

Decision in appeal against Udbetaling Danmark's transfer of personal information to cohabitant

Date: 30-06-2020

Decision

Public authorities

The Danish Data Protection Agency criticizes Udbetaling Danmark's processing of personal data with regard to their disclosure of the complainant's social security number to the complainant's cohabitant. The transfer of the personal identity number has not taken place in accordance with the rules in the Data Protection Act.

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Summary

The Danish Data Protection Agency has made a decision in a case where a citizen has complained about Udbetaling Danmark's disclosure of the complainant's social security number and income information to his cohabitant in connection with pension calculation and payment to the cohabitant as an early retiree.

In the decision, the Danish Data Protection Agency has established that Udbetaling Danmark was entitled to pass on information about the complainant's income situation to the cohabitant, as this information was included as part of the calculation basis for the cohabitant's early retirement pension.

However, Udbetaling Danmark was not entitled to pass on the complainant's social security number to his cohabitant, as Udbetaling Danmark's interest in processing the personal identity number for the purpose of unambiguous identification could not be extended to also apply to the cohabitant.

Decision

The Danish Data Protection Agency hereby returns to the case, where on 20 January 2020, complainants complained to the Authority that Udbetaling Danmark had passed on his personal identity number and income information to his cohabitant.

After a review of the case, the Danish Data Protection Agency finds that there is a basis for expressing criticism that Udbetaling Danmark's processing of personal data, with regard to the transfer of the complainant's social security number to the complainant's cohabitant, has not taken place in accordance with the Data Protection Act. . 1.

The Danish Data Protection Agency, on the other hand, considers that the disclosure of information on complainants' income conditions has taken place within the framework of Article 6 of the Data Protection Regulation. [1]

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 20 January 2020, complainants complained to the Danish Data Protection Agency about Udbetaling Danmark's disclosure of his social security number and income information to his cohabitant. Complainants had become aware that Udbetaling Danmark had passed on personal information about complaints to his cohabitant in the pension calculations / pension announcements that the complainant's cohabitant receives from Udbetaling Danmark as an early retiree. Furthermore, this had happened without the complainant's knowledge and acceptance.

On 18 February 2020, the Danish Data Protection Agency requested telephone complaints to submit additional information for use in the processing of the case. On the same date, the complainants submitted further material to the case in the form of a response from Udbetaling Danmark to an inquiry from the complainants, dated 10 December 2019.

On 2 March 2020, the Danish Data Protection Agency sent a consultation letter to Udbetaling Danmark, and complainants were informed of this on the same date.

On 23 March 2020, Udbetaling Danmark issued a statement in the case.

On 26 March 2020, the complainant submitted its comments on Udbetaling Danmark's statement.

2.1. Complainant's remarks

Complainants have generally stated in their complaint of 20 January 2020 that Udbetaling Danmark - without his knowledge and acceptance - has provided his social security number and personal income to his cohabitant first in writing in connection with pension payment and then orally. Complainants have further stated that he and the cohabitant do not have and have never had joint finances, nor do they have any legal matters.

In addition, the complainants in their comments on Udbetaling Danmark's statement have stated, among other things, that Udbetaling Danmark must be able to make calculations without disclosing sensitive personal data when one is not married and does not have a common finances. Complainants have also stated that his cohabitant was able to obtain information about his income by telephone without Udbetaling Danmark having any security as to who called. Complainants have finally questioned why Udbetaling Danmark no longer has a civil registration number on correspondence.

2.2. Payment Denmark's comments

Udbetaling In its statement of 23 March 2020, Denmark has generally stated that:

Payment Denmark has passed on the complainant's income information and his social security number to his cohabitant. The information has been passed on to the co-supplier in the pension announcements / pension calculations that she receives from Udbetaling Danmark as an early retiree ”.

Payment Denmark has also stated:

Udbetaling Danmark, as a public authority, handles the case processing and payment of a number of public benefits, including early retirement, cf. Udbetaling Danmark Act § 1, subsection. 1, No. 2.

