

GZ: DSB-D124.421/0003-DSB/2019 from 24.6.2019□

[Note editor: Names and companies, legal forms and product names,□

Addresses (incl. URLs, IP and email addresses), file numbers (and the like), etc., as well as□

their initials and abbreviations may be abbreviated for reasons of pseudonymization□

and/or changed. Obvious spelling, grammar and punctuation errors□

have been corrected.]□

NOTICE□

S P R U C H□

The data protection authority decides on the data protection complaint of Ursula A***□

(Appellant) of March 21, 2019 against the N***amt (Respondent)□

due to violation of the right to secrecy as follows:□

- The appeal is upheld and it is found that the□

Respondent gives the complainant the right to secrecy□

has violated by the Respondent's e-mail address□

Complainant - ursula.a***@hotmail.com - third parties thereby unlawfully□

has disclosed by sending them an electronic newsletter□

(March 21, 2019) in an open e-mail distribution list and thus this□

was visible to other recipients of the newsletter.□

Legal bases: §§ 1 paragraphs 1 and 2, 24 paragraphs 1 and 5 of the Data Protection Act (DSG),□

Federal Law Gazette I No. 165/1999 as amended; Art. 4 of the General Data Protection Regulation – GDPR, OJ No. L□

119 of May 4th, 2016, p. 1.□

REASON□

A. Submissions of the parties and course of the proceedings□

With a submission dated March 21, 2019, the complainant alleged a violation in□

right to secrecy and submitted in summary that she was a subscriber to the□

xy newsletter, which is regularly sent out by the respondent. At the□

The newsletter was sent to her on March 21, 2019 at 7:44 a.m., with the CC field of the

Newsletter emails their personal email address among more than 400 others

was published.

In a statement dated April 16, 2019, the Respondent confirmed the incident and

informed in summary that the clerk responsible for sending the

Newsletters on March 21, 2019 after upgrading his PC to Windows 10

had been changed. Due to the change, the view of the e-mail fields has changed

changed and are regrettably the first two submissions

Addressees have been entered in the "Cc" field by mistake, since the "Bcc" field in the e-

Mail dispatch no longer appears and can only be selected by clicking on "Cc".

All submissions before and after were correct. the

Respondent regrets the incident and will inform employees again

correct dispatch and the IT department has also commissioned others

to examine solutions.

subject of the complaint

The object of the complaint is the question of whether the complainant in her

Right to secrecy was violated by the Respondent sending a newsletter

sent out with an open mailing list, whereby, among many others, also the personal e-

Complainant's email address "ursula.a***@hotmail.com" for all recipients

was visible.

C. Findings of Facts

On March 21, 2019 at 07:44 a clerk sent the respondent

a newsletter in which the email addresses of the recipients are mistakenly put in one

open mailing list that can be viewed by all recipients. Besides more than

400 other addresses, there was also the personal e-mail address of the

Complainant below, who was visible to all recipients in the open mailing list.

Evidence assessment:□

The findings are based on the information provided by the□

Complainant in her complaint of March 21, 2019 and the credible□

Statement of the Respondent of April 16, 2019, with which the□

complaint was also confirmed.□

D. In legal terms it follows that:□

§ 1 para. 1 DSG stipulates that everyone, especially with regard to respect□

of his private and family life, right to secrecy of those concerning him□

personal data, insofar as there is a legitimate interest in it.□

According to § 1 para. 2 DSG, a restriction of the right to secrecy in□

vital interest of the person concerned or with his consent,□

otherwise only to protect overriding legitimate interests of another.□

The complainant's e-mail address is undoubtedly□

Personal data within the meaning of Art. 4 Z 1 GDPR. The dispatch of newsletters is as□

processing within the meaning of Art. 4 Z 2 GDPR.□

By sending the Respondent's newsletter in the open mailing list, the□

personal e-mail address of the complainant more than 400 other recipients□

disclosed and therefore violated the complainant's right to secrecy.□

Indications of a permissible limitation of the right to secrecy are in□

case at issue does not exist. Rather, the respondent stood□

admits that it was mistakenly sent in a way that violated the GDPR.□

It was therefore to be decided accordingly.□