

GZ: DSB-D123.032/0003-DSB/2018 from 12.11.2018□

[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 data protection complaint of Mag. Franz□

A*** (complainant) of June 18, 2018 against the Austrian N***sport□

Association (Respondent) for violation of the right to secrecy as follows:□

~ The complaint is upheld and it is established that the□

Respondent gives the complainant the right to secrecy□

has violated by giving his name, phone number and e-mail address on the□

Website www.n***sport.at in the period from March 13, 2018 to July 25, 2018□

published in the public domain.□

Legal basis: Section 24 (1) of the Data Protection Act – DSG, Federal Law Gazette I No. 165/1999 as amended,□

Article 6(1)(c) and (f), Article 7(4), Article 25(2), Article 77 of the General Data Protection Regulation –□

GDPR, OJ No. L119 p. 1.□

REASON□

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

1. With his complaint received on June 18, 2018, the complainant complains that□

Respondent processed personal data unlawfully by□

his contact details as a team leader for contact persons of N***sportvereinen for□

N***sports championships outside of a separately existing member area for□

publish all visitors to the Respondent's website. It exists at the□

Entering the data of a team leader and a deputy - which as□

Contact person serving – no option, phone number and email address not too□

publish. However, other members had this opportunity.□

2. With completion of July 5, 2018, GZ: DSB-D123.032/0001-DSB/2018, demanded the□

data protection authority on the respondent to comment on the allegations□

and stated that data processing was only for the purpose pursued□

to the necessary extent.□

3. With submission dated July 25, 2018, received on the same day, the□

Respondent position and stated that the Respondent for his□

9 members, the state associations of the respondent□

Data processing system from C*** Systemautomation GmbH as the processor□

Use member management. The naming of team leaders is due to the□

Rules for championship operations, for the indispensable communication of the teams□

mutually obligatory, but taking over the function is one□

team leader voluntarily. In the event that a function is taken over, have□

every member since May 25, 2018 to take note of the data protection declaration. In this□

will also state that when assuming a role, such as a□

team leader, the publication of the data is obligatory. The one for them□

Participation in the championship provided for participation contract does not provide the basis□

of data processing, but also does not violate the coupling ban. the□

Publication of the contact details is therefore in the legitimate interest of the□

Respondent because of the smooth communication of the officials□

(team leaders) can only be obtained by publishing the contact details□

could. Every team captain, including the complainant, must be more sensible□

Wisely expect that the contact details would be published. Also against□

the obligation to minimize data was not breached – only□

current team captains are given and the data is on names, e-mail addresses and limited phone numbers. After the championship season ended, the data would be removed again. However, the function of the team leader is inseparable from that of the publication of the data and is due to the facts of the predominant legitimate interest justified. The restriction of publication in a "protected area" is a high hurdle for maintaining one functioning system and would not be available due to the necessary authentication consistent with the need for immediate contact. By the way, be that Complainant no longer complained as his contact details had been deleted.

4. With the completion of July 31, 2018, GZ: DSB-D123.032/0002-DSB/2018, the data protection authority to give the complainant a fair hearing.

5. The complainant made a submission dated August 13, 2018 and stated that that a publication cannot be viewed by non-registered users. must

you can log in to view data that is less worthy of protection, but not that See contact details for team leaders. It would be easy to deny already

existing members area to use. A barrier to communication in Championship operation would not exist as a result.

B. Subject of Complaint

It follows that the subject of the proceedings is whether the

Publication of the contact details of the team captains against the breached the duty of confidentiality.

C. Findings of Facts

The respondent is an association with 9 members – the state associations. To the

Communication of the individual teams in the championship operation will be the current contact details of the team captains appointed for the respective season,

consisting of telephone number and e-mail address in connection with the name of the

officer, published on the Respondent's website. The data are
visible to all visitors of the website. The complainant's details were
therefore visible on the website for the current N***sport season (beginning of season
March 13, 2018 until the statement in the ongoing proceedings on July 25, 2018). It
there is also a protected area on the website which members with login
data is reserved. It shows game results and *** classifications. Yet
During the proceedings, the complainant's data were
Respondent deleted and are no longer visible.
Evidence Evidence: Evidence was incorporated through the submissions of the parties as well
by ex officio research on the Respondent's website.

D. In legal terms it follows that:

Complaint legitimacy

The Respondent states that the data of the Complainant already
were deleted during the ongoing procedure and that for this reason the
existing infringement has been remedied.

Elimination of the breach of confidentiality obligations within the meaning of

§ 1 Abs. 1 DSG caused infringement arises when considering the wording
out as impossible, because the success of the violation of the law has already been achieved
will that in the given case the personal data of the complainant for
have been made available to the public for a limited period of time without -
this needs to be addressed further – a (sufficient) legitimation for
data processing was given. The simple deletion of the data from the public

Therefore, the area of the website does not turn out to eliminate the negative consequences in the

Within the meaning of Section 24 (6) DSG - as stated by the respondent with "lack of complaint"
implied (cf. e.g. also the decision of the Data Protection Commission dated

October 25, 2013, GZ K121.990/0016-DSK/2013).

Legitimate Interest□

With regard to the publication, the Respondent relies on the general□

accessible part of the website based on Article 6 (1) (f) GDPR. He states that the□

Restricting the publication of the complainant's contact details as□

Team leaders represent a major hurdle and the championship operation□

would be significantly restricted if before contacting the login data□

would have to be entered.□

There is no justification for these statements.□

Rather, the submission made by the complainant under the□

Fundamental right to data protection - secrecy as right. The duty of confidentiality□

Unchanged existing § 1 Abs. 1 DSG after the entry into force of the DSGVO im□

Light of the right to private and□

Family life according to Article 8 of the ECHR and in relation to Article 6(1)(f) GDPR overall□

on the admissibility of the data processing. This is in the absence of a special□

Regulation based on the general admissibility of data processing, which is□

DSGVO is standardized, to be assessed - specifically on the basis of the obligation to legitimation□

of data processing to the extent necessary□

Processing reason of legitimate interest: the interest in processing□

must outweigh the legitimate interest in secrecy (see Heberlein□

in Ehmann/Selmayr, General Data Protection Regulation², Art. 6 para. 25)□

The fact that communication between each other is made more difficult by the fact that□

Authorized persons log in in advance and the contact details from the internal□

area of the website prevails in the opinion of the data protection authority□

not the complainant's fundamental right to the secrecy of his□

personal data.□

It is not apparent why to ensure a quick and smooth□

Communication between members of an association personal data of a

team leader publicly, and thus for everyone (therefore also for non-

Club members) accessible, must be kept ready.

Using the already existing members area of the website would be for the

Communication between the team leaders, who always consist of members

among themselves in any case suitable to be a reliable source of information, without that

the data of the team captains must be accessible to a broad public.

The processing in the public area of the website is because no added value for the

Respondents insisted on general availability while there was a

significant restriction of the complainant's fundamental rights and freedoms

represented, not borne by a legitimate interest, which is the interest of the

complainant in the secrecy of his data prevails.

The processing was not and was not necessary to the extent undertaken

therefore not justified.

The appeal was therefore allowed as per the verdict.

Since the legal basis used according to Art. 6 Para. 1 lit. f GDPR is already

proves to be insufficient, the question of the possible admissibility of a "coupling"

(Change of purpose) isd Art. 6 Para. 4 DSGVO not go into further, because a

"Coupling" requires that the original data processing was lawful within the meaning of Art. 6

Paragraph 1 GDPR was.