

GZ: DSB-D037.500/0036-DSB/2019 from 22.3.2019□

[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 addressed to the data protection authority□

Request for information by Peter A\*\*\* (applicant) dated February 8, 2019 relates to the□

Ask whether on the basis of by the applicant to the data protection authority□

administrative penal proceedings were initiated as follows:□

- It is determined that the requested information corresponds to the claim□

Provision of information is not subject and the information is therefore not provided.□

Legal basis: Art. 20 Para. 3 and 4 of the Federal Constitutional Law - B-VG, BGBl.□

No. 1/1930 as amended; Sections 1 and 4 of the Information Obligation Act – AuskPflG, Federal Law Gazette No. 287/1987□

idgF;□

REASON□

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

1. By e-mail dated February 2, 2019 addressed to the data protection authority, the□

Applicant to the data protection authority that he has contacted a person responsible□

Request for information and in the course of this information from a law firm□

received that the person responsible does not store any data of the applicant. the□

The applicant submitted that the disclosure of his data by the□

Responsible to the law firm without his consent and□

he asks the data protection authority to pursue this suspicion according to the DSG.□

He should also be informed of the rights he has to object to the

to resist the alleged facts.

2. By email dated February 8, 2019, the Data Protection Authority gave the applicant a

overview of the legal situation applicable in the present case and referred him

regarding his rights as a data subject on the homepage of the

Data Protection Authority.

3. By e-mail of the same day, the applicant replied to the message of the

Data Protection Authority and informed that he had sent a notification in which he

report the suspicion of an administrative offence. In addition, the applicant stated

that he now wanted to know whether this suspicion was an administrative offence

received and followed. By the inaction of the data protection authority

his rights could be violated. Should the data protection authority not act

become, he asks for a decision.

4. The DPA explained to the applicant by email dated February 11 that

no subjective legal claim to the initiation of administrative penal proceedings

exist. In such a procedure, the applicant has no party status and

therefore also receive information about the course of the proceedings, including the initiation of such a

no information. The applicant was also informed that his application as

Complaints procedure could be logged if he so wished, and him in a

such proceedings all party rights as well as the right to an administrative decision

settlement would come.

5. The applicant subsequently informed the data protection authority by e-mail dated

March 7th with the fact that he had asked the data protection authority to give him the AuskPflG

state whether proceedings have been initiated in relation to the alleged facts. he have up

did not get an answer or a notification today and am requesting that

data protection authority to act accordingly.

6. The applicant did not request the initiation of a complaints procedure.□

## B. Findings of Facts□

The data protection authority submits the arguments under point A□

findings of fact.□

## C. In legal terms it follows that:□

According to the case law of the Administrative Court, according to § 1 Para. 1□

AuskPflG a right to information about the status of the administrative criminal proceedings or□

whether against the person reported by the applicant at all□

Administrative penal proceedings were initiated and what the result was,□

if the interest of the applicant in such a provision of information exceeds the interest□

accused persons in the secrecy of the question of whether against them□

Administrative penal proceedings have been initiated and at what stage□

located, predominates (cf. VwGH 30.04.1997, ZI. 95/01/0200).□

In the course of such a weighing of interests in the present case in particular□

to take into account that the applicant repeatedly pointed out by the data protection authority□

advised to assert his rights through a complaints procedure□

to be able to provide him with all the information about the status of the proceedings□

as well as an official agreement on a possible violation of rights□

to be entitled However, this was not claimed by the applicant□

taken.□

The applicant also did not bring any other reasons for an overriding interest□

before and are not known to the data protection authority.□

The mere allegation that the applicant through the inaction of the□

data protection authority are violated in his - unspecified - rights□

could, was not further justified by the applicant and is, also with regard to the□

possible initiation of a complaints procedure, in any case not sufficient.□

In the present case, therefore, no interest of the applicant in the coveted ☐

Information to be determined which interests of his ☐

presentation of the facts, the person concerned in the secrecy of the circumstance, whether ☐

administrative penal proceedings were instituted against them would prevail. ☐

It was therefore to be decided accordingly. ☐