

[Editor's note: This notice is published unpseudonymized because 1. the□

Applicant as city magistrate organ or business apparatus of a regional authority□

(legal person), and 2. the application tw. was based on Styrian provincial law, and□

there is only one statutory city in Styria, the provincial capital Graz, in which a□

Magistrate performs municipal and district administration tasks. The identity of□

Applicant is therefore recognizable to any knowledgeable reader. obvious□

Spelling, grammar and punctuation errors have been corrected.])□

NOTICE□

S P R U C H□

The data protection authority decides on the application of the municipal authorities of the city of Graz□

(Applicant) dated September 26, 2019 for approval of the provision of□

Addresses for notification and questioning of data subjects (selection of□

Legal guardians of school-age children with their main residence in Graz□

were born between September 1, 2013 and August 31, 2014) in accordance with Section 8 (3) and□

Para. 4 DSG as follows:□

- The application is rejected.□

Legal bases: § 8 Para. 2 Z 1 of the Data Protection Act (DSG), Federal Law Gazette I No. 165/1999□

idgF.□

REASON□

A. Submissions of the applicant□

The applicant applied with a submission dated September 6, 2019 (ha. received on□

September 26, 2019) the approval of the provision of addresses for□

Notification and questioning of data subjects in accordance with Article 8 Paragraph 3 and Paragraph 4□

DSG. In summary, on October 5, 2019, the applicant plans to send the□

Annual "Parent Letter" to all legal guardians with main residence in Graz. the□

The legal basis for data processing has so far been Section 16 of the Compulsory Education Act of 1985

been regulated, which municipalities are authorized to manage the compulsory school registration

had. However, the provision mentioned is effective as of September 1, 2019

been changed in such a way that now the heads of the educational institutions,

as well as the education departments and the BRZ as their processors

Keep compulsory school registration.

The parent letter mentioned will be sent because the information of the legal guardians

about compulsory education in the public interest and the applicant after the

Fact of § 21 StPEG 2004 is still responsible for issuing notices.

The applicant has a public interest in the children going to school

would be evenly distributed within the school district. From the local

According to §§ 14 and 20 (3) of the Registration Act, the following data would be used in the registration register

are: first name, last name, date of birth and main residence address, this related

to the group of persons "legal guardians of school-age children with

Main residence in Graz, born between September 1, 2013 and August 31, 2014

are". Due to the aforementioned legal change, there is some ambiguity as to whether the

legal basis in the StPEG 2004 as competence for the

Provision of the address data within the meaning of Section 8 (1) DSG is sufficient. Therefore become a

Application for approval according to § 8 paragraph 3 DSG submitted.

B. Findings of Facts

The municipal administration of the city of Graz is the administrative body of the applicant's organs

(including the mayor as the registration authority of first instance)

Data protection officer of the local population register.

Otherwise, the arguments of the applicant are the findings of fact

laid the foundation.

Evidence assessment: The findings are based on the undisputed record.

C. In legal terms it follows that: ☐

1. Applicable legislation: ☐

§ 8 DSG reads as follows, including the title: (emphasis added by the ☐

Data Protection Authority): ☐

Provision of addresses for the notification and questioning of ☐

affected persons ☐

§ 8. (1) Unless otherwise expressly stipulated by law, the transmission is required ☐

of address data of a certain group of data subjects for the purpose of their ☐

Notifying or asking for consent from data subjects. ☐

(2) However, if there is an impairment of the confidentiality interests of the persons concerned ☐

People in view of the selection criteria for the group of those affected and the object ☐

notification or questioning is unlikely, no consent is required, ☐

if ☐

1. Data are processed by the same controller or ☐

2. if the address data is intended to be transmitted to third parties ☐

a) there is also a public interest in the notification or survey, or ☐

b) none of the persons concerned after appropriate information about the reason and content ☐

objection to the transmission within a reasonable period of time ☐

raised. ☐

(3) If the requirements of paragraph 2 are not met and if the collection of the ☐

Consent of the persons concerned pursuant to paragraph 1 requires a disproportionate effort ☐

require the transmission of address data with the approval of the data protection authority ☐

Permissible in accordance with paragraph 4 if the transmission to third parties ☐

1. for the purpose of notification or questioning due to an important interest of the ☐

those affected themselves, ☐

2. for an important public notification or survey interest or ☐

3. to question the persons concerned for scientific or statistical purposes□

should take place.□

(4) The data protection authority has, at the request of a person responsible, the address data□

processed to authorize the transfer if the applicant□

the existence of the conditions mentioned in paragraph 3 makes credible and prevailing□

protectable secrecy interests of the persons concerned of the transmission□

oppose The Data Protection Authority has authorized the fulfillment of□

To attach conditions and requirements, insofar as this is to safeguard the protection-worthy□

interests of the data subjects is necessary.□

(5) The transmitted address data may only be used for the approved purpose□

processed and shall be deleted as soon as they are available for notification or questioning□

are no longer needed.□

(6) If permitted under the above provisions, name and address□

by persons who belong to a certain group of data subjects□

also necessary for the purpose of selecting the address data to be transmitted□

processing is carried out.□

2 In the matter□

The data to be used is that of the person responsible for data protection, "Magistrat□

of the City of Graz", i.e. the applicant himself.□

The purpose of processing the data is basically to keep the population register, however□

in the course of the processing that is the subject of the proceedings, registration data for the purpose of□

Sending a letter to parents to a specific target group (guardians of□

school-age children whose main residence is in Graz, between September 1, 2013 and□

born August 31, 2014) can be selected and used.□

Such use of data does not require the consent of the persons concerned,□

nor an approval by the data protection authority if an impairment of the□

Confidentiality interests of the data subjects given the selection criteria for

the group of those affected and the subject of the notification or survey

unlikely and the data are processed by the same controller

(cf. § 8 Para. 2 Z 1 and Para. 3 DSG).

Since the persons concerned in the course of the planned data processing via the

Compulsory schooling - as well as the related pre-registration for schools -

are to be informed and the data at issue is not otherwise

are used is an impairment of the secrecy interests of the

affected persons unlikely.

Although § 16 Compulsory Education Act 1985 as amended was amended and the

distribution of roles under data protection law for the management of compulsory school registration

has changed, the applicant continues to have the statutory

Assigned task, with decision orders on the distribution of school-age

To be able to take children to the individual schools if there is a risk of a

Overcrowding of the classes or a reduction in the organizational form is given or

such an order is necessary for personal reasons that cannot be remedied.

The processing of the registration data that is the subject of the proceedings is related to

the legally assigned task according to § 21 StPEG 2004 and serves (in addition to the

Information about compulsory schooling), especially parents about the possibility of making a reservation for

to enlighten a school. By such a reservation, the applicant can turn

determine in advance to what extent he has the authority to issue orders according to § 21 StPEG

2004 has to make use of and can also do so in advance

take organizational measures. In this respect, the present one differs

Facts of the person who follows the decision of the Data Protection Commission of

December 14, 2012, GZ K121.879/0014-DSK/2012.

The facts according to § 8 para. 2 Z 1 DSG are thus fulfilled, the planned

Data use therefore not subject to approval according to § 8 Para. 3 and Para. 4 DSG□

and subsequently also not approvable.□

It was therefore to be decided accordingly.□

A request for the payment of fees does not apply with regard to § 2 Z 2 of the□

Fees Act 1957.□