

GZ: DSB-D123.921/0005-DSB/2019 of July 26, 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 by Jutta A\*\*\*□

(Appellant), represented by X\*\*\* Y\*\*\* Rechtsanwälte GmbH, dated□

December 13, 2018 against N\*\*\* Steuerberatungsgesellschaft mbH.□

(Respondent), represented by Z\*\*\* Rechtsanwälte GmbH, for infringement□

in the right to information as follows:□

1. The complaint is partially granted and it is found that□

that the Respondent thereby entitled the Complainant□

Information has violated by giving her no information about the concrete□

Entries of the categories of personal data (such as names,□

tax-relevant information).□

2. The Respondent is ordered within a period of two□

Weeks otherwise execution, according to the complainant□

Article 15 paragraph 1 lit. b GDPR on the specific entries of the categories of□

processed personal data according to clause 1□

To give.□

3. Otherwise the complaint is dismissed as unfounded.□

4. The complainant's request for a fine to be imposed on the□

Respondent is rejected.□

Legal basis: Article 1 paragraph 2, Article 12 paragraph 3 and 4, Article 15, Article 77 paragraph 1 of the  
Regulation (EU) 2016/679 (General Data Protection Regulation – GDPR), OJ No. L119 of  
05/04/2016; §§ 4 paragraph 6, 24 paragraph 1 and 5 of the Data Protection Act - DSG, Federal Law Gazette I No.  
165/1999 as amended; §§ 2, 3, 80 of the Federal Act on the Public Accounting Professions  
(Wirtschaftstreuhandberufsgesetz 2017 – WTBG 2017) Federal Law Gazette I No. 137/2017 as amended.

## REASON

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

1. The complainant, represented by a lawyer, brought in her complaint dated

December 13, 2018 essentially that they would have received the information that the

"N\*\*\* Austria" would process your personal data. you have with

Letter dated October 5th, 2018 requested general information in this regard. be it

there was no response, which is why she sent a letter dated October 23, 2018

requested appropriate information. Both letters are to the N\*\*\*

Wirtschaftsprüfungsgesellschaft mbH. The complainant was

originally it was not known which company would have processed your data.

"N \*\*\* Austria" was not clear in this regard.

By letter dated October 29, 2018, the Respondent requested the granting of a

Information with reference to the provision of Art. 15 Para. 4 DSGVO as well

Trade secrets, copyrights and professional secrets denied. From this

Letter shows that the complainant as responsible for the

Processing of personal is to be considered.

In a letter dated November 7, 2018, the complainant pointed out that

that a blanket reference to confidentiality obligations is no reason for a

complete refusal to provide information. In addition, they have the scope again

of the information requested and set a deadline of November 15, 2018.

In a letter dated November 15, 2018, the Respondent informed that

the letter of October 5, 2018 does not yet contain a request for information pursuant to Article 15

GDPR and the deadline of Art. 12 Para. 3 GDPR only on November 23, 2018

end. In addition, the Respondent has an extension of the deadline under Art. 12 (3).

GDPR used.

In terms of content, the representative of the respondent had it again

pointed out that the complainant's data were available, but on the instructions of the

client of the Respondent would not be released.

By letter dated November 19, 2018, the complainant's representative pointed out

pointed out that in the present case the requirements for the application of the

Provisions of Art. 12 Para. 3 2nd sentence GDPR would not exist. Besides be

been pointed out that the client of the Respondent in any case

had no authority to dispose of the rights of the complainant concerned

and insofar as a corresponding instruction to refuse the information is irrelevant.

In a letter dated November 23, 2018, the Respondent had a very

general information provided. Information about the specifically processed data as well as

a copy of this data was expressly refused. After appropriate

instructions of the representative of the complainant, the respondent in

the statements of November 15, 2018 and November 23, 2018

the existence of professional secrecy related and alternatively to the determination of the

Art. 15 Para. 4 GDPR. Regarding the Respondent's notice

However, it should be noted that the provision of Art. 15 (4) GDPR

Provision after fully unanimous opinion on the right to a copy of

to receive processed data in accordance with Art. 15 Para. 3 GDPR. Also have

the Respondent to a non-existent release from professional secrecy

according to § 80 WTBG. A limitation of the complainant

entitled right to information according to Art. 15 GDPR by the professional law

Confidentiality obligation according to the WTBG would be because of the direct

Applicability of the provisions of the GDPR and their application priority only

permissible if a specific

regulation would provide for corresponding restrictions. Such a provision is

but not provided for in the WTBG, unlike in the RAO, for example.

