

GZ: DSB-D202.207/0001-DSB/2018 from 7.6.2018□

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

Addresses (incl. URLs, IP and e-mail addresses), file numbers (and the like), etc.,□

as well as their initials and abbreviations can be used for pseudonymization reasons□

be abbreviated and/or modified. 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 N\*\*\*□

Forschungsgesellschaft m.b.H. (Applicant) of May 18, 2018 for the granting of a□

Approval according to § 7 paragraph 3 DSG as follows:□

I. Approval is granted to the applicant for the purposes of the research project□

"Analysis of the road surface and the street space" personal□

to determine and evaluate image data.□

II. To protect the legitimate interests of those affected, the following□

Conditions granted:□

a) The image resolution is to be selected in such a way that, if possible, neither license plates nor□

Faces of the persons concerned are recognizable. Personal Data□

are only used to the extent necessary for the viewed databases□

processed for the purposes of the research project in question;□

b) access to the records containing personal data is through the□

Applicant in an appropriate manner in accordance with Article 32 (1) GDPR□

secured, e.g. by locking (in the case of recordings on paper) or by□

Password (for electronic records);□

c) the insight into and the evaluation of the recorded personal data□

Image data may only be used by specific, trained persons who have been informed about § 6 DSG□

employees of the applicant, their reliability□

is guaranteed in handling data in accordance with Section 6 (3) DSG;□

d) the recorded image data are as soon as they are relevant to the subject□

research project are no longer required, but in any case with the conclusion of the□

research project.□

e) the image data may only be published in an anonymous form.□

III. According to § 78 of the General Administrative Procedures Act 1991 (AVG), BGBl.□

No. 51/1991 as amended, in conjunction with Sections 1, 3, Paragraph 1 and TP 1□

Federal Administrative Tax Ordinance 1983, BGBl. No. 24 as amended (BVwAbgV), has the□

Applicant an administrative fee of□

6.50 euros□

to pay.□

Legal basis: Article 7 paragraph 2 no. 3 and paragraph 3 and Article 69 paragraph 3 of the Data Protection Act□

(DSG), Federal Law Gazette I No. 165/1999 as amended, and Section 78 of the General□

Administrative Procedures Act 1991 (AVG), Federal Law Gazette No. 51/1991 as amended, in conjunction with §§ 1, 3 Paragraph

and TP 1 of the Federal Administrative Tax Ordinance 1983 (BVwAbgV), BGBl. No. 24□

idgF.□

REASON□

A. Submissions of the Applicant□

The applicant submitted an application for approval on May 18, 2018□

according to § 46 paragraph 3 DSG 2000, now § 7 paragraph 3 DSG. As a non-university institution□

research key infrastructure issues of the future. One of those topics would be the□

Analysis of the road surface in terms of grip, flatness, surface damage□

and cracks. The routing parameters such as curve radii and the□

Lateral and longitudinal slope of great interest, because these parameters in combination with□

road condition data provides a crucial indication of road safety□

of a route section would give.□

The exact exploration of the street surface or the street space should□

other technical measuring devices can also be carried out by means of image recording. the□

Image recording serves to identify objects in the street space (in particular traffic signs□

and floor markings) in order to assess whether these□

– properly installed from the point of view of traffic safety□

would be. The street space should be used for the metrological recording of objects using two□

forward-facing stereo cameras mounted left and right on the driver's cab□

are recorded. In addition, for the documentation of objects in the street space□

freely orientable side cameras (up to four) and a rear camera are used□

come. One image per camera for every 2 meters of distance covered□

be included. The resolution of all images would be 1920 x 1080 pixels□

be.□

For investigating the nature of the road and detecting objects accurately□

in the street space there would be traffic signs in and against the direction of travel, text content□

of additional boards, kilometer boards, floor markings, restraint devices and□

Noise protection devices of interest. It would be in the course of capturing the image data□

unavoidable to also detect other road users. The determination more accurate□

Position data of objects in the street space in a way other than by means of□

Image data processing in which the collection of personal data is excluded□

would not be possible due to the public accessibility of the streets. The identity□

the road user is also not important for the applicant. In none□

case, an attempt would be made to identify other road users. the□

The measurement data would be recorded using a high-performance measurement vehicle ("\*\*CAR")□

respectively. This special vehicle would be optically clear as a measuring or□

Research vehicle recognizable and would data subjects about the processing□

inform.□

Obtaining the consent of road users located in the reception area□

of the "CAR" could not be made without a very□

to put in a lot of effort. The data collection provides an objective database for the□

