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Ad Hoc Information Report

Data protection: Redress mechanisms and their use

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Skaraborg Institute for Research and Development

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## Mapping of Redress mechanisms in the area of data protection

Redress Mechanism Number	Type of possible outcomes of procedure	first Instance	Total Number of times this procedure was initiated in 2009 (please provide source of information in footnote)	Total Number of times this procedure was initiated in 2010 (please provide source of information in footnote)	Total Number of times this procedure was initiated in 2011 (please provide source of information in footnote)
1	Fine	The Swedish Data Inspection Board ( <i>Datainspektionen</i> )	0 <sup>1</sup>	0 <sup>2</sup>	2 <sup>3</sup>
2	Compensation, damages	The District Court ( <i>Tingsrätten</i> ) <sup>4</sup>	66 <sup>5</sup> ( <i>Chancellor of Justice (Justitiekanslern)</i> ) <sup>6</sup>	69 <sup>7</sup> ( <i>Chancellor of Justice (Justitiekanslern)</i> ) <sup>8</sup>	72 <sup>9</sup> ( <i>Chancellor of Justice (Justitiekanslern)</i> ) <sup>10</sup>
3	Rectification ( <i>correct, block, restrict or erase</i> )	The Swedish Data Inspection Board ( <i>Datainspektionen</i> )	9 cases ( <i>The Credit Information Act</i> ) <sup>11</sup> 86 cases ( <i>The Debt Collection Act</i> ) <sup>12</sup> 233 cases ( <i>The</i>	16 ( <i>The Credit Information Act</i> ) <sup>14</sup> 84 cases ( <i>The Debt Collection Act</i> ) <sup>15</sup> 332 cases ( <i>The Person Data</i>	10 ( <i>The Credit Information Act</i> ) <sup>17</sup> 66 cases ( <i>The Debt Collection Act</i> ) <sup>18</sup> 312 cases ( <i>The Person Data Act</i> ) <sup>19</sup>

<sup>1</sup> The Data Inspection Board, Annual report 2009 (Årsredovisning 2009), [www.datainspektionen.se/Documents/arsredovisning-2009.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2009.pdf).

<sup>2</sup> The Data Inspection Board, Annual report 2010 (Årsredovisning 2010),

<sup>3</sup> The Data Inspection Board, Annual report 2011 (Årsredovisning 2011), p. 28,

[www2.datainspektionen.se/bt/ladda-ner-a-bestaell?page=shop.product\\_details&flypage=produktsida.tpl&product\\_id=146&category\\_id=10](http://www2.datainspektionen.se/bt/ladda-ner-a-bestaell?page=shop.product_details&flypage=produktsida.tpl&product_id=146&category_id=10).

<sup>4</sup> The Swedish Courts (Sveriges Domstolar), [www.domstol.se/Funktioner/English/The-Swedish-courts/District-court/](http://www.domstol.se/Funktioner/English/The-Swedish-courts/District-court/) (In English).

<sup>5</sup> The Chancellor of Justice, Annual report 2009 (*Justitiekanslern, Årsredovisning 2009*), p. 9, [www.jk.se/Justitiekanslern/~media/Files/arsredovisningar/arsredovisning%202009.ashx](http://www.jk.se/Justitiekanslern/~media/Files/arsredovisningar/arsredovisning%202009.ashx).

<sup>6</sup> [www.notisum.se/rnp/sls/lag/19951301.htm](http://www.notisum.se/rnp/sls/lag/19951301.htm).

<sup>7</sup> The Chancellor of Justice, Annual report 2010 (*Justitiekanslern, Årsredovisning 2010*), p. 10 [www.jk.se/Justitiekanslern/~media/Files/arsredovisningar/arsredovisning%202010.ashx](http://www.jk.se/Justitiekanslern/~media/Files/arsredovisningar/arsredovisning%202010.ashx).

<sup>8</sup> [www.notisum.se/rnp/sls/lag/19951301.htm](http://www.notisum.se/rnp/sls/lag/19951301.htm).

<sup>9</sup> The Chancellor of Justice, Annual report 2011, (*Justitiekanslern, Årsredovisning 2011*) p. 9, [www.jk.se/Justitiekanslern/~media/Files/arsredovisningar/arsredovisning%202011.ashx](http://www.jk.se/Justitiekanslern/~media/Files/arsredovisningar/arsredovisning%202011.ashx).

<sup>10</sup> [www.notisum.se/rnp/sls/lag/19951301.htm](http://www.notisum.se/rnp/sls/lag/19951301.htm).

<sup>11</sup> The Data Inspection Board, Annual report 2009 (Årsredovisning 2009), p. 27, [www.datainspektionen.se/Documents/arsredovisning-2009.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2009.pdf).

<sup>12</sup> The Data Inspection Board, Annual report 2009 (Årsredovisning 2009), p. 28, [www.datainspektionen.se/Documents/arsredovisning-2009.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2009.pdf).

