

Publication of personal information on website

Date: 09-09-2020

Decision

In a specific case, the publication of personal data on a website was not covered by the scope of the Data Protection Regulation, as the publication had to be regarded as a processing carried out by a natural person as part of purely personal or family activities.

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Summary

The Danish Data Protection Agency has made a decision in a case where a citizen had complained about the publication on a website of correspondence between him and the owner of the website, which i.a. contained information about the complainant's name and his considerations about the authorship of a known author.

After an overall assessment - and after the case had been submitted to the Data Council - the Danish Data Protection Agency found that the Data Protection Regulation did not apply in the case, as the publication of information about the complainant had to be considered a processing by a natural person as part of purely personal or family activities.

The Danish Data Protection Agency emphasized that the publication had taken place in relation to a debate about the well - known author's authorship, and that the website had the character of a blog, where the owner, among other things, emerged with their own views on various topics and, according to the information, collected and disseminated knowledge about subject areas, which in the opinion of the Danish Data Protection Agency had to be regarded as usual and legitimate activities. The Danish Data Protection Agency also emphasized the nature of the information in question, including the fact that it was non-sensitive information which, in the Danish Data Protection Agency's view, was of a harmless nature.

In addition, the Danish Data Protection Agency emphasized that part of the published correspondence contained statements of opinion, and that the publication did not otherwise take place with a view to creating a financial profit.

Decision

The Danish Data Protection Agency hereby returns to the case, where on 19 November 2019 you complained that XX (hereinafter the respondent) had published information about you on the website YY (hereinafter the website).

Decision

The Danish Data Protection Agency finds - after the matter has been discussed at a meeting of the Data Council - that the Data Protection Regulation [1] does not apply in the case, cf. Article 2 (1) of the Regulation. 2, letter c, as the relevant publication of information about you must be regarded as a treatment carried out by a natural person as part of purely personal or family activities.

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

2. Case presentation

It appears from the case that on 17 February 2019, you addressed the respondent at the e-mail address [...] with a number of considerations about [...] authorship in connection with a text about [...] on the website. You also thanked the respondent for posting a documentary about [...] on the website in text format.

On 5 August 2019, you became aware that the defendant had published the correspondence between you and the defendant on the website, and on that basis you again contacted the defendant at the mentioned e-mail address with an objection to the publication and a request to receive the correspondence deleted.

On 6 August 2019, the respondent replied to your inquiry and in that connection refused to delete the correspondence.

Defendant also posted the correspondence about your objection on the Website.

On 19 November 2019, you approached the Danish Data Protection Agency with a complaint about the publication of the correspondence between you and the respondent on the website.

The website contains information on a number of different topics, [...] and the defendant's own experiences with this. In addition, the defendants have i.a. portrayed his upbringing and various journeys that he has been on.

2.1. Your comments

You have generally stated that you want the correspondence between you and the defendant deleted from the website.

You have stated that you had not been informed in advance that your e-mails to the respondent and the respondent's replies to your e-mails would be published. You yourself became aware of the publication by searching for your name on Google. In this connection, you have stated that the respondent, after you have complained to the Danish Data Protection Agency, has inserted a text below the e-mail address, stating that the submitted questions and comments, insofar as they are relevant, will be available under " mail".

You further stated that you did not offer knowledge of a particular subject area when you approached the respondent, simply

wishing to send him a private greeting in which you thanked him for his work in connection with the text on [...]. In your opinion, the defendant should create an internet forum or a guestbook on the website where the visitors can write. In this connection, you have stated that at no time has it been agreed that a private inquiry to an e-mail address on a website entails publication of the inquiry.

2.2. Defendant's remarks

Defendants have generally stated that the website is an open website that encourages visitors to express their opinions and that people's submissions should be considered as discussion posts and as recognition of the work done on the site.

In this connection, the respondent has stated that the purpose of the website is to gather knowledge about different subject areas and to share this knowledge with the site's visitors. Defendant has stated that without the involvement of those concerned, it will be impossible to maintain the professional level that the website has achieved.

Defendant has further stated that there is no sensitive information in the emails that you have sent to the Website, but that he has nevertheless offered to remove any parts of the correspondence that you may wish to have removed. You have not responded to the offer.

Defendant has stated that all email addresses and private addresses are removed from posts published on the Website.

Finally, the defendant has stated that this is voluntary and unpaid work, and that he does not make money on the website, not even via links to various companies that may appear on the website.

Justification for the Danish Data Protection Agency's decision

3.1.

According to Article 2 (1) of the Data Protection Regulation, 1, applies to the processing of personal data carried out in whole or in part by means of automatic data processing, and to other non-automatic processing of personal data which is or will be contained in a register.

However, the Data Protection Regulation does not apply to the processing of personal data carried out by a natural person as part of purely personal or family activities, cf. Article 2 (1). 2, letter c.

Whether the provision appears from recital 18 in the preamble to the Data Protection Regulation is as follows:

This Regulation shall not apply to the processing of information by a natural person during a purely personal or family activity and thus without any connection to a commercial or commercial activity. Personal or family activities may include

correspondence and keeping a directory or social networking activities and online activities carried out as part of such activities. However, this Regulation shall apply to data controllers or data processors who provide the means for the processing of personal data for such personal or family activities. "

In the light of what is stated in the preamble to "social networking activities and online activities", the Danish Data Protection Agency is of the opinion - after the question has been submitted to the Data Council - that a natural person's processing of personal data can be considered as part of purely personal or family activities, even if the processing involves the publication of information on the Internet.

Thus, it is not in itself decisive for the application of Article 2 (1) of the Data Protection Regulation. 2, letter c, whether there has been publication on the Internet, as a concrete overall assessment of the publication must be made, including the purpose of the publication, the nature of the information published, and the context in which the information is included.

3.2.

After an overall assessment, the Danish Data Protection Agency finds that the Data Protection Regulation does not apply in the case, cf. Article 2 (1) of the Regulation. 2, letter c, as the relevant publication of information about you must be regarded as a treatment carried out by a natural person as part of purely personal or family activities.

In this connection, the Danish Data Protection Agency has emphasized that the publication has taken place in relation to a debate on [...] authorship, and that the website has the character of a blog, where defendants, among other things, emerges with its own views on various topics and, according to the information, collects and disseminates knowledge about subject areas, such as [...], Which in the opinion of the Danish Data Protection Agency must be regarded as usual and legitimate activities.

The Danish Data Protection Agency has also emphasized the nature of the information in question. In this connection, it is noted that the correspondence that you wish to delete contains information about your first and last name, your considerations about [...] authorship, your thanks for the text on the website, your objection and the respondent's reply. This is non-sensitive information about you, which in the Data Inspectorate's opinion is of a harmless nature.

The purpose of the Data Protection Regulation is to ensure the protection of privacy, and the publication of the relevant information on the Internet is not seen to have a negative impact on your privacy. The fact that the information about you is not published for the purpose of generating a financial profit also suggests that it is a purely private matter.

In addition, the Danish Data Protection Agency has emphasized that part of the correspondence contains statements of opinion that are an expression of the defendant's justification for publishing the correspondence on the website. In this connection, the Danish Data Protection Agency has emphasized the need for freedom of information and expression.

[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).