

Decision

Diariennr

2019-06-24

DI-2019-1785

Ert diariennr

ÅM2019-423

The Public Prosecutor's Office

Box 5553

114 85 Stockholm

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

The Public Prosecutor's Office's list of

treatments

The Data Inspectorate's decision

1.

The Data Inspectorate notes that the Public Prosecutor's Office's list

of treatments lacks the name and contact details of it

personal data controllers, joint personal data controllers 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 Public Prosecutor's Office to state in the list of proceedings

the name and contact details of the person responsible for personal data,

joint personal data controller and data protection officer, latest

on December 31, 2019.

2. The Data Inspectorate finds that the Public Prosecutor's Office's list

of treatments, for each category of treatment, states the purposes

with the treatment according to ch. 3 § 2 of the Criminal Data Ordinance on one unspecified way.

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

The prosecutor's office that in the list of treatments, for each

category of treatment, specify the purposes of the treatment on so

as set out in the explanatory memorandum to this Decision, by 31 December

2019.

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3. The Public Prosecutor's Office is ordered to submit no later than 31 December 2019

a written report to the Data Inspectorate of the measures that

The Public Prosecutor's Office has taken in connection with the injunctions in

points 1-2.

Report on the supervisory matter

The Data Inspectorate has on 11 February 2019 initiated supervision of

The Public Prosecutor's Office for the purpose of reviewing the Public Prosecutor's Office's list

of processing of personal data is in accordance with ch. § 3

the Criminal Data Regulation.

The Data Inspectorate has in its examination of the Public Prosecutor's Office

list of treatments observed mainly the following.

The list of treatments contains the following columns.

- the legal basis for the proceedings,

- the purposes of the treatment,

the categories of officials who have access to the personal data

being treated,

the categories of recipients to whom the information may be disclosed

to, also in third countries or international organizations

- the categories of data subjects affected by the processing,

- the categories of personal data that may be processed,

collections of transfers of personal data to third countries, or

international organizations,

- use of profiling,

if possible, deadlines for how long the categories of

personal data may be processed and

- a general description of the security measures that have been taken.

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Justification of the decision

What the Data Inspectorate has to decide on

In the supervisory matter, the Data Inspectorate has to decide whether

The Public Prosecutor's Office's list of treatments, meets the requirements of

Chapter 3 Section 3 of the Criminal Data Ordinance.

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 Public Prosecutor's Office then applies on 1 January 2019 also the law (2018: 1697) on the prosecution's treatment of personal data within the area of the Criminal Data Act (the Public Prosecutor's Office Criminal Data Act) with supplementary provisions in the ordinance (2018: 1738) on the prosecution's processing of personal data within the Criminal Data Act area.

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 officer. The list should also, for each category of treatment, include 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;
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,

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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 Public Prosecutor's Office's list of proceedings

The Public Prosecutor's Office for a list according to ch. § 3

the Criminal Data Regulation on the categories of personal data processing which the authority is responsible for according to the Criminal Data Act. For each category of processing, according to the provision, certain listed information must be stated (paragraphs 1-10). The Public Prosecutor's Office's list of proceedings contains for each category of treatment points 1-10. The Data Inspectorate has no views on points 1 and 3-10.

The Public Prosecutor's Office's list of proceedings contains collections of transfers of personal data to third countries or international organizations (paragraph 7) for certain categories of treatments such as "Information provided in connection with an application from another state for legal aid or arrest warrant ". According to the preparatory work for the Criminal Data Act tar 3 kap. 3 § 7 of the Criminal Data Ordinance aims at certain transfers that have made to third countries or international organizations (see SOU 2017: 29 p. 323 and pp. 621-624). The Data Inspectorate assumes that such transfers, if they

occurs, will be listed in the Public Prosecutor's Office's list

treatments.

Contact information

The Data Inspectorate's assessment

The Data Inspectorate notes that the Public Prosecutor's Office's list of

processing lacks the name and contact details of the personal data controller, joint personal data controller and data protection officer.

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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 Data Inspectorate notes that the Public Prosecutor's Office's list of

processing lacks the name and contact details of the personal data controller, joint 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 Public Prosecutor's Office to state the name of the list of proceedings

and contact information for the personal data controller, jointly

personal data controllers and data protection officers.

Point 2 - the purposes of the treatment

The Data Inspectorate's assessment

The Data Inspectorate notes that the Public Prosecutor's Office's list of

treatments, for each category of treatment, indicate the purposes of the treatment in an unspecified manner.

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

According to ch. 3 § 2 of the Criminal Data Ordinance, a list of treatments, for each category of treatment, shall contain information on the purposes with the treatment.

The Public Prosecutor's Office's list of proceedings states the purposes with

treatment, for each category of treatment, either as' 1. prevent

or prevent criminal activity "," 2. investigate or prosecute crimes ",

"3. deal with issues of amendment or enforcement of criminal law

penalties "," 4. deal with issues relating to the maintenance of public order

and security "or" 5. fulfill obligations arising from international

commitments ". Items 1-5 in the column "Purposes of the treatment"

corresponds to the legal bases specified in ch. § 1 of the Public Prosecutor's Office

criminal data law. The provision in ch. Section 1 of the Public Prosecutor's Office's Criminal Data Act is specified

in the column "the legal basis of the treatment" for each category of

treatment, except one, in the Public Prosecutor's Office's list of treatments.

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I 3 kap. Section 3 of the Criminal Data Ordinance makes a division between the judicial

the basis of the treatment (paragraph 1) and the purposes of the treatment

(point 2). In the preparatory work for the Criminal Data Act, it is stated that the purposes of

the processing shall be listed in the register that the authority shall keep but that

this does not mean that the data controller must list all of them

individual cases where the authority processes personal data. What is meant is they

types of purposes for which the authority processes personal data. As examples mention that the Police Authority processes personal data, e.g. in order to receive reports of crime, conduct investigations, enforce collection of fines and documenting interventions in the event of disturbances (cf. Prop. 2017/18: 232 p. 121).

In the manner specified by the Public Prosecutor's Office "the purposes of the proceedings" in its list of treatments, for each category of treatment except one, means that the same information is provided for the "purposes of the processing" as for "the legal basis of the proceedings". The Data Inspectorate considers, with reason of how ch. Section 3 of the Criminal Data Ordinance is designed, that it is not sufficient to indicate the same information under 'the legal basis for the treatment "as for the" purposes of the treatment "to meet the requirement and Chapter 3 3 § 2 of the Criminal Data Ordinance. In its review of The Public Prosecutor's Office's list of treatments can be the Data Inspectorate nor see that the "purposes of the treatment" have been specified for the category of treatment called "Câsa - Statistical System". Not to state "the purposes of treatment "for a category of treatment also does not meet the requirement of Chapter 3 3 § 2 of the Criminal Data Ordinance.

Against this background, the Data Inspectorate states that the Public Prosecutor's Office's list of treatments, for each category of treatment, indicates the purposes of the treatment in an unspecified manner. The inspection is included for this reason found reason to use the corrective powers in Chapter 5 Section 7 of the Criminal Data Act.

The Data Inspectorate submits in accordance with ch. 7 § 2 of the Criminal Data Act The prosecutor's office that in the list of treatments, for each category of treatment, specify the purposes of the treatment. Management for how



The purposes of a treatment can be listed in the above

the preparatory statements.

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This decision was made by unit manager Charlotte Waller Dahlberg after

presentation by lawyer Max Blidberg.

Charlotte Waller Dahlberg

Max Blidberg

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.

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