

Notice: This document is an unofficial translation of the Swedish Authority for Privacy Protection's decision 2022-11-15, no. IMY-2022-636. Only the Swedish version of the decision is deemed authentic.

Ref no:
IMY-2022-636,
IMI case no. 134681

Date of decision:
15 November 2022

Date of translation:
2022-11-15

Decision under the General Data Protection Regulation – Klarna Bank AB

Decision of the Swedish Authority for Privacy Protection (IMY)

The Swedish Authority for Privacy Protection finds that Klarna Bank AB has processed personal data in breach of Article 12(3) and 17 of the General Data Protection Regulation¹ by not having accommodated the complainant's request for erasure made on 25 June 2020 without undue delay. The complainant's request was not accommodated until 31 December 2020.

The Swedish Authority for Privacy Protection issues a reprimand to Klarna Bank AB pursuant to Article 58(2)(b) of the General Data Protection Regulation for the infringement of Article 12(3) and 17 of the General Data Protection Regulation.

Presentation of the supervisory case

The Swedish Authority for Privacy Protection (IMY) has initiated an inspection regarding Klarna Bank AB (Klarna or the company) due to a complaint. The complaint has been submitted to IMY, as responsible supervisory authority for the company's operations pursuant to Article 56 of the General Data Protection Regulation (GDPR). The handover has been made from the supervisory authority of the country where the complainant has lodged their complaint (Germany) in accordance with the provisions of the GDPR on cooperation in cross-border processing.

The case has been handled through written procedure. In the light of the complaint relating to 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 Germany, Norway, Denmark, Finland and Italy.

The complaint

The complainant has mainly stated the following. On 25 June 2020, he requested erasure under Article 17 of the GDPR. Klarna replied the same day, stating that the

Postadress:
Box 8114
104 20 Stockholm

Webbplats:
www.imy.se

E-post:
imy@imy.se

Telefon:
08-657 61 00

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).

complainant's data would be erased but that it could take up to 90 days for the request for erasure to be completed. The complainant requested to exercise his right of access to his personal data on 30 September 2020 and thereby discovered that his data had not been deleted. As Klarna had not complied with the request made on 25 June 2020, the complainant again requested the erasure of his personal data.

What Klarna has stated

Klarna has mainly stated the following.

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

Klarna received three requests for erasure, namely on 25 June 2020, on 13 October 2020 and on 20 October 2020. All requests were dealt with.

Erasure of the personal data was initiated on 25 June 2020 following the request for erasure made on that day. A part of the complainant's personal data was erased. Due to a temporary technical error, the complete erasure was not completed immediately but only on 31 December 2020 in connection with the request received on 13 October 2020. The complainant was informed on 25 June 2020 that the processing of the request could take up to 90 days and that the process of erasure had started. The reason for the delay was a high workload.

The request for erasure dated 13 October 2020 was finalized on 31 December 2020. The complainant was informed on 14 October 2020 that the erasure of his personal data had started. Klarna informed the complainant already on 25 June 2020 that the process of erasure could take up to 90 days. This is the reason why Klarna on 14 October 2020 only informed the complainant that the process of erasure had been started and not how long it would take to handle the request.

The request for erasure dated 20 October 2020 was handled together with the request dated 13 October 2020 and was thus also finalized on 31 December 2020.

Klarna has handled the complainant's request received on 13 October 2020 as well as the one received on 20 October 2020 without undue delay, considering the large amount of cases Klarna had to deal with at the time of the complainant's request.

Klarna further states that the company continuously improves its processes to ensure data subjects' rights under the GDPR. Klarna's customer service has improved its structure and prioritization in order to reduce the processing time of the cases received that relate to data protection. The improvements implemented since the complainant's requests were received ensure that the processing time is now considerably shorter.

Statement of reasons for the decision

Applicable provisions, etc.

According to Article 12(3) of the GDPR, the individual's request to exercise his or her rights must be dealt with without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months if the request is particularly complex or the number of requests received is high. The controller shall inform the data subject of such an extension within one month of receipt of the request and shall state the reasons for the delay.

Pursuant to Article 17(1), the data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay. Furthermore, the controller shall have the obligation to erase personal data without undue delay where one of the conditions set out in that Article exists, for example where the data is no longer necessary for the purposes for which it was collected or if the consent for processing is withdrawn. Article 17(3) lists the exceptions applicable to this right.

Assessment by IMY

The investigation has shown that the complainant's request for erasure was received by Klarna on 25 June 2020 and that Klarna on the same day informed the complainant that it would take up to 90 days to complete the deletion. According to IMY's understanding, the complainant sent Klarna reminders on 13 and 20 October 2020 regarding its request of 25 June 2020. These reminders do therefore not constitute new requests for erasure. According to Klarna, the request was fully accommodated on 31 December 2020. IMY sees no reason to question this.

Klarna accommodated the complainant's request for erasure only later than six months after the receipt of the request. IMY therefore concludes that Klarna did not handle the complainant's request without undue delay within the meaning of Article 12(3) and 17 of the GDPR. Klarna's argument that a temporary technical error led to the fact that erasure was not completed in time, that Klarna's processes have improved and that the processing time is now shorter does not change IMY's assessment.

Choice of corrective measure

According to Article 58(2)(i) and Article 83(2) of the GDPR, IMY has the power 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 injunctions and prohibitions. Furthermore, Article 83(2) determines the factors to be considered when imposing administrative fines and when determining the amount of the fine. In the case of a minor infringement, IMY may, as stated in recital 148, instead of imposing a fine, issue a reprimand pursuant to Article 58(2)(b). Account needs to be taken to the aggravating and mitigating circumstances of the case, such as the nature, gravity and duration of the infringement as well as past infringements of relevance.

IMY notes the following relevant circumstances. The violations of the GDPR have affected one person and are the result of mistakes on the part of Klarna. Although Klarna did not accommodate the complainant's request for erasure without undue delay, it does not appear that Klarna intended to deny the complainant the right to erasure. In the light of the foregoing, IMY considers, in an overall assessment, that there is such a minor infringement within the meaning of recital 148. Klarna should therefore be given a reprimand under Article 58(2)(b) of the GDPR for the breach found.

Against this background, IMY considers that it is a minor infringement within the meaning of recital 148 and that Klarna must be given a reprimand pursuant to Article 58(2)(b) of the GDPR.

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

How to appeal

If you want to appeal the decision, you should write to the Swedish Authority for Privacy Protection. Indicate in the letter which decision you appeal and the change you request. The appeal must have been received by the Swedish Authority for Privacy Protection no later than three weeks from the day you received the decision. If the appeal has been received at the right time, the Swedish Authority for Privacy Protection will forward it to the Administrative Court in Stockholm for review.

You can e-mail the appeal to the Swedish Authority for Privacy Protection if it does not contain any sensitive personal data or information that may be subject to confidentiality. The authority's contact information is shown on the first page of the decision.