

[REDACTED]

Exempt from public disclosure:

*Offl. § 13, jf. personopplysningsloven § 24 første ledd 2.
punktum*

Your reference

Our reference
20/02290-17

Date
15.01.2025

Closure of case

Datatilsynet refers to your complaint dated 23 August 2018 regarding erasure of personal data at SAS.no (Scandinavian Airlines System Denmark-Norway-Sweden, SAS), and Datatilsynet's letter to you dated 5 July and 7 October 2024.

Decision

Datatilsynet rejects your complaint.

Background

We informed you on 5 July 2024 that this is a so-called cross-border case. The case is cross border because SAS is established in more than one EEA country and the processing in question takes place in the context of the activities of such establishments. To ensure uniform application of the GDPR in the EEA, data protection authorities across the EEA must cooperate in the handling of cross-border cases.

The Swedish DPA has acted as lead supervisory authority in the handling of your complaint. We, and 11 other CSAs, have been involved as concerned supervisory authorities.

Reasoning for our decision

The Swedish DPA has investigated the subject matter of your complaint to the extent appropriate in accordance with Article 57(1)(f) GDPR and, based on such investigation, they have not found any infringement of the GDPR. The Swedish DPA has therefore concluded that your complaint should be rejected and that the case should be closed. All concerned supervisory authorities, including us, agree with such conclusion.

Please find below information from the Swedish DPA. This information explains how your complaint has been handled and the reasons as to why your complaint should be rejected. As

your complaint is to be rejected, the supervisory authority that received your complaint – in this case us – is the one which will adopt the final decision pursuant to Article 60(8) GDPR.

As this is a cross-border case, the information is written in English. We can provide a translation. If you wish to receive a translation, please contact us.

Decision of the Swedish Authority for Privacy Protection

The Swedish Authority for Privacy Protection (IMY) finds that the investigation has not shown that Scandinavian Airlines System Denmark-Norway-Sweden (902001-7720) has processed personal data in breach of Article 17 of the General Data Protection Regulation (GDPR) as alleged in the complaint.

Presentation of the supervisory case

IMY has initiated supervision regarding Scandinavian Airlines System Denmark-Norway-Sweden (SAS) due to a complaint against the company. The complaint was transferred from the supervisory authority of the Member State where the complainant lodged his/her complaint (Norway) in accordance with the provisions of the GDPR on cooperation in cross-border processing. IMY has handled the case as responsible supervisory authority for the company's operations pursuant to Article 56 of the GDPR.

The case has been handled through written procedure. Since the complaint relates to cross-border processing, IMY has used the mechanisms for cooperation and consistency regulated in Chapter VII of the GDPR. The supervisory authorities concerned have been the data protection authorities in Norway, Spain, Netherlands, France, Denmark, Germany, Italy, Finland, Cyprus, Austria, Poland and Portugal.

Below follows a description of the arguments put forward by the complainants and the company in relation to each complaint.

The complainant has stated the following. The complainant has requested erasure of his personal data according to article 17 of the GDPR but his request has not been complied with.

SAS has stated the following. SAS received the complainants request for erasure on the 1st of January 2019. In accordance with the procedure for erasure of personal data, SAS complied with the request and deleted the complainant's personal data, which was communicated to the complainant on the 2th of January 2019.

According to article 17(3)(b) of the GDPR, the right to erasure of personal data is limited if the personal data is necessary for compliance with a legal obligation which requires processing by Union or Member State law. There are several EU regulations and directives related to the handling of PNR data.

A Passenger Name Record (PNR) is a unique airline reservation number for one or more flights. PNR contains personal data provided by a passenger and is collected and stored by airlines. They include the following personal data: the passengers name, passport details, travel dates, itineraries, seats, luggage, contact details, any membership number, payment methods and requests for special services (SSR), such as requirements for special meals and/or special assistance.

According to the The Air Passengers Rights Regulation 261/2004, customers of SAS can sue the company in three or four countries; the place of departure and destination, where the airline is domiciled and also in the customer's home country. Under the Directive, the rules on limitation are determined by national law. In Sweden, the general limitation period of 10 years applies. In order for SAS to be able to meet any demands from customers, PNR data needs to be saved during the limitation period.

According to the Directive 2016/681 (Use of passenger name record (PNR)) for the purpose of preventing, detecting, investigating and prosecuting terrorist offences and serious crime, PNR data must be retained for a period of 5 years.

SAS further states that the aforementioned legal obligations are the legal basis for the processing and saving of PNR data. This information can also be found in SAS Privacy Policy. In accordance with the regulations mentioned above, SAS PNR data is stored for 10 years from the end of the flight.

IMY has sent SAS statement to the supervisory authority of the country in which the complainant lodged its complaint (Norway) to give the complainant opportunity to comment on SAS statement. The complainant has not responded.

Motivation for the decision

The complainant has requested erasure of his personal data. According to Article 17(1) of GDPR, the data subject shall have the right to obtain from the controller the erasure of his or her personal data without undue delay and the controller shall be obliged to erase personal data without undue delay, under certain conditions set out in the relevant article. Article 17(3) of GPDR lists the exceptions to this right.

The data subject's right to erasure is not an unconditional right, and applies in the situations and under the conditions set out in Article 17 of the GDPR. SAS states that they have complied with the complainants right to erasure. Some data have not been deleted that are processed for legal obligations. IMY finds no reason to question SAS's information that the processing of the complainant's personal data is necessary to defend legal claims and to comply with the legal requirements mentioned by the company.

IMY considers that SAS has complied with the complainants right to erasure and finds that the investigation has not shown that SAS has processed the complainant's personal data in breach of Article 17 of the GDPR as alleged in the complaint.

The case should therefore be closed.

Ability to appeal

This decision has been adopted by us in accordance with Article 56 and Chapter VII of the GDPR, and can therefore not be appealed to the Norwegian Privacy Appeals Board pursuant to Section 22(2) of the Norwegian Personal Data Act (*in Norwegian: personopplysningsloven*). This decision can nevertheless be challenged before Norwegian courts in accordance with Article 78(1) GDPR.

Duty of Confidentiality

Parties to this matter have a duty of confidentiality under Section 13(b) of the Norwegian Public Administration Act regarding the information they receive about the complainant's identity, personal matters and other identifying information, and such information can only be used to the extent necessary to safeguard their interests in this case. Any breach of this duty of confidentiality can be punished pursuant to Section 209 of the Norwegian Penal Code.

In light of the above, we have now closed our case on this matter.

Kind regards

Tobias Judin
Head of Section

Anne Eidsaa Hamre
Senior legal adviser

This letter has electronic approval and is therefore not signed

Copy: SAS