

Decision

Diariennr

2019-06-24

DI-2019-1784

Ert diariennr

EBM2019-157

The Economic Crime Authority

Box 22098

104 22 Stockholm

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

The Swedish Environmental Crime Agency's list of

treatments

The Data Inspectorate's decision

1.

The Data Inspectorate finds that the Economic Crimes Authority's list

of treatments, for each category of treatment, they state

categories of data subjects affected by the processing under

Chapter 3 § 5 of the Criminal Data Ordinance (2018: 1202) in an unclear manner.

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

The Economic Crime Authority that in the list of treatments, for each

category of processing, indicate the categories of data subjects concerned

of the treatment as set out in the explanatory memorandum to this Decision,

no later than 31 December 2019.

2. The Data Inspectorate finds that the Economic Crimes Authority's list

of treatments, for each category of treatment, they state

categories of personal data that may be processed

according to ch. 3 § 6 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 Economic Crime Authority that in the list of treatments, for each

category of processing, specify the categories of personal data that

may be treated in the manner set out in the explanatory memorandum to

this decision, no later than 31 December 2019.

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3. The Economic Crimes Authority is ordered to no later than 31 December 2019

submit a written report to the Data Inspectorate of the measures

which the Swedish Environmental Crime Agency has taken in connection with

the injunctions in paragraphs 1-2.

Report on the supervisory matter

The Data Inspectorate has on 11 February 2019 initiated supervision of

The Swedish Environmental Crime Agency for the purpose of reviewing the Swedish Environmental Crime Agency

list of processing of personal data is in accordance

with ch. 3 Section 3 of the Criminal Data Ordinance.

The Data Inspectorate has visited within the framework of the supervisory matter

The Economic Crimes Authority on 14 March 2019. The Economic Crimes Authority has

the inspectorate presented the list of treatments. The Data Inspectorate

has during the inspection examined certain selected categories of treatments in

the list of treatments. The sample consisted of central systems in

The activities of the Economic Crime Authority and a number of randomly selected

categories of treatments. The Economic Crimes Authority has been given the opportunity to comment

review the inspection report drawn up in connection with

the time of inspection. The Data Inspectorate has also asked questions Om

The Swedish Environmental Crime Agency's list of treatments.

The Economic Crimes Authority has mainly stated the following. There are three choices

Categories of registered (F): External party, EBM employees and

Contractor at EBM. External parties are parties outside the authority.

There are five choices of Categories of Personal Data (G): Name,

Social security number, Contact information, Picture / film where a person can be identified and

Other personal information. Other personal information can, for example, be financial data

which can be linked to a specific person. Sensitive personal data is processed in

normally not per se in the Economic Crimes Authority's activities. If sensitive

personal data occurs, it is a question of data provided in a

report, interrogation or similar context. If it can come with that

processed means that each category of personal data that in theory can

would be treated within the framework of a category of treatment would

the category "Sensitive personal data" needs to be specified for each category of

treatment included in the authority's list.

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The Economic Crimes Authority has not found any category of treatment there

transfer to third countries takes place. In such cases, it would be listed under Categories

of receiver (E).

If a box / field is empty, it means that it does not exist or is not

applicable to that category of treatment.

The Data Inspectorate has in its examination of the Swedish Environmental Crime Agency

list of treatments observed mainly the following.

The list of treatments is structured around nine different ones

data sets as follows.

A. Category of treatment,

B. Legal basis for treatment,

C. Purpose of treatment,

D. Categories of officials,

E. Categories of recipients,

F. Categories of registered,

G. Categories of personal data,

H. Deadline for treatment and

I. Security measures.

Each category of treatment contains information on the use of profiling.

Justification of the decision

What the Data Inspectorate has to decide on

In the supervisory matter, the Data Inspectorate has to decide whether

The Economic Crime Authority's list of treatments, meets the requirements in

Chapter 3 Section 3 of the Criminal Data Ordinance. The inspectorate has chosen to limit supervision

by selecting certain categories of treatments in 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

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crime or carry out criminal penalties. It also applies to treatment

of personal data performed for the purpose of maintaining public order and

security. For the Swedish Environmental Crime Agency, in addition to the Criminal Data Act then applies

on 1 January 2019 also the law (2018: 1697) on the prosecution's treatment of

personal data within the area of the Criminal Data Act and the Act (2018: 1693) on

the police's processing of personal data within the area of the Criminal Data Act.

