

## Supervision of the Danish Civil Agency's processing of personal data

Date: 26-02-2020

Decision

Public authorities

Journal number: 2019-421-0027

Summary

In 2019, the Danish Data Protection Agency carried out a planned inspection at the Danish Civil Agency. The Authority focused on the Authority's compliance with the rules on the data subject's right of access, in accordance with Articles 15 and 12 of the Data Protection Regulation.

In connection with the audit, the Danish Data Protection Agency has expressed criticism that the Danish Civil Agency's processing of personal data had not taken place in accordance with Article 15 (1) of the Regulation. Article 12 (1) (b) and (g) 3, and Article 15, para. 3.

The Danish Data Protection Agency's concluding statement states, among other things, that in two cases the National Board of Health and Welfare has not provided the registered information about the affected categories of personal data and where the information comes from.

In addition, it appears that in one case the Danish Civil Agency has not responded to a request for insight within one month of receiving the request, and that in one case the Danish Civil Agency has not provided the data subject with a copy of the information being processed.

You can read the Danish Data Protection Agency's guide on data subjects' rights [here](#).

Decision

The Danish Civil Agency was among the public authorities that the Danish Data Protection Agency had selected for inspection in the spring of 2019. The Danish Data Protection Agency's planned inspection of the Danish Civil Agency focused in particular on the authority's compliance with the data subject's right of access, cf. Article 15 and Article 12 of the Data Protection Ordinance.

At the request of the Danish Data Protection Agency, the Danish Civil Agency had filled in a questionnaire before the inspection visit and submitted this together with additional material to the inspection. The actual inspection visit took place on

21 May 2019.

## Decision

Following the audit of the Danish Civil Agency, the Danish Data Protection Agency finds reason to conclude:

That the National Board of Health and Welfare has not prepared guidelines, procedures, etc. for the Authority's compliance with the rules on access to the Data Protection Regulation.

That the National Board of Health and Welfare has prepared a template that can help ensure and facilitate the authority's employees' compliance with Article 15 of the Data Protection Ordinance.

That the National Board of Health and Welfare has received and responded to 11 requests for insight in the period 25 May 2018 at the time of notification of this inspection.

That the National Board of Health and Welfare in two cases has not provided the registered information about the affected categories of personal data and from which the data originates, cf. Article 15 (1) of the Data Protection Ordinance. 1, letters b and g.

That the National Board of Health and Welfare in one case has not complied with Article 12 (1) of the Data Protection Ordinance. 3

That the National Board of Health and Welfare in one case has not provided the data subject with a copy of the personal data that is processed, cf. Article 15 (1) of the Data Protection Ordinance. 3

In relation to point 4, the Danish Data Protection Agency finds reason to express criticism that the National Board of Health and Welfare's processing of personal data has not taken place in accordance with Article 15 (1) of the Data Protection Ordinance. 1, letters b and g.

In addition, in relation to items 5-6, the Danish Data Protection Agency also finds reason to express criticism that the Danish Civil Agency's processing of personal data has not taken place in accordance with Article 12 (1) of the Data Protection Ordinance. 3, and Article 15, para. 3.

Below is a more detailed review of the information that has emerged in connection with the audit and a justification for the Danish Data Protection Agency's decision.

## 2. The Danish Civil Agency's guidelines and procedures

Prior to the inspection visit, the National Board of Health and Welfare has stated that the authority has not laid down

guidelines, procedures, etc. for the Authority's compliance with the rules on access to the Data Protection Regulation. The National Board of Health and Welfare has instead used the authority's common procedure for processing requests for access to documents in conjunction with the Danish Data Protection Agency's guidelines on the data subjects' rights. The National Board of Health and Welfare has also stated that the authority is preparing an internal guide on the processing of access requests in accordance with the Data Protection Ordinance.

When asked about this, the National Board of Health and Welfare stated during the inspection visit that the authority's processing of requests for access under the Data Protection Ordinance has fallen in line with the authority's processing of requests for access under the Public Administration Act and / or the Public Access to Information Act. When the National Board of Health and Welfare receives requests for access in accordance with the rules of the ordinance, the board thus follows the same procedure as when they receive requests for access to documents, including in relation to deadlines for replying. In continuation of this, the Danish Civil Agency stated that inquiries from citizens are typically not specific in relation to which set of rules they want insight into, and that the Danish Civil Agency has typically assessed that it will be most favorable for the data subject to process the request under the Public Access to Information Act. access to the file, but at the same time the authority treats the request as a request for access under Article 15 of the Regulation.

