

**Notice:** This document is an unofficial translation of the Swedish Authority for Privacy Protection's (IMY) decision 2021-11-22, no. DI-2020-10533. Only the Swedish version of the decision is deemed authentic.

**Our ref.:**  
DI-2020-10533, IMI no. 115756

**Date of decision:**  
2021-11-22

**Date of translation:**  
2021-11-30

## Supervision under the General Data Protection Regulation – Spotify AB

### Final decision of the Swedish Authority for Privacy Protection (IMY)

The Swedish Authority for Privacy Protection (IMY) finds that Spotify AB has processed personal data in violation of

- Article 12(3) and 15 of the General Data Protection Regulation (GDPR)<sup>1</sup> by not giving the complainant access to her personal data in accordance with her request of 26 December 2018 no earlier than 3 June 2021,
- Article 12(2) of the GDPR by not having facilitated the exercise of the complainant's right pursuant to Article 16 to have her information on home address corrected in accordance with her request of 25 December 2018 and instead referred her to create a new account on the company's music service, and
- Article 12(3) and 16 of the GDPR by not granting the complainant's request for rectification of her home address of 25 December 2018 without undue delay through it having been rectified on 17 October 2019.

The Swedish Authority for Privacy Protection (IMY) issues Spotify AB a reprimand in accordance with Article 58(2)(b) of the GDPR for infringement of article 12(2), 12(3), 15 and 16.

### Report on the supervisory matter

The Swedish Authority for Privacy Protection (IMY) has initiated supervision regarding Spotify AB (Spotify or the Company) due to a complaint. The complaint has been submitted to IMY, in its capacity as lead supervisory authority pursuant to Article 56 of the GDPR, from the supervisory authority of the country where the complaint has been lodged (Germany). The handover has been made in accordance with the provisions of the GDPR on cooperation regarding cross-border processing.

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<sup>1</sup>Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with respect to the processing of personal data and on the free flow of such data and repealing Directive 95/46/EC (General Data Protection Regulation).

The investigation has been carried out through written correspondence. In the light of cross-border processing, IMY has used the mechanisms for cooperation and consistency contained in Chapter VII of the GDPR. The supervisory authorities concerned have been the data protection authorities in Belgium, Ireland, the Netherlands, Germany, Denmark, Italy, Cyprus, Portugal, France, Austria, Finland, Norway, Luxembourg, Slovakia, Hungary, Spain and Poland.

### **The complaint**

The complaint essentially states the following. The complainant's request to change the address of her account on the company's music service has been denied. The company's customer service has stated that it is not possible to change the addresses of accounts and that the solution is to delete the account and open a new account. The complainant has requested to have her data rectified and holds that it should not be necessary to delete her account and open a new one to obtain rectification. Furthermore, the complainant has requested access to her personal data. None of the requests has been met.

### **What Spotify has stated**

Spotify has mainly stated the following.

Spotify received a *request from the complainant to update the complainant's home address* on 25 December 2018. The request was answered on 26 December 2018. The company then informed the complainant that updating the address on the existing account (family account) was not technically feasible, but that a new account with the correct address could be created to solve the problem. Spotify would then have created a new account free of charge, and Spotify's customer service team would have transferred all content, such as playlists, followers and account information to the new account. However, this solution was rejected by the complainant.

Since then, Spotify has developed a new version of Family Accounts, allowing the user to change their own address instead of involving customer service and transferring the account. The complainant was transferred to the new version, in which the address can be changed by the user in the account settings, on 18 September 2019, whereupon the complainant updated to her new address on 17 October 2019.

Spotify holds that the company took the necessary steps to satisfy the complainant's request on 26 and 27 December 2018, by explaining that it was not technically possible in the version of the family account that existed at the time and instead offered an alternative solution to the problem.

Spotify received *the complainant's request for the exercise of the right to access* on 26 December 2018. Spotify's customer service responded to the complainant on December 26, 2018 and referred the complaint to Spotify's Privacy Centre. That is an online service, which provides standard information about Spotify's personal data processing and how individuals can exercise their data protection rights, with a link to Spotify's tool "Download Your Data". However, Spotify's information shows that the complainant did not use the "Download your data" tool or made further requests to access her personal data.

According to Spotify's standard process, the customer service advisor should have directly addressed the complainant's request for access instead of referring the complainant to the company's Privacy Centre. In reviewing the correspondence with the complainant, it seems that the customer service advisor was primarily focused on

answering the complainant's request for rectification and failed to notice that it was also a request for access and therefore did not respond to the request for access in accordance with the company's standard process. As part of the Spotify's internal data protection program, customer service is regularly trained in how they can identify and appropriately act and escalate requests from data subjects. In this case, the customer service advisor made a mistake.

