

Your reference

Our reference
18/03670/MLS

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Decision – The Norwegian Supervisory Authority’s List of Processing Operations Subject to the Requirement of a Data Protection Impact Assessment

Introduction

Some data processing activities always require a data protection impact assessment. The supervisory authority therefore has an obligation pursuant to Article 35(4) of the General Data Protection Regulation¹ to establish and to make public a list of processing activities which are subject to the requirement for a data protection impact assessment. Such an assessment must be carried out before the processing of personal data is initiated.

Decision

The Norwegian Data Protection Authority hereby decides, in accordance with GDPR Article 35(4), cfr. Article 57(1)(k), that the following processing activities are subject to the requirement for a data protection impact assessment:

- Data collected via third parties in conjunction with at least one other criterion.
 - For example collecting and combining personal data from third parties in order to decide whether the data subject shall be offered, continue to receive, or shall be denied a product, service or offer. (Vulnerable data subjects and evaluation/scoring)
- Processing of biometric data for identification purposes in conjunction with at least one other criterion.
 - For example, processing of biometric data for identification purposes on a large scale. (Sensitive data or data of highly personal nature and large scale)
- Processing of genetic data in conjunction with at least one other criterion.

¹ The General Data Protection Regulation (GDPR) implemented as Norwegian law through Act of 15 June 2018 no. 38 concerning processing of personal data (the Personal Data Act).

- For example processing of genetic data on a large scale, including gene sequencing. (Sensitive data or data of highly personal nature and large scale)
- Processing of personal data using innovative technology in conjunction with at least one other criterion.
 - For example processing of health data using innovative welfare technology solutions like health implant aids. (Innovative use and sensitive data)
- Processing of personal data involving measures for systematic monitoring of employee activities.
 - For example, monitoring the employees internet activity, electronic communication or camera surveillance for the purposes of employee monitoring. (Vulnerable subject and systematic monitoring)
- Processing of personal data without consent for scientific or historical purpose in conjunction with at least one other criterion.
 - For example, processing of health data without consent for research purposes. (Evaluation and sensitive data or data of highly personal nature)
- Processing of location data in conjunction with at least one other criterion.
 - For example, combining data subject's location or traffic data from telephone records in a systematic manner, or processing of personal data about the subscriber's use of the telenet or telecom operators services. (Sensitive data or data of highly personal nature and systematic monitoring)
- Processing of personal data for the purpose of evaluating learning, coping and well-being in schools or kindergartens. This includes all levels of education, from preschool, elementary, high school to university levels. (Vulnerable data subjects and systematic monitoring)
- Systematic monitoring, including camera surveillance, on a large scale, in areas accessible by the public. (Systematic monitoring and large scale)
- Camera surveillance in schools or kindergartens during opening hours. (Systematic monitoring and vulnerable data subjects)
- Processing of sensitive or highly personal data on a large scale for training of algorithms. (Large scale and sensitive or highly personal data)
- Processing of personal data to systematically monitor proficiency, skills, scores, mental health and development. (Sensitive data or data of highly personal nature and

systematic monitoring)

- Processing personal data with the purpose of providing services or developing products for commercial use that involve predicting working capacity, economic status, health, personal preferences or interests, trustworthiness, behavior, location or route. (Sensitive data or data of highly personal nature and evaluation/scoring)
- Collection of personal data on a large scale through the use of “internet of things” solutions or welfare technology solutions. (Large scale and sensitive or highly personal data).

About the list contained herein

This list includes processing activities that the Norwegian Data Protection Authority considers likely to result in a high risk to the rights and freedoms of data subjects.

The Article 29 Working Party’s analysis in the Guidelines on Data Protection Impact Assessment² is a core element for ensuring the consistent application of the GDPR across the EEA. The list is based on these Guidelines and the criteria set out in the Guidelines. The list has been communicated to the European Data Protection Board³ pursuant to Article 64(1)(a) GDPR, and the Board has issued an opinion on the matter in line with Article 64(3) GDPR.

The list is non-exhaustive, and therefore, the controller is required to assess whether other processing activities than the ones encompassed by the list are likely to result in a high risk to the rights and freedoms of data subjects.

The criteria contained in the Article 29 Working Party Guidelines are:

- Evaluation or scoring
- Automated-decision making with legal or similar significant effect
- Systematic monitoring
- Sensitive data or data of a highly personal nature
- Data processed on a large scale
- Matching or combining datasets
- Data concerning vulnerable data subjects
- Innovative use or applying new technological or organisational solutions
- Processing that “prevents data subjects from exercising a right or using a service or a contract”.

² Article 29 Working Party, *Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is “likely to result in a high risk” for the purposes of Regulation 2016/679*, endorsed by the European Data Protection Board in Endorsement 1/2018 of 25 May 2018.

³ The European Data Protection Board shall ensure the consistent application of the GDPR pursuant to Article 70(1) GDPR.

According to the Article 29 Working Party Guidelines, a processing meeting two or more of these criteria would normally require a data protection impact assessment. In some cases, a processing meeting only one criterion can also require such an assessment.

Kind regards

Bjørn Erik Thon
Commissioner for Data Protection

Marte Lindblad Skaslien
Senior Legal Adviser