GERNANDT & DANIELSSON

G&D Monthly Digest

June 2025

This news overview has been compiled by Gernandt & Danielsson's specialist team and is updated month by month. Added news for this month are highlighted in beige. Please click here if you are interested in subscribing to the G&D Monthly Digest.

Data and Tech

ARTIFICIAL INTELLIGENCE

- On 23 May 2025, the European Commission announced a Call for Evidence for its forthcoming European Data Union Strategy planned for Q3 2025. Building on the 2020 EU Data Strategy, this initiative aims to address challenges in the evolving data economy, particularly in light of accelerating AI development. The strategy will pursue three main objectives: stimulating investment in data technologies and improving data availability for AI development; simplifying the regulatory landscape by streamlining existing rules and developing tools to reduce administrative burden; and creating an "International Data Strategy" to manage data flows between the EU and third countries. Stakeholders are invited to participate in an eight-week public consultation.

- On 14 May 2025, the privacy activist group None of Your Business (NOYB) sent a cease-and-desist letter to Meta regarding the company's AI training. The company had disclosed its intended use of EU Instagram and Facebook users' personal data for AI training without opt-in consent. Under Directive (EU) 2020/1828 (the Collective Redress Directive) (Sw. *grupptalandirektivet*), approved entities like NOYB can seek EU-wide injunctions in cases of alleged privacy infringements. The organisation may seek court-ordered injunctions requiring deletion of AI models trained with illegally obtained data and class actions for damages that, according to NOYB, could potentially reach billions of euros.

- On 22 April 2025, the European AI Office published a working document containing preliminary guidelines to clarify the scope of the obligations of providers of general-purpose AI models (Sw. *AI-modell för allmänna ändamål*). The guidelines will elaborate the scope of general-purpose AI models and other key concepts under Regulation (EU) 2024/1689 (the AI Act) (Sw. *AI-förordningen* or *AI-akten*). Stakeholders are invited to provide feedback by 22 May 2025 and the final guidelines are expected to be published in August 2025.

PRIVACY

- On 18 June 2025, the Swedish Data Protection Authority (IMY) (Sw. *Integritetsskyddsmyndigheten*) imposed administrative fines of SEK 75 000 each on two public transportation operators for violations of Articles 6 and 9 of Regulation (EU) 2016/679 (the GDPR) (Sw. *dataskyddsförordningen*) in connection with alcohol testing. IMY found that both companies had processed personal data without a legal basis under Article 6 and processed special categories of personal data (health data) without applicable exceptions under Article 9 of the GDPR. The violations related to alcohol testing of ferry captains and the retention of breathalyser test results for months without formal deletion routines. IMY found that the companies' legitimate interest in ensuring transportation safety could have been achieved through less privacy-intrusive measures, thus violating both Articles 6 and 9 of the GDPR.

- On 9 June 2025, the public consultation period ended for the European Data Protection Board's (EDPB) (Sw. *Europeiska dataskyddsstyrelsen*) drafted Guidelines 02/2025 on the processing of personal data through blockchain technologies. The guidelines aim to clarify the application of the GDPR to blockchain-based systems and address key issues such as data storage, processing roles, data protection by design and default, and the need for Data Protection Impact Assessments (DPIAs) (Sw. *konsekvensbedömning avseende dataskydd*). The draft also provides recommendations and practical guidance for ensuring compliance when using blockchain technology. The revised final version is expected to be published later this year.

- On 4 June 2025, the EDPB adopted the final version of Guidelines 02/2024 on Article 48 of the GDPR concerning data transfers to third country authorities. The guidelines explain how

organisations can assess requests for personal data transfers from non-EU authorities. Additionally, the guidelines clarify the interplay between Article 48 and other provisions under Chapter V as well as Article 6 of the GDPR. These guidelines are particularly important for EU-based controllers and processors that may receive such disclosure or transfer requests.

Employment and Incentives

- On 25 June 2025, the Swedish Labour Court (Sw. *Arbetsdomstolen*) ruled in case AD 2025 nr 47 concerning the Swedish Whistleblower Protection Act (2021:890) (Sw. *visselblåsarlagen*). An employee had repeatedly reported safety concerns and argued that the reporting should be categorised as whistleblowing warranting protection under the Whistleblower Protection Act. Whistleblower protection requires reporting of misconduct (Sw. *missförhållanden*) of public interest. The Labour Court held that "reporting due to a conflict between the reporting individual and another employee at the workplace is usually not of public interest". Despite certain evidence of safety concerns, the majority of the court found that the reports stemmed from workplace conflicts rather than misconduct of public interest. The case is the first application of the Whistleblower Protection Act by the Labour Court. However, given that the public interest criterion is difficult to assess, it is unlikely to be the last.