Payment Denmark's treatment of the complainant's financial situation is based on the Pension Act, section 32, subsection. 1 a, from which it appears that the income basis for early retirement must be calculated on the basis of the pensioner's and any spouse or cohabitant's total income.

The information on the complainant's income basis is thus included when Udbetaling Danmark calculates his partner's early retirement pension. Payment Denmark's calculation of early retirement pension is a decision that must be substantiated, cf. the Public Administration Act, section 24, subsection. 1 and 2. In order to justify the decision, the cohabitant must be informed on what basis the calculation of early retirement pension has been made, for which reason it is necessary in this connection to pass on the information on the complainant's income. At the same time, it is necessary to pass on the complainant's social security number in order to uniquely identify him.

The purpose of disclosing all the income and data in general that Udbetaling Danmark has used as a basis for calculating the cohabitant's early retirement pension is thus that the cohabitant must have a real opportunity to assess whether the correct information has been used. to calculate her pension and thus be able to assess whether she is receiving the right pension.

The information on the basis of income is processed, including passed on, by Udbetaling Danmark, as it is necessary for the purpose of performing a task in the interest of society or which falls under the exercise of public authority, cf. the Data Protection Ordinance art. 6 pieces. 1, letter e.

At the same time, Udbetaling Danmark processes the complainant's social security number in connection with the calculation of his partner's early retirement pension, because it must be possible to uniquely identify him, cf. the Data Protection Ordinance Article 87 and the Data Protection Act § 11, para. 1.

This processing of the complainant's income information and his social security number will therefore continue as long as he is cohabiting with a citizen who receives an early retirement pension, as the information is necessary for Udbetaling Danmark to

perform its authority task.

Finally, Udbetaling Danmark has stated that it is their assessment that the processing of the complainant's income information and social security number has taken place in accordance with Article 5 of the Data Protection Regulation and the basic principles therein.

Justification for the Danish Data Protection Agency's decision

With regard to Udbetaling Danmark's disclosure of the complainant's income information to the complainant's cohabitant, the Danish Data Protection Agency is of the opinion that Udbetaling Danmark has tasks which fall within the exercise of authority by public authorities in accordance with the Udbetaling Danmark Act and the Social Pensions Act. A processing of personal data may thus take place if it is necessary for the performance of these tasks, in accordance with Article 6 (1) of the Data Protection Regulation. 1, letter e.

The Danish Data Protection Agency finds that there is no basis for disregarding what is stated by Udbetaling Danmark that, in order to live up to the Public Administration Act's requirements for justification in decision cases, they are obliged to inform the complainant's cohabitant (who receives Udbetaling Danmark's decision) of basis the calculation of her early retirement pension has been made and that in this connection it has been necessary to pass on information about the complainant's income situation.

The Danish Data Protection Agency has emphasized that the complainant's cohabitant as a party to Udbetaling Danmark's case concerning the calculation of her early retirement pension has access to the information in the case, both in writing and orally, including information about the complainant's income, which forms part of the case information. Section 32a of the Pensions Act [2] thus states that the income basis for, among other things, early retirement pension is calculated on the basis of the pensioner's and any spouse or cohabitant's total income.

With regard to Udbetaling Danmark's disclosure of the complainant's social security number to his cohabitant for the purpose of unambiguous identification, the Danish Data Protection Agency finds that this is not in accordance with the Data Protection Act, section 11, subsection. 1.

The Danish Data Protection Agency has hereby emphasized that section 11 (1) of the Data Protection Act 1, authorizes the public authorities' processing of personal identity number information for the purpose of unique identification or as a record number. It is the Authority's assessment that Udbetaling Danmark's disclosure of the complainant's social security number for

the purpose of the complainant's cohabitant being able to uniquely identify complainants falls outside the scope of the provision. The purpose of the provision is thus only the public authority's own unique identification of the person in question. In relation to telephone disclosure of information, the Danish Data Protection Agency notes that Udbetaling Danmark, as the data controller, is obliged to ensure sufficient identification in order to avoid unauthorized disclosure of personal data in connection with telephone conversations.

[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). [2] Statutory Order 2019-09-23 no. 983 on social pension