The information provided was incomplete and did not meet the requirements of Art. 15

GDPR.

In summary, the complainant stated as follows:

- Article 15 (1) (a) GDPR

Information about the legal basis for processing

personal data of the complainant was on the part of

Respondent not granted. But such information would be

for assessing the lawfulness of data processing by the

Respondent required in any case, even if this is stated in Art. 15

Para. 1 GDPR is not expressly mentioned.

- Article 15(1)(b) GDPR

The general information on the Respondent

processed data categories would not meet the legal requirements

correspond, so that the information of the Respondent also in this

point remain incomplete.

- Article 15(1)(c) GDPR

The Respondent's general information on any

Transmissions of the complainant's data would not

comply with legal requirements and the information also remains in

incomplete at this point.

- Art. 15 (1) lit. d GDPR

With regard to the storage period of the complainant□

The Respondent generally refers to the data□

Retention periods according to § 132 BAO, § 212 UGB or § 98 WTBG.□

It is undisputed that the complainant has no contractual relationship with□

of the Respondent have, the Respondent does not□

Tasks of accounting or tax return for the□

Complainant was entrusted and neither was the Complainant□

Client of the Respondent is or is involved in a transaction in□

was involved within the meaning of § 90 WTBG.□

In this respect, the information provided by the Respondent on the storage period□

would come to nothing, there is one with regard to this point as well□

incomplete information from the Respondent.□

- Art. 15 (1) lit. g GDPR□

In particular with regard to the origin of the data, the□

Respondent to the provision of Article 15 (4) GDPR,□

according to which the information is to be restricted if the rights of third parties□

would oppose.□

However, this reference is ineffective insofar as this provision□

in particular the right of the data subject to obtain a copy of the□

to receive processed data in accordance with Art. 15 Para. 3 GDPR□

may be.□

2. The Respondent, represented by a lawyer, submitted a statement dated□

January 15, 2019 in summary, the complainant was the spouse□

a later marriage of Josef A\*\*\*, who died in May 2017. There are at least two□

Probate proceedings open. The complainant is a party in these proceedings.□

A central legal question is whether the testator has his last place of residence and□

habitual residence in Austria or Switzerland. the

On behalf of their client, the Respondent sent information to the

B \*\*\* tax \* research society passed on, from which the tax

residency. This information also includes cornerstones of the

family and social situation of the deceased, and therefore also isolated

Information on the applicant as his spouse. This information is

also important for the pending legal issues.

The complainant submitted a request for information for the first time on October 23, 2018

addressed to the Respondent. The Respondent's client has the

Disclosure of any information categorically refused. The client would

have good reason to fear that the complainant is not interested in data protection

but that she is trying to gain an advantage in civil proceedings and pressure

to exercise The Respondent wrote to the Appellant

of November 15, 2018. The Respondent received from the Chamber of

Tax advisors and auditors are informed that compliance with the

duty of confidentiality is expected.

The respondent, after partial release from the

GDPR-compliant information has been prepared by her client in accordance with her duty of confidentiality

and provided information to the complainant in a letter dated November 23, 2018. the

Information was provided in a timely manner. The complainant's letter of October 5th

2018 was addressed to the wrong person and contains no reference to

the data protection law.

Art. 15 GDPR always restricts the data subject's right to information in paragraph 4

when the rights and freedoms of other people are affected. This does not apply

only for the issue of copies, but also restrict the disclosure of information

according to paragraph 1.

The right to secrecy in the RAO and in the WTBG is considered equivalent□

to watch.□

The complainant was a party to various proceedings and she was subject to other proceedings□

known. For this reason, after careful consideration and after□

In consultation with the client, certain facts have been disclosed, from which□

Disclosure of other facts, however, was refrained from.□

In summary, the Respondent stated as follows:□

- Article 15 (1) (a) GDPR□

In the information provided by the Respondent, information about the purpose of the□

Processing granted so that the data subject can review the□

earmarking can be carried out. It was not necessary to each category□

to disclose personal data.□

- Article 15(1)(b) GDPR□

The data categories have been chosen in such a way that they can be quickly and easily understood□

Provide an overview and at the same time the client or his informants and□

whistleblowers would remain protected and unidentifiable. a more precise one□

Representation could curtail the rights of third parties and the complainant□

gain an improper advantage in the pending civil lawsuits.□

- Article 15(1)(c) GDPR□

The specification of recipients and recipient categories is alternatively side by side.□

One has decided on the categories of actual recipients□

personal data to be given information.□

- Art. 15 (1) lit. d GDPR□

According to § 98 WTBG, a tax consultant has at least five years after the last□

Business case to keep documents that fulfill the duty of care□

serve to clients. It is correct that the complainant does not□

have a contractual relationship. However, your data is part of an attorney-client relationship

relevant.