Due to the above, the complainant did not get access to her personal data in accordance with her request on 26 December 2018.

Spotify contacted the complaint on 3 June 2021 regarding her request for access and informed her that her personal data had been made available for download. However, the complaint has neither downloaded them nor responded.

## Justification of the decision

### Applicable provisions

According to Article 12(2), the controller shall facilitate the exercise of data subject rights under Articles 15-22. According to Article 12(3), the controller shall provide information on action taken on a request under Articles 15 to 22 to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests.

According to Article 15 of the GDPR, the data subject shall have the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and the information stipulated in that article.

According to Article 16, the data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her. Taking into account the purposes of the processing, the data subject shall have the right to have incomplete personal data completed, including by means of providing a supplementary statement.

### The assessment of the Swedish Authority for Privacy Protection (IMY)

#### **Spotify has not handled the complainant's request for access in accordance with the GDPR**

IMY finds that Spotify has not handled the complainant's request for access of 26 December 2018 in accordance with the GDPR. It was not enough that Spotify responded to the complainant's request by referring to the company's online service. The fact that Spotify contacted the complainant first on 3 June 2021 and initiated the process of disclosure of the complainant's personal data cannot be considered to give the complainant access to the information without undue delay according to the GDPR. What Spotify has stated about it being a one-time occurrence due to an oversight does not lead to any other assessment.

Against this background, IMY finds that Spotify AB has processed personal data in violation of Articles 12(3) and 15 of the GDPR by not having without undue delay given

the complainants access to their personal data in accordance with the complainant's request of 26 December 2018 no earlier than 3 June 2021.

**Spotify has not handled the complainant's request for rectification without undue delay and has not facilitated the exercise of the complainant's right to request rectification in accordance with the GDPR**

When the complaint requested to change her home address on 25 December 2018, the company had no technical possibility to change the information in any way other than if the complainant created a new account. However, IMY holds that the solution offered by the company, i.e. that the complainant could create a new account where the company would transfer the complainant's information, was not sufficient for the company to be deemed to have handled the request for rectification or have facilitated the complainant's exercise of her rights. The complainant's address was only updated on 17 October 2019 and by her own agency, after the company had taken measures to enable this on 18 September 2019.

IMY thus finds that Spotify AB has processed personal data in violation of Article 12(2) GDPR by not having facilitated the complainant's exercise of her right pursuant to Article 16 to have her information on home address corrected and instead referred her to create a new account on the company's music service.

Furthermore, IMY finds that Spotify AB has processed personal data in violation of Article 12(3) and 16 of the GDPR by not granting the complainant's request to rectification of her home address of 25 December 2018 without undue delay where by rectification was made no earlier than 17 October 2019.

**Choice of corrective measure**

Articles 58(2) and 83(2) of the GDPR states that IMY has the authority to impose administrative fines in accordance with Article 83. Depending on the circumstances of the individual case, administrative fines shall be imposed in addition to or instead of the other measures referred to in Article 58(2), such as injunctions and prohibitions. Furthermore, Article 83(2) lists which factors should be taken into account in deciding whether to impose an administrative fine and on the amount of the fine. If it is a minor infringement, IMY may, as stated in recital 148 instead of impose an administrative fine, issue a reprimand pursuant to Article 58(2)(b). Consideration shall be taken to aggravating and mitigating circumstances in the case, such as the nature of the infringement, severity and duration as well as previous relevant infringements.

IMY notes that the infringements affected one person, that it did not involve sensitive data and that the company has not previously been found infringing the mentioned articles except article 12(4) on June 8 2018.<sup>2</sup> Furthermore, Spotify has now corrected the information about the complainant's home address, changed its procedure for updating such data to facilitate data subject's exercise of their rights in this regard and on its own initiative taken measures to meet the complainant's request for access. Against this background IMY finds that it is to be considered as such minor infringements in the sense referred to in recital 148 that Spotify AB shall be given a reprimand pursuant to Article 58(2)(b) of the GDPR for the stated infringements.

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<sup>2</sup> IMY's Decision 2021-03-24, case no. DI-2020-10541, available here <https://www.imy.se/globalassets/dokument/beslut/imy---final-decision-imy-di-2020-10541-imi-case-no-75661-spotify-ab.pdf>.

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This decision has been made by Head of Unit [REDACTED] after presentation  
by legal advisor [REDACTED].