- On 30 May 2025, the Swedish government presented memorandum Fi2025/01199 on legislative changes due to the latest EU Banking Package, which implements the final parts of the Basel 3 Agreement. The memorandum proposes, among other things, stricter suitability requirements for executives in financial institutions and a completely new law with qualifying periods (Sw. *karenstid*) for certain employees of the Swedish Financial Supervisory Authority (Sw. *Finansinspektionen*). Under this proposal, the head and board members of the authority must report any new employment within 12 months of leaving their positions. Such persons must also observe a 12-month waiting period before transferring to a supervised entity and a three-month waiting period before transferring to a stakeholder organisation (such as a lobbying group). Other persons involved in supervisory activities must report new assignments within six months and may be subject to waiting periods of up to six months if they have acquired certain sensitive information or skills. The new law is proposed to enter into force on 11 January 2026.

- On 14 May 2025, the Labour Court ruled in favour of a labour union in a dispute concerning taxi drivers' overtime compensation (case AD 2025 nr 29). The court assessed whether two taxi drivers continued to be employed by a taxi company when performing overtime work or if they instead were employed by a staffing company (as claimed by the employer). The court determined that the employer had failed to prove that the drivers were employed by the staffing company during the performance of the disputed work. Notably, no employment agreements existed with the staffing company and both companies shared the same address and ownership structure. Furthermore, all work was performed using the taxi company's vehicles and equipment. Consequently, the court ordered the employer to pay overtime compensation and vacation pay as well as general damages to each driver and to the union for breach against the terms and conditions of the collective bargaining agreement. The ruling illustrates that multiple-employment arrangements, where the same type of work is performed, do not allow employers to avoid paying overtime compensation (if agreed to, for instance, under a collective bargaining agreement).

Environmental, Social and Governance

- On 30 June 2025, the European Securities and Markets Authority (ESMA) published its Final Report on the Common Supervisory Action conducted in 2023 and 2024 with national competent authorities on the integration of sustainability risks and disclosures in the investment fund sector. While there is an overall satisfactory level of compliance with applicable regulatory requirements, there is still significant room for improvement according to the report. This is particularly the case with respect to the requirements under Regulation (EU) 2019/2088 (the Sustainable Finance Disclosure Regulation, SFDR) (Sw. *disclosureförordningen*). The main issues and vulnerabilities identified in the report include vague disclosures, inadequate principal adverse impact statements, insufficient sustainability risk policies, and greenwashing risks. The report concludes that both supervised entities and regulators are building experience since the implementation of the SFDR in 2021. Nonetheless, proactive engagement and follow-up on identified vulnerabilities remain essential for ensuring market transparency and combating greenwashing.

- On 2 May 2025, the European Commission announced a new call for evidence due to its review of the SFDR. The regulation, in application since 2021, sets out how financial market participants have to communicate sustainability information to investors. The Commission's initiative aims to review the rules on sustainable finance disclosure with the objective of simplifying the framework, enhancing its usability and preventing greenwashing. A proposal to revise the SFDR is planned in the European Commission's work programme for Q4 2025.

- On 15 April 2025, the European Commission published guidance (C[2025] 2485 final) on Regulation (EU) 2023/1115 (the Deforestation Regulation) (Sw. *EU:s avskogningsförordning*). The new guidance aims to provide additional simplified measures and clarifications on how to demonstrate that products are deforestation-free. Notably, the Commission expects that the updated measures will significantly reduce the number of due diligence statements that companies need to file under the Deforestation Regulation. Most obligations under the regulation will apply from 30 December 2025.

EU, Competition and FDI

COMPETITION

- On 2 June 2025, the European Commission fined two companies a total of EUR 329 million for operating a cartel in the online food delivery sector from July 2018 to July 2022. The two companies engaged in three main anti-competitive practices: agreeing not to poach each other's employees, exchanging commercially sensitive information, and allocating geographic markets across the European Economic Area. This marks the first European Commission decision finding a cartel in the labour market and the first instance of sanctioning anti-competitive use of a minority shareholding in a competing business. Both companies admitted their involvement and agreed to settle, thereby receiving a ten percent reduction in fines.

