

Decision

Diariennr

2019-11-04

DI-2019-5560

Ert diariennr

VER 2019-776

The Swedish Customs

Box 12854

112 98 Stockholm

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

The Swedish Customs' list of treatments

The Data Inspectorate's decision

1.

The Data Inspectorate finds that the Swedish Customs' list of treatments, for certain categories of treatments, they specify categories by officials who have access to the personal data processed according to ch. 3 § 3 of the Criminal Data Ordinance (2018: 1202) on a vague way.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act

The Swedish Customs that in the list of treatments, for each category of processing, indicate the categories of officials who have access to them personal data processed in the manner specified in the explanatory memorandum to this Decision, by 30 April 2020 at the latest.

2. The Data Inspectorate finds that the Swedish Customs' list of treatments, for certain categories of treatments, lack data about the categories of personal data that may be processed

and collections of transfers of personal data to third countries or international organizations according to ch. 3 § 6 and 7 the Criminal Data Regulation.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act

The Swedish Customs that in the list of treatments, for each category of processing, indicate the categories of personal data that may come to be processed and information on collections of transfers of

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1 (7)

The Data Inspectorate

DI-2019-5560

personal data to third countries or international organizations, no later than 30 April 2020.

3. The Swedish Customs is ordered to submit a written letter no later than 30 April 2020 report to the Data Inspectorate of the measures that the Swedish Customs has taken as a result of the injunctions in paragraphs 1-2.

Other

In addition to what appears from points 1-3, the Data Inspectorate leaves recommendations, according to ch. Section 7 1 of the Criminal Data Act, applicable to the Swedish Customs deadlines for how long the categories of personal data may be processed according to Chapter 3 § 9 of the Criminal Data Ordinance.

Report on the supervisory matter

The Data Inspectorate has on 7 May 2019 initiated supervision against the Swedish Customs with the aim of

examine whether the Swedish Customs' list of processing of personal data is in compliance with ch. 3 Section 3 of the Criminal Data Ordinance.

The Data Inspectorate has in its review of the Swedish Customs' list of treatments observed mainly the following. The list above treatments include the following columns.

- Legal basis,
- the purpose of the activity with the processing of personal data,
- categories of officials with access to the processing of personal data,
- the categories of data subjects affected by the processing,
- the categories of personal data that may be processed,
- sensitive personal data that may be processed,
- if the treatment involves the use of "profiling",
- categories of recipients to whom the data in the processing may come to be handed over to,
- collections of transfers of personal data to third countries, or
- international organizations,
- if possible, set deadlines here for how long personal data will be received treated as well

2 (7)

The Data Inspectorate

DI-2019-5560

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if possible, a general description of the security measures available taken.

The Swedish Customs has mainly stated the following. In case a column has been selected with "?" this means that follow-up of the response provided by the business

to take place. "-" symbolizes that the information is not relevant for current processing.

In the event that the business has not provided any information for the person in question treatment, the column has been left blank.

Justification of the decision

What the Data Inspectorate has to decide on

In the supervisory matter, the Data Inspectorate has to take a position on the Swedish Customs list of treatments, meets the requirements in ch. Section 3 of the Criminal Data Ordinance.

Applicable regulations

On 1 August 2018, the Criminal Data Act came into force with a supplement

provisions of the Criminal Data Regulation. The Criminal Data Act applies

according to ch. § 2 for the processing of personal data performed for the purpose of

prevent, deter or detect criminal activity, investigate or prosecute

crime or carry out criminal penalties. It also applies to treatment

of personal data performed for the purpose of maintaining public order and

security. In addition to the Criminal Data Act, the Swedish Customs has been in force since 1 January 2019

also the law (2018: 1694) on the Swedish Customs' processing of personal data within

the area of the Criminal Data Act with supplementary provisions in the Regulation

(2018: 1876) on the Swedish Customs' processing of personal data within the area of the Criminal Data Act.

According to ch. Section 3 of the Criminal Data Ordinance shall be kept by the person responsible for personal data

a list of the categories of personal data processing which

he is responsible for. The list shall contain the name and contact details of the personal data controller, joint personal data

controller and data protection officer. The list should also, for each

category of treatment, include the following information:

1. the legal basis for the processing;

2. the purposes of the treatment;

3 (7)

3. the categories of officials who have access to the personal data

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

10. if possible, a general description of the security measures

has been taken.

According to ch. Section 7 of the Criminal Data Act, the Data Inspectorate may use the corrective powers if it is established

that personal data is processed in violation

by law or other statute or that the person responsible for personal data or

the personal data assistant in no other way fulfills his obligations.

