

COMPLAINANT

See appendix

CONTROLLER

Etraveli Group AB

Swedish ref.:

IMY-2024-1894

ES SA ref:

EXP202212305

IMI case register:

380272

Date:

2026-07-08

Final decision pursuant to Article 60 under the General Data Protection Regulation – Etraveli Group AB

This is a final decision pursuant to Article 60(9) in the General Data Protection Regulation. The part of the decision which has gone against the controller has been adopted finally through this decision and is appealable via the Swedish Authority for Privacy Protection's appeal process, see below.

Decision of the Swedish Authority for Privacy Protection

The Swedish Authority for Privacy Protection (IMY) finds that the investigation in the case does not show that Etraveli Group AB (org. nr. 556584-4684) has failed to comply with Article 15 of the General Data Protection Regulation (GDPR)¹ in the manner alleged in the complaint.

IMY finds that Etraveli Group AB has processed personal data in breach of Article 12(3) of the GDPR by not informing the complainant without undue delay of the outcome of his request for access under Article 15 of the GDPR.

IMY issues a reprimand to Etraveli Group AB pursuant to Article 85(2)(b) of the GDPR for the infringement of Article 12(3) of the GDPR.

Presentation of the supervisory case

IMY has initiated supervision regarding Etraveli Group AB (henceforth Etraveli Group/the company) due to a complaint regarding the right to access. The complaint has been submitted to IMY, as lead supervisory authority pursuant to Article 56 of the GDPR. The handover has been made from the supervisory authority of the country where the complaint has been lodged (Spain) in accordance with the provisions of the GDPR on cooperation in cross-border processing.

Postal address:

Box 8114
104 20 Stockholm
Sweden

Website:

www.imy.se

E-mail:

imy@imy.se

Telephone:

+46 (8) 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).

The case has been handled through written procedure. In 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 concerned supervisory authorities have been the data protection authorities in Belgium Ireland, Portugal, the Netherlands, Norway, France, Hungary, Finland and Spain.

The complainant has essentially stated the following. On the 4th of March 2022, the complainant contacted Etraveli Group and requested access to his personal data, including audio recordings of telephone conversations between the complainant and the company. The complainant was informed by telephone that he would not be granted access to the audio recordings. After the complainant persisted, he was directed to submit his request via the company's website, which he did on the 20th of March 2022. The complainant did not receive a reply at that time. On the 6th of June 2022, the complainant sent a new request for access to Etraveli Group. On the 7th of July 2022, the complainant received parts of the requested data but no recordings.

Etraveli Group has essentially stated the following.

On the company's privacy policy, it is clearly stated how data subjects can exercise their rights under the GDPR so that requests under the Regulation will be received by the privacy team. Based on information provided by the complainant, the complainant contacted the company's customer service in March 2022 and subsequently sent a request via the company's contact form. These means of contact are specifically intended for customer service-related questions and not for data privacy requests. Unfortunately, the customer service team did not identify the complainant's message as a request under the GDPR. As a result, the message was not passed on to the privacy team. The privacy team received the complainant's request at the time of the complainant's email of the 6th of June 2022.

Based on the screenshot attached by the complainant, the company provided the complainant with a copy of his personal data, including the recordings, on the 7th of July 2022, i.e. within the legal timeframe. The recordings were shared with the complainant in a separate e-mail where the complainant could download the audio files. This system was used due to size limitations. If the complainant did not retrieve the recordings within the prescribed seven-day period, the company would not be able to resubmit them due to the recordings having been deleted.

In accordance with the company's privacy policy, telephone recordings are stored for a period of six months from the date on which the call took place. In accordance with the privacy policy, e-mail communication is stored for two years. The company was therefore unable to find any communication between the company and the complainant regarding the complainant's request. Regarding the fact that the customer service team did not identify the complainant's initial contact as a request under the GDPR, the company has planned and taken a number of preventive measures to ensure appropriate handling in the future and prevent similar problems from reoccurring.

The complainant has been given the opportunity to comment on Etraveli Group's statement and has essentially stated the following. The complainant used the right means of communication when contacting the company. The company never sent the recordings to him. In view of the initial message which the complainant received by telephone, the company never intended to make the recordings available to him.

Grounds for the decision

Applicable provisions, etc.

