

Decision

Diariennr

2019-04-03

DI-2018-19919

Ert diariennr

2018-24874

The Prison and Probation Service

Box 306

Slottsgatan 78

601 80 Norrköping

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

The Swedish Prison and Probation Service's list of

treatments

The Data Inspectorate's decision

1.

The Data Inspectorate states that the Swedish Prison and Probation Service's list of

processing lacks the name and contact information of the person responsible for personal data and data protection officer

according to ch. Section 3 of the Criminal Data Ordinance (2018: 1202).

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act

The Swedish Prison and Probation Service to state the name of in the list of treatments

and contact information for the personal data controller and data protection officer, no later than 31 October 2019.

2. The Data Inspectorate finds that the Swedish Prison and Probation Service's list of

treatments, for each category of treatment, they specify categories of

officials who have access to the personal data processed

and the categories of recipients that the data may be

handed over to according to ch. 3 § 3 and 4 of the Criminal Data Ordinance on one

unclear way.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act

The Prison and Probation Service that in the list of treatments, for each

category of treatment, indicate the categories of officials who have

access to the personal data processed and the categories of

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1 (9)

The Data Inspectorate

DI-2018-19919

recipients to whom the information may be disclosed in this way

stated in the explanatory memorandum to this decision, no later than 31 October 2019.

3. The Data Inspectorate finds that the Swedish Prison and Probation Service's list of

treatments, for each category of treatment, lack data on

use of profiling according to ch. 3 § 8 of the Criminal Data Ordinance.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act

The Prison and Probation Service that in the list of treatments, for each

category of treatment, indicate if profiling is used, latest

on October 31, 2019.

The Swedish Prison and Probation Service is ordered to submit one no later than 31 October 2019

written report to the Data Inspectorate of the measures that

The Swedish Prison and Probation Service has taken due to the injunctions in

points 1-3.

Report on the supervisory matter

The Data Inspectorate has on 17 October 2018 initiated supervision against the Swedish Prison and Probation Service in purpose of reviewing the Swedish Prison and Probation Service's list of treatments for personal data complies with ch. Section 3 of the Criminal Data Ordinance.

The Data Inspectorate has visited the Swedish Prison and Probation Service within the framework of the supervisory matter on 4 December 2018. The Swedish Prison and Probation Service has presented the list of treatments to the Inspectorate (hereinafter the Register List) and the Swedish Data Inspectorate has asked questions about this. During the inspection, the Data Inspectorate has examined certain selected registrations (hereinafter Register Descriptions) in

The list of registers. The sample consisted of the two central systems in the Swedish Prison and Probation Service's operations, the Swedish Prison and Probation Service (KVR) and LIFT administratively.

transport planning systems and a number of randomly selected Register Descriptions. The Swedish Prison and Probation Service has commented on the inspection report established in connection with the inspection.

The Swedish Prison and Probation Service has mainly stated the following. The list of treatments is handled in a self-developed system called the Register List.

Several of the Register Descriptions will be updated due to forthcoming constitutional amendments. Information that it is the Swedish Prison and Probation Service

2 (9)

The Data Inspectorate

DI-2018-19919

who is responsible for personal data and contact information for the authority is available

in addition to the intranet also on the authority's external website. The Swedish Prison and Probation Service is not jointly responsible for personal data for any processing of personal data. The field "To which recipients the information is provided" includes both

internal and external receivers. There is no use of profiling in the Swedish Prison and Probation Service's register.

The Data Inspectorate has in its review of the Swedish Prison and Probation Service's list of treatments observed mainly the following. Each Registry Description

contains a number of fields that are either free text fields, yes or no questions or alternatively contains a number of cross-options. The fields are as follows.

- Name of the register / processing,
- date,
- belonging,
- responsible boss,
- purpose,
- categories (groups) of persons affected by the treatment,
- personal data processed,
- sensitive personal data,
- social security number,
- to which recipients the information is provided,
- legal basis under the GDPR,
- legal basis under the Criminal Data Act,
- legal basis according to the Patient Data Act,
- contact person,
- the information is provided abroad,
- left abroad,
- thinning of data in the register,
- general description of safety measures taken,
- Other information,

description status and

- unique ID for description.