The Swedish Customs' list of treatments

The Swedish Customs for a list according to ch. Section 3 of the Criminal Data Ordinance on the

categories of personal data processing for which the authority is responsible

according to the Criminal Data Act. For each category of treatment, it should be according to

the provision states certain listed information (paragraphs 1-10). The Swedish Customs

list of treatments contains in separate columns those in

the provision listed the points. The Data Inspectorate does not have any

comments on points 1-2, 4-5, 8 and 10.

Collections of transfers of personal data to third countries or

international organizations (paragraph 7) is indicated as a separate column in

The Swedish Customs' list of treatments. According to the preparatory work for

The Criminal Data Act takes Chapter 3. 3 § 7 of the Criminal Data Ordinance aimed at certain

transfers made to third countries or international organizations

(see SOU 2017: 29 p. 323 and p. 621-624). The Data Inspectorate assumes that such

Transfers, if they occur, will be listed in the Swedish Customs' list

over treatments.

4 (7)

The Data Inspectorate

DI-2019-5560

Item 3 - categories of officials

The Data Inspectorate's assessment

The Data Inspectorate states that the Swedish Customs' list of treatments,

for certain categories of treatment, specify the categories of officials that

have access to the personal data that is processed in a vague way.

The reasons for the Data Inspectorate's assessment are as follows

According to ch. § 3 of the Criminal Data Ordinance, a list of treatments, for each category of treatment, shall contain

information on the categories

by officials who have access to the personal data processed.

Information on which categories of officials have access to them

personal data that is processed facilitates both internal and external

control (cf. SOU 2017: 29 p. 323). In the Swedish Customs' list of

treatments are stated, for certain categories of treatments, "Authorized

based on tasks ". The Data Inspectorate has no views on

the writing, in the event that categories of officials, for example, can be linked
an underlying document or that it can otherwise be linked
the writing to the categories of officials who have access to them
personal data processed. Information on categories of salaried employees
designed in varying ways for the categories of treatments that contain
the writing "Authorization-based on tasks". It does not appear as
clear to the Data Inspectorate that the writing can be linked to the categories of
officials who have access to the personal data processed.

The Inspectorate therefore finds that the Swedish Customs' list of
treatments, for certain categories of treatments, they specify categories of
officials who have access to the personal data processed on one
unclear way. Due to this, the inspectorate has found reasons to use
the corrective powers in ch. Section 7 of the Criminal Data Act.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act Customs that in
clarify the list of treatments, for each category of treatment
the categories of officials who have access to the personal data
treated.

5 (7)

The Data Inspectorate

DI-2019-5560

Items 6, 7 and 9

The Data Inspectorate's assessment

The Data Inspectorate states that the Swedish Customs' list of treatments,
for certain categories of treatments, lacks information on the categories of
personal data that may be processed and collections of transfers
of personal data to third countries or international organizations.

The reasons for the Data Inspectorate's assessment are as follows

The columns to indicate the categories of personal data that may be processed (paragraph 6) and collections of transfers of personal data to third countries or international organizations (paragraph 7) lack information for certain categories of treatments. To state "?" or leave a column blank does not meet the requirements in ch. Section 3 of the Criminal Data Ordinance. The Data Inspectorate notes against this background that the Swedish Customs' list of treatments, for certain categories of treatments, lack data under Chapter 3 3 § 6 and 7 of the Criminal Data Ordinance. The inspection has due to this has found reason to use the corrective powers in ch. § 7 the Criminal Data Act.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act Customs that in the list of treatments, for each category of treatment, they indicate categories of personal data that may be processed and information about collections of transfers of personal data to third countries or international organizations.

The column for deadlines for how long the categories of personal data last treated is indicated, for certain categories of treatments, as "?". According to Chapter 3 3 § 9 of the Criminal Data Ordinance, it shall, if possible, be stated deadlines. The Swedish Customs has stated that "?" means that follow-up of the answer that the business left must take place.

The Data Inspectorate states that the Swedish Customs' list of treatments, for certain categories of treatments, lacks data on deadlines according to ch. 3 3 § 9 of the Criminal Data Ordinance. The Data Inspectorate receives according to ch. 5 7 § 1 of the Criminal Data Act through advice, recommendations or remarks (as stated in Chapter 5, Section 6, first paragraph of the same Act) try to persuade

The Swedish Customs to take action. The Data Inspectorate believes that at present it is sufficient to recommend the Swedish Customs to make an assessment of whether it is

6 (7)

The Data Inspectorate

DI-2019-5560

possible to specify deadlines in the list of treatments for those categories of treatments such as "?" specified for.

This decision was made by unit manager Charlotte Waller Dahlberg after presentation by lawyer Max Blidberg.

Charlotte Waller Dahlberg

Max Blidberg

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 on the day the decision was announced. If the appeal has been received in due time the Data Inspectorate forwards it to the Administrative Court in Stockholm examination.

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.

7 (7)