			Person Data Act) <sup>13</sup>	Act) <sup>16</sup>	
4	Criminal	The General Courts (Tingsrätt)	80-100 cases of violations of the Personal Data Act (1998:204) <sup>20</sup> (The Swedish Prosecution Authority) <sup>21</sup>	80-100 cases of violations of the Personal Data Act (1998:204) <sup>22</sup> (The Swedish Prosecution Authority) <sup>23</sup>  The Data Inspection Board reported 5 cases to the Police of publications of data on the Internet that the Board judged to be offensive. <sup>24</sup>	80-100 cases of violations of the Personal Data Act (1998:204) <sup>25</sup> (The Swedish Prosecution Authority) <sup>26</sup>  The Data Inspection Board reported 1 case to the Police of publications of data on the Internet that the Board judged to be offensive. <sup>27</sup>
5	Revocation or permission of licence/ permit	The Swedish Data Inspection Board (Datainspektionen)	A request has been sent to the Data Inspection Board to answer this question.	A request has been sent to the Data Inspection Board to answer this question.	A request has been sent to the Data Inspection Board to answer this question.

<sup>14</sup> The Data Inspection Board, Annual report 2011 (Årsredovisning 2011), p. 28, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

<sup>15</sup> The Data Inspection Board, Annual report 2011 (Årsredovisning 2011), p. 28, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

<sup>17</sup> The Data Inspection Board, Annual report 2011 (Årsredovisning 2011), p. 28, [www.datainspektionen.se/Documents/arsredovisning-2009.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2009.pdf).

<sup>18</sup> The Data Inspection Board, Annual report 2011 (Årsredovisning 2011), p. 28, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

<sup>19</sup> The Data Inspection Board, Annual report 2011 (Årsredovisning 2011), p. 18, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

<sup>13</sup> The Data Inspection Board, Annual report 2009 (Årsredovisning 2009), p. 19, [www.datainspektionen.se/Documents/arsredovisning-2009.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2009.pdf).

<sup>16</sup> The Data Inspection Board, Annual report 2011 (Årsredovisning 2011), p. 18, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

<sup>20</sup> The Swedish Prosecution Authority, Rätts PM 2012:02 Brottmot personuppgiftslagen, p. 5, [www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf](http://www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf).

<sup>21</sup> The Swedish Prosecution Authority (Åklagarmyndigheten), <http://www.aklagare.se/In-English/>.

<sup>22</sup> The Swedish Prosecution Authority, Rätts PM 2012:02 Brottmot personuppgiftslagen, p. 5, [www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf](http://www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf).

<sup>23</sup> The Swedish Prosecution Authority (Åklagarmyndigheten), <http://www.aklagare.se/In-English/>.

<sup>24</sup> The Data Inspection Board, Annual report 2010 (Årsredovisning 2010), p. 25, [www.datainspektionen.se/Documents/arsredovisning-2010.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2010.pdf).

<sup>25</sup> The Swedish Prosecution Authority, Rätts PM 2012:02 Brottmot personuppgiftslagen, p. 5, [www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf](http://www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf).

<sup>26</sup> The Swedish Prosecution Authority (Åklagarmyndigheten), [www.aklagare.se/In-English/](http://www.aklagare.se/In-English/).

<sup>27</sup> The Data Inspection Board, Annual report 2011 (Årsredovisning 2011), p. 25, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

## Detailed information

### Ad Redress Mechanism Number 1 (fine):

- **Range of possible outcomes:** fine up to 1 million SEK (110 000 Euros)
- **Legal basis:**
  - The Credit Information Act (*Kreditupplysningslagen, 1973:1173*).<sup>28</sup>
  - Fine (§ 22)  
The Debt Collection Act (*Inkassolagen*)
  - Fine (§§14-15)  
The Personal Data Act
  - Default fine (§§44-46)
- **Type of procedure:** Administrative by the Data Inspection Board
- **Possibilities of appeal: 2<sup>nd</sup>, 3<sup>rd</sup> and further instances**
  - Administrative Court (*Förvaltningsrätten*), Administrative Court of Appeal (*Kammarrätten*), leave for appeal required. Supreme Administrative Court (*Högsta förvaltningsdomstolen*), leave for appeal required.
- **Burden of proof:** Not available
- **Available mechanism to lower the burden of proof:** Not available
- **Requirement of legal representation: can the complainant initiate/be active in a procedure on his own?** (*Please see answer under Redress Mechanism Number 2, compensation*).
- **Is there free legal advice/representation available from a public body (please specify the public body)?** *Yes (Please see answer under Redress Mechanism Number 2, compensation)*.
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?** The Data Inspection Board has locus standi.
- **Cost of procedure:** The Data Inspection Boards costs for field supervision was 34 167 SEK (2011) 31 796 SEK (2010 ) and 31 235 SEK (2009).<sup>29</sup>
- **Average duration of procedure: please provide available information:** There is no available information, however, the general procedural principles require that a case or matter should be handled as quickly as possible.

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<sup>28</sup> The Credit Information Act (1973: 1173), [www.notisum.se/rnp/sls/lag/19731173.htm](http://www.notisum.se/rnp/sls/lag/19731173.htm).