- On 30 May 2025, the Swedish Competition Authority (Sw. *Konkurrensverket*) approved PostNord Strålfors AB's acquisition of 21 Grams Holding AB following substantial commitments that address competition concerns. The main commitment involves functionally separating the acquirer from the PostNord Group's distribution operations in order to mitigate the conflict of interest that could have favoured PostNord Sverige AB over competing postal distributors. Additional commitments require the acquirer to offer postage optimisation services on fair, reasonable, and non-discriminatory terms. The Competition Authority's approval includes significant fines totalling SEK 300 million for the acquirer and SEK 450 million for the PostNord Group in case of non-compliance. The commitments will remain in force until 2038.

- On 26 May 2025, the Swedish Competition Authority's new regulations and guidelines on merger notifications under the Swedish Competition Act (2008:579) (Sw. *konkurrenslagen*) entered into force. This updated framework (KKVFS 2025:1) replaces the previous one (KKVFS 2010:3). The primary objective of this update is to enhance the efficiency of the Competition Authority's review process and to streamline the procedures for notified concentrations. The regulations will not affect mergers in which there is no overlap between the parties' activities. However, they will entail increased information requirements in case of overlaps. The authority has also issued updated guidance for the notification and review of mergers, in which details are provided on when businesses might need to notify acquisitions falling below the thresholds and specifications regarding information requirements.

FDI AND NATIONAL SECURITY

- On 14 May 2025, the Swedish Financial Supervisory Authority (Sw. *Finansinspektionen*) announced that it had issued an administrative fine of SEK 12 500 000 against a major bank. The fine is the result of supervisory action concerning the bank's compliance with the Swedish Protective Security Act (2018:585) (Sw. *säkerhetsskyddslagen*). According to the Financial Supervisory Authority, the bank's protective security analyses had been deficient. Moreover, the bank had violated several provisions of the protective security regulatory framework and thereby had created national security vulnerabilities according to the authority.

- On 5 March 2025, the European Commission published a Call for Evidence seeking feedback on the main objectives, scope and context of its upcoming guidelines regarding the implementation of Regulation (EU) 2022/2560 (the Foreign Subsidies Regulation) (Sw. *Förordningen om utländska subventioner*). The regulation entered into force on 13 July 2023 and enables the Commission to address distortions caused by foreign subsidies and ensures a level playing field for all companies operating in the internal market. The upcoming guidelines will clarify key concepts such as determination of a distortion caused by a foreign subsidy and the application of the balancing test. This is a first step towards the publication of the guidelines, expected to be finalised by 13 January 2026.

- On 10 January 2025, Ramsbury Invest became the first entity to be sanctioned under the Swedish FDI Act (2023:560) (Sw. *lagen om granskning av utländska direktinvesteringar*). The basis for the sanction was that Ramsbury Invest failed to notify the Inspectorate of Strategic Products (ISP) (Sw. *Inspektionen för strategiska produkter*) about its investment in a Swedish defence technology group in December 2023. The sanction imposed on Ramsbury Invest amounted to SEK 200 000. Sanctions under the Swedish FDI Act may amount to between SEK 25 000 and SEK 100 000 000. The company has publicly stated its intention to appeal ISP's decision.

Family Offices and Foundations

- On 19 March 2025, the European Commission unveiled its strategy for the Savings and Investments Union (SIU), aiming to bolster the EU's financial ecosystem by channelling savings more efficiently into productive investments. A significant component of this strategy involves a forthcoming review and enhancement of the European Venture Capital Funds Regulation (Regulation [EU] No 345/2013) (the EuVECA) (Sw. *förordningen om riskkapitalfonder*), scheduled for Q3 2026. The proposed review seeks to broaden the scope of investable assets and strategies permissible under the EuVECA framework. This initiative is designed to foster a more dynamic venture capital market, thereby supporting innovative startups and scale-ups across key sectors such as AI, biotechnology, and clean technology. By expanding the range of eligible investments, the Commission aims to enhance the attractiveness of the EuVECA label for fund managers and investors alike. This move is anticipated to facilitate greater capital flow into high-growth potential enterprises, contributing to the EU's broader objectives of innovation, competitiveness, and economic resilience. The broadening may also offer family offices more alternatives, given that the EuVECA is tailored to semi-professional investors.

- On 10 March 2025, the Swedish Supreme Administrative Court (Sw. *Högsta förvaltningsdomstolen*) delivered a ruling in case no. 463-24 (HFD 2025 ref. 9). The case concerned a foundation that almost 20 years earlier had been granted permission by the Swedish Legal, Financial and Administrative Services Agency (Sw. *Kammarkollegiet*) to amend a provision in its deed. Much later, it was discovered that the amendment had resulted in an expansion of the group of beneficiaries that the foundation did not intend. The foundation then requested that the agency amend its previous decision on the basis of Section 37, first paragraph, of the Swedish Administrative Procedure Act (2017:900) (Sw. *förvaltningslagen*) as being incorrect, a request that was denied. The Supreme Administrative Court upheld the agency's decision and stated that an amendment to a provision in the foundation deed regarding the foundation's purpose can only be made if the conditions in Chapter 6, Section 1, of the Swedish Foundation Act (1994:1220) (Sw. *stiftelselagen*) are met.

