

# SCANDINAVIAN GDPR WEBINAR

26 November 2020

**CIRIO**

*Niersholm*

WL  
White Label  
Consultancy

**BI**

# AGENDA

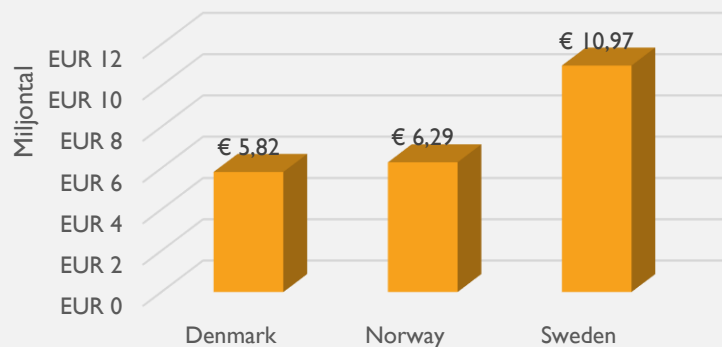
- **Introduction**
- The numbers
- Country update
  - Norway
  - Sweden
  - Denmark
- Discussion
- Q&A

# AGENDA

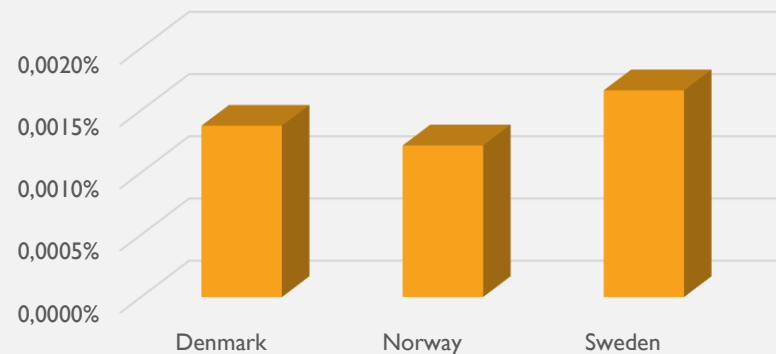
- Introduction
- **The numbers**
- Country update
  - Norway
  - Sweden
  - Denmark
- Discussion
- Q&A

