

Insight into personal information at DSB

Date: 18-11-2019

Decision

Private companies

In a specific case, the Danish Data Protection Agency found that it was justified that DSB did not provide insight into the personal information that DSB (possibly) had collected using cookies. However, the Danish Data Protection Agency expressed serious criticism that DSB's processing of personal data had not taken place in accordance with the rules on access and the rules for exercising data subjects' rights.

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Summary

The Danish Data Protection Agency has made a decision in a case where a citizen complained about DSB's handling of the citizen's request for insight. On 29 January 2019, the citizen had contacted DSB with a request for insight into the personal information that DSB had registered about the citizen.

On 8 February 2019, DSB responded to the citizen's request, but in connection with the response, DSB did not disclose the content of all the personal data that DSB processed about the citizen.

Only after the Danish Data Protection Agency had asked DSB for an opinion in the case was the citizen given the content of the remaining personal information on 11 April 2019.

In connection with the case, the Danish Data Protection Agency emphasized to DSB that there can be no requirement for a data subject to explicitly request access to the personal data that DSB may process about a data subject in connection with television surveillance.

However, the Danish Data Protection Agency did not find grounds to criticize the fact that DSB had not given the citizen insight into the personal information that DSB had collected by means of cookies. The Danish Data Protection Agency emphasized that in the processing that took place in connection with the use of cookies, personal information about the citizen was not stored in such a way that DSB would be able to identify the citizen without further information.

Decision

The Danish Data Protection Agency hereby returns to the case where XX on 3 March 2019 complained to the Authority about

DSB's handling of X's request for access under the Data Protection Regulation.

Decision

Following an examination of the case, the Danish Data Protection Agency finds that there are grounds for expressing serious criticism that DSB has not complied with Article 15 (1) of the Data Protection Regulation [1]. Article 12 (3) and 2 and 3.

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 29 January 2019, complainants contacted DSB by filling in a form in which complainants requested DSB for insight into the information that DSB had registered about X under the Data Protection Regulation.

On 8 February 2019, DSB responded to the complainant's request for insight as follows:

"We process the following personal information about you:

Name: XX

Address: XX

Email Address: XX

Phone number: XX

CPR number: XX

Strain number

Device ID

Place of education

Start and end time of training

Approval of youth cards from the Danish Agency for Higher Education

Photo

Debtor number "

In the same e-mail, DSB informed complainants that DSB processes the information for the purpose of managing complainants' ticket purchases and customer relationships.

DSB also stated that the information is processed on the basis of Article 6 (1) of the Data Protection Regulation. 1, letter b, that the complainant's personal information is passed on to Cellpoint Mobile ApS, and that DSB uses suppliers who transfer data to

third countries.

In the reply, DSB also stated that the complainant's information is stored in accordance with the Accounting Act in the current year plus 5 years from a purchase has been made, just as DSB provided information on the complainant's rights under the Data Protection Ordinance.

On 3 March 2019, complainants complained to the Danish Data Protection Agency that DSB had failed to provide a copy of the personal data that DSB processes about complaints, including master card number, device ID, place of education and photo, as well as information that DSB collects personal data using cookies.

On 26 March 2019, the Danish Data Protection Agency requested an opinion from DSB for the purpose of processing the case, and in this connection the Authority asked DSB to state whether DSB, in light of the complaint, intended to provide complainants with further insight under Article 15 of the Data Protection Regulation.

Following the Data Inspectorate's consultation letter, DSB regretted on 11 April 2019 to complainants that in connection with the reply of 8 February 2019, DSB had not provided a copy of the personal data that DSB had stated to process about X. DSB submitted together with the letter of 11 April 2019 a copy of the information in question.

At the same time, DSB stated, with reference to Article 11 of the Data Protection Regulation, that DSB did not, on the present basis, be able to accede to the complainant's request for access to the information processed about X in connection with the use of cookies. DSB referred to the fact that in the processing that takes place in connection with the use of cookies, personal data about complaints are not stored in such a way that DSB would be able to identify X from this. DSB therefore requested complaints to submit further necessary information in order for DSB to be able to identify X.

