

Complaint of lack of insight

Date: 18-06-2019

Decision

Private companies

In a specific case, it was not in breach of the rules that Metro Service refused to provide a passenger with insight into television surveillance footage. The decision must be seen as a concrete reasoned deviation from the starting point about the right of access for a data subject.

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Summary

The Danish Data Protection Agency has dealt with a complaint in which a traveler has complained about Metro Services' refusal of the complainant's request for insight into TV surveillance footage from the person's journey.

The Danish Data Protection Agency made a decision in the case on 11 June 2019. In the Data Inspectorate's view, in the specific case there was no basis for overriding Metro Services' assessment that an exception to the right of access in the Data Protection Act, section 22, subsection 2, No. 3 and No. 4, in this case applied. The decision must be seen as a concrete reasoned deviation from the starting point about the right of access for a data subject.

In the case in question, Metro Service had stated that insight into television surveillance footage could reveal the location of cameras and any blind spots, and that there is therefore a real risk of compromising safety in the metro. Metro Service had, after a specific assessment, found that the interests of the data subject in this case had to give way to crucial considerations of public interest, including considerations of public safety and / or prevention, investigation, detection or prosecution of criminal acts or enforcement of criminal sanctions. , including protection against public security.

In the assessment, Metro Service emphasized that the complainants had not stated a special reason for their interest in gaining insight, for example by (parts of) the recordings having to show a matter of special importance, e.g. a fall accident, assault, theft or the like.

On the basis of the specific circumstances of the case, the Danish Data Protection Agency found that Metro Services' handling of the request for insight in the specific case had not taken place in violation of the rules in Article 15 of the Data Protection Regulation and section 22 of the Data Protection Act.

Decision

The Danish Data Protection Agency hereby returns to the case, where on 29 November 2018 you complained to the Authority about Metro Service A / S 'refusal of your request for access pursuant to Article 15 of the Data Protection Regulation.

Decision

After a review of the case, the Danish Data Protection Agency finds that the processing has not taken place in violation of Article 15 of the Data Protection Regulation [i] and section 22 of the Data Protection Act [ii]. The Danish Data Protection Agency therefore finds no basis for criticizing Metro Service.

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 you have requested Metro Service for insight into TV surveillance footage from your journey by metro on Saturday 24 November 2018 in the train from Vestamager shortly after kl. 17.59 until Kongens Nytorv.

Furthermore, it appears that Metro Service has denied you a request for access to the relevant TV surveillance footage.

2.1. Your comments

You have generally stated that, due to the extensive television surveillance in the metro area, you have requested access to television surveillance footage recorded on the journey in question. You have also stated that you as a regular user of the metro have a special interest in knowing what personal information is collected about you when you use the metro.

Furthermore, the quality of the TV surveillance footage and where the TV surveillance is conducted has your interest.

In this connection, you have further stated that there is a public interest in gaining insight into the material, as through collaboration with journalists you want insight into the quality of Metro Services' TV surveillance footage, including whether the quality is sufficient to be able to identify people. .

2.2. Metro Services remarks

Metro Service has generally stated that the company is subject to a number of safety requirements in connection with the operation of the metro in Copenhagen, and in this connection carries out television surveillance of all the company's stations and trains. The purpose of the TV surveillance is i.a. to prevent or solve criminal acts of any kind.

Metro Service has stated that the TV surveillance is based on a legal obligation determined on the basis of safety considerations in connection with a large, public and freely accessible driverless transport system, which annually has approx.

60 million passengers, and which serve significant traffic hubs in Denmark, including Nørreport station and Kastrup Airport.

In this connection, Metro Service has stated that there is a real risk of compromising the safety of the metro if insight is to be provided into the TV surveillance in the metro area. Insight into TV surveillance footage will be able to reveal the location of the cameras and any blind spots, which is why the company, for security reasons, does not intend to give you insight into the footage.

On the basis of the above, Metro Service assesses that the company can refrain from meeting the request for insight into the TV surveillance recordings in the metro's area, cf. section 22 (1) of the Data Protection Act. 2, Nos. 3 and 4.

Metro Service considers that the consideration for the data subject in this case must give way to the overriding consideration of public safety for the passengers using the metro. In its assessment, the company has emphasized that you have not provided a special justification that makes the balance between your interest in gaining insight into the information outweigh the consideration for public safety, for example by (parts of) the recordings having to show a relationship of special importance to you, e.g. a fall accident, assault, theft or the like.

Justification for the Danish Data Protection Agency's decision

In principle, data subjects have the right to receive confirmation from the data controller as to whether personal data concerning the person concerned are processed and, where applicable, access to the personal data and a number of additional data, in accordance with Article 15 of the Data Protection Regulation.

A data controller may refuse to grant a request for access from a data subject if one of the exceptions to the right of access can be invoked pursuant to Article 15 (1) of the Data Protection Regulation. 4, or section 22 of the Data Protection Act.

It appears from the Data Protection Act, section 22, subsection. 2, nos. 3 and 4, inter alia, that an exception from Article 15 of the Regulation may be made if the data subject's interest in obtaining the information is found to give way to overriding considerations of public interest, including considerations of public security and / or the prevention, investigation, detection or prosecution of criminal offenses or the enforcement of criminal sanctions, including protection against public security.

It thus follows from § 22, para. 2, that in the assessment of exemption from the right of access pursuant to Article 15 of the Regulation, a concrete balance must be struck between the opposing interests.

After a review of the case, the Danish Data Protection Agency finds that there is no basis for overriding Metro Services' assessment that the consideration of your interest in gaining insight into the recordings, in this situation, is found to give way to

decisive considerations for public safety. The Danish Data Protection Agency thus finds that Metro Services' processing of personal data has not taken place in violation of the rules in Article 15 of the Data Protection Regulation and section 22 of the Data Protection Act.

The Danish Data Protection Agency has hereby emphasized what Metro Service stated that insight into the TV surveillance recordings could reveal the location of cameras and any blind spots, which poses a risk of compromising public safety. The Danish Data Protection Agency has also emphasized that you are not seen to have stated such a special justification for your interest in gaining insight into the recordings, for example by (parts of) the recordings showing a matter of special importance to you, e.g. . a fall accident.

[i] 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).

[ii] Act No. 502 of 23 May 2018 on supplementary provisions to the Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (the Data Protection Act)