



16.1.2024

NOTICE TO MEMBERS

Subject: Petition No 0671/2023 by M.P. (Swedish) on an alleged non-application of the GDPR rules in Sweden

Petition No 0781/2023 by A.M. (Swedish) on the alleged breach of the General Data Protection Regulation in Sweden

1. Summaries of the petitions

Petition No 0671/2023

The petitioner is complaining that some online data companies in Sweden allegedly do not follow the General Data Protection Regulation (GDPR). He explains that there are several websites that store sensitive personal data about Swedish citizens, for example on criminal convictions, which enjoy the so-called "utgivningsbevis". This status makes it possible for them to claim that GDPR rules do not apply to the data they publish online. Therefore, the petitioner requests that GDPR be applicable to this type of databases, so that Swedish citizens can ask to have all their data permanently removed from any website.

Petition No 0781/2023

The petitioner claims that in Sweden, the GDPR is not respected on a large scale. He complains that judgements, legal documents and investigations can be bought openly online. He explains that there are purely online databases that show the existence of legal documents and sell on demand. He adds that these databases use personal and sensitive data for marketing purposes, without the authorisation of the owners of the data, while refusing to delete data, citing their right to do so under Swedish law. He considers this to be major abuse and an infringement of his privacy and personal integrity. Finally, he requests that the GDPR should not be exempted

from the Swedish regulation that allows such purely private databases.

2. Admissibility

Petitions 0671/2023 and 0781/2023

Petition 0671/2023 declared admissible on 25 October 2023. Petition 0781/2023 declared admissible on 21 November 2023. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 16 January 2024

Petitions 0671/2023 and 0781/2023

The Commission's observations

Article 85 of the General Data Protection Regulation (GDPR)¹ provides that Member States shall by law reconcile the right to the protection of personal data with the right to freedom of expression and information, including processing for journalistic purposes and the purposes for academic, artistic and literary expression. For processing carried out for journalistic purposes or the purpose of academic, artistic and literary expression, Member States shall provide for exemptions or derogations from parts of the GDPR if they are necessary to reconcile the rights to the protection of personal data with the freedom of expression and information.

The Swedish Data Protection Act (2018:218) in its Chapter 1, Section 7 provides that the GDPR and this Act shall not apply where this would breach the Freedom of the Press Act or the Fundamental Law on Freedom of Expression. This so-called constitutional protection for freedom of expression has been extended to private sector companies which are managing publicly available search services on which information published by public authorities is compiled (e.g. on criminal convictions) under the condition that the companies have been issued by public authorities a 'certificate of no legal impediment to publication (utgivningsbevis)'.

The Commission services are in contact with the Swedish authorities to discuss how Article 85 GDPR has been implemented in Sweden in particular on the issue of the 'utgivningsbevis'. If the Commission services come to the conclusion that the way how the GDPR has been implemented in Sweden violates EU data protection law, the Commission has the possibility to take further steps against Sweden.

Conclusion

In view of the assessment how the Swedish authorities have implemented Article 85 GDPR in particular on the issue of the 'utgivningsbevis' the Commission services will decide whether it will take further steps against Sweden.

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), OJ L 119, 4.5.2016, p. 1–88.