With regard to the BAO, reference is made to the stRsp, according to which the data to be retained

would also include basic records that would help establish the business case

to be reconstructed exactly (e.g. VwGH 3.6.1992, 87/13/0128).

- Art. 15 (1) lit. g GDPR

The origin of the data is one of those critical pieces of information that

could give the complainant an undue advantage in civil proceedings.

The limitation of information on the origin of the data is given

conflicting rights and obligations of third parties.

3. The complainant led within the framework of the data protection authority to the

results of the preliminary proceedings essentially from

the allegation that the complainant in the present proceedings is not

what matters is the enforcement of their rights under the GDPR, but other goals

I am pursuing and putting undue pressure on the client through the complaint or

practice others will be strictly rejected.

The enclosed statement of the Chamber of Tax Advisors and Public Accountants

is not binding for the present procedure. A limitation of

The rights of those affected are only permissible if, in accordance with the provisions of Art. 23

DSGVO corresponding regulation would provide for such restrictions. To the

The Respondent's client has no authority to dispose of the

rights of the complainant.

Once again it is expressly stated that the requirements for a

Restriction of the obligation to provide information with regard to the respondent

present proceedings would not exist. Again the complainant shared

that the information provided is incomplete and does not comply with legal requirements



Requirements.□

## B. Subject of Complaint□

Based on the submissions of the appellant, it follows that□

The subject of the complaint is whether the Respondent□

Complainant thereby violated her right to information by□

Respondent has provided incomplete information.□

## C. Findings of Facts□

The applicant is the spouse from a subsequent marriage of May 2017□

deceased Josef A\*\*\*. The complainant is a party to the□

Probate proceedings before the district court V\*\*\* to GZ 3 A 1\*8/\*v and before the□

Swiss division office of the city \*\*\* as probate authority for inheritance□

E.201\*.2\*3. The Respondent requested information on behalf of its client□

transmitted to the B\*\*\*steuer\*forschungsgesellschaft. Among this information are also□

Cornerstones of the family and social situation of the deceased and therefore□

also isolated information on the complainant as his wife.□

The complainant brought under the ho. Procedure for ZI. DSB-D123.224 in□

Experience that the Respondent is processing their personal data. the□

The Respondent was referred to as "N\*\*\* Austria" in these proceedings. the□

In a letter dated October 5, 2018, the complainant requested the following information:□

- Who has N\*\*\* Steuerberatungsgesellschaft mbH□

commissioned to collect information about Mr. Josef A\*\*\* (as□

General partner of Q. A\*\*\* KG).□

B \*\*\* tax \* research society to publish?□

- What information was obtained about Mr. Josef A\*\*\* and□

his family to the B\*\*\*steuer\*forschungsgesellschaft□

given out?□

- Why was the approval of the estate after□

Mr. Josef A\*\*\* to pass on information about□

not caught up with the testator?□

The letter was addressed to N\*\*\* Wirtschaftsprüfungsgesellschaft mbH. the□

At the time, the complainant did not know which company her□

data processed. The complainant appealed in a letter dated October 23, 2018□

relevant information as follows:□

I refer to the attached letter from our law firm dated□

10/5/2018 I am attaching again for information. Since within the from□

no response from N\*\*\* within the deadline set for us□

Steuerberatungsgesellschaft mbH, I am sending you this letter□

again with the polite request to take care of this matter.□

At the same time, this is a request within the meaning of Art. 15 GDPR.□

Should we receive no response from the N\*\*\* by the end of October 2018□

Steuerberatungsgesellschaft mbH remain, we are from our clients□

instructed to initiate the necessary legal steps.□

In a letter dated October 29, 2018, the Respondent informed that□

their client was not released from the duty of confidentiality and none□

Information on points 1. and 2. can give. Regarding item 3, the respondent stated that□

that there was no reason to obtain a permit due to the lack of a contractual relationship.□

In a letter dated November 7, 2018, the complainant described it again□

the scope of the requested information as follows and set the respondent a□

Deadline until November 15, 2018:□

For clarification, we would like to point out once again that the data pursuant to Art. 15□