Supplementary provisions are found in the ordinance (2018: 1738) on

the Public Prosecutor's Office's processing of personal data within the Criminal Data Act

area and in the ordinance (2018: 1942) on the police's treatment 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;
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, deadlines for how long the categories of

personal data may be processed, 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.

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The Swedish Environmental Crime Agency's list of treatments

The Economic Crime Authority for a list according to ch. § 3

the Criminal Data Regulation on the categories of personal data processing

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

processing, according to the provision, certain listed information must be stated

(paragraphs 1-10). The Swedish Environmental Crime Agency's list of treatments

contains for each category of treatment items 1-6 and 8-10.

The Data Inspectorate has no comments regarding items 1-4 as well

7-10. Collections of transfers of personal data to third countries or

international organizations (paragraph 7) is not indicated as a separate column

in the Swedish Environmental Crime Agency's list of treatments. According to the preparatory work to 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 Economic Crimes Authority list of treatments.

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

The Data Inspectorate's assessment

The Data Inspectorate states that the Swedish Environmental Crime Agency's list of treatments, for each 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 categories of treatments are listed in the Swedish Environmental Crime Agency's list of treatments of data subjects affected by the processing, for each category of processing, either as "External party", "Employees of EBM" and "Contractors of EBM ". The Economic Crimes Authority has stated that "External party" are parties outside authority.

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).

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Due to what appears from the preparatory work, the Data Inspectorate considers that it is not sufficient to indicate only "External party". The inspection finds because the Swedish Environmental Crime Agency's list of treatments, for each category of processing, indicates the categories of data subjects affected by the treatment in a vague way. Due to this, the Inspectorate has found reason to use the corrective powers in ch. § 7 the Criminal Data Act.

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

The Economic Crime Authority that in the list of treatments, for each category of treatment, clarify the categories of data subjects affected by the treatment. Guidance for how categories of registrants can be listed is given in the above-mentioned preparatory statements.

Point 6 - the categories of personal data that may be processed

The Data Inspectorate's assessment

The Data Inspectorate states that the Swedish Environmental Crime Agency's list of treatments, for each category of treatment, they specify categories of personal data that may be processed in an unclear manner.

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

According to ch. 3 § 6 of the Criminal Data Ordinance shall be a list of treatments, for each category of treatment, include information on the categories of personal data that may be processed.

The Swedish Environmental Crime Agency's list of treatments does not state sensitive personal data as a category of personal data that may be treated. The Swedish Environmental Crime Agency has stated that if sensitive personal data occurs, it is a question of data provided in a

report, interrogation or similar context.

The preparatory work for the Criminal Data Act states that in the case of categories of personal data, it is mainly the presence of sensitive personal data that referred to (see SOU 2017: 29 p. 322). No one is given in the preparatory work for the Criminal Data Act guidance on how the wording may be treated in ch. 3 § 6

the Criminal Data Ordinance must be understood and the Data Inspectorate understands

The Economic Crimes Authority's reasoning that an overly broad interpretation means that

"Sensitive personal data" as a category of personal data may need to be specified

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for each category of treatment. At the same time, ch. 3 § 6

the Criminal Data Ordinance in the opinion of the Data Inspectorate is not interpreted

such way that sensitive personal data provided in a report, interrogation or

similar contexts are not covered by ch. 3 § 6 of the Criminal Data Ordinance.

Due to what appears from the preparatory work, the Data Inspectorate considers that

sensitive personal data need to be provided for each category of processing, for

in the event that the Swedish Environmental Crime Agency deems that such information may be

treated. The Data Inspectorate finds that the Swedish Environmental Crime Agency's

list of treatments, for each category of treatment, they indicate

categories of personal data that may be processed in a vague manner

way. Due to this, the inspectorate has found reasons to use them

the corrective 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 Economic Crime Authority to indicate in the list of treatments, sensitive

personal data as a category of personal data, for the categories of

treatments that the Swedish Environmental Crime Agency deems to be sensitive

personal data may be processed.

This decision was made by unit manager Charlotte Waller Dahlberg after

presentation by lawyer Max Blidberg.

Charlotte Waller Dahlberg

Max Blidberg

Copy to:

The Security and Integrity Protection Board

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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

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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