

Decision

Diarienr

2019-02-21

DI-2018-XXXX

Supervision according to the Data Protection Ordinance

2016/679 - camera surveillance

The Data Inspectorate's decision

The Data Inspectorate closes the case without further action.

Report on the supervisory matter

The Data Inspectorate has received complaints about unauthorized camera surveillance at a condominium. Due to the complaint, the Data Inspectorate has initiated supervision of tenant-owners.

The complainant has stated that the tenant-owners have aimed a camera at the notifier's patio and three cameras facing a bike path.

During the examination of the camera surveillance, it has emerged mainly following.

The current tenant-ownership is used exclusively as private housing.

The complainant has submitted photos and stated that it is on the house wall a camera aimed at the neighbor's adjacent private patio. Next to the patio has a plank that largely covers the camera catchment area. Furthermore, the notifier has submitted pictures of three more cameras aimed at the tenant - owners' plot and at a bike path. The tenant-owners have stated that they had for a week two cameras upstairs for the purpose of guarding their own garden until a new patio door would be installed, but that these cameras were dismantled. Some security outside the own plot boundary should not have taken place. The tenant-owners have further

submitted a sale ad on the house where the ad's pictures show that

there are no cameras mounted on the house.

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The Data Inspectorate

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Justification of the decision

Provisions on which the decision is based

Data Protection Ordinance 2016/6791 (Data Protection Ordinance)

and the Camera Surveillance Act (2018: 1200) regulate how and to what extent

camera surveillance is allowed. If a security camera captures one

identifiable person or any other personal data in the picture, the rules in

the Data Protection Regulation. This is stated in Article 2 (1) (i)

the Data Protection Regulation.

Of Article 2 (2) (c) of the Data Protection Ordinance and Section 5 of the Camera Surveillance Act

it appears, however, that the rules do not apply to such

personal data processing or camera surveillance performed by a physical

person as part of a purely private nature or related

with his or her household. This is called the private exemption.

Of Case C 212/13 of the European Court of Justice, where the private exemption in relation to

camera surveillance was tried, it appears that a private person as through camera

guarding place that is outside its private sphere is not covered by

the private exemption.

When a private person camera surveillance a place outside their private sphere must therefore all legal requirements in the Data Protection Regulation and the Camera Surveillance Act is complied with. This means, among other things, that it personal data controller must have a legitimate interest in monitoring that outweighs the interest in the integrity of the site. About the purpose of surveillance can be achieved in a less intrusive way, this alternative must be chosen instead. In addition, the person monitoring must, among other things, clearly inform about who who guards, what purpose the guard has, and where the guard can turn for further information and demand of their data protection rights.²

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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 that free flow of such data and repealing Directive 95/46 / EC (General Data Protection Regulation).

² Follows from Articles 5, 6 and 12-15 of the Data Protection Regulation.

2 (3)

The Data Inspectorate

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The Data Inspectorate's assessment

The Data Inspectorate questions the tenant-owners' task of only two cameras have been mounted on the house because they are within the scope of the complaint submitted photos clearly show that four different cameras were mounted on the house facade. However, whether these cameras process personal data is not possible to decide on the basis of the investigation.

Furthermore, the Data Inspectorate makes the assessment that it through

the tenants' information has been shown that the existing cameras are dismantled, whereby automatic personal data processing by surveillance can not take place. The provisions of the Data Protection Regulation apply therefore not. Against this background, the case must be closed without further action.

This decision was made by unit manager Charlotte Waller Dahlberg after presentation by the lawyer Nils Henckel. At the final processing has General Counsel Hans-Olof Lindblom also participated.

Charlotte Waller Dahlberg, 2019-02-21 (This is an electronic signature)

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 the day you received the decision. If the appeal has been received in time, send

The Data Inspectorate forwards it to the Administrative Court in Stockholm for review.

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.