DSGVO information to be provided in addition to the information of the concrete□

processed personal data also the following information□

includes:□

- Processing purposes and legal bases of processing;□

categories of personal data being processed;□

-□

Recipients to whom the personal data are disclosed□

-□

(including processors according to Art. 28 GDPR and□

jointly responsible according to Art. 26 GDPR, as well as recipients in□

third countries);□

-□

-□

-□

-□

Categories of recipients to whom the data may be sent□

yet to be disclosed;□

planned duration for which the personal data will be stored□

or, if this is not possible, the criteria for determination□

this duration;□

all available information about the origin of the personal□

Data;□

the possible existence of automated decision-making□

including profiling in accordance with Art. 22 Para. 1 GDPR and meaningful□

Information about the logic involved as well as the implications and the□

intended effects of such processing on the□

affected person.□

In a letter dated November 15, 2018, the Respondent informed that the□

The complainant's request for information was received on October 23, 2018 and the deadline

Expires November 23, 2018.

In a letter dated November 19, 2018, a deadline of November 23 was set for the last time

Granted in 2018.

In a letter dated November 23, 2018, the Respondent informed in relation to the

Excerpts of the complainant's request for information as follows:

Your statements that our client is acting in accordance with the wishes of her client, who is represented by a lawyer

could have anticipated in relation to a request for information in accordance with Art. 15 GDPR and they

should have instructed accordingly, we acknowledge - with some astonishment. we

deny in any case that this will, if it existed at all, before October 23, 2018

was recognizable.

In the meantime, we have worked with the Chamber of Tax Advisors and Auditors ("KSW")

Consulted and found out from the Deputy Director of the Chamber that it was the legal opinion

of the working group DSGVO of the KSW is that no data may be released,

and in particular not if the tax consultant has pointed out that proceedings are ongoing

had been.

It is of course the case that KSW cannot make a legally binding interpretation of the GDPR,

but our client has to face the reality that if they act in violation, they sometimes

have to bear serious legal consequences.

We do not believe that Art 15 GDPR can be interpreted as follows: In our opinion, your client has that

Right to information about

Information according to Art. 15 Para. 1 GDPR. From those mentioned

Due to professional legal and factual considerations, our client now has the

Obtain consent to disclose the following information:

- Processing purposes: N\*\*\* Steuerberatungsgesellschaft mbH carries out data processing

in relation to Mrs. Jutta A\*\*\* for the purpose of tax advice and auditing in

commissioned by their clients. The activities result directly from § 2 and § 3

Wirtschaftstreuhandberufsgesetz ("WTBG").

- Categories of personal data processed: names, tax-related

Information on persons (e.g. habitual residence, circumstances of the person) in

Reference to Mrs. Jutta A\*\*.

are

or

still

been

- Categories of recipients to whom the personal data

disclosed

N\*\*

Steuerberatungsgesellschaft mbH works with one in relation to Mrs. Jutta A\*\*

external experts together. However, personal data is only processed in

shared in exceptional cases. N\*\* Steuerberatungsgesellschaft mbH transmits data to

-Service provider. N\*\* Steuerberatungsgesellschaft mbH becomes

storage on

personal data

tax consultants,

Disclose to auditors, lawyers or notaries, provided this is for the

performance of their duties is required.

if necessary courts, authorities,

disclosed

will:

IT

- N\*\* Steuerberatungsgesellschaft mbH stores personal data as long as

this professional law, tax law or corporate law regulations□

require five years according to § 98 paragraph 1 WTBG or seven years according to § 132 paragraph 1□

Federal Fiscal Code (“BAO”) or Section 212 Paragraph 1 of the Corporate Code (“UGB”).□

There is no automated decision making.□

-□

You also have the following rights:□

- Your client can complain to the Austrian data protection authority.□

- Your client has a right to erasure, rectification, restriction of processing or□

a right to object to the processing of personal data by the□

responsible.□

Information regarding specifically processed personal data from files from the□

N\*\*\* Steuerberatungsgesellschaft mbH (Article 15 Paragraph 1 GDPR) and a copy of this data□

Art 15 para 3 GDPR cannot take place in view of the ongoing proceedings. Likewise can over□

certain information according to Art. 15 Para. 1 GDPR, such as the origin of the data, none□

information to be given. According to Art 15 Para 4 GDPR and Recital 63 GDPR□

Restrict information if the rights of third parties conflict, which is the case here.□

In the present case, specific content from the files and information on the origin of the data are subject to the□

