

SCANDINAVIAN GDPR WEBINAR

26 November 2020

CIRIO

Niersholm

WL
White Label
Consultancy

BI

AGENDA

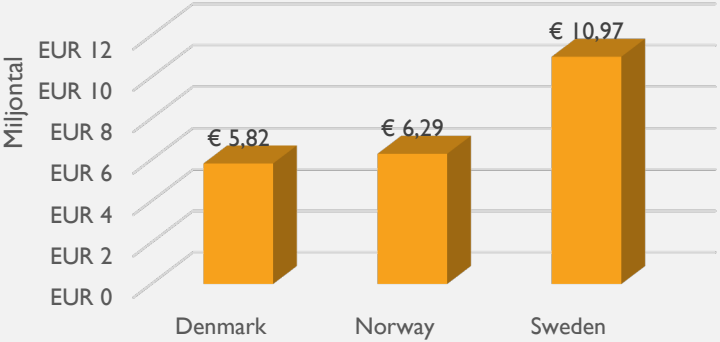
- **Introduction**
- The numbers
- Country update
 - Norway
 - Sweden
 - Denmark
- Discussion
- Q&A

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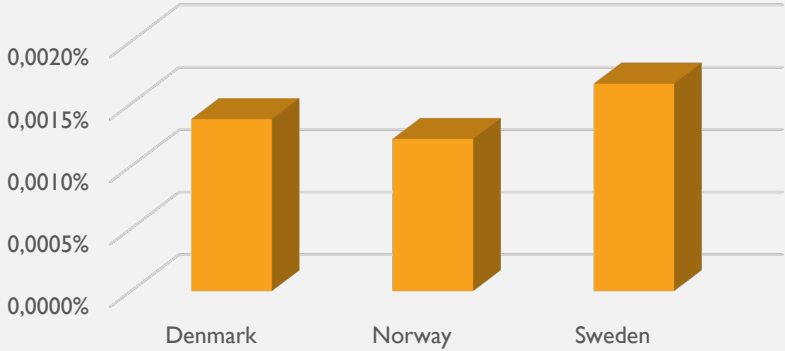
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THE NUMBERS

