

Date

2018-10-31

Compilation of the results from

the review of data protection officers in public

and private sector

Summary of the results

The audit shows that the majority of the audited authorities and

the private actors have notified and appointed a data protection officer in time.

The Swedish Data Protection Authority has identified deficiencies in approximately 16 percent of those just above

350 businesses included in the review. There is a marginal difference in

compliance with the rules between authorities and private actors.

Out of a total of 66 supervisory cases, the Data Inspectorate has decided to give

reprimands in 57 cases. In two cases, the objects of supervision have received an injunction and

seven cases have been closed without action.

Introduction

At the end of May 2018, the Swedish Data Protection Authority started an examination of

data protection officer appointed within a number of businesses. This is a

compilation of the results from the review.

According to Article 37 of the General Data Protection Regulation<sup>1</sup> (GDPR), an authority or a

public body obliged to appoint a data protection officer. Also private actors

has such an obligation under the article if the core business involves a

regular, systematic surveillance of individuals on a large scale

or that the core business involves the treatment of sensitive

personal data or information about crimes on a large scale. According to the same

article there is also an obligation to notify the data protection officer

contact details for the Swedish Data Protection Authority.

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on protection for natural persons with regard to the processing of personal data and if the free flow of such data on the repeal of Directive 95/46/EC (general data protection regulation)

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1 (6)

2 (6)

The cases handled within the framework of the supervision project can be divided into two categories: state administrative authorities and private actors. The private ones the actors represent six industries. These are banks, telecom operators, insurance companies, trade unions, public transport companies and healthcare providers. A total of 362 businesses have been checked, 66 businesses have been audited more closely, of which 35 authorities and 31 private actors.<sup>2</sup>

Reporting of the results from the inspection

The compilation of the supervisory cases shows that there are four different types of errands. The first category is the items that were done right from the beginning and there appointed and notified data protection officer no later than 25 May 2018. The the second category is objects that have appointed a data protection officer and/or notified the contact details for the Data Inspectorate only after 25 May 2018 but during the review ie. made a supervisory decision before the inspection. The third the category is the objects that are still at the time of the supervisory decisions not appointed a data protection officer and/or communicated the contact details to

The Swedish Data Protection Authority. In addition, there is a fourth category that includes a case where the inspection found that there is no obligation for the object to appoint a data protection officer.

Supervisory cases in categories one and four have been closed without action. They have either done right from the start or the Data Protection Authority has established that there is no obligation to appoint a data protection officer for it personal data controller. Seven of the supervisory cases belong to this category.

In addition, all the activities that were included in the documentation belong there

The Swedish Data Protection Authority has chosen not to initiate a special supervisory case for this one the category. In total, there are 303 businesses out of the 352 included in the database that belong to this category.

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The selection process started with the project group identifying over 400 activities for which the starting point was that there was an obligation to appoint one data protection officer. Of these over 400 businesses, Datainspektionen has selected 362 paragraphs that have been checked against the notifications by data protection officers who the inspection received. The 66 businesses that were finally examined in special supervisory matters are those where the notification has not been made to the inspection when the review was initiated. As can be seen below under the results of the inspection, there are a couple of the subjects of supervision who, despite the review of the reports, have shown that they appointed and notified an agent in time.

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The cases in category two have been concluded with the supervisory objects assigned to each reprimand for the violation. Not having appointed and notified data protection officer of the Data Protection Authority can cause an administrative sanction fee.<sup>3</sup> The main reason why the decisions stopped at a

reprimand instead of an administrative penalty fee is relatively short

which has expired since 25 May 2018.

In total, there are 57 cases in category two, which are distributed according to following;

☐

31 authorities

☐

3 banks

☐

4 insurance companies

☐

1 public transport company

☐

4 telecom operators

☐

12 unions

☐

2 private caregivers.

Cases in category three, i.e. the two objects still at the time of the supervisory decision has not appointed a data protection officer and/or notified the contact details for the Swedish Data Protection Authority, has ended with the objects of supervision have each been assigned an injunction for the violation.

Conclusions on regulatory compliance

It is interesting to compare how well the authorities and the six different ones the industries comply with the requirement to appoint a data protection officer in light of the immediate over 350 authorities and private actors that Datainspektionen was involved in

the selection process. It gives an indication both of how it looks in total and how

well, the authorities as a group and the respective industry follow the requirement to appoint

a data protection officer.

Of the objects that were included in the selection, the Data Inspectorate has identified deficiencies in

16.3% (59 out of 362) of the just over 350 businesses included in

the review. Broken down by category and industry, it looks like this:

3

□

Authorities: Of the 210 authorities that were included in the sample,

The Swedish Data Protection Authority found deficiencies in 33 cases. Calculated as a percentage

corresponds to the number of cases with deficiencies of approximately 16 percent.

□

Private actors: of the 152 private actors that were included in the sample have

The Swedish Data Protection Authority found deficiencies in 26 cases. Calculated as a percentage

corresponds to the number of cases with deficiencies of just over 17 percent.

Article 83 p. 4 (a) data protection regulation and ch. 6 Section 2 of the Act (2018:218) re

supplementary regulations to the EU data protection regulation

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The private actors are distributed as follows:

□

Banks: Of the 40 banks that were included in the sample,

The Data Inspectorate found deficiencies in 3 cases.

