

The Norwegian Data Protection Authority criticizes Jagtbar Randers ApS

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Decision

Private companies

Criticism

Complaint

The right to access

Basic principles

The Danish Data Protection Authority criticizes that Jagtbar Randers ApS did not comply with the right to access, as they failed to hand over a copy of the information to a person who asked for access to their information.

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Summary

The Danish Data Protection Authority has expressed criticism that Jagtbar Randers ApS (hereinafter 'Jagtbar Randers') did not provide a copy of the information in a case where a person had requested access to information that the company processed about him as part of maintaining a quarantine.

During the processing of the case, it emerged that Jagtbar Randers kept a screen print of the complainant's Facebook profile in order to be able to identify the complainant and thereby maintain the complainant's quarantine at the bar. However, after the complainant requested insight into the information, Jagtbar Randers chose to delete the screenshot of the complainant's Facebook profile without first providing a copy of the information. Jagtbar Randers noted in this connection that the company had informed the complainant that it was in possession of the screen print of the complainant's Facebook profile as well as the URL link to the same profile.

On this basis, the Data Protection Authority found that Jagtbar Randers had not responded to the complainant's request for access in accordance with the data protection legal rules, because they had not provided a copy of the screen print in question.

The decision is interesting because it shows that it is not enough to inform a data subject about which personal data the data controller stores about him. The right of access also implies that the registered person is entitled to receive a copy of the

information.

1. Decision

The Danish Data Protection Authority hereby returns to the case where the complainant complained to the supervisory authority on 21 July 2021 about Jagtbar Randers ApS (hereinafter 'Jagtbar Randers').

The Danish Data Protection Authority has treated the inquiry as a complaint about Jagtbar Rander's handling of the complainant's request for access in accordance with the data protection regulation, as well as the subsequent deletion of information about him.

After a review of the case, the Danish Data Protection Authority finds that there is a basis for expressing criticism that Jagtbar Randers' processing of personal data has not taken place in accordance with the rules in the data protection regulation[1] article 15, subsection 3.

Below follows a closer review of the case and a rationale for the Data Protection Authority's decision.

2. Case presentation

It appears from the case that the complainant contacted Jagtbar Randers on 8 July 2021 and requested insight into information that the company processed about him. Jagtbar Randers responded to the inquiry on the same date and informed the complainant that he was quarantined at Jagtbar Randers and that this information had been passed on to the company's security staff. The complainant was further informed that the only information Jagtbar Randers kept about him was a link to the complainant's profile on Facebook.

The complainant then returned and requested, among other things, for an answer to where Jagtbar Randers had obtained information about the complainant's Facebook profile. Furthermore, the following emerged from the complainant's inquiry:

"You must delete this information about me. You have no authority to answer this about me. I would like to see documentation that it has been deleted. After you have of course sent me a copy of what you have, a picture of the post is fine if you think it's the only place my name abounds."

Jagtbar Randers answered i.a. in addition, it could have been anyone who had passed on the complainant's Facebook profile, and the company received information from both the police and guests.

By e-mail of 8 July 2021, Jagtbar Randers informed the complainant that the company had deleted information about complaints and the link to the Facebook profile, but that the complainant's quarantine was still in effect. The complainant then

asked why Jagtbar Randers had deleted the information without first handing it over to him.

By e-mail of 16 July 2021, Advokatgruppen I/S responded on behalf of Jagtbar Randers to the complainant's inquiry and stated in this connection that Jagtbar Randers had only had a screen print of the complainant's Facebook profile, where the complainant's name and picture appeared. The information was processed as a result of the complainant's previous unfortunate behavior at Jagtbar Randers, which is why the processing of information was legitimate as well as reasonable, cf. Article 5 of the Data Protection Regulation.

2.1. Complainant's comments

The complainant has generally stated that Jagtbar Randers has not provided information that the company has processed about him, and that the company has instead deleted the information.

The complainant has also claimed that Jagtbar Randers, by deleting the information before the complainant was provided with it, has neglected to treat the information confidentially and securely.

2.2. Jagtbar Randers' remarks

On 9 September 2021, Advokatgruppen I/S issued a statement in the case on behalf of Jagtbar Randers.

Advokatgruppen I/S has generally stated that Jagtbar Randers maintains an internal manual system where only identification information of quarantined persons is stored in the form of screenshots of the persons concerned's Facebook profiles and any link to their Facebook profile. Jagtbar Randers does not process information about criminal offences, health conditions or racial or ethnic background. Jagtbar Randers only processes information about people's names, including the set date for the expiry of the quarantine, after which the aforementioned information is deleted.

It is not Jagtbar Randers' view of having failed to give the complainant insight. On the contrary, Jagtbar Randers has concretely informed that it was in possession of a screen print of the complainant's Facebook profile, as well as a URL link to the same profile. Jagtbar Randers has described the purpose of the processing, the affected categories of personal data, as well as fulfilled the criteria mentioned in Article 15 during the correspondence with the complainant. At the same time, it is pointed out that the correspondence partly concerned the complainant's quarantine and partly the processing of the complainant's non-sensitive and published personal data.