# THE NUMBERS

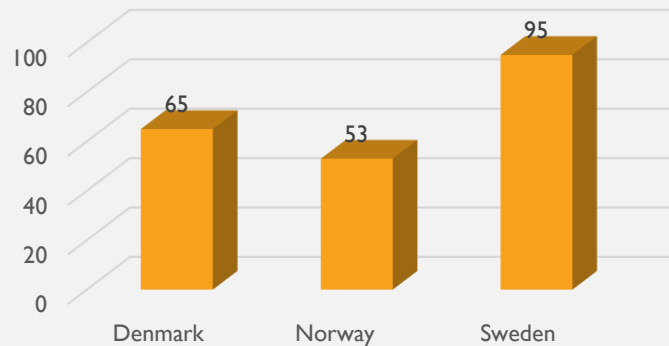
### 2020 Budgets in €



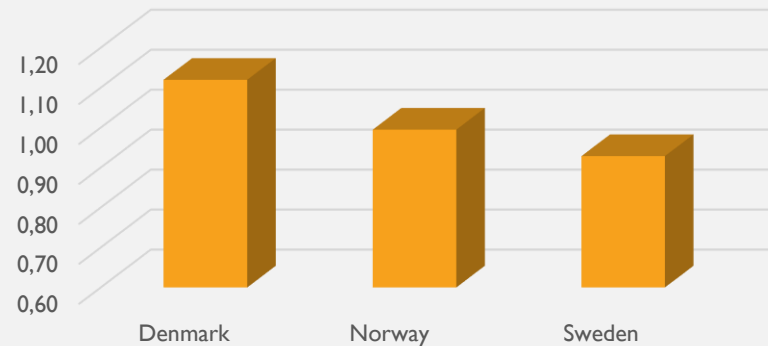
### DPA Budgets / GDP



### # of Employees 2020

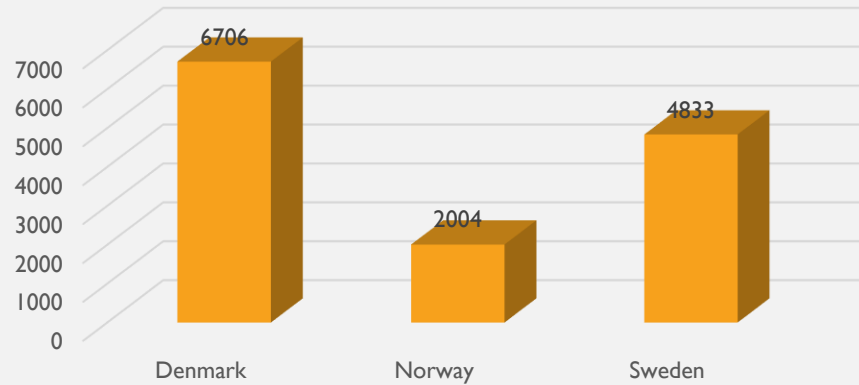


### DPA Employees / 100.000 Capita

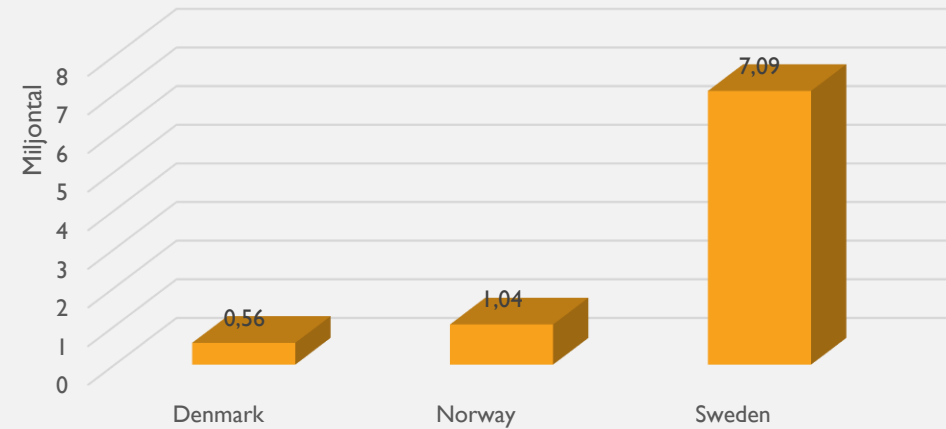


# THE NUMBERS

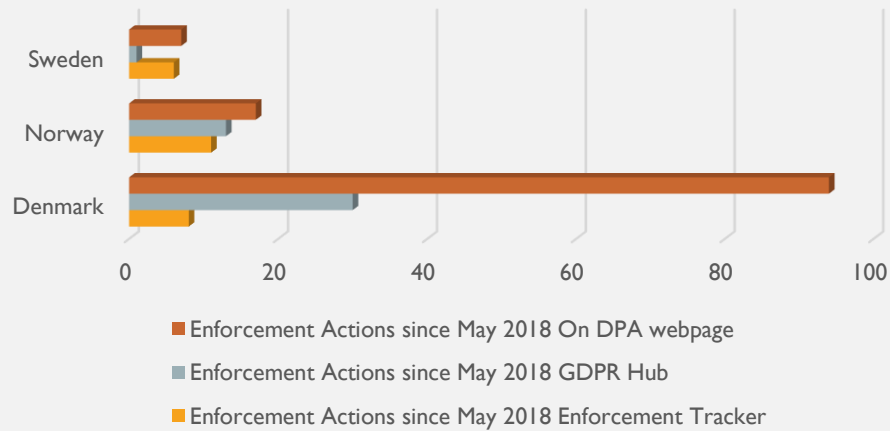
# data breach notifications  
28 Jan 2019 - 27 Jan 2020