3 (9)

The Data Inspectorate

DI-2018-19919

Justification of the decision

What the Data Inspectorate has to decide on

In the supervisory matter, the Data Inspectorate has to take a position on the Swedish Prison and Probation Service's list of treatments, meets the requirements of ch. Section 3 of the Criminal Data Ordinance. The Inspectorate has chosen to limit supervision by selecting certain categories of treatments (Registry descriptions) in the list of special review.

Applicable regulations

On 1 August 2018, the Criminal Data Act came into force with a supplement provisions of the Criminal Data Regulation. The Criminal Data Act applies according to ch. § 2 for the processing of personal data performed for the purpose of prevent, deter or detect criminal activity, investigate or prosecute crime or carry out criminal penalties. It also applies to treatment of personal data performed for the purpose of maintaining public order and security. In addition to the Criminal Data Act, the Swedish Prison and Probation Service then applies on 1 January 2019, also the law (2018: 1699) on the prison service's treatment of personal data within the area of the Criminal Data Act (the Swedish Prison and Probation Service) Criminal Data Act) with supplementary provisions in the ordinance (2018: 1746) on the Swedish Prison and Probation Service's processing of personal data within the Criminal Data Act area. As the Swedish Prison and Probation Service's criminal data law came into force in this way ceased the law (2001: 617) on the processing of personal data within the penitentiary to apply.

According to ch. Section 3 of the Criminal Data Ordinance shall be kept by the person responsible for personal data a list of the categories of personal data processing which he is responsible for. The list shall contain the name and contact details of the personal data controller, joint personal data controller

and data protection officers. In addition, the list shall, for each category of treatment, contain the following information:

1. the legal basis for the processing;
2. the purposes of the treatment;
3. the categories of officials who have access to the personal data 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;

4 (9)

The Data Inspectorate

DI-2018-19919

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 the security measures has been taken.

According to ch. Section 7 of the Criminal Data Act, the Data Inspectorate may use the corrective powers if it is established that personal data is processed in violation by law or other statute or that the person responsible for personal data or the personal data assistant in no other way fulfills his obligations.

The Swedish Prison and Probation Service's list of treatments

The Swedish Prison and Probation Service for a list according to ch. Section 3 of the Criminal Data Ordinance

over the categories of processing of personal data by the authority responsible for according to the Criminal Data Act. For each category of treatment it should according to the provision, certain listed information is stated (paragraphs 1-10).

The Swedish Prison and Probation Service's list of treatments contains for each category of treatment points 1-7 and 9-10. The Data Inspectorate does not have any comments on items 1-2, 5-7 and 9-10.

#### Contact information

#### The Data Inspectorate's assessment

The Data Inspectorate states that the Swedish Prison and Probation Service's list of treatments lacks the name and contact information of the person responsible for personal data and data protection officer according to ch. Section 3 of the Criminal Data Ordinance.

The reasons for the Data Inspectorate's assessment are as follows

A list of treatments must, according to ch. Section 3 of the Criminal Data Ordinance contain the name and contact details of the personal data controller, joint personal data controllers and data protection officers. The Prison and Probation Service has stated that contact information for the authority is available on the intranet and on the authority's external website. The Swedish Prison and Probation Service has further stated that for it If someone requests the Register List, the contact information will be sent with as a missive.

5 (9)

#### The Data Inspectorate

DI-2018-19919

According to the Criminal Data Ordinance, the list of treatments must in itself contain the above information. The Data Inspectorate therefore finds that

The Swedish Prison and Probation Service's list of treatments lacks the name of and contact information for the personal data controller and data protection officer.

Due to this, the inspectorate has found reasons to use them  
the corrective powers in ch. 5 Section 7 of the Criminal Data Act.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act The Swedish Prison and Probation Service to state in the list of treatments the name and contact information of the person responsible for personal data and data protection officer.

Items 3 and 4 - categories of officials and categories of recipients

The Data Inspectorate's assessment

The Data Inspectorate states that the Swedish Prison and Probation Service's list of treatments, for each category of treatment, they specify the categories of officials who have access to the personal data processed and those categories of recipients to whom the information may be disclosed in one unclear way.