Advokatgruppen I/S has also confirmed on behalf of Jagtbar Randers that the screen print has been deleted, which the complainant also requested by email of 8 July 2021. There is a local knowledge of complaints, which is why the staff and

guards at Jagtbar Randers regardless the screen print is able to maintain a safe nightlife, as a result of the staff and doormen's knowledge of complaints from the local environment. Based on a concrete assessment, Jagtbar Randers has come to the conclusion that the screenshot of the complainant's Facebook profile was not found to be decisive in relation to Jagtbar Randers' fulfillment of its obligations to maintain a safe nightlife. Jagtbar Randers therefore chose to delete the screen print despite the fact that the processing was, and continues to be, legitimate as well as reasonable.

3. Reason for the Data Protection Authority's decision

3.1. It follows from Article 15 of the Data Protection Regulation that the data subject has the right to obtain confirmation from the data controller as to whether personal data relating to the person in question is being processed. In addition, the data controller has a duty to provide the data subject with a range of information about, among other things, the data controller and its processing of personal data.

It also follows from the provision that if the data controller processes information about the data subject, the data subject has the right to be provided with a copy of the personal data being processed, cf. Article 15, subsection 3.

3.2. The Danish Data Protection Authority finds that Jagtbar Randers' handling of the complainant's request for access has been in breach of Article 15, paragraph 1 of the Data Protection Regulation. 3.

The Danish Data Protection Authority has emphasized that Jagtbar Randers, by only informing the complainant that it is in possession of a screen print of the complainant's Facebook profile, and not handing over a copy of the information, has not responded to the complainant's request for access in accordance with Article 15 of the Data Protection Regulation.

As a result, the Danish Data Protection Authority finds grounds to express criticism of Jagtbar Randers' treatment of the complainant's request for access, cf. the data protection regulation's article 15, subsection 3

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free exchange of such data and on the repeal of Directive 95/46/EC (general regulation on data protection).

Annex: Legal Basis.

Extract from Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons in connection with the processing of personal data and on the free exchange of such data and on the repeal of Directive 95/46/EC (general regulation on data protection).

Article 12. The data controller shall take appropriate measures to provide any information referred to in Articles 13 and 14 and any notification pursuant to Articles 15-22 and 34 of processing to the data subject in a concise, transparent, easily understandable and easily accessible form and in a clear and simple language, particularly when information is specifically aimed at a child. The information is provided in writing or by other means, including, if appropriate, electronically. When the data subject requests it, the information can be given orally, provided that the identity of the data subject can be confirmed by other means.

PCS. 2. The data controller facilitates the exercise of the data subject's rights in accordance with Articles 15-22. In the cases referred to in Article 11, paragraph 2, the data controller may not refuse to comply with the data subject's request to exercise his rights under Articles 15-22, unless the data controller demonstrates that he is unable to identify the data subject.

PCS. 3. The data controller informs the data subject without undue delay and in any case no later than one month after receiving the request about measures taken on the basis of a request in accordance with Articles 15-22. This period may be extended by two months if necessary, taking into account the complexity and number of requests. The data controller shall notify the data subject of any such extension no later than one month after receipt of the request together with the reasons for the delay. If the data subject submits a request electronically, the information will be communicated electronically as far as possible, unless the data subject requests otherwise.

Article 15. The data subject has the right to obtain the data controller's confirmation as to whether personal data relating to the person concerned is being processed and, if applicable, access to the personal data and the following information:

the purposes of the treatment

the categories of personal data concerned

the recipients or categories of recipients to whom the personal data is or will be disclosed, in particular recipients in third countries or international organizations

if possible, the intended period of time during which the personal data will be stored, or if this is not possible, the criteria used to determine this period of time

the right to request the data controller to correct or delete personal data or limit the processing of personal data concerning the data subject or to object to such processing

the right to lodge a complaint with a supervisory authority

any available information about where the personal data originates from, if it is not collected from the data subject the occurrence of automatic decisions, including profiling, as referred to in Article 22, paragraph 1 and 4, and at least meaningful information about the logic therein as well as the meaning and expected consequences of such processing for the data subject.

PCS. 2. If the personal data is transferred to a third country or an international organization, the data subject has the right to be informed of the necessary guarantees pursuant to Article 46 in connection with the transfer.

PCS. 3. The data controller provides a copy of the personal data that is processed. For additional copies requested by the data subject, the data controller may charge a reasonable fee based on administrative costs. If the data subject submits the request electronically, and unless the data subject requests otherwise, the information is provided in a commonly used electronic form.

PCS. 4. The right to receive a copy as referred to in subsection 3 must not violate the rights and freedoms of others.