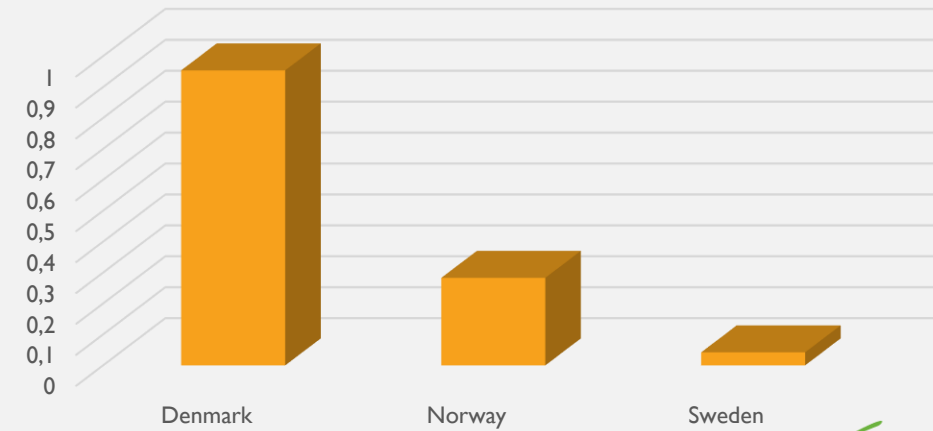
Fines in total (€)



Enforcement Actions/Decisions since May 2018

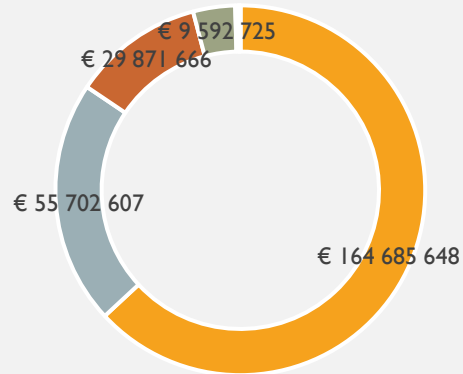


# of enforcement actions / employee



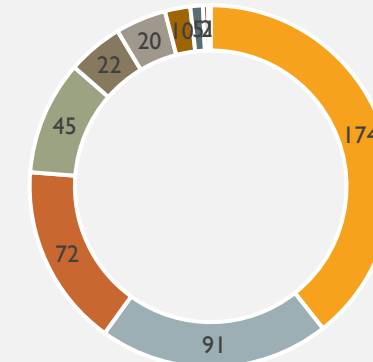
# THE NUMBERS FOR EEA

Nature of infringement subject to enforcement actions  
**Distribution of fines**



- Insufficient legal basis for data processing
- Insufficient technical and organisational measures to ensure information security
- Non-compliance with general data processing principles
- Insufficient fulfilment of data subjects rights
- Insufficient fulfilment of information obligations
- Insufficient fulfilment of data breach notification obligations
- Lack of appointment of data protection officer
- Insufficient cooperation with supervisory authority
- Insufficient data processing agreement
- Unknown

Nature of infringement subject to enforcement actions  
**Number of cases**



- Insufficient legal basis for data processing
- Insufficient technical and organisational measures to ensure information security
- Non-compliance with general data processing principles
- Insufficient fulfilment of data subjects rights
- Insufficient fulfilment of information obligations
- Insufficient cooperation with supervisory authority
- Insufficient fulfilment of data breach notification obligations
- Lack of appointment of data protection officer
- Insufficient data processing agreement
- Unknown

# AGENDA

- Introduction
- The numbers
- **Country update**
  - Norway
  - Sweden
  - Denmark
- Discussion
- Q&A

# HIGHLIGHTS, TRENDS AND LEARNINGS POINTS FROM NORWAY

## Highlights

- Legelisten.no, Appeal Court case
  - Legitimate interest vs. consent
- Fine of MNOK 3 and MNOK 1,2 for municipalities
  - Inappropriate data security in school communication tools
- DPA guidance focus on complex matters
  - AI, privacy by design, digital services, drones, etc.