The reasons for the Data Inspectorate's assessment are as follows

A list of treatments should, for each category of treatment, contain information on the categories of officials who have access to them personal data processed and the categories of recipients that the information may be disclosed to, even in third countries or international organizations. This is stated in ch. 3 § 3 and 4 of the Criminal Data Ordinance.

The preparatory work for the Criminal Data Act states that in the case of categories of recipients, it may be sufficient to indicate the type of authority to which the personal data may be provided, for example prosecutors or courts  
(see SOU 2017: 29 p. 322).

The Swedish Prison and Probation Service has a field in its Register Descriptions called "To which recipient information is provided ". Below the field is stated in the Register descriptions the text "The roles / functions that have access to the data and those that the information may be disclosed to ". According to the Swedish Prison and Probation Service, information in



this field contains both internal and external receivers.

6 (9)

The Data Inspectorate

DI-2018-19919

From the Register descriptions that the Data Inspectorate examined, it appears regarding the descriptions for LIFT, Pilot Utsikt,

Intagnas IT, Game consoles,

Occupancy 6: 3, Klintkoll and Hund only categories of officials. The Data Inspectorate considers that the specified Register descriptions lack information

on categories of recipients to whom the information may be disclosed.

Regarding the register description for KVR, it is stated that information is provided

according to § 37 and 46-48 § ordinance to specified authorities. This means that

the recipients to whom the information may be disclosed are indicated. However, the Data Inspectorate considers that there is a lack of information on the categories of salaried employees

who have access to the personal data processed.

The Data Inspectorate considers, based on the Register Descriptions examined, that

in the way that the Swedish Prison and Probation Service has chosen to design the field "To which recipients

the information is provided ', means that the categories of officials who have access

to the data (paragraph 3) is confused with the categories of recipients

to which the information may be disclosed (paragraph 4). The Data Inspectorate

therefore notes that the Swedish Prison and Probation Service's list of treatments, for

each category of treatment, indicates the categories of officials who have

access to the personal data processed and the categories of recipients

to which the information may be disclosed in a vague manner. Due to this, the Inspectorate has found reasons to use the corrective measures

the powers in ch. 5 Section 7 of the Criminal Data Act.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act The Swedish Prison and Probation

Service states that in the list of treatments, for each category of treatment, clarify the categories of officials who have access to the personal data processed and the categories of recipients that the data may come from to be handed over to. Examples of how recipients can be specified can be found in the preparatory work as reproduced above.

There are also two fields in the Register Descriptions called "the data left abroad "and" left abroad ". The Data Inspectorate has not any comments on the categories of recipients in third countries or international organizations.

7 (9)

The Data Inspectorate

DI-2018-19919

Point 8 - use of profiling

The Data Inspectorate's assessment

The Data Inspectorate notes that the Swedish Prison and Probation Service's list of treatments, for each category of treatment, lacks information on the use of profiling.

The reasons for the Data Inspectorate's assessment are as follows

A list of treatments should, for each category of treatment, according to ch. 3 § 8 of the Criminal Data Ordinance, contain information on the use of profiling. The Swedish Prison and Probation Service has stated that it does not occur any use of profiling in the authority's register.

According to the Criminal Data Ordinance, the list of treatments must contain information on the use of profiling even when it does not occur. The Data Inspectorate therefore finds that the Swedish Prison and Probation Service's list of treatments, for each category of treatment, lacks information on use of profiling. Due to this, the Data Inspectorate has found reasons to

use the corrective powers in ch. Section 7 of the Criminal Data Act.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act The Swedish Prison and Probation Service states that in the list of treatments, for each category of treatment, specify whether profiling is used.

This decision was made by unit manager Charlotte Waller Dahlberg after presentation by the lawyer Maria Andersson.

Charlotte Waller Dahlberg

Maria Andersson

8 (9)

The Data Inspectorate

DI-2018-19919

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 the decision was announced. If the appeal has been received in due time

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

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.

9 (9)