<sup>29</sup> The Data Inspection Board, Annual report 2011, p. 8, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

- A person who wishes to appeal against a court's judgment must do so within three weeks from the pronouncement of the judgment or a decision from the Data Inspection Board.
  - For appeals against judgments or decisions by the court of appeal the time limit is four weeks (Chapter 50 Section 1, Chapter 52 Section 1, Chapter 55 Section 1 and Chapter 56 Section 1 of the Swedish Code of Judicial Procedure).<sup>30</sup>
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**
- In 2011, the Data Inspection Board found that two credit rating companies violated the regulations in the Credit Information Act (Kreditupplysningslagen). The companies supplied credit information via their websites in violation to the regulations in the Credit Information Act (Kreditupplysningslagen). In both cases the companies to cease the disclosure in question, and were fined 1 million SEK (110 000 Euros). In one of the cases concerning the company *Svensk Handelstidning Justitia*, the Data Inspection Board argued on the 19th April 2011, that the company exposed individuals to infringe the personal integrity, through systematically disseminating credit information on the Internet without regard to the provisions of the legitimate needs and credit information copy.<sup>31</sup>

## Ad Redress Mechanism Number 2 (compensation):

- **Range of possible outcomes:** 4000 kronor (444 Euro) in damages awarded by the Court of Appeal on the 16 May 2012.<sup>32</sup> The range of compensation from the Chancellor of Justice has been between 250 kr-5500 SEK (28-600 Euro).<sup>33</sup> The Data Inspection Board informed the researchers of this report that they do not register such data.<sup>34</sup>
- **Legal basis:**
  - Section 48, The Personal Data Act, *Personuppgiftslagen*.<sup>35</sup>
  - § 21 The Credit Information Act (Kreditupplysningslagen)
  - § 18, The Debt Collection Act (*Inkassolagen 1974:182*)
  - Damages can be awarded to an individual by the Chancellor of Justice according to §3 of the Government Ordinance for state compensation (1995:1301) when state authorities violate section 48, The Personal Data Act (*Personuppgiftslagen*).<sup>36</sup>

<sup>30</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf).

<sup>31</sup> Dagens Juridik, Datainspektionen, case nr: 1862-2010, Kreditupplysningslagen (1973:1173) [www.dagensjuridik.se/2011/04/miljonvite-kreditupplysningsforetag](http://www.dagensjuridik.se/2011/04/miljonvite-kreditupplysningsforetag).

<sup>32</sup> Scania and Blekinge Court of Appeal (*Hovrätten över Skåne och Blekinge*), case no. FT 1541-11, Decision, 2012-05-16, [www.dagensjuridik.se/2012/05/juristbyra-publicerade-dom-pa-sin-hemsida-far-betala-skadestand-till-motparten-enligt-pul](http://www.dagensjuridik.se/2012/05/juristbyra-publicerade-dom-pa-sin-hemsida-far-betala-skadestand-till-motparten-enligt-pul).

<sup>33</sup> Email correspondence with the Office of the Chancellor of Justice, 2012-05-30.

<sup>34</sup> Telephone conversation with lawyer at The Data Inspection Board (Datainspektionen), 2012-05-30.

<sup>35</sup> The Personal Data Act 1998:204, (*Personuppgiftslagen*), [www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf](http://www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf).

- **Type of procedure: civil/administrative:** Administrative procedure by the Chancellor of Justice for violations of § 48, the Personal Data Protection Act (*Personuppgiftslagen*) by a state authority.  
Civil procedure according to section 48, The Personal Data Act (*Personuppgiftslagen*). A general court normally hears disputes in civil law.
- **Possibilities of appeal: 2<sup>nd</sup>, 3<sup>rd</sup> and further instances:**
  - The administrative decision by the Chancellor of Justice cannot be appealed (§ 15) Government ordinance (1995:1301).<sup>37</sup> Instead, an individual who is dissatisfied with the Chancellor of Justice decision can bring a case to the general court through a civil procedure.
  - Civil procedure: Court of Appeal (Hovrätten)<sup>38</sup>, The Supreme Court (Högsta Domstol).<sup>39</sup>
- **Burden of proof: please list what the complainant needs to prove:**  
The complaint must prove that there is a violation of his or her personal integrity. Damages under section 48, The Person Data Act, may include compensation for pure economic loss but also for non-financial damages. For the payment of damages, there are requirements for additional conditions that have to be met. It must be shown that the complaint has suffered a compensable injury and the magnitude of this. Furthermore, there must be a causal connection between the personal data that is processed incorrectly and the injury. Under general tort law principles, it is the applicant seeking damages that has the burden of proof to show that he or she has suffered an injury.
- **Available mechanism to lower the burden of proof:**
  - The liability to pay compensation may, to the extent that it is reasonable, be adjusted if the person providing personal data proves the personal data processed incorrectly was not caused by him or her (section 49, The Personal Data Act).<sup>40</sup>
- **Requirement of legal representation: can the complainant initiate/be active in a procedure on his own?**
  - Private individuals are allowed to conduct their own cases in court. It is therefore not compulsory to have a legal representative or a solicitor in Sweden. Nor do solicitors have a monopoly in the sense that counsel or assistant counsel must be a lawyer. In short, yes, you can bring a court action without engaging a lawyer.
- **Is there free legal advice/representation available from a public body:**
  - There is legal advice that is given from the Prosecutors Office and the Chancellor of Justice through their websites, email or telephone.
  - The Data Inspection Board has set up a Call Centre with two legal advisers who are occupied full-time in replying to questions by phone or e-mail. On average, they

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<sup>36</sup> Förordning (1995:1301) om handläggning av skadeståndsanspråk mot staten,

<sup>37</sup> Förordning (1995:1301) om handläggning av skadeståndsanspråk mot staten,  
[www.notisum.se/rnp/sls/lag/19951301.htm](http://www.notisum.se/rnp/sls/lag/19951301.htm).

