

Decision

Diariennr

2020-10-09

DI-2020-4958

Svenska Europainkasso AB

Box 1187

432 36 Varberg

Supervision according to the Debt Collection Act (1974: 182) against

Svenska Europainkasso AB

The Data Inspectorate's decision

Svenska Europainkasso AB has violated section 4 of the Debt Collection Act by incorrectly process selection.

The Data Inspectorate assumes that Svenska Europainkasso AB takes measures to ensure that objections received in the election are taken into account in the future of process form.

The case is closed.

Report on the supervisory matter

The Data Inspectorate has received a complaint against Svenska Europainkasso AB.

According to the complainant, the debt collection company has applied for an order for payment from

The Swedish Enforcement Agency despite the fact that the claim has been disputed.

The Data Inspectorate has initiated supervision against Svenska Europainkasso AB in order to review the company's routines when choosing a form of process and what has happened in it individual case.

Svenska Europainkasso AB has submitted its general election procedures of process form and in an opinion to the Data Inspectorate stated, among other things following.

Postal address: Box 8114, 104 20 Stockholm

Website: www.datainspektionen.se

E-mail: datainspektionen@datainspektionen.se

Phone: 08-657 61 00

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On 13 November 2019, Svenska Europainkasso AB received an email against an objection to a debt collection claim such as Svenska Europainkasso AB sent out to the debtor on 11 November 2019. Svenska Europainkasso AB judged that the objection was a contest.

In subsequent telephone conversations, a male person claims to be representative for the debtor and Svenska Europainkasso AB requests during the telephone call in power of attorney for the agent. At preparation of a lawsuit against the debtor goes Swedish Europainkasso AB through all documents and contacts the client. Then no one has arrived yet proxy. For that reason, it can not be ruled out that it is a person other than the debtor who brought the action. All of them email conversation comes from email address that can not be assumed belong to the debtor. Contact with the client is pointed out even though there have never been any problems with the debtor, on the other hand, it is the close relative of the debtor who has had another perception.

Due to the uncertainty about whether it was the debtor

who presented their position was assessed by the Swedish Europainkasso

AB that an application for an order for payment from

The Swedish Enforcement Agency was the most suitable for the debtor

the form of proceedings because the Swedish Enforcement Agency must notify

the debtor payment order which then, if uninformed,

himself can take a stand. If Svenska Europainkasso AB had chosen

to file the writ of summons, the appellant could have argued

that Svenska Europainkasso AB did not follow good debt collection procedures

to accept an action that has not come from the debtor.

After the application for an order for payment has been made, Svenska has

Europainkasso AB in an email with a power of attorney and in the same email

incorrectly stated that there is no "basis for the dispute" when

it would be that there is no "power of attorney for the contestation".

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Reason for the decision

Applicable provisions, etc.

Debt collection operations must be conducted in accordance with good debt collection practice (Section 4 of the Debt Collection Act).

What is good debt collection procedure is stated in Sections 5–11 of the Debt Collection Act,

The Swedish Data Inspectorate's general advice "Application of the Debt Collection Act" and

The Data Inspectorate's practice in debt collection issues.

A summary process is not meaningful when the debtor has made a factual

objection which means that the claim must be examined substantively. If

it is clear that the debtor's objection is objectively substantiated should one

any action may instead be brought in court through a writ of summons.

According to good debt collection procedure, an application for an order for payment is therefore not received submitted if the debtor has made it clear that the claim is disputed and stated one factual basis for their objection (Datainspektionen's general advice p. 36 f.).

An incorrect choice of process form can further lead to an application or a decision in cases of injunction, which in turn means that the debtor on incorrect grounds are noted in the credit information register (Datainspektionens general advice p. 37).

The Data Inspectorate's assessment

It is undisputed that what Svenska Europainkasso AB has received is one such a factually based objection that deprives the debt collection company of the opportunity to use the summary process and entails that the debt collection company instead, bring an action in court through a lawsuit. The question is about the circumstances that Svenska Europainkasso AB has reported on really gives a debt collection company the right to apply anyway order for payment.

Good debt collection does not set any special requirements for the forms of one disputing or on identification in connection with a disputing. One debt collection companies should normally assume that it is the debtor who has presented an objection when it is stated to come from the debtor.

As the Swedish Data Inspectorate has understood, Svenska Europainkasso AB has stated three circumstances in support of its assumption that the debtor himself did not stands behind the objection made. The objection has been lodged via a

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email address that appears to be linked to a person other than the debtor,
someone other than the debtor has later raised the objection by telephone
without presenting a power of attorney and the client states that he has never had one
problems with the debtor but with a person close to the debtor.

The Data Inspectorate considers that none of these circumstances, or
the circumstances as a whole, give reason to assume that the debtor himself
does not stand behind the objection made. The objection would thus have
taken into account in the choice of form of process and thereby led to an application for
lawsuit instead of an application for an injunction.

The Data Inspectorate states that Svenska Europainkasso AB through its
wrong assumption also made a wrong process choice. The action is contradictory
against good debt collection and thus also against section 4 of the Debt Collection Act.

The Data Inspectorate assumes that the company takes measures to ensure that
in the future, objections received will be taken into account when choosing the form of process.

How to appeal

If you want to appeal the decision, you must write to the Data Inspectorate. Enter i
the letter which decision is being appealed 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. The Data Inspectorate sends the appeal
on to the Administrative Court in Stockholm for review, if the inspection does not
yourself change the decision in the way you have requested. The Chancellor of Justice also receives
appeal against the decision in the public interest. The time for

However, an appeal to the Chancellor of Justice is counted from the date of the decision
was announced.

Provided that the appeal does not contain any privacy concerns
personal information or information that may be covered by confidentiality, you can e-mail

the appeal to datainspektionen@datainspektionen.se.

This decision was made by the unit manager Catharina Fernquist after presentation by the lawyer Karin Ekström.

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Catharina Fernquist, 2020-10-09 (This is an electronic signature)

Copy to:

The complainant

Chancellor of Justice

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