

Decision

Diariennr

2019-02-21

DI-2018-XXXX

Supervision according to the Data Protection Ordinance

2016/679 - camera surveillance

The Data Inspectorate's decision

The Data Inspectorate closes the case without further action.

Report on the supervisory matter

The Data Inspectorate has received complaints about unauthorized camera surveillance on one real estate. Due to the complaint, the Data Inspectorate has initiated an inspection against the property owners.

The complainant has stated that the property owners have aimed a camera at the notifier's garden.

During the examination of the camera surveillance, it has emerged mainly following.

The property in question is used exclusively as a private home. On the house wall in a conservatory there is a camera mounted on the facade. The camera is aimed at the neighboring neighbor's home.

The property owners have stated that the camera is no longer functional then burglars destroyed it in a burglary in 2016. Property owners have submitted a police report proving their information and photos such as indicates that the wiring to the camera is worn out. However, property owners use still the camera like a dummy.

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The Data Inspectorate

DI-2018-XXXX

Justification of the decision

Provisions on which the decision is based

Data Protection Ordinance 2016/6791 (Data Protection Ordinance)

and the Camera Surveillance Act (2018: 1200) regulate how and to what extent

camera surveillance is allowed. If a security camera captures one

identifiable person or any other personal data in the picture, the rules in

the Data Protection Regulation. This is stated in Article 2 (1) (i)

the Data Protection Regulation.

Of Article 2 (2) (c) of the Data Protection Ordinance and Section 5 of the Camera Surveillance Act

it appears, however, that the rules do not apply to such

personal data processing or camera surveillance performed by a physical

person as part of a purely private nature or related

with his or her household. This is called the private exemption.

Of Case C 212/13 of the European Court of Justice, where the private exemption in relation to

camera surveillance was tried, it appears that a private person as through camera

guarding place that is outside its private sphere is not covered by

the private exemption.

When a private person camera surveillance a place outside their private sphere must

therefore all legal requirements in the Data Protection Regulation and

the Camera Surveillance Act is complied with. This means, among other things, that it

personal data controller must have a legitimate interest in monitoring that

outweighs the interest in the integrity of the site. About the purpose of surveillance can be achieved in a less intrusive way, this alternative must be chosen instead. In addition, the person monitoring must, among other things, clearly inform about who who guards, what purpose the guard has, and where the guard can turn for further information and demand of their data protection rights.<sup>2</sup>

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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 that free flow of such data and repealing Directive 95/46 / EC (General Data Protection Regulation).

<sup>2</sup> Follows from Articles 5, 6 and 12-15 of the Data Protection Regulation.

2 (3)

The Data Inspectorate

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The Data Inspectorate's assessment

The Data Inspectorate makes the assessment that through information in the police report as well as the property owner's pictures on the camera shown that the present cameras is not working, whereby automatic personal data processing by surveillance can not take place. The provisions of the Data Protection Regulation and the Camera Surveillance Act therefore does not apply. Against this background, the case should terminated without further action.

This decision was made by unit manager Charlotte Waller Dahlberg after presentation by the lawyer Nils Henckel. At the final processing has General Counsel Hans-Olof Lindblom also participated.

Charlotte Waller Dahlberg, 2019-02-21 (This is an electronic signature)

## 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 you received the decision. If the appeal has been received in time, send

The Data Inspectorate forwards it to the Administrative Court in Stockholm for review.

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.