- On 1 January 2025, certain amendments to the Foundation Act came into force. An important amendment was the introduction of a new ground for conflict of interests for representatives (Sw. *ställföreträdarjäv*). This means that, as a general rule, a board member or a trustee may not handle a matter concerning an agreement between the foundation and a legal entity that the board member or trustee may represent alone or together with someone else. Exceptions apply, for example, in intra-group relationships. In addition, other new rules were introduced, including an obligation for the auditor to make a police report in the event of suspicion of certain criminality. The news also includes fees for late submissions of annual reports and audit reports and a ban on board members who do not intend to take part in the board's activities.

Financial Services

- On 18 June 2025, the Swedish Financial Supervisory Authority (Sw. *Finansinspektionen*) decided to revoke the authorisation of a Swedish electronic money institution with immediate effect. The authority has reviewed and found extensive deficiencies in the institution's compliance with the anti-money laundering framework. Deficiencies were found with regard to general risk assessment, stricter measures for high-risk situations, and reporting of suspicious transactions. These breaches were considered particularly serious as they entailed a significant risk that the institution's operations could have been exploited for large-scale money laundering and hampered the authorities' ability to investigate suspected crimes.

- On 17 June 2025, the Financial Supervisory Authority announced new general recommendations to strengthen consumer protection in the mortgage market. The authority decided that mortgage companies should inform their customers in writing at least one month in advance before a temporary interest rate discount on mortgages expires. Additionally, the Financial Supervisory Authority decided on new general recommendations regarding the calculation of interest rate differential compensation (Sw. *ränteskillnadsersättning*), which is the compensation that consumers who prepay fixed-rate mortgages may need to pay to the mortgage company. The new general recommendations entered into force on 1 July 2025. General recommendations are a form of non-binding guidance on how to comply with the statutory requirements to which the recommendations relate. Compliance with general recommendations is not mandatory *per se*, and deviations are permissible as long as it can be demonstrated that another course of action is compliant with the underlying statutory requirement.

- On 10 June 2025, the European Banking Authority (EBA) published a comprehensive opinion addressing the regulatory overlap between Directive (EU) 2015/2366 (PSD2) and Regulation (EU) 2023/1114 (MiCA) (Sw. *EU:s förordning om marknader för kryptotillgångar*) for crypto-asset service providers transacting electronic money tokens (EMTs). The opinion aims to avoid dual authorisation requirements by providing interim

guidance while also endorsing the development of longer-term legislative approaches. The EBA advises national competent authorities to treat certain crypto-asset services (transfers, custody and administration of EMTs) as payment services under PSD2, while advising that other services (exchange of crypto-assets for funds or other crypto-assets) not be treated as payment services under PSD2. Furthermore, the EBA advises national competent authorities not to prioritise certain areas in their enforcement such as safeguarding requirements (given MiCA's safekeeping provisions), disclosure of charges where fees cannot be predetermined, maximum execution time requirements, and open banking provisions.

Intellectual Property and Marketing

INTELLECTUAL PROPERTY RIGHTS

- On 9 June 2025, the Swedish Supreme Court granted leave to appeal (Sw. *prövningstillstånd*) in case no. T 588-25 concerning a license agreement dispute. The dispute concerns the licensee's use of a product beyond the scope of the licensing agreement and the legal ramifications thereof. The Supreme Court's anticipated ruling will be of significant importance given that Swedish precedents concerning license agreements are rare.

- On 21 May 2025, the Supreme Court delivered its ruling in case no. PMT 7965-24 "Dreamhost" concerning non-pecuniary damages (Sw. *ideell skada*) due to copyright infringements. In the context of copyright, non-pecuniary damages often arise due to infringements of an author's moral rights (Sw. *ideella rättigheter*). The Supreme Court reaffirmed that legal entities are generally not entitled to non-pecuniary damages in Sweden, as moral rights are inherently linked to natural persons. Nevertheless, the court acknowledged limited scenarios in which legal entities could be entitled to receive non-pecuniary damages for copyright infringements. This could occur if the copyright owned by a company is personally associated with an individual and infringed in a way that affects that individual's personal integrity. However, in this case involving an illegal streaming website, no such personal association existed. The Supreme Court accordingly rejected the claim for non-pecuniary damages.