During the inspection visit, the Danish Data Protection Agency asked why the National Board of Health and Welfare had not previously prepared an internal guide on handling requests for insight under the Data Protection Ordinance.

The Danish Civil Agency stated that the authority has given higher priority to other areas within data protection, and that the Danish Civil Agency has assessed that it is initially sufficient to follow the procedure for processing access to documents compared with the Danish Data Protection Agency's guidelines on data subjects' rights.

When asked, the National Board of Health and Welfare further stated that the employees have not received training on the Data Protection Ordinance's rules on insight, but that the employees possess knowledge about handling access to documents pursuant to the Public Access to Information Act and the Public Administration Act. requests for access and access to documents.

The Danish Data Protection Agency must recommend that the Danish Civil Agency - if the authority has not already done so - have guidelines, procedures, etc. prepared. for the Authority's compliance with Article 15 of the Regulation in order to ensure that the Authority's staff are aware of how the right of access is to be handled in practice. At the same time, the Danish Data

Protection Agency must recommend that the guidelines, procedures, etc. contains information on the Data Protection Regulation 12, including i.a. information on time limits for replying to requests in accordance with Article 12 (2). And securing the identity of the data subject in accordance with Article 12 (3) of the Regulation. 6.

### 3. The Danish Civil Agency's templates

Prior to the inspection visit, the National Board of Health and Welfare has stated that the authority has prepared a template for responding to requests for insight that can ensure and facilitate the authority's employees' compliance with Article 15 of the Data Protection Ordinance.

The Danish Data Protection Agency has no comments on the National Board of Health and Welfare's template for responding to requests for access, as the template contains the information specified in Article 15 of the Regulation.

### 4. The Danish Civil Agency's handling of requests for insight

4.1. The Danish Civil Agency has informed the Danish Data Protection Agency that the authority has received and responded to 11 requests for insight in the period from 25 May 2018 to 16 April 2019. The Danish Civil Agency has sent a copy of the responses to the Danish Data Protection Agency prior to the inspection visit.

As stated above, the National Board of Health and Welfare stated during the inspection visit that the authority has typically assessed that it will be most favorable for the data subject to process the request in accordance with the Public Access to Information Act or the Public Administration Act's rules on access to documents.

The Danish Data Protection Agency does not supervise public authorities' compliance with the rules on access to documents in the Public Access to Information Act and the Public Administration Act, respectively. Thus, during this inspection, the Danish Data Protection Agency has only assessed whether the National Board of Health and Welfare's responses comply with the Data Protection Ordinance's rules on insight.

4.2. On 15 August 2018, the Danish Civil Agency received a request for access, which the authority replied on 22 August 2018. It appears from the response that the Danish Civil Agency has processed the inquiry both as a request for access to documents under the Public Administration Act and as a request for access under the Data Protection Ordinance.

A review of this answer shows that the National Board of Health and Welfare has not provided the data subject with all the information that follows from Article 15 of the Regulation, including information about the affected categories of personal data and where the information comes from, cf. 1, letter c and g. The National Board of Health and Welfare has stated to the Danish

Data Protection Agency that the authority by mistake attached a notification about the processing of personal data in accordance with Article 13 of the Regulation instead of the information that follows from Article 15 of the Regulation. , that the National Board of Health and Welfare's processing of personal data in this case has not been in accordance with Article 15 (1) of the Data Protection Regulation. 1, letters b and g.

4.3. On 29 November 2018, the Danish Civil Agency received a request for insight, to which the authority replied on several occasions.

On 30 November 2018, the Danish Civil Agency requested the data subject to clarify his request by telephone. In this connection, the data subject stated that he or she wanted both access to documents and access in accordance with the Data Protection Ordinance in all cases and information that the Danish Civil Agency was in possession of and had registered. The first partial answer was sent to the registered person on 2 December 2018 and concerned insight into cases in the Collection Board. In this reply, the National Board of Health and Welfare has attached a notification of the processing of personal data in accordance with Article 13 of the Regulation instead of the information that follows from Article 15 of the Regulation, which has meant that the data subject has not received information about the affected categories of personal data. the information originates in accordance with Article 15 (2) of the Data Protection Regulation; 1, letters c and g, in relation to the cases in the Collection Board.

