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**Registration number:**  
DI-2022-1722, IMI case no.  
368751,  
521.14039 / 631.336

# Decision under the General Data Protection Regulation – Klarna Bank AB

**Date of decision:**  
2022-07-25

## Decision of the Swedish Authority for Privacy Protection (IMY)

IMY finds that Klarna Bank AB has processed personal data in violation of:

- Article 12(2) GDPR<sup>1</sup> by not facilitating the exercise of the complainant's right under Article 15 for access to their personal data in accordance with their request of 8 February 2021, by misinterpreting the complainant's request for access and requesting a clarification from the complainant without valid reason;
- Articles 12(3) and 17 of the GDPR by not responding without undue delay to the complainant's requests for erasure of 2 May 2019 only on 31 January 2020 and 16 January 2021 only on 31 August 2021.

IMY gives Klarna Bank AB a reprimand pursuant to Article 58(2)(b) of the GDPR for breach of Articles 12(2), 12(3) and 17 of the GDPR.

## Report on the supervisory case

### The case handling

IMY has initiated supervision regarding Klarna Bank AB (Klarna or the company) due to a complaint. The complaint has been submitted to IMY, in its capacity as lead supervisory authority under Article 56 of the GDPR. The handover has been made by the supervisory authority of the country where the complainant has lodged their complaint (Germany) in accordance with the GDPR's provisions on cooperation concerning cross-border processing.

The investigation in the case has been carried out through correspondence. In light of a complaint relating to cross-border processing, IMY has used the mechanisms for cooperation and consistency contained in Chapter VII GDPR. The supervisory

**Postadress:**  
Box 8114  
104 20 Stockholm

**Webbplats:**  
www.imy.se

**E-post:**  
imy@imy.se

**Telefon:**  
08-657 61 00

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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).

authorities concerned has been the data protection authorities in Germany, Denmark, Austria, Italy, Poland and Finland.

### **The complaint**

The complainant mainly states the following.

Several accounts have been registered with Klarna with the complainant's email address or their postal address under someone else's name. The complainant has not personally registered any of those accounts and has requested erasure with Klarna on several occasions, because accounts have recurrently been created in this way for a long period of time. Klarna has not complied with several of the requests and therefore Klarna has not erased all of the complainant's personal data.

The complainant has also requested information on the number of accounts created with their postal address, but has not received such information. It is apparent from an e-mail the complainant sent to Klarna on 8 February 2021, that they requested a detailed list of registered accounts relating to the complainant that Klarna had already erased, and accounts created with the complainant's address data.

### **What Klarna has stated**

Klarna Bank AB mainly states the following.

Klarna is the data controller for the processing to which the complaint relates.

Klarna has received three requests for erasure on 2 May 2019, 30 November 2019 and 16 January 2021. All requests have been handled.

The request for erasure on 2 May 2019 was initiated on 11 December 2019 and was completed on 31 January 2020. At the time of the complainant's request, the complainant claimed that their personal data had been used in connection with fraud and the case was therefore forwarded to the department at Klarna that handles fraud cases. In connection with the closure of the fraud case, the case concerning the complainant's request for erasure was also erroneously closed by the case handler.

The request for erasure on 30 November 2019 was initiated on 11 December 2019 and completed on 31 January 2020. The complainant was informed on 30 November 2019 that the request could take up to 90 days. The reason for this was that the number of incoming cases had periodically been very large and that the handling of data subject request during that time sometimes had taken more than a month. Klarna has handled the request without undue delay, also considering the Christmas and New Year's holidays.

The request for erasure on 16 January 2021 was completed on 31 August 2021. On 16 February 2021, Klarna informed the complainant that the handling could take more than one month. Subsequently, the case handler did not proceed with the process for data subject requests according to Klarna's routines. The complainant's request was therefore not dealt with in accordance with Klarna's procedures at the time due to the individual case handler's error.

Klarna has not interpreted the complainant's request for the number of accounts created with their personal data as a request for access. The question was made to Klarna on 8 February 2021 and the complainant was offered an extract from the register on 16 February 2021, which was not answered by the complainant. The

complainant returned with a reply which Klarna perceived as a request for erasure and further questions on how the complainant's personal data had been used in connection with suspected fraud.

Klarna was contacted by the data protection authority in Berlin on 4 August 2021 where it was informed, inter alia, that that authority interpreted the question from the complainant as a request for access by the complainant. Klarna subsequently responded to the complainant's request for access by sending an extract from the register by mail on 26 August 2021.