- On 12 May 2025, the EU Intellectual Property Office (EUIPO) published an extensive study titled "The development of Generative Artificial Intelligence from a Copyright perspective". The study examines the relationship between generative AI and copyright including the evolving legal landscape associated with it. As of this date, the legal landscape is characterised by the first significant member state ruling establishing a precedent for research exceptions. Furthermore, a licensing ecosystem has emerged between right holders and AI developers, with major publishers securing agreements worth millions. Right holders protect content through various technical measures including website terms, specialised protocols, and detection tools according to the study.

MARKETING AND CONSUMER PROTECTION

- On 28 June 2025, the Swedish Accessibility Act (2023:254) (Sw. *tillgänglighetslagen*) entered into force. The act transposes Directive (EU) 2019/882 (the European Accessibility Act) (Sw. *tillgänglighetsdirektivet*) into Swedish law. The law applies to services such as electronic communication, banking and payment services, and e-commerce, as well as related hardware such as payment and self-service terminals. Under the new law, general requirements mandate accessible information, interfaces, functional design and support services. Additional sector-specific requirements cover electronic communication, e-commerce, banking and payment services. Entities responsible for meeting these requirements include manufacturers, importers, distributors and service providers. Non-compliance may lead to administrative fines up to SEK 10 million.

- On 20 June 2025, the European Commission announced its intention to withdraw from the negotiations concerning the Proposal for a Directive on substantiation and communication of explicit environmental claims (the Green Claims Directive). The proposal was initially presented by the Commission on 22 March 2023 (COM/2023/166 final). If enacted, the proposal would entail extensive rules on the substantiation of green claims in marketing. It is meant to guarantee that explicit green claims are verified before being used by traders. The proposal has faced political backlash and it currently appears that the proposal will ultimately be abandoned.

- On 13 June 2025, the Swedish Patent and Market Court (Sw. *Patent- och marknadsdomstolen*) rendered a ruling in case no. PMT 11812-24. The case concerned cease-and-desist letters sent by the defendant to the claimant due to an alleged patent infringement. The letters wrongfully alleged that a certain patent had been validated in Sweden. Notably, the letters were sent by a member of the Danish bar association. The court deemed these letters to be misleading under the Swedish Marketing Act (Sw. *marknadsföringslagen*), noting that they contained far-reaching and unsubstantiated claims. As a result, the defendant was prohibited from making any such future claims and ordered to pay the claimant's legal costs.

Real Estate and Environment

- On 24 June 2025, the government presented legislative bill prop. 2024/25:192 regarding an improved model for presumption rent (Sw. *presumtionshyra*). The presumption rent system was introduced in 2006 to facilitate the construction of new rental housing. However, limited possibilities for rent adjustments during the presumption period have made rental investments less attractive and landlords are forced to set higher initial rents to compensate. The main proposals in the draft bill include the possibility to adjust rent on an ongoing basis in line with the general rent development and clearer regulation whereby certain provisions are moved from the Land Code to the Swedish Rent Negotiation Act (1978:304) (Sw. *hyresförhandlingslagen*). Additionally, a new dispute resolution mechanism is proposed. The legislation is proposed to enter into force on 1 January 2026.

- On 12 June 2025, the Swedish government initiated an inquiry to reform the shoreline protection rules (Dir. 2025:59, in Sw. "*Ett reformerat strandskydd*"). The inquiry will propose changes giving municipalities a greater role in shoreline protection decisions. The reform will facilitate construction within property plots and construction of water-dependent buildings like boathouses and piers. Municipalities are intended to gain new powers to lift shoreline protection for local housing needs and decide where protection should apply. The inquiry shall also propose reliefs for outdoor recreation, nature conservation, temporary events and seasonal activities. The inquiry shall present its findings by 30 June 2026.

- On 22 May 2025, the Swedish Supreme Court (Sw. *Högsta domstolen*) ruled in case no. T 1347-24 "Bergrumsgaraget" and classified an underground rock cavern as a "house" under Chapter 12 of the Swedish Land Code (1970:994) (Sw. *jordabalken*). The dispute concerned whether a facility with natural rock walls and ceiling could legally be classified as a "house" for rental purposes. Despite the unconventional setting, the Supreme Court ruled that function prevails over form and determined that a rock cavern can indeed be considered a building or house depending on its design and how it is used. The ruling ensures that the tenant benefits from tenant protection under Chapter 12 of the Land Code, which governs matters such as tenure security and rent regulation.