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The police authority

Sent by email only.

Diary number:

DI-2019-10790

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Date:

2022-06-28

Decision after supervision according to

the Criminal Data Act and the Act on

suspicion register –

Treatment by the police authority i

the suspicion register

The Privacy Protection Authority

decision

The Swedish Privacy Agency (IMY) states that the Norwegian Police Agency for an unknown period of time,

in any case during the time since the supervision began, broke in its treatment of

personal data covered by the Criminal Data Act (2018:1177) by not

ensure that information is processed in accordance with Section 13 of the Act (1998:621) on

suspicion register, LMR.

IMY orders according to ch. 5. 7 Section 2 of the Crime Data Act (2018:1177), BDL,

The police authority to submit a written report by 31 December 2022

to IMY about completed work according to submitted opinion on 13 June 2022. Police Authority

is also ordered to draw up an action plan for the future measures to

ensure that thinning of personal data in the suspicion register takes place in accordance with

the rules in § 13 LMR and submit it to IMY no later than 31 January 2023. The time of these measures must also appear in the report.

Account of the supervisory matter

Purpose and scope of the review

In accordance with the decided supervision plan, IMY has started supervision of the Police Authority regarding the personal data processing that the authority carries out in the suspicion register with the support of LMR. The supervision has intended the authority's handling of personal data what refers to thinning out the suspicion register.

The suspect register records information about people who have reached the age of fifteen and who according to the preliminary investigation manager's assessment, are reasonably suspected of crime.

The suspicion register must reflect data in the Police Agency's system RAR and

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DurTvå and the Public Prosecutor's Office's system Cåbra and the Swedish Customs Service's system Tudor. Which information contained in the suspicion register therefore depends on how it is registered in them

host system that reports the data.

## Implementation and method

During the review, the following has mainly emerged.

IMY has on 24 October 2019, on site at the Police Authority in the premises at Polhemsgatan in Stockholm, inspected the authority's handling of personal data in terms of thinning the suspect register. Before the inspection, IMY requested to take part of internal regulations or other governing documents that regulated this. Someone current documentation of the kind requested by IMY did not exist, but IMY received information from the elderly documentation from the year 2012 that referred to record keeping in the suspicion register.

In connection with the inspection, the police authority has briefly demonstrated the system and stated that the suspicion register has no independent, built-in function for the thinning.

Information about which suspicions must be present at any given time

the suspicion register is retrieved daily from the source systems at the Police Authority (RAR),

The Public Prosecutor's Office (Cåbra) and the Swedish Customs Service (Tudor). Information from

The police authority's DurTVå system is retrieved through RAR, as DurTVå does not have one own connection to the suspicion register. The suspicion register must therefore reflect all three

the systems' open and current suspicions. Regarding decisions from the Supreme Court

the court, they are sent by post directly to the Police Authority, which then sifts through them

the data manually. At the time of the inspection, the Police Authority stated that record keeping

takes place every month and that the number of error registrations is relatively constant and amounts to approx

650 cases per month. The police authority has later retracted the information that

the number of incorrect registrations per month is constant. The police authority stated at

the inspection that the problems with wrong registrations will persist as long as that

the IT-technical problem and the manual handling remain.

Due to what emerged during the inspection, IMY requested in the middle of

November 2019 that the Police Authority would submit supplementary and

clarifying information regarding e.g. a compilation of the types of errors that identified during November's record maintenance run and when the errors should be remedied. The police authority requested a delay in coming in with the information at two occasions due to IT technical complexity. Only January 9, 2020 came The police authority with supplementary information. The response showed that the authority has identified four situations where deviations can occur. Further stated The police authority that a total of 1,757 criminal suspects were removed from the suspicion register during November's registry maintenance run. The authority could not be more specific report what measures have been taken to correct the errors that have occurred or how many of these errors were due to thinning not taking place within the prescribed time. Against this background, IMY again requested that the Police Authority, among other things, would produce one summary where it was clear what went wrong and how and when the errors should be be remedied. The police authority has stated in response that it is not possible to produce them information requested by IMY at the level of detail requested. In order to produce more accurate figures and closer study of the causes of remaining inaccuracies have The police authority stated that during the March registry inspection drive, i.a. intended to investigate why certain criminal suspects have not been updated. This would take place in collaboration with the Public Prosecutor's Office.

