service's processing of personal data within the Criminal Data Act

area. With the Penitentiary Service's Criminal Data Act coming into effect

the Act (2001:617) on the processing of personal data within

the penitentiary service to apply.

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, jointly personal data controllers

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,
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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
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 prison service's list of treatments

The Correctional Service 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 prison service's list of treatments contains for each category of treatment items 1-7 and 9-10. The Swedish Data Protection Authority does not have any views regarding points 1-2, 5-7 and 9-10.

Contact details

The Swedish Data Protection Authority's assessment

The Data Inspectorate notes that the Prison Service's list of treatments is missing the name and contact details of the person in charge of personal data and the data protection officer according to ch. 3. Section 3 of the Criminal Data Ordinance.

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. Correctional Service

has stated that contact details for the authority are available on the intranet and at

the authority's external website. The Correctional Service has further stated that for that

if someone requests the register list, the contact details are sent along

as a missive.

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According to the Criminal Data Ordinance, the list of processing must itself contain the information specified above. The Swedish Data Protection Authority therefore notes that

The prison service's list of treatments is missing the name of and

contact details for the personal data controller and data protection officer.

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 § 2 of the Criminal Data Act, the Correctional Service to indicate the name and contact details of the person in charge of personal data and data protection officer in the list of treatments.

Items 3 and 4 – categories of officials and categories of beneficiaries

The Swedish Data Protection Authority's assessment

The Data Inspectorate states that the Prison Service's list of treatments, for each category of treatment, indicate the categories of officials who have access to the personal data being processed and those categories of recipients to whom the data may be disclosed in one unclear way.

The reasons for Datainspektionen's assessment are as follows

A list of treatments must, for each category of treatment, contain information about the categories of officials who have access to them personal data that is processed and the categories of recipients that the data may be disclosed to, also in third countries or international organisations. This is clear from ch. 3. 3 Section 3 and 4 of the Criminal Data Ordinance.

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 Correctional Service has a field in its Register descriptions called "To which recipient the information is provided". Below the field is specified in the Register descriptions the text "The roles/functions that have access to the data and those that the information may be disclosed to". According to the Prison Service, information in this field contain both internal and external recipients.

From the Register descriptions reviewed by the Data Inspectorate, it appears regarding the descriptions for LIFT, Pilot Utsikt, Inmates' IT, Game consoles,

Occupancy 6:3, Klintkoll and Hund only categories of civil servants. The Swedish Data Protection Authority considers that the given Register descriptions lack information

about categories of recipients to whom the data may be disclosed.

With regard to the Register description for KVR, it is stated that information is provided

according to § 37 and § 46-48 of the regulation to specified authorities. This means that

the recipients to whom the data may be disclosed are indicated. However, the Data Inspection Authority believes that there is no information on the categories of civil servants

who have access to the personal data being processed.

The Data Inspection Authority considers, based on the Register descriptions that have been reviewed, that

in the way that the Correctional Service has chosen to design the field "To which recipient

the information is provided", means that the categories of officials who have access

to the data (point 3) are mixed with the categories of recipients

to whom the data may be disclosed (point 4). The Swedish Data Protection Authority

therefore notes that the Prison Service's list of treatments, for

each category of treatment, indicates the categories of officials who have

access to the personal data processed and 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 the corrective measures

the 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 Correctional Service that in the list of treatments, for each category of treatment,

clarify the categories of officials who have access to the personal data

which is processed and the categories of recipients to whom the data may come to be released to. Examples of how recipients can be specified can be seen in the preparatory work as reproduced above.

There are also two fields in the Register descriptions called "the data." left abroad' and 'left abroad'. The Swedish Data Protection Authority has not some views regarding how categories of recipients in third countries or international organizations are indicated.

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Point 8 – use of profiling

The Swedish Data Protection Authority's assessment

The Data Inspectorate states that the Prison Service's list of treatments, for each category of treatment, lacks information on the use of profiling.

The reasons for Datainspektionen's assessment are as follows

A list of treatments must, for each category of treatment, according to ch. 3 § 8 of the criminal data regulation, contain information about the use of profiling. The Correctional Service has stated that it does not occur any use of profiling in the authority's records.

According to the Criminal Data Ordinance, the list of treatments must contain data on the use of profiling even when it does not occur. The Data Inspectorate therefore notes that the Prison Service's list of treatments, for each category of treatment, lacks information on use of profiling. Due to this, the Swedish Data Protection Authority has found reasons 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 Correctional

Service that in the list of treatments, for each category of treatment,
specify whether profiling is used.

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

Charlotte Waller Dahlberg

Maria Andersson

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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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