

Decision

Diariennr

2019-11-04

DI-2019-5558

Ert diariennr

204 219 727-19 / 113

The Swedish Tax Agency

171 94 Solna

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

The Swedish Tax Agency's list of treatments

The Data Inspectorate's decision

1.

The Data Inspectorate states that the Swedish Tax Agency's list of treatments, for each category of treatment, states the legal basis for the treatment according to ch. 3 § 1 of the Criminal Data Ordinance (2018: 1202) in an unclear way.

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

The Swedish Tax Agency that in the list of treatments, for each category of treatment, specify the legal basis for the treatment on so as set out in the explanatory memorandum to this Decision, by 30 April 2020.

2. The Data Inspectorate finds that the Swedish Tax Agency's list of treatments, for a category of treatment, they specify categories of registered who are affected by the processing according to ch. 3 § 5 of the Criminal Data Ordinance in an unclear manner.

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

The Swedish Tax Agency that in the list of treatments, for each category

of processing, specify the categories of data subjects affected by  
the procedure set out in the explanatory memorandum to this Decision;  
no later than 30 April 2020.

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

Report on the supervisory matter

On 7 May 2019, the Data Inspectorate initiated supervision of the Swedish Tax Agency with the aim of  
review the Swedish Tax Agency's list of processing of personal data  
is in accordance with ch. Section 3 of the Criminal Data Ordinance.

Within the framework of the supervisory matter, the Data Inspectorate has visited the Swedish Tax Agency on  
June 14, 2019. The Swedish Tax Agency has presented the list of during the inspection  
treatments. During the inspection, the Data Inspectorate has examined certain selected persons  
categories of treatments in the list of treatments. The selection passed  
of central systems in the Swedish Tax Agency's law enforcement activities and a  
number of randomly selected categories of treatments. The Data Inspectorate has  
asked questions about the Swedish Tax Agency's list of treatments and the Swedish Tax Agency  
has had the opportunity to comment on the inspection report drawn up in  
in connection with the inspection.

The Swedish Tax Agency has, among other things, stated the following. The column "legal basis for treatment" will be reworked and specified. The Swedish Tax Agency will review whether the writing "All" should be replaced or developed so that categories of registered for a category of treatment is described in a clearer way.

A general description of the safety measures taken has been added to the header on the list.

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

- Purpose,
- legal basis for processing,
- categories of data subjects,
- categories of personal data that may be processed,
- there is sensitive personal data,
- categories of sensitive personal data,
- category of recipients,
- transferred to a third country or international organization,

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categories of officials who have access to the personal data treated,  
use of profiling as well  
deadlines for processing personal data.

Furthermore, safety measures taken are described in the header of the list

over treatments.

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 Tax Agency

list of treatments, meets the requirements in ch. Section 3 of the Criminal Data Ordinance. The Inspectorate has chosen to limit supervision by selecting

certain categories of treatments on the list for special examination.

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 Tax Agency has been in force since 1 January

2019 also the law (2018: 1696) on the Swedish Tax Agency's processing of personal data

within the area of the Criminal Data Act (the Swedish Tax Agency's Criminal Data Act) with

supplementary provisions in the ordinance (2018: 1877) on the Swedish Tax Agency

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 officers. In addition, the list shall, for each category of

treatment, contain the following information:

1. the legal basis for the processing;

2. the purposes of the treatment;

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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, time limits for the processing of categories of personal data; 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 Tax Agency's list of treatments

The Swedish Tax Agency for a list according to ch. Section 3 of the Criminal Data Ordinance above

the categories of processing of personal data for which the authority is responsible

for under 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 Tax Agency's list of treatments contains for each category of

treatment points 1-10.

The Data Inspectorate has no comments regarding items 2-4 as well

6-10. Collections of transfers of personal data to third countries or

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

The Swedish Tax Agency's 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 Tax Agency

list of treatments.

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Point 1 - the legal basis for the treatment

The Data Inspectorate's assessment

The Data Inspectorate states that the Swedish Tax Agency's list of

treatments, for each category of treatment, sets out the legal basis for

the treatment in a vague way.

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

According to ch. § 3 1 of the Criminal Data Ordinance shall be a list of

treatments, for each category of treatment, contain information about it

legal basis for the treatment.

The Swedish Tax Agency's list of treatments states the legal basis for

the treatment, for each category of treatment, either with four SFS numbers or with reference to a provision in the Act (1997:

1024) on

the Swedish Tax Agency's law enforcement activities and certain provisions in

"SBDL". The Swedish Tax Agency has stated that the column "legal basis for processing" will be reworked and specified.

In the preparatory work for the Criminal Data Act, it is stated that the legal basis refers to the constitutional support for the treatment, ie. the regulation of that task which causes the processing of personal data (see SOU 2017: 29 p. 322).

Due to what appears from the preparatory work, the Data Inspectorate considers that it is not sufficient to state only the SFS number as the legal basis for the treatment. It further appears that the references to provisions of the "SBDL" in the column "legal basis for processing" do not apply provisions of the Swedish Tax Agency's Criminal Data Act. The inspection finds against this background to the Swedish Tax Agency's list of treatments, for each category of treatment, indicates the legal basis for the treatment of a 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, the Swedish Tax Agency that in the list of treatments, for each category of treatment, specify the legal basis for the processing.

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Point 5 - the categories of data subjects affected by the processing

The Data Inspectorate's assessment

The Data Inspectorate states that the Swedish Tax Agency's list of treatments, for a category of treatment, they specify categories of registered who are vaguely affected by the processing.

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

According to ch. 3 § 5 of the Criminal Data Ordinance shall be a list of treatments, for each category of treatment, include information on the categories of data subjects affected by the processing.

The preparatory work for the Criminal Data Act states that categories of data subjects can be a group of people who have a specific role, e.g. suspects, plaintiffs, witnesses or relatives of any of these (see SOU 2017: 29 p. 322).

Due to what appears from the preparatory work, the Data Inspectorate considers that it is not sufficient to list "All" as categories of registrants.

The Inspectorate therefore finds that the Swedish Tax Agency's list of treatments, for a category of treatment, they specify categories of registered who are vaguely affected by the processing. The inspection has due to this found reason to use the corrective the powers in ch. 5 Section 7 of the Criminal Data Act.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act, the Swedish Tax Agency that in the list of treatments, for each category of treatment, specify the categories of data subjects affected by the processing.

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

Charlotte Waller Dahlberg

Max Blidberg

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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.

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