

GZ: DSB-D485.001/0003-DSB/2018 from 18.12.2018□

[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 basis of the A***. **** Country□

Wirtschaftsförderungs GmbH (responsible), represented by P*** & S***□

Rechtsanwälte OG, proceedings initiated on October 30, 2018 in accordance with Art. 36□

DSGVO regarding an intended data processing (operation of twelve□

Video cameras in the "A*** Business Park B***stadt" with a focus on the streets of the□

public transport) as follows:□

- The request for prior consultation under Art. 36 GDPR is rejected.□

Legal basis: Articles 35, 36 (1) and 58 (3) of Regulation (EU) 2016/679□

(General Data Protection Regulation - GDPR), OJ No. L 119 of 4.5.2016 p. 1.□

REASON□

A. Submissions of those responsible:□

1. By letter of October 30, 2018, the person responsible consulted the□

Data protection authority according to Art. 36 GDPR.□

Those responsible intend twelve video cameras in the "A*** Business Park B***stadt".□

with a focus on the street entrance areas of the business park and on□

set up secondary dirt roads. This for the purpose of property and□

property protection as well as to protect the employees working in the business park, since in□

there had been repeated burglaries and thefts in the past.□

From the data protection impact assessment carried out in accordance with Art. 35 GDPR□

Although it is clear that the identified risks are due to the to be taken□

Corrective actions are rated as very low, but monitoring□

of public transport roads in general, regardless of the measures taken□

associated with a high risk and is therefore a prior consultation of the□

Data protection authority required to ensure that the□

DPA agrees that the proposed processing entails the risk□

sufficiently reduced and the person responsible within the meaning of the GDPR act.□

2. The responsible person brought along - at the request of the data protection authority□

Statement of December 14, 2018 additionally states that the person responsible□

have taken measures to contain the risk, which is why the□

Scope of application of Art. 36 Para. 1 GDPR is not open in principle, however□

remains questionable as to whether the measures are also suitable for reducing the risk□

limit to an acceptable level. This in particular against the background that the□

planned video surveillance is associated with a considerable expenditure of time and money□

may be.□

B. Findings of fact:□

The person responsible intends to set up in the "A*** Business Park B***stadt".□

twelve video surveillance cameras.□

The data protection impact assessment carried out by the responsible party showed that□

due to the planned data processing, there are low to high risks for data subjects□

present. A high risk is specifically only when monitoring visitors to the□

Access roads given, since this is the monitoring of roads of the□

public transport.□

Due to the corrective measures planned in the data protection impact assessment□

However, all identified risks can ultimately be classified as very low□

will.□

Evidence assessment: The findings made result from the□
procedural application.□

C. In legal terms it follows that:□

According to Art. 36 Para. 1 GDPR, the person responsible consults the before processing□

Supervisory authority if from a data protection impact assessment according to Art. 35□

leg.cit. shows that the processing would result in a high risk if the□

responsible person does not take any measures to contain the risk.□

As noted, the data protection impact assessment pursuant to Art. 35 GDPR showed that□

that in principle there is a high risk when monitoring visitors□

Access roads are given, however, this risk was taken care of by those responsible□

ultimately classified as very low due to the remedial measures to be taken.□

If, as part of the consultation process, the person responsible receives confirmation of the□

Data Protection Authority seeks that the measure taken by it actually as□

are to be regarded as suitable for curbing the identified risks, it fails to recognize□

that this is not the subject of a procedure under Art. 36 GDPR. Such□

Assessment of the remedial measures taken is the sole responsibility of those responsible□

itself and a consultation of the data protection authority according to Art. 36 GDPR only comes into play□

applicable to those cases in which the person responsible fails to□

adequately contain the identified risks (cf. the guidelines of the data protection working group□

according to Article 29 on the data protection impact assessment (DPIA) and answering the□

Ask whether processing within the meaning of Regulation 2016/679 is “probable□

entails high risk”, WP 248 Rev.01, p. 23; and Recital 94 of the□

GDPR).□

In other words: only in cases where the person responsible does not have sufficient□

Measures can be taken to reduce the risks to an acceptable level□

can be reduced (i.e. there are still high residual risks), a consultation of the

Supervisory authority required (cf. again the cited guidelines, p. 23 with further references).

The prerequisites for prior consultation in accordance with Art. 36 GDPR are therefore

not given and it was therefore to be decided according to the verdict.

MESSAGE

With the delivery of the completion of your consultation in accordance with § 36 DSGVO is a

Liability for fees according to the Fees Act 1957 (GebG), Federal Law Gazette No. 267/1957

idgF, created (cf. again § 1 and § 11 para. 1 Z 1 in conjunction with § 14 TP 6 GebG).

The fixed fee in the present case is EUR 14.30.

If the fee is not paid, the data protection authority pursuant to Section 34

Para. 1 GebG obliges the facts to the responsible tax office for the purpose

Initiation of the tax procedure to indicate. In this procedure

a surcharge for late payment may be imposed.

You are requested to pay the fee within two weeks of delivery of this

Settlement to the account BAWAG P.S.K., Georg-Coch-Platz 2, 1018 Vienna,

IBAN: AT460100000005490031, BIC: BAWAATWW,

in the name of

Data Protection Authority. As purpose may the

Business number and the completion date are given.