## Key learnings

- Controller liable for processor's faults
  - Bergen municipality (Vigilo) Oslo municipality (CGI)
- Temporary storage in folders without appropriate access control not ok
  - Fines of NOK 750 000 to Sykehuset Østfold
- Flexible interpretation of GDPR art. 6 (c) – legal obligation
  - Arendal municipality could rely on general provision in opplæringslova

## Trends

1. Enforcement against private companies is rare
  - ~75% of cases: public bodies or organizations
2. Cases triggered by data breach notifications
  - ~40-50%
3. Few and "small" fines for private companies
  - NOK 150 000 (0.5%) and [NOK 300 000 (1-2%)]
4. DPA decisions overturned by Appeals Board
  - 5 most recent: 3 wholly, 1 partly, overturned
5. DPA vs. NKOM on cookies
  - Opt-in vs. opt-out



# HIGHLIGHTS, TRENDS AND LEARNINGS POINTS FROM SWEDEN

## Highlights

- Public sector fines 1/20 of private sector fines.
- Working group chair on EDPB controller/processor guidelines.
- Upcoming enforcement actions on sub processor responsibilities.
- The National Government Service Centre failed to notify affected parties and the DPA about a data breach in due time; SEK 200,000 fine.
- Google fine of 75 MSEK, reduced to 52 MSEK in administrative court.
- Serious deficiencies in Stockholm online School Platform – 4 MSEK.
- Guidelines on children's rights on digital platforms, working life data processing aspects., camera surveillance, infosecurity for individuals,

## Key learnings

- Personal data relating to suspicion of criminal activities – Art 10.
- Focus on internal control, compliant processes, information security and accountability.
- Swedish DPA challenged by the requirement to pursue all complaints; highlighting tips.

## Trends

- Prioritising to provide guidance - During 2019 not even half the efforts spent on supervision, compared to external information and guidance.
- High ambition with regards to international cooperation; all EDPB working groups, chairing a number of them, participating in +500 cross jurisdiction cases.
- Autumn focus on data subject complaints, also initiating supervision in a number of cases.
- 6 NOYB complaints.
- Tetra Pak group BCR.
- Camera surveillance – important topic that triggered an additional 14 MSEK budget for 2021.
- No code of conduct discussion

# HIGHLIGHTS, TRENDS AND LEARNINGS POINTS FROM DENMARK

## Highlights

- Enforcement primarily a result of audits, data breaches or data subject complaints.
  - Large fines: Lack of deletion of data (Arp-Hansen Hotel and 4x35)
  - Insufficient security measures (Gladsaxe & Hørsholm Kommune)
  - Notification requirements (Intervare & Nemlig.com)
  - Webpage data & consent (DMI → DBA)
  - Test data and sub-processors (SDC A/S)
  - Most enforcement actions result in criticism of the controller (90%+)
- Several extensive guidelines have been published
  - Consent, DSR, Controller/Processor, PbDaD, incident management, DPIA, Role of DPO, data transfers, Processing of data on webpage visitors
  - 4 templates published (SCC, Joint Controller, RoPA (HR), Notice and Access)

## Trends

- A number of decisions concerning late responses to access requests
- Security issues get uncovered as part of data breaches
- Audits tend to focus on organisations in a “position of trust”

## Key learnings

- What will get you in trouble:
  - Insufficient security measures
  - inability to delete data
  - inappropriate incident management (incl. notification), and
  - lackluster handling of DSRs
- Noteworthy:
  - Unique Danish setup, where the police has to raise charges based on filing from DPA, results in long processes
  - No enforcement of data transfers out of EEA without legal basis
  - Next to no enforcement on insufficient data processing agreements

# AGENDA

- Introduction
- The numbers
- Country update
  - Norway
  - Sweden
  - Denmark
- **Discussion**
- Q&A