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In November 2020, the Police Authority submitted a supplement in which it was explained for in which situations it has been identified that misregistrations occur and which measures which have been taken to remedy the deficiencies that have emerged. Among other things had the authority started monthly random samples in register maintenance and a number of technical updates

regarding the integration between the systems. In addition, a modernization of the information structure.

In December 2020, the Police Authority received another supplement where they stated that in the autumn of 2020 the authority started work on modernisation the integrations to the suspicion register. As the work affects the connections between the suspicion register and sending source system at the Police Authority, the Swedish Customs Administration and The public prosecutor's office had started an ongoing collaboration between the authorities in order to remedy the errors.

Prior to the supervisory decision, the Police Authority was given the opportunity to comment on the case. The 13th June 2022, the authority submitted an opinion in which it emerged that an extensive work on reforming the suspicion register was underway where a new suspicion register was created intended to be put into operation in autumn 2022 with an estimated completion date in winter 2024.

The problems with other authorities' connections and incorrect status of suspicions must therefore be remedied. The work with the special registry care drive is coming however, continue during a transition period. Ongoing evaluations will follow the authority also to take place during implementation to ensure that the changes have desired effect.

#### Justification of the decision

##### The Swedish Privacy Protection Authority's assessment

It appears from the preparatory work for LMR1 that the overall purpose of the suspicion register is to facilitate access to such information on reasonable suspicion of crime as is needed for the activities of the police, prosecution and customs authorities. These authorities are in need to easily access the information required to various preliminary investigations against the same person must be able to be coordinated effectively.

The data in the register should also be able to be used in other ways by these authorities crime prevention and law enforcement activities. The registry should also be able to

used by the police and other authorities in various types of suitability assessment, permit examination and other examination, e.g. government review in clemency cases and extradition cases, as stated in the constitution. Finally, the register should also be allowed to be used to provide information to an individual that is of particular importance in his business.

From the provision in § 13 LMR it appears that registration in the suspicion register may not continue for a longer period of time than from the time the suspicion arises until the question of guilt is settled.

This can be done either by preliminary investigation or prosecution for the suspected crime is closed or by an acquittal or conviction gaining legal force.

The police authority is the personal data controller for the processing of personal data in the register of suspicions.<sup>2</sup> The Swedish Customs Service and the Public Prosecutor's Office must provide such information to the Police Authority that is required for thinning out the suspect register.<sup>3</sup> That's it authority that submits the data to the Police Authority, which is responsible for the information is correct. Inaccuracies or incompleteness in the data must be corrected

<sup>1</sup> Prop. 1997/98:97 p. 91

§ 2 1 LMR.

<sup>3</sup> Sections 12-13 of the Ordinance (1999:1135) on suspicion registers, FMR

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the manner determined by the Police Authority after consultation with the person concerned the authority.<sup>4</sup>

IMY has requested that the Police Authority describe how the authority controls that the processing of personal data in the suspicion register is compatible with § 13 LMR, which regulates when an item in the register must be deleted.

The police authority has stated that there are recurring problems with e.g.

misregistrations and duplicates of criminal suspicions in the suspicion register which result in the suspicion register does not always reflect the real conditions. The police authority could not initially give a more detailed account of how many errors there are, what the errors are due to, when the errors occurred or when the errors could be corrected. The police authority has subsequently started work on identifying shortcomings and modernizing the integrations and the work with the commissioning of a new suspicion register has begun.