<sup>38</sup> [www.domstol.se/Funktioner/English/The-Swedish-courts/Court-of-appeal/](http://www.domstol.se/Funktioner/English/The-Swedish-courts/Court-of-appeal/).

<sup>39</sup> [www.domstol.se/Funktioner/English/The-Swedish-courts/The-Supreme-Court/](http://www.domstol.se/Funktioner/English/The-Swedish-courts/The-Supreme-Court/).

<sup>40</sup> The Personal Data Act (*Personuppgiftslagen*, 2008:204),  
[www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf](http://www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf) (in English).

receive 200 calls and 60-70 e-mails per week. The goal is for everyone to receive an answer within three working days.<sup>41</sup>

- There is legal aid available, which means that the state in whole or in part, account for an individuals costs in a legal matter, primarily the cost of a legal representation according to the Legal Aid Act (*Rättshjälpslagen, 1996:1619*).<sup>42</sup>
  - The court proceedings themselves are free of charge in Sweden with the exception of an application fee, which is currently SEK 450 (approximately € 47). If you qualify for legal aid, the state pays the application fee (§ 19).<sup>43</sup>
  - To get legal aid from the state, the annual income must not exceed a financial threshold, currently set at SEK 260 000 (approximately € 27 375). When the applicant's income is estimated, his/her economic situation as a whole is taken into account, for example, any child maintenance expenses, property or debts (§6 *The Legal Aid Act*).<sup>44</sup>
  - According to § 14 of the Government Ordinance for state compensation (1995: 1301) compensation can also be paid for legal representation and the investigation in cases were the costs are not paid by the state through the Legal Aid Act (1996:1619).<sup>45</sup>
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- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
    - There is locus standi for the Chancellor of Justice in cases against a state authority in violation of section 48 The Personal Data Act. Prosecution may be instituted only if called for in the public interest.<sup>46</sup> There is no locus standi for civil society organisations and associations. The Data Inspection Board has locus standi.
  - **Cost of procedure:**
    - The Data Inspection Boards costs for field supervision was 34 167 SEK (2011) 31 796 SEK (2010 ) and 31 235 SEK (2009).<sup>47</sup>
    - A lawyer or junior barrister at a lawyer's office can provide legal advice. Up to two hours' legal advice can be provided and it may be split into several sessions. There is a charge for legal advice, currently SEK 1 162 (approximately € 120). If the person obtaining the advice has insufficient financial resources, this charge can be reduced by half. If the person obtaining the advice is a child, he or she does not usually need to pay any fee. If the fee is reduced, the lawyer will receive the balance from the state.

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<sup>41</sup> What on earth does the Data Inspection Board do?

[www.datainspektionen.se/Documents/datainspektionen-presentation-eng.pdf](http://www.datainspektionen.se/Documents/datainspektionen-presentation-eng.pdf) (in English, p. 11)

<sup>42</sup> The Legal Aid Act (*Rättshjälpslagen 1996:1619*) <https://lagen.nu/1996:1619#P15>.

<sup>43</sup> The Legal Aid Act (*Rättshjälpslagen 1996:1619*) <https://lagen.nu/1996:1619#P15>.

<sup>44</sup> The Legal Aid Act (*Rättshjälpslagen 1996:1619*) <https://lagen.nu/1996:1619#P15>.

<sup>45</sup> Förordning (1995:1301) om handläggning av skadeståndsanspråk mot staten, [www.notisum.se/rnp/sls/lag/19951301.htm](http://www.notisum.se/rnp/sls/lag/19951301.htm).

<sup>46</sup> Förordning (1995:1301) om handläggning av skadeståndsanspråk mot staten, [www.notisum.se/rnp/sls/lag/19951301.htm](http://www.notisum.se/rnp/sls/lag/19951301.htm).

<sup>47</sup> The Data Inspection Board, Annual report 2011, p. 8, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

- The main rule is that the losing party shall reimburse the opposing party for litigation costs unless otherwise provided (*Chapter 18 section 1, the Swedish Code of Judicial Procedure*).<sup>48</sup>
- Compensation for litigation costs shall fully cover the costs of preparation for trial and presentation of the action including fees for representation and counsel, to the extent that the costs were reasonably incurred to safeguard the party's interest (*Chapter 18, section 8, the Swedish Code of Judicial Procedure*).<sup>49</sup>
- If the defendant is acquitted in a case instituted by the prosecutor or if a prosecution instituted by the prosecutor is dismissed, the court may award the defendant compensation out of public funds for his costs for defence counsel, including consultation fees pursuant to the Legal Aid Act 1996:1619), for obtaining evidence during the preliminary investigation or the proceedings provided that the costs were reasonably necessary to protect his rights (*Chapter 31, section 2) of the Swedish Code of Judicial Procedure*).<sup>50</sup>
- **Average duration of procedure:** There is no available information about, however, the general procedural principles require that a case or matter should be handled as quickly as possible.
- A person who wishes to appeal against a courts judgment must do so within three weeks from the pronouncement of the judgment. For appeals against judgments or decisions by the court of appeal the time limit is four weeks (Chapter 50 Section 1, Chapter 52 Section 1, Chapter 55 Section 1 and Chapter 56 Section 1 of the Swedish Code of Judicial Procedure).<sup>51</sup>
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011**