□

Insurance company: Of the 42 insurance companies that were included in the sample

the Data Inspectorate has found deficiencies in 4 cases.

□

Public transport: Of the 8 companies in public transport that were included in the selection, the Data Inspectorate has found deficiencies in 1 case.

□

Telecom operators: Of the 8 telecom operators that were included in the sample have The Data Inspectorate found deficiencies in 4 cases.

□

Unions: Of the 45 that were included in the selection, the Data Inspection Authority has found deficiencies in 12 cases.

□

Private caregivers: of the 9 private caregivers that were included in the sample the Data Inspectorate has found deficiencies in 2 cases.

Of the businesses that have been audited in particular in supervisory matters, The Swedish Data Protection Authority notes that many have chosen to comply requirements during the ongoing review. Only in two cases does it remain deficiencies, which led to injunctions.

It can also be stated that the difference in compliance between authorities and private actors is marginal. Some industries stand out however negative<sup>4</sup>. This particularly applies to telecom operators, where four out of eight companies did not exist up to the requirements. Trade unions also stand out negatively in a comparison with the cut.

/The project group

Attachments:

1. Overview of supervised objects and corrective authority, etc.

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In light of the fact that the number of objects in certain categories is relatively low, there are reason to be cautious when interpreting the percentage distribution.

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Appendix 1

Authority

Blekinge Institute of Technology

Accounting Board

Swedish student aid

The Energy Market Inspectorate

The Research Council for Health, Working Life and Welfare

Living History Forum

The Genetic Engineering Board

The Inspectorate for Social Insurance

The inspection for strategic products

Case number

DI-2018-8743

DI-2018-8745

DI-2018-8746

DI-2018-8747

DI-2018-8749

DI-2018-8750

DI-2018-8751

DI-2018-8752

DI-2018-8753

DI-2018-8754

DI-2018-8755

DI-2018-8756

DI-2018-8757

DI-2018-8759

DI-2018-8760

DI-2018-8761

Measure

Reprimand

No action

No action

Reprimand

Reprimand

Order

Order

Reprimand

Reprimand

DI-2018-8762

DI-2018-8763

Reprimand

Reprimand

The board against discrimination

The Patent Ombudsman Board

Regional Ethics Review Board in Gothenburg

Regional Ethics Review Board in Linköping

Regional Ethics Review Board in Stockholm

Regional Ethics Review Board in Umeå

The Legal Aid Authority

The Sami school board

The National Accountability Board



The Norwegian Center for Architecture and Design

The state's defense history museums

The State Accident Commission

DI-2018-8764

DI-2018-8765

DI-2018-8766

DI-2018-8767

DI-2018-8775

DI-2018-8776

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

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Reprimand

Reprimand

Reprimand

Reprimand

State service center

The Norwegian Claims Settlement Board

DI-2018-8777

DI-2018-8778

Reprimand

Reprimand

The State Office

Swedish University of Agricultural Sciences

DI-2018-8779

DI-2018-8780

Reprimand

Reprimand

Örebro University

DI-2018-8781

Reprimand

Art department

The Royal Library

Royal Academy of Arts

The Royal Academy of Music in Stockholm

Central University

The authority for participation

The Authority for Family Law and

parenting support

The authority for cultural analysis

The Authority for Accessible Media

DI-2018-8769

DI-2018-8770

DI-2018-8771

DI-2018-8772

DI-2018-8773

DI-2018-8774

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

6 (6)

Private actors

Case number

Measure

DI-2018-8783

DI-2018-8785

DI-2018-8786

Reprimand

No action

DARAG Insurance AB

Solid Försäkringskattieföretag

DI-2018-8789

DI-2018-8790

DI-2018-8791

DI-2018-8792

DI-2018-8793

Public transport

Norrbottens busstrafik AB

DI-2018-8794

No action

DI-2018-8795

DI-2018-8796

No action

Reprimand

DI-2018-8797

DI-2018-8798

DI-2018-8799

DI-2018-8800

DI-2018-8801

Reprimand

Reprimand

No action

Reprimand

Reprimand

DI-2018-8803

DI-2018-8804

DI-2018-8806

DI-2018-8807

DI-2018-8808

DI-2018-8812

DI-2018-8813

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

DI-2018-8814

DI-2018-8815

DI-2018-8816

DI-2018-8818

Reprimand

Reprimand

Reprimand

No action

DI-2018-8819

DI-2018-8820

Reprimand

Reprimand

Banks

Forex bank limited company

Resurs bank limited liability company

Tjusbygdens Sparbank bank joint stock company

Insurance company

Danica Pension Insurance joint stock company

Idun Life Insurance AB

Accept Insurance Company

Västtrafik AB

Svealandstrafiken AB

Telecom operators

Tele2

Telia Sonera Sweden

A3 Private AB

Fello AB

My Beat

Trade union

FTF - the union for insurance and finance

SLFF Swedish Locomotive Drivers' Association

Sweden's university teachers and researchers

The Swedish Veterinary Association

SACO – the association for traffic and railways

Sweden's architects

National Association of Sellers

The Swedish Dental Association

The union for academics in

community-supporting professions

National Firefighters' Association

The Church's Association of Academicians

Hotel & restaurant union

The Financial Association

Private healthcare providers

Children's hospital Martina AB

Barnbördshuset i Stockholm AB

DI-2018-8809

DI-2018-8811

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand

Reprimand