

Notice: This document is an unofficial translation of the Swedish Authority for Privacy Protection's decision 2023-09-28, no. IMY-2023-8429. Only the Swedish version of the decision is deemed authentic.

Diarienummer:
IMY-2023-8423

Datum:
2023-10-31

Decision under the General Data Protection Regulation – Resursforum Sverige AB

Decision of the Privacy Protection Authority

The Privacy Protection Authority (IMY) notes that, on 15 July 2022, Resursforum Sverige AB (556706-7607) has processed personal data in breach of Article 12(4) of the GDPR¹ by not informing the complainant of the reason why Resursforum Sverige AB rejected the complainant's request for rectification pursuant to Article 16 of the Data Protection Regulation and by not providing the complainant with information about its ability to lodge a complaint with the Responsible Supervisory Authority for judicial review of the refusal.

IMY gives Resursforum Sverige AB a reprimand pursuant to Article 58(2)(b) GDPR for breach of Article 12(4) GDPR.

Presentation of the supervisory case

IMY has initiated supervision against Resursforum Sverige AB in response to a complaint.

The complaint shows, in essence, the following: The complainant requested rectification of his personal data on 21 June 2022. On 15 July 2022, Resursforum Sverige AB rejected the complainant's request without justification. In connection with the refusal, Resursforum Sverige AB has not provided information to the complainant about the possibility of filing a complaint with the lead supervisory authority for judicial review of the refusal.

In its opinion on 27 June 2023, Resursforum Sverige AB stated the following. Resursforum Sverige AB has not informed the complainant of the reasons for the refusal and of the right to lodge a complaint with the lead supervisory authority for judicial review of the refusal. Resursforum Sverige AB has taken steps for new routines regarding the handling of similar cases and wrote a non-conformity report.

The complaint has been submitted to IMY, as the lead supervisory authority under Article 56 GDPR, by the supervisory authority in Denmark where the complaint was lodged. In view of the cross-border complaint, IMY has made use of the cooperation

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¹ 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).

and consistency mechanisms provided for in Chapter VII of the GDPR. The supervisory authority concerned has been the data protection authority in Denmark.

Statement of reasons for the decision

Legal Regulation

If the controller fails to act upon the data subject's request, the controller shall without delay and no later than one month after they received the request to inform the data subject of the reasons for non-action and of the possibility of lodging a complaint with a supervisory authority and requesting judicial review under Article 12(4) GDPR.

The Privacy Protection Authority's assessment

Has there been a breach of the GDPR?

Resursforum Sverige AB states that it has not informed the complainant of the reasons for rejecting the complainant's request for rectification and of the possibility of lodging a complaint with the lead supervisory authority for judicial review of the refusal. IMY finds that Resursforum Sverige AB has thereby processed personal data in breach of Article 12(4) of the GDPR.

Choice of intervention

According to Article 58(2)(i) and Article 83(2) of the GDPR IMY has the power to impose administrative fines pursuant to 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 injunctions and prohibitions. In addition, it is clear from Article 83(2) which factors must be taken into account when imposing administrative fines and in determining the amount of the fine. In the case of a minor infringement, the IMY may, as stated in recital 148, instead of imposing a pecuniary penalty, issue a reprimand under Article 58(2)(b). Account must be taken of aggravating and mitigating circumstances of the case, such as the nature, gravity and duration of the infringement and previous relevant infringements.

IMY notes the following relevant circumstances. The violations have occurred to a single data subject. Resursforum Sverige AB has stated that it has taken measures for new procedures for handling similar cases. Resursforum Sverige AB has not previously received any corrective action for breach of the General Data Protection Regulation. In those circumstances, IMY considers that there are such minor infringements within the meaning of recital 148 and that it is therefore appropriate to refrain from imposing a fine on Resursforum Sverige AB for the infringements found. IMY gives Resursforum Sverige AB a reprimand pursuant to Article 58(2)(b) GDPR for breach of Article 12(4) GDPR.

This decision was taken by Head of Unit [REDACTED] following a presentation by [REDACTED].

[REDACTED], 2023-10-31 (This is an electronic signature)

How to appeal

If you want to appeal the decision, write to the Privacy Protection Authority. Please indicate in the letter the decision you are appealing and the amendment you are requesting. The appeal must have been received by the Swedish Integrity Protection Authority no later than three weeks from the date on which you received the decision. If the appeal has been received in due time, the Swedish Integrity Protection Authority will forward it to the Administrative Court in Stockholm.

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