### **Ad Redress Mechanism Number 3 (Rectification (*correct, block, restrict or erase*)):**

- **Range of possible outcomes (for example fine up to Euro 1000)**
  - The Data Inspection Board can order a Credit information company to take corrective action, decide to modify a condition previously announced or announce a new condition.
  - The controller of personal data is liable at the request of the registered person to immediately rectify, block or erase such personal data that has not been processed in accordance with the Personal Data Act or regulations that have been made under the Act.
- **Legal basis:**  
Personal Data Act (Personuppgiftslagen)<sup>52</sup>
  - Rectification at the request of the Data Inspection Board- (Section 45, Personal Data Act)

<sup>48</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf).

<sup>49</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf).

<sup>50</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf).

<sup>51</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf).

<sup>52</sup> Personal Data Act, [www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf](http://www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf) (In English).

- Rectification, block or erase at the request of the registered person- (Section 28, Personal Data Act)
- Erasure at the request of the Data Inspection Board – (Section 47, Personal Data Act). The Credit Information Act (*Kreditupplysningslagen, 1973:1173*).<sup>53</sup>
- *Correction* (§12, § 17)  
The Debt Collection Act (*Inkassolagen*)
- *Correction* (§15)
- **Type of procedure:** Administrative by the Data Inspection Board
- **Possibilities of appeal: 2<sup>nd</sup>, 3<sup>rd</sup> and further instances**
  - General Administrative Court (*Förvaltningsrätten*), Administrative Court of Appeal (*Kammarrätten*), leave for appeal required.<sup>54</sup> Supreme Administrative Court (*Högsta förvaltningsdomstolen*), leave for appeal required.
- **Burden of proof:**  
The Person Data Act
  - If the complainant appeals the Data Inspection Boards decision to restrict camera surveillance,<sup>55</sup> then the complaint must show that the camera monitoring is not violating the Personal Information Act (*Personuppgiftslagen*) and it must be clear that there is a need for such monitoring. The benefits must be weighed against the intrusion into the privacy of those being monitored by camera surveillance.

The complaint must show:

  - the purpose and need for supervision through cameras
  - the location that is monitored and who has access to it
  - the information given to the those being registered
  - the sensitivity of the information recorded
  - the duration of time the recorded material is saved and who have access to the recorded material.
- **Available mechanism to lower the burden of proof:** Information not available
- **Requirement of legal representation: can the complainant initiate/be active in a procedure on his own?** (*Please see answer under Redress Mechanism Number 2, compensation*).
- **Is there free legal advice/representation available from a public body (please specify the public body)?** *Yes* (*Please see answer under Redress Mechanism Number 2, compensation*).
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?** The Data Inspection Board has locus standi.

<sup>53</sup> The Credit Information Act (1973: 1173), [www.notisum.se/rnp/sls/lag/19731173.htm](http://www.notisum.se/rnp/sls/lag/19731173.htm).

<sup>54</sup> 19 § The Credit Information Act, Lag (1998:381), <https://lagen.nu/1974:182#P17S1>.

<sup>55</sup> See for example, Supreme Administrative Court (*Högsta förvaltningsdomstolen*), HFD 2011 ref. 77, decision date (2011-12-02), [www.rattsinfosok.dom.se/lagrummet/Detail\\_Ram.jsp?detaljTyp=detalj&detaljTitel=6914-09%20H%F6gsta%20f%F6rvaltningsdomstolen&tmpWebLasare=Netscape](http://www.rattsinfosok.dom.se/lagrummet/Detail_Ram.jsp?detaljTyp=detalj&detaljTitel=6914-09%20H%F6gsta%20f%F6rvaltningsdomstolen&tmpWebLasare=Netscape).

- **Cost of procedure:** The Data Inspection Boards costs for field supervision was 34 167 SEK (2011) 31 796 SEK (2010 ) and 31 235 SEK (2009).<sup>56</sup>
- **Average duration of procedure:** There is no available information, however, the general procedural principles require that a case or matter should be handled as quickly as possible.
  - A person who wishes to appeal against a courts judgment must do so within three weeks from the pronouncement of the judgment or a decision from the Data Inspection Board.
  - For appeals against judgments or decisions by the court of appeal the time limit is four weeks (Chapter 50 Section 1, Chapter 52 Section 1, Chapter 55 Section 1 and Chapter 56 Section 1 of the Swedish Code of Judicial Procedure).<sup>57</sup>

