

EFTA Surveillance Authority  
Avenue des Arts 19 H  
1000 Brussels

BELGIUM

Your ref  
88929

Our ref  
22/3509-

Date  
8 January 2024

## **Answer to ESA's request – Own initiative case concerning Nav's processing of IP addresses**

Reference is made to the EFTA Surveillance Authority's (the Authority) follow-up letter after the meeting on 26 October 2023 (the 2023 Package Meeting) regarding the Norwegian Labour and Welfare Administration's (Nav's) processing of IP addresses (Case No 88929).

In the follow-up letter of 5 December 2023, the Authority requests the following information regarding Nav's use of the Currency Transaction Register for control purposes:

*The Norwegian Government is invited to provide the Authority with a detailed update as regards the outcome of the data protection impact assessment concerning the new regime, as well as the proposed amendments (if any) to the Circular and the relevant legislation, along with a timeframe for their implementation and an assessment of how these changes will rectify any perceived lacunae with respect to data protection in the regime.*

The Ministry of Labour and Social Inclusion (the Ministry) asks for the Authority's understanding that we are not able to give a complete answer to your request within the deadline 8 January 2024. However, the Ministry would like to emphasise that we are determined to ensure the compliance of the current regime with the General Data Protection Regulation (GDPR), with regards to the areas pointed out by the Authority on 26 October 2023. Hence, Nav has halted all use of the Currency Transaction Register for control purposes until a thorough assessment of the current regime has been carried out.

In our response to the request of the Authority, we will address measures to ensure compliance with the relevant provisions of the GDPR, along with a planned timeframe for their implementation.

## **Measures for ensuring compliance with the GDPR**

In the 2023 Package Meeting, aspects of the current control regime that need to be improved or assessed in order to comply with the relevant provisions of the GDPR, were identified. Before we give a more detailed description of specific measures and changes in the current regime, we will outline our general approach to ensuring that the use of the Currency Transaction Register for control purposes is in accordance with the GDPR.

After the 2023 Package Meeting, Nav has initiated a complete review of the current practice of using the Currency Transaction Register for control purposes, and will change the practice to ensure compliance with the GDPR. The Ministry refers to the concluding remarks regarding the changes that have already been made.

As the Circular shall reflect and give guidelines for the administration's practice, it will be updated once the current practice has been reviewed and changes have been made. A data impact assessment will also be made. After completing the data impact assessment, Nav will assess the need for legislative amendments. Potential proposals for amendments to Section 21-4 d in the National Insurance Act will then be processed by the Ministry.

### Data Minimisation

The principle of data minimisation will be assessed as part of the process to ensure the current regime compliance with the GDPR. We would however like to provide the Authority with a context for how this principle is incorporated into the current regime of using the Currency Transaction Register for control purposes.

Nav does not mass collect personal data directly from the Currency Transaction Register. The register coordination with the Currency Transaction Register is carried out approximately once a year. Nav then downloads a copy of the Currency Transaction Register for a specified time period, and cross-references this with Nav's own register of recipients of the relevant benefits. The Tax Administration will not have access to information about which persons Nav has collected data. Within Nav, only two employees have access to the copy of the Currency Transaction Register. The copy is deleted immediately after Nav has cross-referenced the registers. After the 2023 Package Meeting, Nav established a written procedure for deletion, which formalises the former practice. The procedure for deletion will be reviewed again in connection with the data protection impact assessment.

During the 2023 Package Meeting, it was stated that approximately ten employees are involved in this work. During the last few register cross-referencing processes, four employees have been involved, in addition to the two employees who collect the copy from the Currency Transaction register. A total of six employees have had access to the register cross-referencing list. All log-ins to the database are registered. Nav finds this less invasive to privacy than if case officers were to control cases manually when there is no indication of stays abroad.

In the register cross-referencing list, only national identity numbers are visible. Nav continually assesses whether further anonymisation is possible in the current system. The technical solution used in register cross-referencing is on Nav's list of IT systems that will eventually be phased out and replaced with more customised IT systems. When a new technical solution is designed, Nav will take into consideration how it incorporates data minimisation.

#### Data protection impact assessment

A data protection impact assessment with respect to the current control regime is in progress. In its work to identify and reduce data protection risks, Nav takes into account the Authority's feedback from the 2023 Package Meeting. From experience Nav knows that these types of processes are time-consuming. Finalisation of the process to ensure compliance with the GDPR will depend on the types of risk-reducing measures identified in the impact assessment, and on whether it will be necessary to implement measures to ensure a balance between the data protection interests of data subjects and the authorities' need for control.

#### Revision of the Circular to the National Insurance Act § 21-4 d

Nav has initiated a complete review of the current control regime. The Circular to Section 21-4 d of the National Insurance Act will be updated once the current practice has been reviewed and eventual changes have been made. The plan is to complete the data protection impact assessment and the revision of the circular by the end of the second quarter of 2024.

#### Information to data subjects

The Ministry would like to emphasise the importance of clearly informing data subjects about their rights. This is part of Nav's effort to bring the Administration's practices into compliance with the GDPR. Nav has several ongoing processes to improve information about which types of data the Administration uses for different purposes. This is part of a bigger process where Nav is reviewing all the information provided to users/benefit recipients – in digital application dialogues, decision letters, appendices to decision letters and on [www.nav.no](http://www.nav.no). This work will be in progress throughout 2024. Nav also endeavours to make information in accordance with Article 14 of the GDPR available on [www.nav.no](http://www.nav.no). Nav aims for this work to be completed by April 2024.

#### **Concluding remarks**

After the 2023 Package Meeting, Nav has initiated a complete review of the current practice of using the Currency Transaction Register for control purposes, and will change the practice to ensure compliance with the GDPR. As the Circular shall reflect and give guidelines for the administration's practice, it will be updated once the current practice has been reviewed and changes have been made. After completing the data impact assessment which is in progress, Nav will assess the need for legislative amendments. Potential proposals for amendments to Section 21-4 d in the National Insurance Act will then be processed by the Ministry.

Nav has already implemented measures concerning some of the aspects that were pointed out by the Authority in the 2023 Package Meeting. Nav has established a written procedure for deletion of data. Furthermore, Nav has included information about the rights of data subjects pursuant to Articles 80 and 82 of the GDPR in Nav's privacy policy, which is available at [www.nav.no](http://www.nav.no).

The Ministry would again like to emphasise that Norwegian authorities are determined to ensure the compliance of the current control regime with the relevant provisions of the GDPR. Nav has therefore halted all use of the Currency Transaction Register for control purposes until a complete review of the current regime has been carried out. If all goes according to plan the scheduled activities that have been described in this letter, will be finished by the end of the second quarter of 2024.

Yours sincerely,

Camilla Landsverk  
Deputy Director General

Jens Sandbrekke Wolther  
Adviser

*This document is signed electronically and has therefore no handwritten signature*