IMY considers that the problem with the lack of thinning is serious because information from the suspicion register is used in operations that depend on the information is correct and up-to-date. In addition, there is a risk that individuals incorrectly registered in the suspicion register and where negative consequences may follow which may be seen as an aggravating circumstance.

IMY states that there are shortcomings in the Police Authority's personal data processing refers to thinning out the suspicion register. The automated function has not ensured that the information is thinned in accordance with the provision in section 13 of the Act (1998:621) on suspicion register, LMR. IMY notes at the same time that the Police Authority has started a work to remedy the deficiencies that were noticed during the inspection.

#### Choice of intervention

According to ch. 5 § 7 BDL, IMY has a number of corrective powers that may be taken when it has been established that personal data is processed in violation of current regulations. IMY can i.a. instruct the person in charge of personal data to take measures so that the processing shall become constitutional, prohibit the processing or decide on a penalty fee. Each measure shall, taking into account the circumstances of each individual case, be appropriate, necessary and proportionate to ensure compliance with the regulatory framework.

IMY's powers should be seen as a staircase that provides the opportunity to use successively more powerful means and thereby increase the pressure on those who are not self-sufficient complies with IMY's instructions. However, the corrective actions are not linked

each other in such a way that a stricter measure presupposes that all less intervention measures have already been tried.<sup>5</sup>

Section 16 LMR states that a penalty fee may be charged by the person in charge of personal data in case of violation of the provision on thinning in section 13, if the violation occurred at the processing of personal data covered by BDL.

IMY has assessed that the Police Authority at the beginning of the inspection did not ensure that the information in the suspicion register is thinned in accordance with the provision in section 13 LMR. IMY therefore have to consider imposing a penalty charge in addition to, or instead of, others corrective measures. In the assessment, account must be taken of which measure is the most effective and deterrent but at the same time proportionate, i.e. reasonable in relation to

§ 4 14 FMR

<sup>5</sup> Prop 2017/18:232 p. 293 f.

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the type of violation, how serious the violation is and what consequences it has. At the assessment has IMY i.a. taking into account the nature of the violation, degree of severity and duration and what the Police Authority has done to limit the effects of the violation. In light of the fact that, according to the Police Authority, it has been a matter of a few incorrect registrations and that these have been taken during each month's record maintenance run removed from the suspicion register, there is, in IMY's opinion, reason to choose a smaller one interventional measure. The police authority has, in addition, during the time the inspection has been ongoing started systematic work to remedy the deficiency. In an overall assessment and having regard to what is most effective and proportionate the IMY considers that The police authority must be ordered to continue working on taking appropriate measures



to ensure that the processing is constitutional and report these to IMY.

IMY therefore orders according to ch. 5. 7 Section 2 of the Crime Data Act (2018:1177), BDL,

The police authority to submit a written report by 31 December 2022

to IMY about completed work according to submitted opinion on 13 June 2022. Police Authority

is also ordered to draw up an action plan for the future measures to

ensure that thinning of personal data in the suspicion register takes place in accordance with

the rules in § 13 LMR and submit it to IMY no later than 31 January 2023. The time of

these measures must also appear in the report.

This decision has been taken by unit manager Charlotte Waller Dahlberg after a presentation

by lawyer Elena Mazzotti Pallard. At the final processing of the case has

also data advisor Agneta Runmarker and IT security specialists Johan Ma

participated.

Charlotte Waller Dahlberg, 2022-06-28 (This is an electronic signature)

Copy to

The data protection officer for information

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How to appeal

If you want to appeal the decision, you must write to the Swedish Privacy Protection Agency. Enter in

the letter which decision you are appealing and the change you are requesting. The appeal shall

have been submitted to the Privacy Protection Authority no later than three weeks from the date of the decision

was announced. If the appeal has been received in time send

The Privacy Protection Authority forwards it to the Administrative Court in Stockholm

examination.

You can e-mail the appeal to the Privacy 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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