## Justification of the decision

### Applicable provisions

According to Article 12(2) of the GDPR, the controller shall facilitate the exercise of the data subject's rights in accordance with, inter alia, Article 15.

According to Article 12(3) of the GDPR, the data subject's request to exercise his or her rights must be handled without undue delay and in any event no later than one month after the request is received. The period of one month may be extended by a further two months if the request is particularly complex or if the controller receives a high number of requests.

Pursuant to Article 15 of the GDPR, the data subject shall have the right to obtain from the controller confirmation of whether personal data concerning him or her are being processed. If such data are processed, the controller shall provide the complainant with additional information and a copy of the personal data processed by the controller.

In the European Data Protection Board's (EDPB) Guidelines 01/2022 on access, it is considered sufficient for a data subject to indicate that they wish to have access to their personal data in order for a request for access under Article 15 to have been made.<sup>2</sup> The data subject does not have to explicitly clarify that this is a request for access or refer to the GDPR. If the controller has any doubts as to what right the data subject wishes to exercise, the controller is recommended to contact the data subject and request clarification. If the data subject does not respond, the controller shall interpret the information contained in the first request of the data subject and act accordingly.<sup>3</sup> Furthermore, a data subject who has been the victim of identity theft shall be provided with information on all personal data relating to his or her identity,

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<sup>2</sup> EDPB Guidelines 01/2022 on data subject rights — Right of access, adopted for public consultation on 18 January 2022, para. 50, MY translation; original: "In order to make the access request, it is sufficient for the requesting persons to specify that they want to know what personal data concerning them the controller processes. Therefore, the controller cannot refuse to provide the data by referring to the lack of indication of the legal basis of the request, especially to the lack of a specific reference to the right of access or to the GDPR. For example, in order to make a request, it would be sufficient for the requesting persons to indicate that they wish to obtain access to personal data concerning them."

<sup>3</sup> EDPB Guidelines 01/2022 on data subject rights — Right of access, adopted for public consultation on 18 January 2022, paragraph 48, IMY translation; original: "If the controller has doubts as to which right the data subject wishes to exercise, it is recommended to ask the data subject making the request to explain the subject matter of the request. Such correspondence with the data subject shall not affect the duty of the controller to act without undue delay. However, in case of doubts, if the controller asks the data subject for further explanation and receives no response, the controller should interpret, bearing in mind the obligation to facilitate the exercise of the person's right of access, the information contained in the first request and act on its basis."

including personal data collected by the controller as a result of the fraudster's conduct.<sup>4</sup>

Pursuant to Article 17(1)(a) of the GDPR, the data subject shall have the right to have his or her personal data erased by the controller without undue delay and the controller shall have the obligation to erase personal data without undue delay if they are no longer necessary in relation to the purposes for which they were collected or otherwise processed. Article 17(3) of the GDPR exhaustively lists the exceptions to this right.

## **IMY:s assessment**

### **Klarna has not handled two of the complainant's requests for erasure in accordance with the General Data Protection Regulation**

A request for erasure shall be handled without undue delay and at the latest within one month from when the request was received the controller pursuant to Article 12(3) GDPR. However, the period of one month may be extended for a further two months under the conditions laid down in the same article.

Klarna states that a request for erasure was received on 30 November 2019 and was completed on 31 January 2020, i.e. two months after it was received. Klarna had previously informed the complainant on 30 November 2019 that the request may take up to 90 days due to the amount of incoming cases and considering Christmas and New Year's holidays. IMY finds no reason to question Klarna's information in this regard. IMY therefore considers that Klarna has given the complainant such a notification that is required by Article 12(3) in the event of an extension of the one-month time limit for handling a request. In light of Klarna's submissions on the large number of requests received during the current period of Christmas and New Year, IMY considers that Klarna has handled the request of 30 November 2019 without undue delay.

Regarding the requests for erasure of 2 May 2019 and 16 January 2021, Klarna did not complete them until more than seven months after the respective requests were made. Consequently, Klarna did not handle the complainant's requests within the statutory time limit. Klarna's argument that the reason for the delays concern oversights by individual case handlers does not alter IMY:s assessment. Therefore, Klarna did not handle the complainant's requests for erasure of 2 May 2019 and 16 January 2021 without undue delay.

