



27 November 2024

Notice: This document is an unofficial translation of the Office of the Data Protection Ombudsman's decision.

Decision

Case

Decision on dismissing a complaint pursuant to Article 60(8) of the GDPR

Complainant

■

Data controller

■■■■■■■■■■

Background of the proceedings

On 27 September 2018, the complainant reported to the Office of the Data Protection Ombudsman that he has noticed incorrect processing of personal data by ■■■■■■■■■■. According to the complainant, ■■■■■■■■■■'s Checkout service's automatic filling feature has a security problem with relation to protecting personal data from unauthorised access.

The matter has previously been processed by the Office of the Data Protection Ombudsman under registration number 6646/163/18 and, due to a technical change in the system, the processing of the matter continues at present under registration number TSV/7/2018.

■■■■■■■■■■'s headquarters are located in Sweden. Therefore, pursuant to the provisions of Chapter VII of the General Data Protection Regulation (EU) 2016/679 (GDPR) on the processing of cross-border cases, the Office of the Data Protection Ombudsman has transferred the case to the Swedish Supervisory Authority (Integritesskydds myndigheten). Pursuant to Article 56 of the GDPR, the Swedish Supervisory Authority is the responsible lead supervisory authority for processing a complaint concerning the processing of personal data by the data controller.

On 14 February 2024, the Swedish Supervisory Authority informed the complainant that the Swedish Supervisory Authority has started an investigation regarding the automatic filling of the ■■■■■■■■■■ Checkout service. At the same time, the Swedish Supervisory Authority has asked

the complainant to confirm whether the complainant's complaint is still relevant for him. The Swedish Supervisory Authority asked also does the complainant demand that the Swedish Supervisory Authority investigates whether the complainant's data protection rights have been infringed in the processing of personal data by the data controller. The Office of the Data Protection Ombudsman forwarded the request of the Swedish Supervisory Authority to the complainant by e-mail.

The complainant has answered that he does not demand that the Swedish Supervisory Authority investigates his own complaint as a separate case concerning him, as the Swedish Supervisory Authority already has an ongoing investigation regarding ██████'s Checkout service.

On 7 March 2024, The Swedish Supervisory Authority submitted a draft decision in the context of the cooperation procedure between the authorities under Article 60 of the GDPR. In the draft decision, the Swedish Supervisory Authority states that, pursuant to Article 57(1)(f) GDPR, the Swedish Supervisory Authority is the competent supervisory authority to investigate the subject matter of the complaint to the extent required by its nature. Furthermore, pursuant to a decision of the Court of Justice (Schrems II, C-311/18, EU:C:2020:559, 109), the supervisory authority must investigate such complaints with due care.

According to the draft decision, the complainant has not demanded that Swedish Supervisory Authority investigates his complaint as a separate case, as the Swedish supervisory authority has an ongoing investigation concerning the same controller and the same processing operation of personal data. Thus, in its draft decision, the Swedish Supervisory Authority proposes to close the investigation of the complainant's complaint as a separate matter. According to the draft decision, the processing of complainant's complaint would be closed.

Decision of the Data Protection Ombudsman and its reasoning

Decision of the Data Protection Ombudsman

The complainant's complaint is dismissed.

Reasoning

Article 60 of the GDPR regulates cooperation between the lead supervisory authority and other supervisory authorities concerned. According to Article 60(8) GDPR, if a complaint is dismissed or rejected, the supervisory authority with which the complaint was lodged shall adopt a decision and notify it to the complainant and shall inform the controller thereof.

Under Article 78(1) of the GDPR, each natural or legal person shall have the right to an effective judicial remedy against a legally binding decision of a supervisory authority concerning them. Under section 31 of the Finnish Administrative Procedure Act (434/2003), the authority must ensure that the matter is sufficiently and appropriately investigated by obtaining the information and clarifications necessary to resolve the case.

The Data Protection Ombudsman must therefore issue an appealable decision under Articles 60 and 78 of the GDPR.

The Swedish Supervisory Authority is competent to investigate the complainant's complaint as the lead supervisory authority. The Office of the Data Protection Ombudsman is the supervisory authority concerned in the case. The complainant's complaint has been lodged with the Office of the Data Protection Ombudsman, which has transferred the case to the Swedish Supervisory Authority.

The complainant has not demanded that his own complaint concerning [REDACTED]'s Checkout service must be investigated as a separate case concerning him. The Swedish Supervisory Authority has announced that it has an ongoing investigation regarding [REDACTED]'s Checkout service. On that basis, the Data Protection Ombudsman decides the matter in accordance with the draft decision of the Swedish Supervisory Authority of 7 March 2024 and dismisses the complainant's complaint as a separate matter.

Appeals

According to section 25 of the Data Protection Act (1050/2018), this decision may be appealed in the Administrative Court by lodging an appeal in accordance with the provisions of the Administrative Judicial Procedure Act (808/2019). Appeals shall be lodged in the Administrative Court.

The appeal instructions are enclosed.

Service of notice

The service of notice of the decision shall be effected by post against a certificate of service in accordance with section 60 of the Administrative Procedure Act (434/2003).

Further information on this decision is provided by the referendary

[REDACTED], Senior Officer, tel. [REDACTED]

[REDACTED]
Deputy Data Protection Ombudsman

[REDACTED]
Senior Officer

Distribution

The complainant
The data controller



The Swedish Supervisory Authority and other supervisory authorities
concerned

Contact information

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