## Ad Redress Mechanism Number 4 (Criminal):

- **Range of possible outcomes and legal basis:**
  - According to § 49 of the Personal Data Protection Act, the sentence of violations of the Act can lead to a fine or imprisonment up to six months. If the offence is grave, the penalty is up to two years' imprisonment. A sentence shall not be imposed in petty cases.<sup>58</sup>
  - § 19 The Credit Information Act, the violation of the Act can lead to a fine or imprisonment up to one year.<sup>59</sup>
  - § 17 The Debt Collection Act (Inkassolagen 1974:182 )<sup>60</sup>
  - The Swedish Penal Code (Brottsbalk (1962:700)<sup>61</sup> A person, who in some cases unlawfully obtains access to a recording for automatic data processing or unlawfully alters or erases or inserts such a recording in a register, shall be sentenced for *breach of data secrecy* to a fine or imprisonment up to two years (Chapter 4, section 9c, Penal Code).<sup>62</sup> Misuse of office - a fine or imprisonment up to two years. Gross misuse of office- imprisonment for at least six months and up to six years (Chapter 20 section 1, The Swedish Penal Code.<sup>63</sup>
- **Type of procedure:** criminal
- **Possibilities of appeal: 2<sup>nd</sup>, 3<sup>rd</sup> and further instances:**

<sup>56</sup> The Data Inspection Board, Annual report 2011, p. 8, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

<sup>57</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf).

<sup>58</sup> The Personal Data Protection (Personuppgiftslagen), [www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf](http://www.sweden.gov.se/content/1/c6/01/55/42/b451922d.pdf). (In English)

<sup>59</sup> 19 § The Credit Information Act, <https://lagen.nu/1974:182#P17S1>.

<sup>60</sup> The Debt Collection Act (Inkassolagen), [www.notisum.se/rmp/sls/lag/19740182.htm](http://www.notisum.se/rmp/sls/lag/19740182.htm).

<sup>61</sup> The Swedish Penal Code, [www.sweden.gov.se/content/1/c6/02/77/77/cb79a8a3.pdf](http://www.sweden.gov.se/content/1/c6/02/77/77/cb79a8a3.pdf).

<sup>62</sup> The Swedish Penal Code, [www.sweden.gov.se/content/1/c6/02/77/77/cb79a8a3.pdf](http://www.sweden.gov.se/content/1/c6/02/77/77/cb79a8a3.pdf).

<sup>63</sup> The Swedish Penal Code, [www.sweden.gov.se/content/1/c6/02/77/77/cb79a8a3.pdf](http://www.sweden.gov.se/content/1/c6/02/77/77/cb79a8a3.pdf).

- Administrative Court of Appeal (*Kammarrätten*), leave for appeal required.<sup>64</sup> Supreme Administrative Court (*Högsta förvaltningsdomstolen*), leave for appeal required.
- The Chancellor of justice can process in court in criminal charges against the state agencies.
- **Burden of proof:**
  - The plaintiff must show that there is no violation of the Personal Data Act intentionally or by carelessness (§49).
- **Available mechanism to lower the burden of proof:** Not available.
- **Requirement of legal representation: can the complainant initiate/be active in a procedure on his own?**
  - An aggrieved person may report an offence for prosecution with any prosecutor, police authority<sup>65</sup> (Chapter 20, section 5, The Swedish Code of Judicial Procedure) or the Data Inspection Board in cases of processing of personal data unlawfully.
  - The aggrieved person may not institute a prosecution for an offence falling within the domain of public prosecution unless he/she has reported the offence for prosecution and the prosecutor has decided not to institute a prosecution.<sup>66</sup>
- **Is there free legal advice/representation available from a public body:** Yes (*please see answer under Redress Mechanism Number 2, compensation*).
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?**
  - The Data Inspection Board can initiate the criminal procedure based on the information gathered through supervisions, monitoring, investigations and complaints.
  - The Public Prosecutor (*allmänåklagare*) can initiate an action in court in cases of violation of the Personal Data Protection, § 13 (*sensitive personal data*) or § 21 (*Information concerning legal offences*).<sup>67</sup> If the Public Prosecutor receives a complaint or a reported investigation protocol involving suspected violations of the Personal Data Act, it is for the prosecutor to make an assessment whether there are grounds to initiate investigation into or prosecution for violations of the Personal Data Act.<sup>68</sup> Civil society organisations and associations do not have locus standi.
- **Cost of procedure:** The Data Inspection Boards costs for field supervision was 34 167 SEK (2011) 31 796 SEK (2010 ) and 31 235 SEK (2009).<sup>69</sup>

<sup>64</sup> 19 § The Credit Information Act, Lag (1998:381), <https://lagen.nu/1974:182#P17S1>.

<sup>65</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf). (in English)

<sup>66</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf). (in English)

<sup>67</sup> The Swedish Prosecution Authority, Rätts PM 2012:02 Brottmot personuppgiftslagen, p. 8, [www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf](http://www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf).

<sup>68</sup> The Swedish Prosecution Authority, Rätts PM 2012:02 Brottmot personuppgiftslagen, p. 11, [www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf](http://www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brottmot%20PUL.pdf).

