

Decision

Diary no

2019-06-24

DI-2019-1784

Your diary no

EBM2019-157

The Ecocrime Authority

Box 22098

104 22 Stockholm

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

The Ecocrime Authority's list of

treatments

The Swedish Data Protection Authority's decision

1.

The Data Inspectorate states that the Ecocrime Authority's list

across treatments, for each category of treatment, they state

categories of data subjects affected by the processing according to

3 ch. 3 § 5 of the Criminal Data Ordinance (2018:1202) in an unclear manner.

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

The Ecocrime Authority that in the list of treatments, for each

category of processing, indicate the categories of data subjects affected

of the processing in the manner specified in the justification for this decision,

no later than 31 December 2019.

2. The Data Inspectorate notes that the Ecocrime Authority's list

across treatments, for each category of treatment, they state

categories of personal data that may be processed

according to ch. 3 § 6 of the Criminal Data Ordinance in an unclear manner.

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

The Ecocrime Authority that in the list of treatments, for each

category of processing, specify the categories of personal data that

may be processed in the manner stated in the justification to

this decision, no later than 31 December 2019.

Postal address: Box 8114, 104 20 Stockholm

Website: [www.datainspektionen.se](http://www.datainspektionen.se)

E-mail: [datainspektionen@datainspektionen.se](mailto:datainspektionen@datainspektionen.se)

Telephone: 08-657 61 00

1 (8)

The Swedish Data Protection Authority

DI-2019-1784

3. The Ecocrimes Authority is ordered to by 31 December 2019 at the latest

submit a written report to the Swedish Data Protection Authority of the measures

which the Ecocrime Authority has taken in connection with

the orders in paragraphs 1-2.

Account of the supervisory matter

On 11 February 2019, the Swedish Data Protection Authority started supervision of

The Ecocrime Authority for the purpose of reviewing the Ecocrime Authority's

list of processing of personal data is in accordance

with 3 ch. Section 3 of the Criminal Data Ordinance.

The Swedish Data Protection Authority has visited within the framework of the supervisory matter

The Ecocrime Agency on 14 March 2019. The Ecocrime Agency has at

the inspection presented the list of treatments. The Swedish Data Protection Authority

has reviewed certain selected categories of treatments in the inspection

the list of treatments. The selection consisted of central systems i

The activities of the Ecocrime Agency and a number of randomly selected ones

categories of treatments. The Ecocrime Authority has been given the opportunity to comment

themselves over the inspection protocol drawn up in connection with

the inspection occasion. The Swedish Data Protection Authority has also asked questions om

The Ecocrime Authority's list of treatments.

The Ecocrime Authority has essentially stated the following. There are three choices of

Categories of registered (F): External party, Employees at EBM and

Contractor at EBM. External parties are parties outside the authority.

There are five choices of Categories of Personal Data (G): Name,

Social security number, Contact details, Image/film where the person can be identified and

Other personal data. Other personal data can be, for example, financial data

which can be linked to a specific person. Sensitive personal data is processed in

normally not per se in the Ecocrime Authority's operations. If sensitive

personal data is present, then it is a matter of data provided in a

report, interrogation or similar context. If it can come to

processed means that every category of personal data that in theory can

to be treated within the framework of a category of treatment would

the category "Sensitive personal data" must be specified for each category of

treatment included in the authority's list.

2 (8)

The Swedish Data Protection Authority

DI-2019-1784

The Ecocrime Authority has not found any category of treatment there

transfer to third countries takes place. In such cases, it would be stated under Categories

of recipient (E).

If a box/field is empty, it means that it does not exist or is not

applicable to that category of treatment.

In its review of the Ecocrime Authority, the Data Inspectorate has

list of treatments observed mainly the following.

The list of treatments is structured around nine different ones

datasets which are as follows.

A. Category of treatment,

B. Legal Basis for Processing,

C. Purpose of treatment,

D. Categories of Officials,

E. Categories of Recipients,

F. Categories of data subjects,

G. Categories of personal data,

H. Time limit for processing as well as

I. Security Measures.

Each category of processing contains information about the use of profiling.

Justification of the decision

What the Swedish Data Protection Authority has to decide on

In the supervisory matter, the Data Inspection Authority has to take a position on

The Ecocrime Authority's list of treatments meets the requirements of

3 ch. Section 3 of the Criminal Data Ordinance. The inspectorate has chosen to limit supervision

by selecting certain categories of treatments in the list for particular

examination.

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

3 (8)

The Swedish Data Protection Authority

DI-2019-1784

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 Ecocrime Authority, in addition to the Crime Data Act, since on 1 January 2019 also the Act (2018:1697) on the prosecution's treatment of personal data within the scope of the Criminal Data Act and the Act (2018:1693) on the police's processing of personal data within the scope of the Criminal Data Act.

