

ACA Europe Seminar

Data Protection – the Position, Role and Powers of the Data Protection Ombudsman and the Data Protection Board

Supreme Administrative Courts and the Evolution of the Right to Publicity, Privacy and Information

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1 The Data Protection Ombudsman

- appointed by the Council of State; office of the Data Protection Ombudsman

- *General Guidance and Consultation*
 - to influence compliance with the legislation concerning the keeping of registers
 - provides information on the Personal Data Act

- *Guidance towards the Compilation of the Codes of Conduct*

- *Decisions*
 - the compliance with legislation and implementation of the rights of data subjects
 - the controller, on its own initiative or at the request of the data subject, is to rectify, erase or supplement personal data contained in its personal data file
 - The Data Protection Ombudsman may order the controller to rectify an error.
 - Regional Administrative Court – the Supreme Administrative Court

- *Consultation and Statements for Authorities, Prosecutors and Courts of Law*

- *Supervision and Inspection*

2 The Data Protection Board

- independent authority affiliated to the Ministry of Justice
- questions of principle relating to the processing of personal data, where these are significant to the application of the Personal Data Act
- grant permission for the processing of personal data or sensitive data if the conditions stipulated in Personal Data Act are fulfilled
- revoke a permission granted by it earlier where the prerequisites are no longer fulfilled or where the controller acts against the permission or the rules attached to it.
- prohibit processing of personal data which is contrary to the provisions of the Personal Data Act or the rules and regulations issued on the basis of the Act
- file orders at the request of the Data Protection Ombudsman
- impose a threat of fine

3 The Role and Powers of the Data Protection Ombudsman and the Data Protection Board in Administrative Judicial Procedure

- The decisions of the Data Protection Ombudsman and the Data Protection Board are subject to administrative appeal in accordance with the Administrative Judicial Procedure Act.
- Satakunnan Markkinapörssi and Satamedia case (ECJ C-73/07)
 - complaints by individuals to the Data Protection Ombudsman
 - request for the Data Protection Board by the Ombudsman to prohibit Markkinapörssi and Satamedia from carrying on personal data processing activities
 - The Board rejected the request.
 - The Ombudsman took the case to Regional Administrative Court
 - The Administrative Court rejected the application

- The Ombudsman next took the case before the Supreme Administrative Court.
- The ECJ (C-73/07, *Satakunnan Markkinapörssi & Satamedia*)
- *Yearbook decision KHO:2009:82*