

Decision

Diary no

2019-06-24

DI-2019-1785

Your diary no

ÅM2019-423

The Prosecutor's Office

Box 5553

114 85 Stockholm

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

The Prosecutor's Office's list of

treatments

The Swedish Data Protection Authority's decision

1.

The Data Inspectorate states that the Public Prosecutor's Office's list

over treatments, the name and contact details for it are missing

personal data controller, joint 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 prosecutor's office to indicate in the list of treatments

the name and contact details of the personal data controller,

joint personal data controller and data protection officer, at the latest

on 31 December 2019.

2. The Swedish Data Protection Authority states that the Public Prosecutor's Office's list

over treatments, for each category of treatment, states the purposes

with the treatment according to ch. 3 3 § 2 of the criminal data regulation in one unspecified way.

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

The prosecutor's office that in the list of treatments, for each category of treatment, specify the purposes of the treatment accordingly way stated in the justification for this decision, by 31 December at the latest 2019.

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3. The public prosecutor's office is ordered to leave by 31 December 2019 at the latest

a written report to the Swedish Data Protection Authority of the measures which

The public prosecutor's office has taken due to the orders in points 1-2.

Account of the supervisory matter

On 11 February 2019, the Swedish Data Protection Authority started supervision of

The Prosecutor's Office for the purpose of reviewing the Prosecutor's Office's list over processing of personal data is in accordance with ch. 3. Section 3 the criminal data regulation.

In its review of the Public Prosecutor's Office, the Data Inspectorate has list of treatments observed mainly the following.

The list of treatments contains the following columns.

- the legal basis for the processing,
- the purposes of the processing,
- the categories of officials who have access to the personal data which is processed,
- the categories of recipients to whom the data may be disclosed to, also in third countries or international organisations
- the categories of data subjects affected by the processing,
- the categories of personal data that may be processed,
- collections of transfers of personal data to third countries or international organizations,
- use of profiling,
- if possible, deadlines for how long the categories of personal data may be processed and
- general description of which security measures have been taken.

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Justification of the decision

What the Swedish Data Protection Authority has to decide on

In the supervisory matter, the Data Inspection Authority has to take a position on

The Prosecutor's Office's list of treatments meets the requirements of

3 ch. Section 3 of the Criminal Data Ordinance.

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 Public Prosecutor's Office, in addition to the Criminal Data Act, since on 1 January 2019 also the Act (2018:1697) on the prosecution's treatment of personal data within the scope of the Criminal Data Act (prosecutor's criminal data act) with supplementary provisions in the regulation (2018:1738) on the prosecution's processing of personal data within the Criminal Data Act area.

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, joint personal data controller 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,
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 Prosecutor's Office's list of treatments

The public prosecutor's office for a list according to ch. 3. Section 3

the criminal data regulation on the categories of processing of personal data

for which the authority is responsible according to the Criminal Data Act. For each category of

treatment, according to the provision, certain enumerated information must be stated

(items 1-10). The Prosecutor's Office's list of treatments

contains for each category of treatment points 1-10. The Swedish Data Protection Authority

does not have any views regarding points 1 and 3-10.

In the Public Prosecutor's Office's list of treatments, collections of

transfers of personal data to third countries or international

organizations (point 7) for certain categories of treatments such as

"information that is disclosed in connection with an application from another state for

legal aid or warrant of arrest". According to the preparatory work for the Crime Data Act

takes 3 ch. § 3 § 7 of the criminal data regulation aims at certain transfers that have

made to third countries or international organizations (see SOU 2017:29 p. 323

and pp. 621-624). The Swedish Data Protection Authority assumes that such transfers, if they

occurs, will be listed in the Public Prosecutor's Office's list of

treatments.

Contact details

The Swedish Data Protection Authority's assessment

The Data Inspectorate states that the Public Prosecutor's Office's list of

treatments lack the name and contact details of the personal data controller, joint personal data controller and data protection officer.

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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.

The Data Inspectorate states that the Public Prosecutor's Office's list of

treatments lack the name and contact details of the personal data controller, joint 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 public prosecutor's office to indicate the name of in the list of treatments

and contact details for the personal data controller, jointly

personal data controllers and data protection officers.

Point 2 – the purposes of the processing

The Swedish Data Protection Authority's assessment

The Data Inspectorate states that the Public Prosecutor's Office's list of

treatments, for each category of treatment, states the purposes of the treatment in an unspecified manner.

The reasons for Datainspektionen's assessment are as follows

According to ch. 3 § 3 § 2 of the criminal data regulation, a list of processing, for each category of processing, must contain information about the purposes with the treatment.

In the Public Prosecutor's Office's list of treatments, the purposes are stated the treatment, for each category of treatment, either as "1. prevent or prevent criminal activity", "2. investigate or prosecute crimes", "3. deal with matters of amendment or enforcement of criminal law penalties", "4. handle matters relating to the maintenance of public order and security" or "5. fulfill obligations arising from international commitments". Items 1-5 in the column "the purposes of the processing" corresponds to the legal bases specified in ch. 2. § 1 of the prosecution service crime data act. The provision in ch. 2 Section 1 of the prosecution's criminal data act is stated in the column "the legal basis of the processing" for each category of treatment, except one, in the Public Prosecutor's Office's list of treatments.

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In ch. 3 Section 3 of the criminal data regulation makes a division between the legal the basis for the processing (item 1) and the purposes of the processing (item 2). In the preparatory work for the Crime Data Act, it is stated that the purposes of the processing must be listed in the register that the authority must keep but that it does not mean that the person in charge of personal data must list all of them individual cases where the authority processes personal data. What is meant is them

types of purposes for which the authority processes personal data. As examples are mentioned that the Police Authority processes personal data, i.a. in order to receive reports of crime, carry out investigations, enforce collection of fines and document interventions in the event of disturbances (cf. prop. 2017/18:232 p. 121).

In the way that the Public Prosecutor's Office stated the "purposes of the processing" in its list of treatments, for each category of treatment except one, means that the same information is entered for the "purposes of the processing" as for "the legal basis for the processing". The Swedish Data Protection Authority considers, with reason for how ch. 3 Section 3 of the criminal data regulation is designed, that it is not sufficient to indicate the same information under "the legal basis for the processing" as for the "purposes of the processing" to fulfill the requirement in ch. 3 § 2 of the Criminal Data Ordinance. In his review of

The Public Prosecutor's Office's list of treatments can the Data Inspectorate nor see that the "purposes of the processing" have been specified for the category of treatment named "Cåsa - Statistics system". Not stating the "purposes of the treatment" for a category of treatment also does not meet the requirement in ch. 3 § 2 of the Criminal Data Ordinance.

Against this background, the Data Inspectorate states that the Public Prosecutor's Office list of treatments, for each category of treatment, indicates the purposes of the processing in an unspecified manner. The inspection has included reason for this found reason 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. 7 § 2 of the Criminal Data Act The prosecutor's office that in the list of treatments, for each category of treatment, specify the purposes of the treatment. Management for how

the purposes of a treatment can be listed given in the above

the preprocessing statements.

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This decision has been 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 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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