

COMPLAINANT

CONTROLLER

Morrow Bank ASA

Swedish ref.:
DI-2022-558

Norwegian ref:
23/01372-5

IMI case register:
544525

Date:
2025-02-14

Final decision under the General Data Protection Regulation – Morrow Bank ASA

Decision of the Swedish Authority for Privacy Protection

The Swedish Authority for Privacy Protection's (hereinafter "IMY") adopts the following decision on the complaint submitted against Morrow Bank ASA on 23 January 2022 (Case DI-2022-558):

- The complaint shall be rejected pursuant to Article 60(8) of the General Data Protection Regulation (GDPR)¹.

Factual Background

On 7 January 2022, Morrow Bank sent an email to the data subject residing in Sweden (hereinafter the "complainant") informing that it would update its privacy policy to include a section about disclosure of contact information to third parties, such as Facebook and Google for customer matching purposes. This matching would entail that those customers would be shown relevant information and marketing on social media, search engines and websites.

In the updated privacy policy, Morrow Bank stated that it would rely on Article 6(1)(f) of the GDPR as the lawful basis for this disclosure for customer matching purposes.

Customers were informed that they had a right to object to this specific disclosure by signing into the portal at the bank's website. Thus, the disclosure would happen by default unless customers explicitly opted-out by objecting.

Since the complainant already had explicitly opted-out of receiving any offers from

Morrow Bank and its partners by email and SMS at the time of becoming a customer in July 2020, he wrote an email to Morrow Bank on 9 January 2022, inquiring why the bank had decided to disclose his email and phone number to these third-party partners without his consent. On 18 January 2022, the complainant sent a follow-up email where he informed Morrow Bank that he would lodge a complaint to IMY unless the

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).

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bank made changes as to how the contact information is disclosed to third parties. The emails to dpo@komplettbank.no remained unanswered.

According to the complainant, it could not reasonably be expected that a licensed bank would disclose its customers' contact information to third parties such as Facebook and Google for the purpose of consumer matching, at the time of becoming a customer in July 2020. As such, the complainant holds that the disclosure of contact information under the "legitimate interests" clause in this specific case is unlawful.

Legal Background

The GDPR lays down the provisions, which are relevant in the present case:

Pursuant to Article 4(1) GDPR:

‘personal data’ means any information relating to an identified or identifiable natural person (“data subject”); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Pursuant to Article 4(2) GDPR:

‘processing’ means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

Article 77(1) GDPR states that:

Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with a supervisory authority, in particular in the Member State of his or her habitual residence, place of work or place of the alleged infringement if the data subject considers that the processing of personal data relating to him or her infringes this Regulation.

Findings

In the context of the investigation regarding the present case, Morrow Bank states that they never processed customer's personal data for consumer matching purposes.² Indeed, it changed its privacy policy in 2022 as preparation, in case it would be relevant. However, such processing never started.

Furthermore, Morrow Bank has now changed its privacy policy and removed the information on customer matching.³

In light of the above, it appears that Morrow Bank never processed the personal data (within the meaning of Article 4(1) and (2)) of the complainant for consumer matching

² See Morrow Bank's reply to Datatilsynet's order to provide information, dated 6 December 2024.

³ Ibid.

purposes. It follows directly from the wording in Article 77(1) that the data subject must bring forward that their personal data has been processed in a way that infringes the Regulation.

Consequently, the complainant's submission to IMY does not constitute a complaint within the meaning of Article 77 GDPR.

Having considered the above, the complaint shall be rejected in accordance with Article 60(8) GDPR.

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