On 21 April 2019, complainants claimed that X had still not been given full insight into the information that DSB processes about X. Complainants stated that X was missing a copy of two inquiries that X had sent to DSB's customer center, respectively. on 30 November 2018 and 17 January 2019, and of video recordings of X on platforms and in S-trains.

On 9 July 2019, DSB announced that DSB considered it unnecessary to hand over a copy of the complainants' inquiries of 30 November 2018 and 17 January 2019. DSB further announced that because complainants in its request for access of 29 January 2019 had not stated , that X requested information in video surveillance of X, the recordings of X had not been secured, as recordings are stored for a maximum of 30 days and therefore had been deleted.

2.1. Complainant's remarks

Complainants have stated that both in connection with the reply of 8 February 2019 and the subsequent reply of 11 April 2019, DSB failed to provide a copy of several of the personal data that DSB processes about X.

Complainants further allege that DSB failed to provide a number of additional information under Article 15 (1) of the Data Protection Regulation. 1, 2nd sentence, in connection with answering X's request for insight.

Complainants have further stated that DSB should have given X insight into all information about X, despite the fact that DSB found it unnecessary and that DSB should in any event have made X aware that the information existed.

Complainants have finally stated that the complainant's initial request for access of 29 January 2019 was unambiguous and clear, as X in this stated that X wanted access to all information registered about X and that video recordings are covered by the right of access, why a request for this should not have been made separately.

2.2. DSB's comments

DSB has regretted that in the original insight report of 8 February 2019, DSB did not provide a copy of the information that DSB processes about complaints. DSB has stated that on 11 April 2019, DSB submitted an insight report for complaints with a copy of the information processed about complaints, including master card number, device ID, place of education and photo of complaints.

DSB has further stated that DSB, on the basis of the information available, does not have the opportunity to accede to the complainant's request for insight into the information that may be processed about complaints in connection with DSB's use of cookies. DSB has stated that the processing that takes place in connection with the use of cookies has not taken place in such a way that personal information about complaints has been stored, from which DSB will be able to identify complaints.

Against this background, DSB has stated that DSB did not have the opportunity - and was not obliged - to provide complainants with insight into information collected by means of cookies, cf. Article 11 (1) of the Data Protection Regulation. 2. In this connection, DSB has pointed out that complainants - when X was requested to do so by DSB - should have informed DSB whether the complainant in his browser was in possession of a "content" from a cookie called "CookieInformationConsent", which would have enabled DSB to be able to investigate what information had been collected via cookies.

DSB has further stated that if complaints are not in possession of this cookie in its browser, DSB does not process personal data about complaints on the basis of the collection of cookies.

DSB has stated that the complainant's request for insight has been answered, as the personal information that was included in the complainant's inquiries of 30 November 2018 and 17 January 2019 to DSB's customer center was contained in DSB's letters of 8 February and 11 April 2019. DSB has stated that in DSB's opinion it was therefore unnecessary to send a copy of the complainant's inquiries to DSB's customer center.

DSB has further stated that it did not appear from the complainant's request for insight of 29 January 2019 that X sought insight into video recordings, which is why DSB did not secure these recordings, and the recordings were therefore deleted after 30 days.

Justification for the Danish Data Protection Agency's decision

3.1.

The Danish Data Protection Agency finds that DSB has not sufficiently complied with the rules on the right of access pursuant to Article 15 of the Data Protection Regulation.

The Danish Data Protection Agency has hereby emphasized that in connection with the response to the complainant's request for insight of 29 January 2019, DSB did not disclose the content of all the personal data that DSB processed about X, e.g. in the form of a copy in accordance with Article 15 (2) of the Data Protection Regulation. 3.

3.2.

The Danish Data Protection Agency finds that DSB has not handled the complainant's request for access in accordance with Article 12 (1) of the Data Protection Regulation. 2.

