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IMY-2023-8336

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Final decision pursuant to Article 60 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(2) GDPR¹ by not facilitating the exercise of the right of rectification by the complainant under article 16 in accordance with his request of 8th of June 2020.
- article 16 by not allowing the complainant to change his e-mail address in accordance with its request of 8th of June 2020.

The Swedish Authority for Privacy Protection issues a reprimand to Klarna Bank AB pursuant to article 58(2)(b) of the GDPR for breach of articles 12(2) and 16 of the GDPR.

Presentation of the supervisory case

The Swedish Authority for Privacy Protection (IMY) has initiated a supervision regarding Klarna Bank AB (Klarna or the company) due to a complaint. The complaint has been submitted to IMY as the lead supervisory authority under Article 56 GDPR. The handover has been made from the supervisory authority of the country where the complainant has lodged his 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 concerning a 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 Austria, Hungary, Denmark, Germany, Norway, Finland, Italy, the Netherlands, Poland, Ireland, France, Estonia and Spain.

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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).

The complaint

The complainant has mainly stated the following. The complainant has a Klarna card and has requested rectification of his email-address connected to the card. Klarna's response to the complainant's request has been that it's technically not possible to rectify the email-address and that the complainant therefore has to order a new card in order to have the data rectified. Ordering a new Klarna card would thus affect the complainant's credit score in a negative manner.

What Klarna Bank AB has stated

Klarna Bank AB has mainly stated the following. Klarna is the data controller for the processing of the data in question. The request for rectification was received by Klarna on 8th of June 2020 and on 16th of July 2020. The complainant's request that was received by Klarna on 8th of June was handled by a customer service officer, whom informed the complainant that the data relating to a card that has already been issued can't be changed and that the complainant, therefore, needs to order a new card to have his e-mail address changed. The customer service officer who handled the complainant's request received by Klarna on the 16th of July 2020, informed the complainant that the email-address for all the current outstanding invoices has been changed.

It is not possible for the company to rectify data connected to a card that has already been issued. Since the company uses the email-address to which the customer's card is linked as an identification point, and as a part of its verification process, this means in practice that a new card must be issued in order for the email-address to be changed.

It is not possible for Klarna to correct the email-address linked to the complainant's Klarna card since the applicant, on 16th of July 2020, requested the deletion of all of his personal data. The applicant also requested the cancellation of his Klarna card at the same time.

Statement of reasons for the decision

Applicable provisions, etc.

Pursuant to article 12(2), the controller has an obligation to facilitate the exercise of the data subject's rights in accordance with articles 15-22 of the GDPR.

According to article 16 of the GDPR, the data subject shall have the right to obtain from the controller without undue delay the rectification of inaccurate personal data concerning him or her. Rectification of personal data may be deemed to mean that the original, incorrect, personal data is replaced by personal data concerning the correct circumstances.

According to article 25 of the GDPR the controller shall, taking into account the state of the art, the cost of implementation and the nature, scope, context and purposes of processing as well as the risks of varying likelihood and severity for rights and freedoms of natural persons posed by the processing, both at the time of the determination of the means for processing and at the time of the processing itself, implement appropriate technical and organisational measures, such as

pseudonymisation, which are designed to implement data-protection principles, such as data minimisation, in an effective manner and to integrate the necessary safeguards into the processing in order to meet the requirements of this regulation and protect the rights of data subjects.

According to article 5 (1) (d) personal data shall be accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay (principle of accuracy).

Assessment of IMY

When the complainant requested rectification of his email-address on 8th of June 2020, the company stated that there is no technical possibility of rectifying the data and therefore asked the complainant to order a new Klarna card. According to Klarna, the reason for this is that the email-address to which the customer's card is connected, is used as an identification point, and as a part of Klarna's verification process. This means that the only way to have the email rectified is through the ordering and issuing of a new card.

According to Article 16, the data subject has the right to rectification of inaccurate personal data. The responsibility is upon the controller to take action to correct inaccurate data, when the data subject has made a request upon that, and not upon the data subject (cf. principle of accuracy in article 5 (1) (d) which also obliges the controller to rectify inaccurate data on its own initiative). What constitutes inaccurate personal data and whether or not personal data should be rectified shall be assessed and determined in relation to the purposes for which the personal data is being processed. If contact information is used for, for example, communication, it is necessary for the purpose of the processing such data, that the data is updated. Requesting the data subject to order a new Klarna card in order to have his email address rectified was not an acceptable way for the company to fulfil its obligations under Article 16. IMY therefore concludes that Klarna Bank AB has violated Article 16 of the GDPR by not rectifying the complainant's personal data.

According to Article 12(2) GDPR, the controller has an obligation to facilitate the exercise of the data subjects right to rectification under article 16. The meaning of this obligation is developed in recital 59 which states, inter alia, that procedures should be laid down to facilitate the exercise of data subjects' rights, including mechanisms for requesting and, where appropriate, obtaining rectification. Article 12(2) thus includes an obligation for the controller to proactively devise solutions that facilitates for the data subject to exercise his or her rights. The solution offered by Klarna to the data subject to order a new card, did not enable the data subject to rectify his email-address.

In the light of Article 5(1)(d) and Article 25 of the GDPR, IMY considers that the solution offered by Klarna, i.e. the ordering of a new card by the complainant, has made it difficult for him to exercise his right to rectification. Facilitating for the data subject to exercise his or her rights, is about having simple and clear means of communication, that enables that. By referring the complainant to ordering a new card, because of how the company's system is designed, has not made it possible for the complainant to exercise his right. The company can't deviate from its obligations under the GDPR by the design of its own systems. On the contrary, as stated above, the GDPR requires the controller to facilitate the exercise of the data subject's rights.

The company's explanation that it is not possible to rectify the complainant's email-address, may be considered contrary to this.

IMY therefore finds that Klarna Bank AB has violated Article 12(2) of the GDPR by not facilitating the exercise of the complainant's right under Article 16 to have his email-address corrected.

Choice of corrective measure

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. 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 taken into account 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 facts. Klarna has infringed article 16 and article 12(2) of the GDPR by not complying with or facilitating the complainant's request for rectification under article 16. This supervision has concerned the processing of only one person's personal data. Klarna has also reconnected to the complainant and explained why it was not possible for the company to rectify his email-address. In addition, Klarna has offered the applicant an alternative for having his email-address corrected. Klarna cannot therefore be regarded as having intended to deny the complainant the rectification of his email-address.

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

This draft decision has been approved by Head of Unit [REDACTED] after presentation by legal advisor [REDACTED].