

Decision

Diary no

2019-11-04

DI-2019-5560

Your diary no

VER 2019-776

Customs

Box 12854

112 98 Stockholm

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

Customs' list of treatments

The Swedish Data Protection Authority's decision

1.

The Data Inspectorate states that the Customs Agency's list of

treatments, for certain categories of treatments, indicate the categories

by officials who have access to the personal data being processed

according to ch. 3 § 3 of the Criminal Data Ordinance (2018:1202) in an unclear manner

way.

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

Customs that in the list of treatments, for each category of

processing, indicate the categories of officials who have access to them

personal data that is processed in the manner stated in the justification

to this decision, no later than 30 April 2020.

2. The Data Inspectorate notes that the Swedish Customs Agency's list of

treatments, for certain categories of treatments, information is missing

about the categories of personal data that may be processed

and collections of transfers of personal data to third countries or international organizations according to ch. 3 § 3 § 6 and 7 the criminal data regulation.

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

Customs that in the list of treatments, for each category of processing, specify the categories of personal data that may come to be processed and information on collections of transfers of

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personal data to third countries or international organizations, no later than April 30, 2020.

3. Customs is ordered to submit a written statement by 30 April 2020 at the latest

report to the Swedish Data Protection Authority of the measures taken by the Swedish Customs Administration taken due to the orders in points 1-2.

Miscellaneous

In addition to what appears in points 1-3, the Data Protection Authority leaves recommendations, according to ch. 5 7 § 1 of the Criminal Data Act, to the Swedish Customs Administration in force deadlines for how long the categories of personal data may be processed according to 3 ch. 3 § 9 of the Criminal Data Ordinance.

Account of the supervisory matter

On 7 May 2019, the Swedish Data Protection Authority started supervision of the Swedish Customs Administration with the

aim of

review whether the Swedish Customs Administration's list of processing of personal data is in compliance with ch. 3 Section 3 of the Criminal Data Ordinance.

In its review of the Swedish Customs Administration's list of treatments observed mainly the following. The list of treatments include the following columns.

- Legal basis,
- the purpose of the business with the processing of personal data,
- categories of civil servants with access to personal data processing,
- the categories of data subjects affected by the processing,
- the categories of personal data that may be processed,
- sensitive personal data that may be processed,
- if the processing involves the use of "profiling",
- categories of recipients to whom the data in the processing may come to be disclosed to,
- collections of transfers of personal data to third countries or international organizations,
- if possible, deadlines are specified here for how long personal data will be kept treated as well

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if possible, a general description of which security measures have been taken.

The Swedish Customs Service has essentially stated the following. In case a column has been selected

with "?" so this means that follow-up of the response that the business has provided

to take place. "-" symbolizes that the task is not relevant for current treatment.

In the event that the business has not provided any information for the person in question

treatment, the column has been left blank.

Justification of the decision

What the Swedish Data Protection Authority has to decide on

In the supervisory matter, the Swedish Data Protection Authority has to take a position on the Swedish Customs

Administration's

list of treatments, meets the requirements in ch. 3. 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 Swedish Customs Administration, in addition to the Criminal Data Act, since 1 January 2019

also the Act (2018:1694) on the Swedish Customs Administration's processing of personal data within

the area of the Criminal Data Act with supplementary provisions in the regulation

(2018:1876) on Customs' processing of personal data within the scope of the Criminal Data Act.

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,

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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.

Customs' list of treatments

Customs for a list according to ch. 3. Section 3 of the criminal data regulation over 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 specifies certain enumerated information (items 1-10). Customs

list of treatments contains in separate columns those i

the provision enumerated the points. The Swedish Data Protection Authority does not have any views regarding points 1-2, 4-5, 8 and 10.

Collections of transfers of personal data to third countries or international organizations (item 7) are listed as a separate column i

Customs' list of treatments. According to the preparations for

The Criminal Data Act takes ch. 3. 3 § 7 of the criminal data regulation aimed at certain

transfers that have been made to third countries or international organisations

(see SOU 2017:29 p. 323 and p. 621-624). The Swedish Data Protection Authority assumes that such

transfers, if they occur, will be listed in the Customs Office's list

over treatments.

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Point 3 – categories of civil servants

The Swedish Data Protection Authority's assessment

The Swedish Data Protection Authority states that the Customs Agency's list of processing,

for certain categories of treatments, specify the categories of officials who

has access to the personal data that is processed in an unclear manner.

The reasons for Datainspektionen's assessment are as follows

According to ch. 3 § 3 of the Criminal Data Ordinance, a list of processing, for each category of processing, must contain information about the categories

by officials who have access to the personal data being processed.

Information about which categories of civil servants have access to them

personal data that is processed facilitates both the internal and external

the control (cf. SOU 2017:29 p. 323). In the Customs Agency's list of

treatments are indicated, for certain categories of treatments, "Entitlement-controlled based on tasks". The Swedish Data Protection Authority has no comments on the writing, in the event that categories of civil servants can be linked, for example an underlying document or that it can be linked in some other way the writing to the categories of civil servants who have access to them personal data that is processed. Information on categories of civil servants have designed in varying ways for the categories of treatments that contain the writing "Eligibility-based based on work tasks". It doesn't appear to be clear to the Data Inspectorate that the writing can be linked to the categories of officials who have access to the personal data being processed.

The inspection therefore states that the Customs Agency's list of treatments, for certain categories of treatments, indicate the categories of officials who have access to the personal data processed at a unclear way. Because of this, the inspection has found reasons 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 Customs Service to i the list of treatments, for each category of treatment, clarify the categories of officials who have access to the personal data which treated.

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Points 6, 7 and 9

The Swedish Data Protection Authority's assessment

The Swedish Data Protection Authority states that the Customs Agency's list of processing, for certain categories of treatments, missing information on the categories of

personal data that may be processed and collections of transfers

of personal data to third countries or international organizations.

The reasons for Datainspektionen's assessment are as follows

The columns to indicate the categories of personal data that may be accessed

processed (point 6) and collections of transfers of personal data to

third countries or international organizations (point 7) lack information

for certain categories of treatments. To state "?" or leave a column blank

does not meet the requirements in ch. 3 Section 3 of the Criminal Data Ordinance. The Swedish Data Protection Authority

notes against this background that the Customs Agency's list of

treatments, for certain categories of treatments, information is missing according to

3 ch. 3 Sections 6 and 7 of the Criminal Data Ordinance. The inspection has due to

this found reason to use the corrective powers in ch. 5. Section 7

the crime data act.

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

the list of treatments, for each category of treatment, enter them

categories of personal data that may be processed and information about

collections of transfers of personal data to third countries or

international organizations.

The column for deadlines for how long the categories of personal data get

treated is indicated, for certain categories of treatments, as "?". According to

3 ch. 3 Section 9 of the Criminal Data Ordinance, it must, if possible, be stated

deadlines. The customs office has indicated that "?" means that follow-up of the answer which

the business left must take place.

The Swedish Data Protection Authority states that the Customs Agency's list of processing,

for certain categories of treatments, there is no information on deadlines

according to ch. 3 § 9 of the Criminal Data Ordinance. The Swedish Data Protection Authority can

according to ch. 5 7 § 1 of the Criminal Data Act through advice, recommendations or remarks (as stated in chapter 5, section 6, first paragraph of the same law) try to persuade Customs to take action. The Swedish Data Protection Authority believes that it is currently enough to recommend the Swedish Customs Service to make an assessment of whether it is

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possible to specify deadlines in the list of treatments for those categories of treatments like ”?” specified for.

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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