It follows from Article 57(1)(f) of the GDPR that IMY shall handle complaints from data subjects who consider that their personal data are being processed in breach of the GDPR. The provision further states that IMY shall, where appropriate, examine the subject matter of the complaint. The Court of Justice of the European Union has ruled that the supervisory authority must investigate such complaints with due care.² Under Paragraph 23 of the Swedish Administrative Procedure Act (2017:900), an authority must ensure that a case is investigated to the extent required by its nature.

The right to access follows from Article 15 of the GDPR. The provision means that a data subject has the right to obtain from the controller confirmation as to whether or not personal data concerning him or her are being processed, and, where that is the case, access to the personal data and certain information regarding the processing.

According to Article 12(3) of the GDPR the controller shall provide information on action taken on a request under Article 15 of the GDPR without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary, taking into account the complexity and number of the requests. The controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons for the delay.

According to the principle of accountability the controller must be able to demonstrate that the processing of personal data is carried out in accordance with the provisions of the GDPR (Article 5(2) and 24 of the GDPR). This means that the controller bears the burden of proof that the processing complies with the Regulation.³

Assessment

Compliance with the complainant's request

As regards the question whether the complainant was granted access in accordance with his request, the following is shown from the investigation in the case. It is undisputed between the parties that the complainant received an email from Etraveli Group on the 7th of July 2022 in which the company attached a copy of the complainant's personal data and stated that the requested recordings would be shared with the complainant in a separate e-mail. However, the complainant states that he has not received any further communication.

There are therefore conflicting accounts between the parties as to whether the company provided the requested recordings to the complainant. In accordance with the principle of accountability the burden of proof lies on the company. However, IMY notes that the company has stated that no e-mail correspondence between the parties remains stored as these have been deleted in accordance with the company's policies on retention periods. In view of the long period of time that has elapsed since the event, IMY finds no reason to call this into question. IMY further considers it not to be reasonable to hold these circumstances against the company in regards to the assessment in question. IMY also finds that the fact that the complainant initially

² Schrems II, C-311/18, EU:C:2020:559, paragraph 109.

³ CJEU Judgement of the 24th of February 2022, C-175/20, paragraph 77-81.

received a different response from customer service employees does not indicate that the company never intended to give the complainant access to the recordings.

On an overall assessment and on the basis of the investigation in the case, IMY finds that it cannot be concluded that Etraveli Group has failed to comply with Article 15 of the GDPR in the manner alleged by the complainant. IMY will therefore take no further action on the matter in this regard.

Satisfactory handling of the complainant's request

As regards the handling of the complainant's request, the following is shown from the investigation in the case. The complainant has stated that he made his request for access with Etraveli Group in March 2022. That fact has not been called into question by the company. On the contrary, the company states that the complainant's initial contact was not perceived as a request under the GDPR and was therefore not properly forwarded.

IMY therefore finds that the complainant's request was received by Etraveli Group in March 2022. In view of the fact that the company did not respond to that request until July 2022, following the complainant's renewed request of June 2022, the one-month time limit laid down in Article 12(3) was exceeded. It has not been shown that, within that period, the company informed the complainant of any extension of the period.

In conclusion, IMY finds that Etraveli Group has processed the complainant's personal data in breach of Article 12(3) GDPR by not providing the complainant with information on the outcome of his request without undue delay.

Choice of corrective measure

Pursuant 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 instead of the other measures referred to in Article 58(2), such as injunctions and prohibitions. 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). Aggravating and mitigating circumstances of the case need to be taken into consideration. These could include the nature, gravity and duration of the infringement as well as past infringements of relevance.

IMY notes the following relevant facts. IMY has found that Etraveli Group has failed to comply with the complainant's request by not providing information on the outcome of the request within the prescribed time limit. The infringement in question concerns one subject, in an individual case, and the company states that it has undertaken measures to prevent the recurrence of similar situations. On an overall assessment, IMY finds this to be a minor infringement within the meaning of recital 148 and that Etraveli Group is to be given a reprimand pursuant to Article 58(2)(b) of the GDPR.

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

[REDACTED]

Appendix

The complainant's personal data

How to appeal

If you wish to appeal the decision, you should write to the Swedish Authority for Privacy Protection (IMY). Indicate in the letter which decision you wish to appeal and the change you are requesting. The appeal must have been received by IMY no later than three weeks from the day you received the decision. If the appeal has been received in time, IMY will then forward it to the Administrative Court in Stockholm for review.

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