With regard to cases in the Free Trial Office, on 4 December 2018, the Danish Civil Agency requested the data subject to clarify the request for access to documents and insight based on an attached overview of the 32 covered cases in the Free Trial Office. In this connection, the National Board of Health and Welfare informed the data subject that the processing of the request would take around 7-10 working days, as the request comprised about 7,000 pages, of which about 4,000 pages would have to be processed according to the rules on access to documents in the Public Access to Information Act. The Danish Civil Agency also informed the data subject that he or she had to expect that the processing of the request for access to documents (in relation to cases where the person in question was not a party) would necessitate a disproportionate consumption of resources in accordance with section 9 (1) of the Public Access to Information Act. 1, no. 1, if the request was not specified.

When the data subject did not return with a clarification, the Danish Civil Agency responded to the request for access to documents on 21 December 2019. The Danish Civil Agency again asked the data subject to clarify its request for access in

accordance with the Data Protection Ordinance.

The Danish Civil Agency did not receive a clarification from the data subject. The National Board of Health and Welfare then assumed that the data subject did not wish to specify his request for insight under the ordinance and thus replied to the request on 22 January 2019, ie. 1 month and 24 days after receipt of the request.

It appears from this answer that it is the Civil Agency's opinion that the data subject has gained insight into the most important part of the information registered about him in connection with the authority's response to the request for access to documents on 21 December 2019.

In addition, it appears that the National Board of Health and Welfare - in addition to what has been handed out in connection with the access to documents - has identified information about the data subject in a number of other cases.

Finally, it appears that the Danish Civil Agency has not enclosed a copy of the information in question, taking into account the nature of the information and the number of occurrences.

Asked about this during the inspection visit, the National Board of Health and Welfare stated that the registrant in connection with the response to the request for access to documents on 21 December 2019 has received about 2,000 out of the approx. 7,000 pages covered by the request. On that basis, the National Board of Health and Welfare assessed that it was not expedient to hand over a copy of all the documents, given the nature of the information and the number of occurrences. The documents contained only the name and contact details of the data subject as well as information that could be attributed to his companies. In addition, there were duplicates of files in connection with the data subject's complaint to the Procedural Licensing Board.

The National Board of Health and Welfare further stated that the authority could not be completely sure whether there could be personal data that the data subject had not been given, but that the data subject was aware of the information that the National Civil Agency processes about him, as the data subject had mainly sent the information to the authority.

In relation to the request of 29 November 2018, the Danish Data Protection Agency assumes that the information that the data subject was given in connection with the Collection Board's partial answer on 2 December 2018 is only related to cases in the Collection Board, and that the data subject subsequently answer regarding cases in the Free Process Office has not received the missing information about the affected categories of personal data and where the information comes from in relation to cases in the Collection Board.

It is against this background that the Danish Data Protection Agency's assessment that the Danish Civil Agency's processing of personal data in this case has not taken place in accordance with Article 15 (1) of the Data Protection Ordinance. 1, letters b and g.

It appears from the case that the National Board of Health and Welfare requested the data subject by telephone on 30 November 2018 to clarify his request, and that the data subject stated that he or she wanted both access to documents and access to the Data Protection Ordinance in all cases and information in possession of had registered.

On 4 and 21 December 2018, respectively, the Danish Civil Agency again asked the data subject to clarify his request with reference to the extensive material to which the request related.

It follows from Article 12 (1) of the Data Protection Regulation 2, that the data controller must facilitate the exercise of the data subject's rights in accordance with e.g. Article 15 on insight.

Given that requests for access must be answered without undue delay and within one month of receipt of the request, in accordance with Article 12 (1) of the Regulation. 3, it is the Data Inspectorate's assessment that in all cases a concrete assessment should be made of whether there is a need for clarification of a request for insight. In the opinion of the Danish Data Protection Agency, a request for insight cannot be said to have been answered without undue delay if the data controller in cases where a request is sufficiently clear awaits a clarification from the data subject.

It is the Data Inspectorate's assessment that the National Board of Health and Welfare - on the basis of the interview with the data subject on 30 November 2018 - could assume that the data subject wanted insight into all information that the authority may have registered about the person, and that there was thus no need for the National Board of Health and Welfare again asked the data subject to further clarify his request in order to be able to answer the request for insight.

Pursuant to Article 12 (1) of the Regulation, the data controller may 3, extend the response to a request for access by two months, if necessary taking into account the complexity and number of the request. In that case, the data controller shall notify the data subject of such an extension within one month of receipt of the request, together with the reasons for the delay.