Against this background, IMY finds that Klarna Bank AB has processed personal data in breach of Articles 12(3) and 17 of the GDPR by not deleting the complainant's personal data without undue delay, as requested by the complainant on 2 May 2019 only on 31 January 2020, and of 16 January 2021 only on 31 August 2021.

### **Klarna has not handled the complainant's request for access in accordance with the General Data Protection Regulation**

It is apparent from the file that the complainant suspects that they were the victim of identity theft and, as a result, requested a detailed list from Klarna on 8 February 2021

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<sup>4</sup> EDPB Guidelines 01/2022 on data subject rights — Right of access, adopted for public consultation on 18 January 2022, para. 105, IMY:s translation; original: "In case of identity theft, a person fraudulently acts in the name of another person. In this context it is important to recall that the victim should be provided with information on all personal data the controller stored in connection with their identity, including those that have been collected on the basis of the fraudster's actions. In other words, even after the controller learned about the identity theft, personal data is associated with or related to the identity of the victim and hence constitutes personal data of the data subject."

concerning, on the one hand, accounts related to the complainant that Klarna had erased and, on the other hand, accounts created with the complainant's address data.

IMY considers that the complainant's request for a "detailed list" of 8 February 2021 should be interpreted as a request for access under Article 15 of the GDPR. There is no formal requirement for making a request under Article 15. However, Article 12(2) states that the controller shall facilitate the exercise of data subjects' rights under, inter alia, Article 15. Klarna should therefore have understood from the communication that the complainant wanted access to personal data they had a right to under Article 15 of the GDPR.<sup>5</sup>

According to the General Data Protection Regulation, it is Klarna's responsibility as data controller to be able to identify and act on a request for access from a data subject, as is also made apparent from the EDPB guidelines.<sup>6</sup> IMY considers that there was no reason for Klarna to request clarification from the complainant in the present situation. Moreover, Klarna has described to the complainant only in general terms how they could proceed to request an extract from the register if they intended to make a request for access, in the e-mail sent by Klarna on 16 February 2021. Therefore, the fact that Klarna considered that the complainant had not provided a clear answer after Klarna had offered an extract from the register does not alter IMY's assessment.

Given these circumstances, IMY notes that Klarna Bank AB has processed personal data in breach of Article 12(2) by not facilitating the exercise of the complainant's right under Article 15 to access their personal data, by misinterpreting the complainant's request for access of 8 February 2021 and seeking clarification from the complainant without reason.

## Choice of intervention

Article 58(2) and Article 83(2) of the GDPR gives IMY the authority to impose administrative fines in accordance with Article 83. Depending on the circumstances of the case, administrative fines shall be imposed in addition to or in place of the other measures referred to in Article 58(2), such as warnings and prohibitions. Furthermore, it is clear from Article 83(2) which factors are to be taken into account when deciding whether to impose administrative fines and in determining the amount of the fine. In the case of a minor infringement, as stated in recital 148, IMY may issue a reprimand pursuant to Article 58(2)(b) instead of imposing a fine. Herein considering the aggravating and mitigating circumstances of the case, such as the nature, gravity and duration of the infringement and past relevant infringements.

IMY notes the following relevant facts. The violations have affected one person and have occurred because of mistakes on the part of Klarna. This applies both to the complainant's requests for erasure and to the request for access. Although Klarna had not complied with the complainant's request for access due to a misinterpretation of the complainant's request, Klarna did not intend to deny the complainant access to their personal data. Against this background, IMY considers that these are minor infringements within the meaning of recital 148 which means that Klarna Bank AB shall be given a reprimand under Article 58(2)(b) of the GDPR for the infringements.

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<sup>5</sup> EDPB Guidelines 01/2022 on data subject rights — Right of access, adopted for public consultation on 18 January 2022, para. 105.

<sup>6</sup> EDPB Guidelines 01/2022 on data subject rights — Right of access, adopted for public consultation on 18 January 2022, paras. 48 and 50.

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This decision has been taken by the specially appointed decision-maker, legal advisor [REDACTED], following a presentation by legal advisor [REDACTED].

## How to appeal

If you wish to appeal IMY:s decision, please write to IMY. Please indicate in your letter the decision you are appealing and the amendment that you are requesting. The appeal must reach IMY no later than three weeks from the date on which you received the decision. If the appeal has been received in due time, IMY forwards it to the Administrative Court in Stockholm for trial.

You can send the appeal by email to IMY if the appeal does not contain any sensitive personal data or information that may be subject to confidentiality. IMY:s contact details are set out in the first page of the decision.