Supplementary regulations can be found in the regulation (2018:1738) on the prosecution's processing of personal data within the Criminal Data Act area and in the regulation (2018:1942) on the police's treatment 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, jointly personal data controllers 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,
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.

4 (8)

The Swedish Data Protection Authority

DI-2019-1784

The Ecocrime Authority's list of treatments

The Ecocrime Authority for a list according to ch. 3. Section 3

the criminal data regulation on 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, certain enumerated information must be stated

(items 1-10). The Ecocrime Authority's list of treatments

contains for each category of treatment points 1-6 and 8-10.

The Swedish Data Protection Authority does not have any views regarding points 1-4 as well

7-10. Collections of transfers of personal data to third countries or

international organizations (item 7) are not listed as a separate column in the Ecocrime Agency's list of treatments. According to the preparatory work to 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 Ecocrime Authority list of treatments.

Point 5 – the categories of data subjects affected by the processing

The Swedish Data Protection Authority's assessment

The Data Inspectorate states that the Ecocrime Authority's list of treatments, for each category of treatment, indicate the categories of data subjects who are affected by the processing in an unclear way.

The reasons for Datainspektionen's assessment are as follows

According to ch. 3 § 3 § 5 of the criminal data regulation must a list of treatments, for each category of treatment, contain information about them categories of data subjects affected by the processing.

In the Ecocrime Authority's list of treatments, the categories are specified of data subjects affected by the processing, for each category of processing, either as "External party", "Employees at EBM" and "Contractor at EBM". The Ecocrime Authority has stated that "External party" is outside parties the authority.

It appears from the preparatory work for the Criminal Data Act that categories of registered persons can be a group of people who have a specific role, e.g. suspects, plaintiffs, witnesses or relatives of any of these (see SOU 2017:29 p. 322).

5 (8)

The Swedish Data Protection Authority

The Data Inspectorate considers, on the basis of what appears from the preparatory work, that it is not enough to simply state "External party". The inspection notes because the Ecocrime Authority's list of treatments, for each category of processing, indicates the categories of data subjects affected by the treatment in an unclear way. The inspectorate 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 Ecocrime Authority that in the list of treatments, for each category of treatment, clarify the categories of data subjects affected by the treatment. Guidance on how categories of registered persons can be listed is given in the operator statements given above.

Point 6 – the categories of personal data that may be processed

The Swedish Data Protection Authority's assessment

The Data Inspectorate states that the Ecocrime Authority's list of treatments, for each category of treatment, indicate the categories of personal data that may be processed in an unclear manner.

The reasons for Datainspektionen's assessment are as follows

According to ch. 3 § 3 § 6 of the criminal data regulation must a list of treatments, for each category of treatment, contain information about them categories of personal data that may be processed.

In the Ecocrime Authority's list of treatments, sensitive is not specified personal data as a category of personal data that may be treated. The Ecocrime Authority has stated that if sensitive personal data is present, then it is a matter of data provided in a



report, interrogation or similar context.

From the preparatory work for the crime data act, it appears that when it comes to categories of

personal data, it is primarily the presence of sensitive personal data that

is intended (see SOU 2017:29 p. 322). In the preparatory work for the Crime Data Act, none is given

guidance on how the wording may be treated in ch. 3. 3 § 6

the crime data regulation must be understood and the Swedish Data Protection Authority understands

The Ecocrime Authority's reasoning that an overly broad interpretation means that

"Sensitive personal data" as a category of personal data may need to be specified

6 (8)

The Swedish Data Protection Authority

DI-2019-1784

for each category of treatment. At the same time, ch. 3 can 3 § 6

According to the Data Inspectorate's opinion, the criminal data regulation cannot be interpreted

such way that sensitive personal data provided in a report, interrogation or

similar contexts not covered by ch. 3 3 § 6 of the Criminal Data Ordinance.

Due to what appears from the preparatory work, the Data Inspection Authority considers that

sensitive personal data need to be specified for each category of processing, for

in the event that the Ecocrime Authority deems that such information may come to light

treated. The Data Inspectorate notes that the Ecocrime Authority's

list of treatments, for each category of treatment, they indicate

categories of personal data that may be processed in an unclear manner

way. Because of this, the inspection has found reasons to use them

correcting the 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 Ecocrime Authority to indicate sensitive in the list of treatments

personal data as a category of personal data, for the categories of

treatments that the Ecocrime Authority deems sensitive

personal data may be processed.

This decision has been made by unit manager Charlotte Waller Dahlberg after

presentation by lawyer Max Blidberg.

Charlotte Waller Dahlberg

Max Blidberg

Copy to:

The Security and Privacy Protection Board

7 (8)

The Swedish Data Protection Authority

DI-2019-1784

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.

8 (8)