The Danish Data Protection Agency is aware that the circumstances of the case indicate that the Danish Civil Agency would have had the opportunity to extend the response to the specific request for insight with reference to the complexity and number of the request pursuant to Article 12 (1) of the Regulation. 3. However, the National Board of Health and Welfare has not invoked this possibility or otherwise justified the delay to the data subject. Against this background, it is the Danish Data

Protection Agency's assessment that the National Board of Health and Welfare - by not having made a specific assessment of whether there was a need for clarification of the request in this case - has not complied with the deadlines in Article 12 (1) of the Regulation. 3.

It also appears from the case that the National Board of Health and Welfare - in answering the request for insight into cases in the Free Trial Office on 22 January 2019 - has not given the data subject a copy of the information that the authority processes about him. As a reason for this, the Danish Civil Agency has stated that it was not expedient to hand over a copy of all the documents in view of the nature of the information and the number of occurrences, and that the data subject had gained insight into the most important part of the information registered in connection. with the authority's response to the request for access to documents on 21 December 2018. In addition, the National Board of Health and Welfare has stated that the data subject must otherwise be assumed to be familiar with the information that the National Board of Health and Welfare processes about him, as he had mainly sent the information to the authority.

It follows from Article 15 (1) of the Regulation 3, that the data controller must hand over a copy of the personal data that is processed.

The purpose of the right of access is to give the data subject the opportunity to see what personal data the data controller processes about the person in question and to create more transparency about how the data controller processes them. On that basis, the data subject can check that personal data about the person in question is correct and otherwise processed legally.

However, the right of access is limited by Article 15 (1) of the Regulation. 4, according to which the right to receive a copy of the personal data processed must not violate the rights and freedoms of others.

Furthermore, section 22 of the Data Protection Act [2] contains a number of restrictions on the right of access.

The Danish Data Protection Agency is of the opinion that it follows from the Data Protection Ordinance that, as a general rule, insight into personal data must be provided, and that a concrete assessment must always be made of whether access can be refused under the exemption rules.

In the specific case, the Danish Data Protection Agency's assessment is that the Danish Civil Agency has not rightly refused to provide a copy of the information that the authority processed about the data subject with the above-mentioned justification, as the justification in the Authority's opinion does not fall under one of the exemption rules. the Data Protection Regulation and the



Data Protection Act.

It is against this background that the Danish Data Protection Agency's assessment that the National Board of Health and Welfare - by not handing over a copy of the information to the data subject - has not acted in accordance with Article 15 (1) of the Data Protection Ordinance. 3.

## 5. Conclusion

Following the audit of the Danish Civil Agency, the Danish Data Protection Agency finds reason to conclude:

That the National Board of Health and Welfare has not prepared guidelines, procedures, etc. for the Authority's compliance with the rules on access to the Data Protection Regulation.

That the National Board of Health and Welfare has prepared a template that can help ensure and facilitate the authority's employees' compliance with Article 15 of the Data Protection Ordinance.

That the National Board of Health and Welfare has received and responded to 11 requests for insight in the period 25 May 2018 at the time of notification of this inspection.

That the National Board of Health and Welfare in two cases has not provided the registered information about the affected categories of personal data and from which the data originates, cf. Article 15 (1) of the Data Protection Ordinance. 1, letters b and g.

That the National Board of Health and Welfare in one case has not complied with Article 12 (1) of the Data Protection Ordinance. 3.

That the National Board of Health and Welfare in one case has not provided the data subject with a copy of the personal data that is processed, cf. Article 15 (1) of the Data Protection Ordinance. 3.

In relation to point 4, the Danish Data Protection Agency finds reason to express criticism that the National Board of Health and Welfare's processing of personal data has not taken place in accordance with Article 15 (1) of the Data Protection Ordinance. 1, letters b and g.

In addition, in relation to items 5-6, the Danish Data Protection Agency also finds reason to express criticism that the Danish Civil Agency's processing of personal data has not taken place in accordance with Article 12 (1) of the Data Protection Ordinance. And Article 15, para. 3.

The Danish Data Protection Agency then considers the audit to be completed and does not take any further action on that

occasion.

[1] 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 the free movement of such data and repealing Directive 95/46 / EC

(General data protection regulation

[2] Act No. 502 of 23 May 2018 on supplementary provisions to the Regulation on the protection of individuals with regard to the processing of personal data and on the free movement of such data (the Data Protection Act).