

**Swedish ref.:**  
IMY-2022-7457

**Nat ref:**  
5605/157/19

**IMI case register:**  
439503

**Date:**  
2025-06-27

# Final decision under the General Data Protection Regulation

## Decision of the Swedish Authority for Privacy Protection

The case is closed.

### Reasons for the decision

You have lodged a complaint with The Office of the Data Protection Ombudsman against Etraveli group AB. The complaint has been submitted to the Swedish Data Protection Authority (IMY), which is the lead supervisory authority pursuant to Article 56(1) of the General Data Protection Regulation (GDPR)<sup>1</sup>.

IMY shall process complaints about incorrect processing of personal data and, where appropriate, investigate the subject matter of the complaint Article 57.1 f GDPR.

Article 77 of the GDPR provides for the rights of individuals to lodge a complaint with a supervisory authority about an alleged breach of their personal data. Any data subject who considers that the processing of personal data concerning him or her infringes this regulation shall have the right to lodge a complaint with a supervisory authority.

The main points of your complaint are as follows. You claim that you have bought a flight ticket through supersaver.fi-website (which is owned by Etraveli group AB). While doing so, you were asked to tick a box if you wished not to receive marketing. You claim that this way of obtaining consent is in violation of the rules of the GDPR.

IMY notes that it is not apparent from the letter that your personal data has been processed through the receipt of marketing via e-mail. Therefore, you are not considered to be a data subject within the meaning of Article 77. The letter does not therefore constitute a complaint within the meaning of the GDPR.

When examining the documentation in the case, IMY also considers that Etraveli group AB has not claimed that they support their processing of personal data to send marketing on the legal basis of consent. According to IMY's assessment, the reply

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<sup>1</sup> Regulation (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of natural persons 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).

from Etraveli group AB indicates that they support their processing on the basis of a balancing of interests in Article 6(1)(f) of the GDPR.

The lawfulness of the processing of personal data requires the existence of a legal basis in Article 6(1) of the GDPR. Consent is only one of a total of six legal grounds that can provide support for the processing of personal data. Personal data may be processed on the basis of a balancing of interests pursuant to Article 6(1)(f), if the processing is necessary for the purposes of legitimate interests and the interests of the data subject do not prevail. Marketing is, according to recital 47 of the GDPR, an example of purposes that can provide support for processing personal data on the basis of a balance of interests. When assessing whether a processing can be based on a balancing of interests, account may be taken, among other things, of whether the specific interest may conflict with other legislation. In Swedish national law, the Marketing Act (2008:486) becomes applicable to the sending of marketing by e-mail.

Under Section 19(2) of the Marketing Act, a trader may, under certain conditions, use e-mail without consent when marketing to a natural person. This applies if the natural person has not objected to the use of the electronic address for marketing purposes using electronic mail, the marketing relates to the trader's own similar products, and the natural person is clearly given the opportunity to object, free of charge and easily, to the use of the information for marketing purposes when it is collected and at each subsequent marketing message.

According to IMY's assessment, there is no national obstacle to processing personal data in the manner alleged in the case on the basis of a balance of interests in Article 6(1)(f) of the GDPR.

IMY considers that the information contained in the complaint does not call into question the validity of any of the other legal bases for the processing in question. Therefore, what you have stated does not give IMY reason to suspect any deficiency in relation to the provisions of the GDPR.

The case should therefore be closed.



## How to appeal

If you wish to appeal the decision, you should write to the Swedish Authority for Privacy Protection (IMY). Indicate in the letter which decision you wish to appeal and the change you are requesting. The appeal must have been received by IMY no later than three weeks from the day you received the decision. If the appeal has been received in time, IMY will then forward it to the Administrative Court in Stockholm for review.

You can e-mail the appeal to IMY if it does not contain any privacy-sensitive personal data or information that may be covered by confidentiality. IMY's contact information is shown in the first page of the decision.