Exploration of the street condition and objects in the street space and ledge□

thereby making an essential contribution to maintaining and increasing road safety□

in Austria. The public interest in the requested use would therefore be□

given. In addition, the data transmission by the "CAR" or the□

Subsequent processing of the data exclusively by trained persons who have□

Data secrecy enlightened employees are carried out in the field of□

road safety research. Because those for research purposes□

required data would be determined themselves, would be a declaration according to § 46□

Para. 3a DSG 2000 (comment by clerk: now § 7 para. 4 DSG) not□

necessary.□

B. Findings of Facts□

The data protection authority puts the above under A. on file□

documented factual basis of their decision.□

D. In legal terms it follows that:□

1. Image data as personal data□

According to § 69 para. 3 DSG, the present procedure is based on the provisions of the□

DSG and the GDPR.□

The former data protection commission has already stated several times that image data□

(identifiable) personal data (see, for example, the statements on□

former § 4 Z DSG 2000 in the decision of the DSK of January 21, 2009,□

GZ K121.425/0003-DSK/2009). These considerations can also be found in Art. 4 Z 1□

move GDPR. The GDPR is therefore relevant. Simultaneously lies with these□

Image data but no processing of special categories of personal data iSd□

Art. 9 GDPR (cf. the statements on the former § 4 Z 2 DSG 2000 den□

DSK decision of April 10, 2013, GZ K202.120/0002-DSK/2013).□

Image data are now to be determined and evaluated for scientific purposes. the□

Use of personal data for scientific research purposes□

and statistics is subject to the special provision of § 7 DSG (and is not based on the□

§§ 12 and 13 DSG, which regulate image processing for other purposes). From the□

established facts, it follows that the requirements of § 7 para. 1 and□

Para. 2 Z 1 and Z 2 are not available, so that the planned use of data is only due to□

an approval by the data protection authority in accordance with § 7 para. 2 no. 3 in conjunction with para. 3□

DSG can take place.□

2. Prerequisites for the approval according to § 7 paragraph 3 DSG□

The use of personal data for scientific purposes is permitted in accordance with Section 7□

Para. 3 DSG is permissible if the data protection authority has given its approval for this□

is present, whereby according to para. 3 leg. cit. the following requirements for the granting of the□

Approval must be given:□

1. Obtaining the consent of the persons concerned if they cannot be reached□

is impossible or otherwise involves a disproportionate effort and□

2. there is a public interest in the requested use and□

3. the professional suitability of the applicant is credibly demonstrated.□

3. In the matter□

Ad 1): Those affected are a group of people whose current□

address for the applicant or only with disproportionate effort□

would determine. Added to this is the fact that it may also be□

Motorists from abroad can act. Obtaining consent is therefore part□

impossible, sometimes it would at best be possible with disproportionate effort, so that□

the requirements according to § 7 para. 3 Z 1 DSG are met (cf. the decision of the

Data Protection Authority of August 10, 2015, GZ DSB-202.152/0002-DSB/2015).

Ad 2): The applicant has the public interest (maintenance and increase of

road safety) in the application applied for. the

former data protection commission has already stated that a research project,

which promotes road safety, is in the public interest (cf

DSK decision of April 10, 2013, GZ K202.120/0002-DSK/2013).

Ad 3): The applicant uses to carry out the research project

exclusively trained employees who work in the field of road safety

research and therefore have expertise in this field, which is why the

The requirement of § 7 Para. 3 Z 3 DSG is met.

The conditions imposed serve to ensure data security when using the data and

Ensuring data secrecy or data security measures.

The cost of the ruling (administrative fee) is based on the quoted

provisions. Granting permission to use data for

scientific research and statistics is not exempt from the fee and

Tax exemption clause of Section 69 (6) DSG.

[abbreviated here, fee notification]

Thus, the decision had to be made accordingly.