<sup>69</sup> The Data Inspection Board, Annual report 2011, p. 8, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

- **Average duration of procedure:** There is no available information, however, the general procedural principles require that a case or matter should be handled as quickly as possible.
- A person who wishes to appeal against a court's judgment must do so within three weeks from the pronouncement of the judgment or a decision from the Data Inspection Board.
- For appeals against judgments or decisions by the court of appeal the time limit is four weeks (Chapter 50 Section 1, Chapter 52 Section 1, Chapter 55 Section 1 and Chapter 56 Section 1 of the Swedish Code of Judicial Procedure).<sup>70</sup>
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010, 2011:**
- The Swedish Prosecution Authority reported that during the years 2006-2010, there have only been two recorded prosecutions for the violation of the Personal Data Protection Act.<sup>71</sup> The reason given is that the low number of registered cases of Prosecution in violation of the Personal Data Act (1998:204) is that the police conduct the preliminary investigation of the Personal Data Act. This means that only those cases that the police choose randomly or account for the final pre-trial protocol are registered with the Prosecution Authority.<sup>72</sup>

## **Ad Redress Mechanism Number 5 (Revocation of licence/permit):**

- **Range of possible outcomes:**  
The Credit Information Act (Kreditupplysningslagen)
  - Negligence or intentionality on the part of a credit-rating agency can result in a liability to pay damages and those responsible may be fined or imprisoned for up to one year.<sup>73</sup>
- The Debt Collection Act (Inkassolagen)
  - If the person that has been authorized to engage in debt collection overrides the provisions of The Debt Collection Act or the regulations that have been issued by the Data Inspection Board, the Data Inspection Board can revoke the license.
- Camera surveillance
  - There are two acts governing camera surveillance: the Public Camera Surveillance Act and the Personal Data Act. The Public Camera Surveillance Act stipulates that a surveillance camera directed towards areas open to public access must have permission. To monitor such an area with cameras, a license is normally required. The County Administrative Board monitors compliance with the rules in the Public Camera Surveillance Act.<sup>74</sup>

<sup>70</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf).

<sup>71</sup> The Swedish Prosecution Authority, Rätts PM 2012:02 Brott mot personuppgiftslagen, p. 5, [www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brott%20mot%20PUL.pdf](http://www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brott%20mot%20PUL.pdf).

<sup>72</sup> The Swedish Prosecution Authority, Rätts PM 2012:02 Brott mot personuppgiftslagen, p. 5, [www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brott%20mot%20PUL.pdf](http://www.aklagare.se/PageFiles/6032/R%C3%A4ttsPM%20Brott%20mot%20PUL.pdf).

<sup>73</sup> The Data Inspection Board, [www.datainspektionen.se/in-english/legislation/The-Credit-Information-Act/](http://www.datainspektionen.se/in-english/legislation/The-Credit-Information-Act/) (in English)

<sup>74</sup> The County Administrative Board (Länsstyrelsen), [www.lansstyrelsen.se/vastragotaland/En/manniska-och-samhalle/kameraovervakning/Pages/default.aspx](http://www.lansstyrelsen.se/vastragotaland/En/manniska-och-samhalle/kameraovervakning/Pages/default.aspx) (in English).

- If digital technology is used in the monitoring of places other than those which the general public has access to, then the Personal Data Act comes into force. It is the controller of personal data that is responsible to ensure that camera surveillance, follows the rules of the Data Protection Act. The Data Inspection Board is the supervisory authority.<sup>75</sup>

- **Legal basis:**

- The Credit Information Act (Kreditupplysningslagen)

- The Data Inspection Board's mandate: §3, §15, The Credit Information Act (*Kreditupplysningslagen, 1973:1173*)<sup>76</sup> and §§1-2, The Ordinance with Instructions for the Data Inspectorate (1988:912).<sup>77</sup>
    - Revocation of licence or permit (§17).

- The Debt Collection Act (Inkassolagen)

- The Data Inspection Board mandate for permits for certain debt collection (§§ 2-3, *The Debt Collection Act 1974:182*)<sup>78</sup>
    - Supervision by the Data Protection Board, §§ 13-15 *The Debt Collection Act (Inkassolagen 1974:182)*<sup>79</sup>
    - Revocation of licence or permit (§15).

- **Type of procedure: administrative**

- The Data Inspection Board carries out inspections and supervisions.

- **Possibilities of appeal:**

- According § 23, The Credit Information Act (*Kreditupplysningslagen, 1973:1173*)<sup>80</sup>, and § 19 *The Debt Collection Act 1974:182*)<sup>81</sup> the Data Inspection Board's decision can be appealed to the Administrative Court (*Allmän förvaltningsdomstol*).
  - Leave to appeal is required for an appeal to the Administrative Court of Appeal (*Kammarätten*) regarding a decision to impose a penalty according to § 23, The Credit Information Act (*Kreditupplysningslagen, 1973:1173*)<sup>82</sup>, and § 19 *The Debt Collection Act 1974:182*).<sup>83</sup>

- **Burden of proof:** The Data Inspection Board can initiate the process based on the investigation or supervision.

- The Credit-rating agencies or the Debt collection services can initiate process against the Data Inspection Board's decisions and has thus the burden of proof (§ 23, The Credit Information Act (*Kreditupplysningslagen, 1973:1173*)<sup>84</sup> and § 19, *The Debt Collection Act 1974:182*)<sup>85</sup>

- **Available mechanism to lower the burden of proof:** Not available.