Pursuant to Article 12 (1) of the Data Protection Regulation 2, a data controller shall facilitate the exercise of the data subjects' rights in accordance with e.g. Article 15 on insight.

On the basis of the information in the case, the Danish Data Protection Agency assumes that DSB was in possession of a number of video recordings of complaints at the time of the complainant's request for insight.

It appears from the case that the complainant's request of 29 January 2019 was formulated as a request for "insight into everything you have registered about me". DSB claims that DSB did not rule on whether complainants could be granted access to the video recordings because X in its request for access of 29 January 2019 had not expressly stated that X's request for access also included any personal information about X contained in DSB's television surveillance footage.

The Danish Data Protection Agency must emphasize to DSB that there can be no requirement for a data subject to explicitly

request access to the personal data that DSB may process about a data subject in connection with television surveillance.

If a data controller is in doubt about the scope of a request for access, or if a significant amount of information is available, the data controller will be entitled to request the person requesting access to provide additional information. If a person e.g. requests insight into television surveillance footage, such additional information may include: be time, place and possibly a picture of the person in question so that it is possible for the data controller to identify the person on the TV surveillance recordings.

If the data subject does not wish to provide further information or to clarify his request for insight, the data controller shall continue to respond to the request to the extent possible. The Danish Data Protection Agency may refer to the Authority's guidelines on the rights of data subjects, section 4.

After a review of the case, the Danish Data Protection Agency finds that DSB's handling of the complainant's request for insight has not taken place in accordance with Article 12 (1) of the Data Protection Regulation. 2. The Danish Data Protection Agency has hereby emphasized that DSB has not sufficiently given complainants the opportunity to exercise their rights.

3.3.

The Danish Data Protection Agency also finds that DSB's handling of the request for access has not taken place in accordance with Article 12 (1) of the Regulation. 3.

Pursuant to Article 12 (1) of the Data Protection Regulation 3, the data controller shall, without undue delay and no later than one month after receipt of a request for e.g. inform the data subject of the measures taken in response to the request pursuant to Article 15. This period may be extended by a further two months, if necessary taking into account the complexity and number of the request.

The Danish Data Protection Agency has emphasized that the request in the form of the disclosure of the content of the information was answered later than one month after the request had been made.

3.4.

The Danish Data Protection Agency finds no basis for expressing criticism that DSB, with reference to Article 11 (1) of the Data Protection Regulation. 1 and para. 2, has not provided insight into the personal information that DSB may have collected using cookies.

It follows from Article 11 (1) of the Regulation 1, that if the purposes of a data controller's processing of personal data do not

require or no longer require the data subject to be identified by the data controller, the data controller is not obliged to retain, obtain or process additional information in order to identify the data subject alone with it. purpose of complying with the Regulation.

Pursuant to Article 11 (1) of the Regulation 2, it follows that if the data controller in cases referred to in para. 1, can demonstrate that the person in question cannot identify the data subject, the data controller shall inform the data subject accordingly, if possible.

The Danish Data Protection Agency has emphasized that DSB states that the purposes for which DSB uses cookies do not require that DSB can specifically identify complaints and that DSB does not have information that can link complaints with the information which are processed using cookies.

The Danish Data Protection Agency has also emphasized that DSB, in accordance with Article 11 (1) of the Data Protection Regulation, 2, has notified complaints that DSB cannot identify what any personal data DSB may process about complaints collected by means of cookies, without complaints submitting further information to DSB.

The Danish Data Protection Agency is not aware of whether complainants have subsequently responded to DSB's request to be informed whether the complainant is in possession of the cookie in question, but it is assumed that DSB will not be able to identify complaints without the information from complainants and thus comply with the rules on insight into the information that may be collected by means of cookies, cf. Article 15 of the Regulation, cf. Article 11 (1). 2, 2. pkt.

3.5.

In the light of the above, the Danish Data Protection Agency expresses serious criticism that DSB's processing of personal data has not taken place in accordance with the rules in Article 15 (1) of the Data Protection Regulation. 3, and Article 12, para. 2 and 3.

[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).