IMY. Integritetsskydds myndigheten

Diarienummer:
IMY-2023-16127

Ref no:
IMY-2023-16127
IMI case no CR 595291

Date of translation :
2024-07-29

Final decision pursuant to Article 60 under the General Data Protection Regulation – Ellos Group AB and Ellos Group Sweden AB

Decision of the Swedish Authority for Privacy Protection

The Swedish Authority for Privacy Protection finds that Ellos Group Sweden AB in its handling of the complainant's request for access made on 25 August 2020 has processed personal data in breach of Article Article 12(3) of the GDPR by failing to comply with the complainant's right of access under Article 15 of the GDPR without undue delay.

The Swedish Authority for Privacy Protection closes the part of the supervision that has been directed at Ellos Group AB.

Presentation of the supervisory case

IMY has received a complaint against Ellos from the Danish Supervisory Authority (Datatilsynet) in accordance with the provisions on the competence of the lead supervisory authority in Article 56 GDPR.

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 authority concerned have been the data protection authority in Denmark.

The deficiency in question alleged in the complaint is that the complainant did not obtain access to its data in a timely manner and that the copy of the data was not complete.

IMY initiated supervision and sent our questions to Ellos Group AB.

Ellos Group Sweden AB (through Ellos Data Protection Officer) submitted its comments on the matter, se the following.

Ellos Group Sweden AB is the data controller for the processing of personal data described in the complaint. The company received the applicant's request for access by e-mail on 25 August 2020. Requests for access were received through a channel that normally handles other types of issues and is not monitored as regularly as the

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channels referred to for these types of requests. The complainant's request was therefore left unaddressed for a longer period than desirable and was not dealt with within the time limit. The access request was handled by email on 22 December 2020.

On 24 December 2020, the complainant submitted a request for further information. On 7 January 2021, Ellos Group Sweden AB informed the complainant that the requested information was processed by Resurs Bank as data controller. Ellos Group Sweden AB considers that the information provided to the complainant was complete.

The complainant, through the Danish supervisory authority, has been given the opportunity to comment on Ellos Group Sweden AB's reply, but has not submitted any comments.

Statement of reasons for the decision

As defined in Article 4(7) of the GDPR, the controller is the person who alone or jointly with others determines the purposes and means of the processing of personal data. Ellos Group Sweden AB has stated that Ellos Group Sweden AB is the data controller for the personal data processing to which the complaint relates and not Ellos Group AB to which the first supervisory letter was addressed. Against this background, IMY concludes that Ellos Group Sweden AB is the data controller for the current processing of personal data, which is why the supervisory case directed against Ellos Group AB hereby is closed.

The controller shall be obliged to inform any person who so requests whether or not personal data relating to the applicant are being processed. Where such data are processed, the controller shall, in accordance with Article 15 of the GDPR, provide the data subject with supplementary information concerning, inter alia, the purposes of the processing and the recipients of the data, as well as a copy of the personal data processed by the controller.

The investigation in the case shows that Ellos Group Sweden AB received the complainant's first request for access on 25 August 2020 and that the complainant's request was complied with on 22 December 2020. IMY finds that Ellos Group Sweden AB has processed the complainant's personal data in breach of Article 12(3) of the GDPR by failing to comply with the complainant's request for access pursuant to Article 15 of the GDPR without undue delay, or at the latest within one month.

The investigation also shows that the company received the applicant's request for additional information on 24 December 2020. Ellos Group Sweden AB has stated that current data is processed by Resurs Bank and that the company provided information about this to the complainant on 7 January 2021. The investigation has not revealed any reason to question that Ellos Group Sweden AB is not the data controller for the processing in question. In those circumstances, IMY finds that the investigation does not show that the applicant's personal data were processed in breach of Article 15 of the GDPR.

Choice of corrective measure
Within the scope of the corrective powers, IMY shall take such measures as are appropriate, necessary and proportionate to ensure compliance with the GDPR.

It follows from Article 58(2) and Article 83(2) of the GDPR that IMY has the power to impose administrative fines in accordance with Article 83 of that regulation. In the case

of a minor infringement, IMY may, as stated in recital 148 of the GDPR, instead of imposing a fine, issue a reprimand pursuant to Article 58(2)(b). Aggravating and mitigating circumstances of the case, such as the nature, gravity and duration of the infringement and previous relevant infringements, must be taken into account. 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 facts. The current supervision covers Ellos Group Sweden AB's handling of an individual complainant's request for access in the light of the requirements set out in Article 12(3) of the GDPR. In doing so, IMY has found that Ellos Group Sweden AB has failed to fulfil its obligations to fulfil the right in time. The prescribed time limit of a maximum of one month has been exceeded by just under three months. However, the applicant's right of access has been granted. The deficiencies found are therefore of a less serious nature than if the request had been left unanswered. In addition, the request had already been accommodated long before IMY contacted Ellos Group Sweden AB with questions about the complaint in question. Furthermore, the infringement was not intentional.

On an overall assessment of the circumstances of the infringement found, IMY concludes that there is no need to use the corrective powers in the present case.

The case should therefore be closed.

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████████████, *2024-07-29*

How to appeal

If you want to appeal the decision, you should write to the 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 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 Authority for Privacy Protection will forward it to the Administrative Court in Stockholm for review.

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