- **Requirement of legal representation:**

<sup>75</sup> The Data Inspection Board, [www.datainspektionen.se/lagar-och-regler/personuppgiftslagen/kameraovervakning/](http://www.datainspektionen.se/lagar-och-regler/personuppgiftslagen/kameraovervakning/).

<sup>76</sup> The Credit Information Act (*Kreditupplysningslagen, 1973:1173*), [www.notisum.se/rnp/sls/lag/19731173.htm](http://www.notisum.se/rnp/sls/lag/19731173.htm).

<sup>77</sup> Ordinance with Instructions for the Data Inspectorate (1988:912), Förordning (1988:912) med instruktion för Datainspektionen, [www.notisum.se/rnp/sls/lag/19880912.htm](http://www.notisum.se/rnp/sls/lag/19880912.htm).

<sup>78</sup> The Credit Information Act (1973:1173), [www.notisum.se/rnp/sls/lag/19740182.htm](http://www.notisum.se/rnp/sls/lag/19740182.htm).

<sup>79</sup> The Credit Information Act (1973:1173), [www.notisum.se/rnp/sls/lag/19740182.htm](http://www.notisum.se/rnp/sls/lag/19740182.htm).

<sup>80</sup> The Credit Information Act (1973:1173), [www.notisum.se/rnp/sls/lag/19731173.htm](http://www.notisum.se/rnp/sls/lag/19731173.htm).

<sup>81</sup> The Credit Information Act (1973:1173), [www.notisum.se/rnp/sls/lag/19740182.htm](http://www.notisum.se/rnp/sls/lag/19740182.htm).

<sup>82</sup> The Credit Information Act (1973:1173), [www.notisum.se/rnp/sls/lag/19731173.htm](http://www.notisum.se/rnp/sls/lag/19731173.htm).

<sup>83</sup> The Credit Information Act (1973:1173), [www.notisum.se/rnp/sls/lag/19740182.htm](http://www.notisum.se/rnp/sls/lag/19740182.htm).

<sup>84</sup> The Credit Information Act (1973:1173), [www.notisum.se/rnp/sls/lag/19731173.htm](http://www.notisum.se/rnp/sls/lag/19731173.htm).

<sup>85</sup> The Credit Information Act (1973:1173), [www.notisum.se/rnp/sls/lag/19740182.htm](http://www.notisum.se/rnp/sls/lag/19740182.htm).

- **Is there free legal advice/representation available from a public body (please specify the public body)?:** Yes (*Please see answer under Redress Mechanism Number 2 (compensation)*).
- **Is there locus standi for DP authorities, civil society organisations and associations to initiate/be active in procedure?:** The Data Inspection Board can initiate supervision proceedings on the basis of a complaint or on its own initiative. Anyone can thus notify or make a complaint to the Data Inspection Board to initiate the mechanism on its own initiative.
- **Cost of procedure:** The Data Inspection Boards costs for field supervision was 34 167 SEK (2011) 31 796 SEK (2010 ) and 31 235 SEK (2009).<sup>86</sup>
- **Average duration of procedure:** There is no available information, however, the general procedural principles require that a case or matter should be handled as quickly as possible.
  - A person who wishes to appeal against a courts judgment must do so within three weeks from the pronouncement of the judgment or a decision from the Data Inspection Board.
  - For appeals against judgments or decisions by the court of appeal the time limit is four weeks (Chapter 50 Section 1, Chapter 52 Section 1, Chapter 55 Section 1 and Chapter 56 Section 1 of the Swedish Code of Judicial Procedure).<sup>87</sup>
- **Outcomes (please provide as much disaggregated information as available) for 2009, 2010 and 2011:**

#### 2011

The Supreme Administrative Court ruled that camera surveillance of entrances of apartment buildings is prohibited under the Data Protection Act. 5 a § Personal Data Act ((*Högsta förvaltningsdomstolen*), HFD 2011 ref. 77, decision date (2011-12-02)).<sup>88</sup>

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<sup>86</sup> The Data Inspection Board, Annual report 2011, p. 8, [www.datainspektionen.se/Documents/arsredovisning-2011.pdf](http://www.datainspektionen.se/Documents/arsredovisning-2011.pdf).

<sup>87</sup> The Swedish Code of Judicial Procedure (Ds 1998:000), [www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf](http://www.sweden.gov.se/content/1/c4/15/40/472970fc.pdf).

<sup>88</sup> Supreme Administrative Court (*Högsta förvaltningsdomstolen*), HFD 2011 ref. 77, decision date (2011-12-02), [www.rattsinfosok.dom.se/lagrummet/Detalj\\_Ram.jsp?detaljTyp=detalj&detaljTitel=6914-09%20H%F6gsta%20f%F6rvaltningsdomstolen&tmpWebLasare=Netscape](http://www.rattsinfosok.dom.se/lagrummet/Detalj_Ram.jsp?detaljTyp=detalj&detaljTitel=6914-09%20H%F6gsta%20f%F6rvaltningsdomstolen&tmpWebLasare=Netscape).