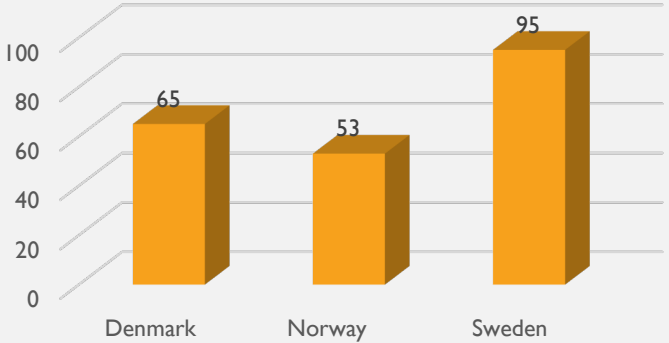
2020 Budgets in €



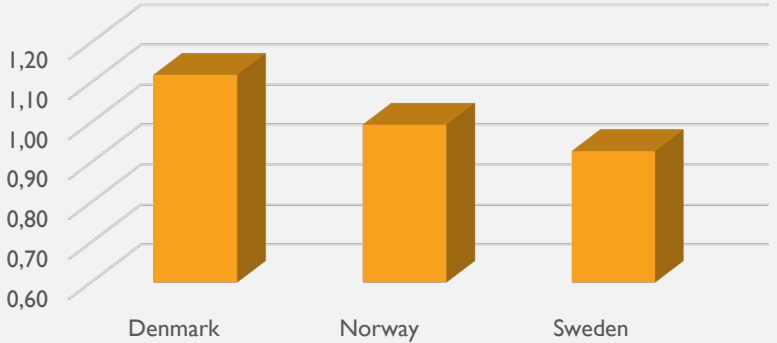
DPA Budgets / GDP



of Employees 2020



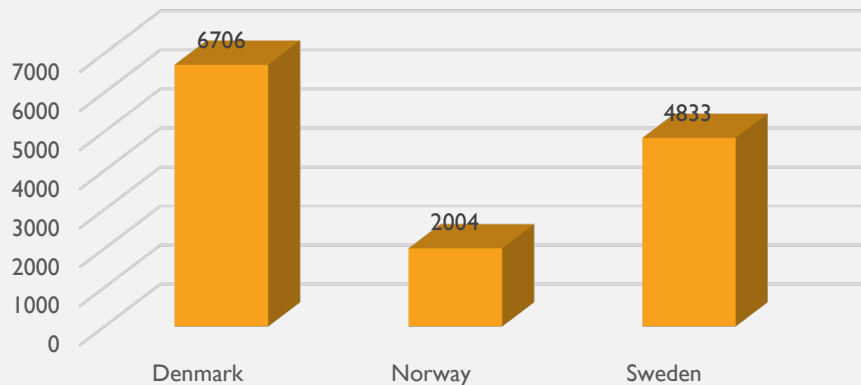
DPA Employees / 100.000 Capita



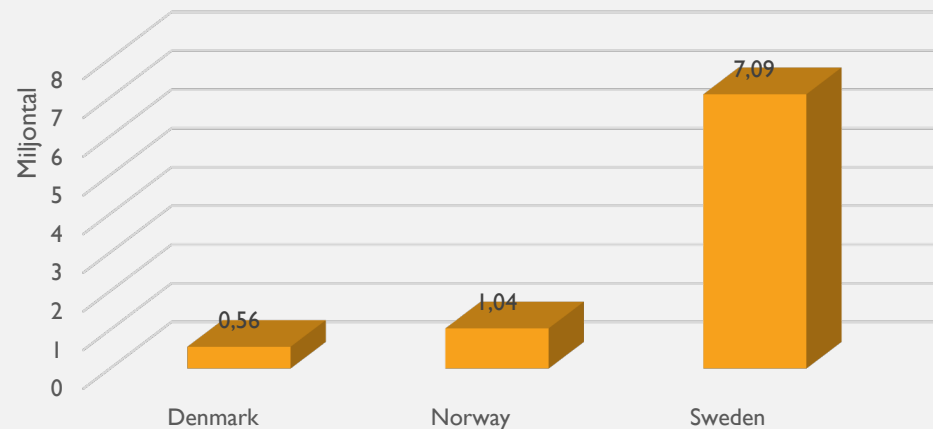
Source: Enforcement Tracker, GDPRHub.eu, DPA-webpages and yearly reports, DLA Data Breach Report 2020, information requests to NO, DK and SE DPAs

THE NUMBERS

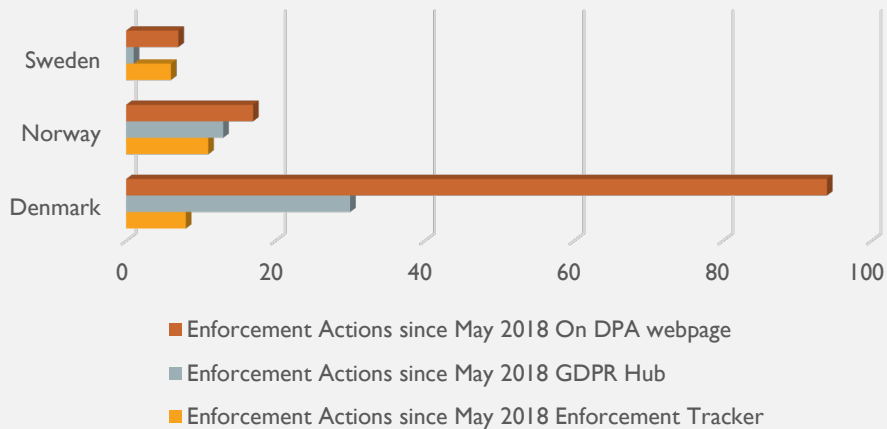
data breach notifications
28 Jan 2019 - 27 Jan 2020



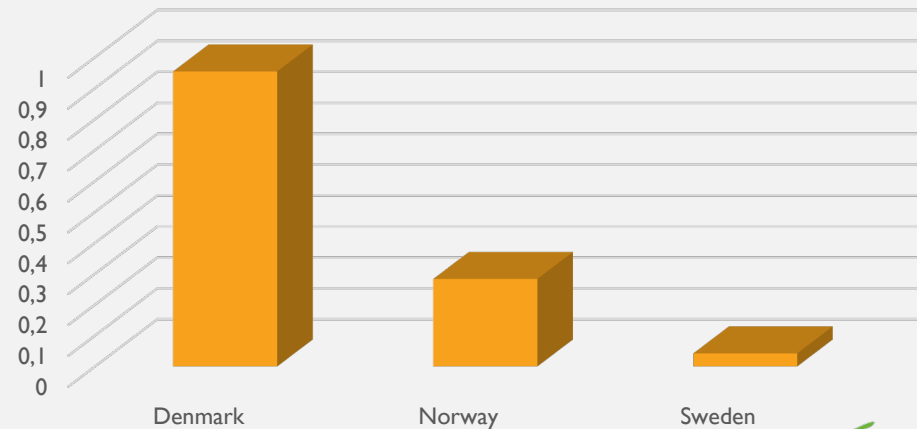
Fines in total (€)



Enforcement Actions/Decisions since May 2018



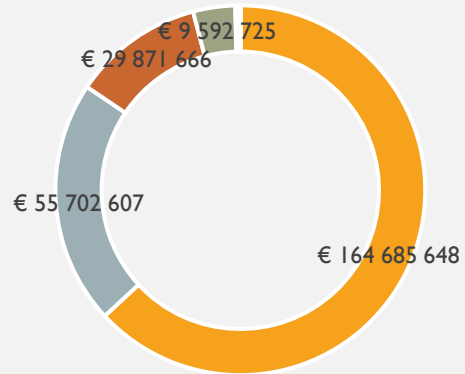
of enforcement actions / employee



Source: Enforcement Tracker, GDPRHub.eu, DPA-webpages and yearly reports, DLA Data Breach Report 2020, information requests to NO, DK and SE DPAs

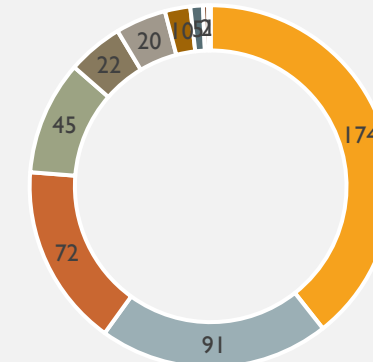
THE NUMBERS FOR EEA

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
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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

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