Professional secrecy according to § 80 paragraph 1 WTBG. According to this, tax consultants and auditors are involved□

All matters entrusted to them are bound to secrecy. the□

The duty of confidentiality would only lapse if the customer of our client□

expressly releases them from the obligation (§ 80 Para. 4 Z 2 WTBG). Other reasons according to § 80 paragraph 4□

In your case, WTBG would not be an option anyway.□

N\*\*\* Steuerberatungsgesellschaft mbH does not process any of your client's data for which a□

there is a further release from the duty of confidentiality. For this reason can only□

general information as given above.□

Evidence assessment: The findings are based on the undisputed submissions of the□

parties as well as to those communicated in the letters to the data protection authority□

Documents.□

D. In legal terms it follows that:□

1. General information on the right to information□

In accordance with Art. 15 GDPR, the data subject has the right to be contacted by the person responsible□

to request confirmation as to whether personal data concerning you□

are processed and, if this is the case, information about this personal data□

Data and the information specified in Article 15 Paragraph 1 lit. a to h leg. cit. stated information□

receive.□

According to Art. 12 Para. 3 GDPR, the person responsible then has within the standard period of□

one month from receipt of a request for information to the□

Applicant to grant or this pursuant to Art. 12 para. 4 leg. cit. about the relevant□

Teach reasons for not taking action.□

In the present case, the complainant undisputedly has a request for information□

addressed to the Respondent by October 23, 2018 at the latest. The rule period from□

one month is therefore calculated from October 23, 2018. The Respondent□

provided information in a letter dated November 23, 2018. Delayed information will be□

not objected to by the complainant and is therefore undisputedly not available.□

The right to information is important for the data subject from a number of perspectives. It□

should first make sure that they are aware of whether any data they□

relate to be processed. If the answer is yes, she should be able to find out in order to□

what data is involved. This knowledge of the processing forms the basis for that□

the data subject can verify the lawfulness of the processing. The right□

Access to information is also necessary so that the data subject can exercise his or her rights□

correction, deletion and blocking, as well as the right to□

Objection to the processing (cf. Ehmann/Selmayr [editors], data protection□

Basic Ordinance, Art. 15, para. 1; see also the judgment of the ECJ of May 7, 2009, (C-553/07 margin nos. 49 to 51).

According to the case law of the Administrative Court on § 26 DSG 2000, which also

is transferrable to the currently applicable legal situation, the legislature has

Data processing data subjects have an interest that does not require further justification

of information to the extent provided for in this provision. the

Information must always be so specific that the person concerned can

Rectification and erasure rights both towards the source of the data and

can enforce against transmission recipients (VwSlg. 17.706 A/2009 mwN).

2. To limit the right to information by professional law

duty of confidentiality

The Respondent refers in its response to information dated November 23

2018 on the provision of Art. 15 Para. 4 GDPR, on recital 63 on

DSGVO and the confidentiality obligation standardized in § 80 WTBG.

According to Art. 15 Para. 4 GDPR, the right to receive a copy pursuant to Para

Do not interfere with the rights and freedoms of other people.

The statement of recital 63, 5th sentence, that the rights and freedoms of others

Persons should not be affected by the right to information, after

The wording of Art. 15 only refers to its paragraph 4, i.e. to the right to a copy

be understood, but not as a general exception to the right to information

(Haidinger in Knyrim, DatKomm Art. 15 GDPR Rz 50, as of October 1, 2018, rdb.at).

As far as the respondent with regard to the information about the processed

personal data based on Art. 15 Para. 4 GDPR in conjunction with recital 63

DSGVO appeals, it must be countered that this provision is only an exception

can be understood from the right to a copy within the meaning of Art. 15 Para. 3 DSGVO.

However, this does not mean that there is no restriction on the right to information



possible, as will be explained later.□

Furthermore, the Respondent relies on the standardized in § 80 WTBG□

duty of confidentiality. It should be noted that the old legal situation in□

Within the framework of the DSG 2000, consideration of professional secrets within the framework of□

has provided for the provision of information, however, a blanket appeal□

Professional secrets without further justification are not effective in response to a request for information□

can be countered (cf. on the professional secrecy of lawyers also that□

Decision of the Federal Administrative Court of September 27, 2018, ZI. W214 2127449-□

1 mwN). In addition, the provision of information cannot be made dependent on this□

whether a person in charge of a client from the confidentiality obligation□

is released.□

The European legislator assumes that the granted by the GDPR□

Rights and freedoms do not apply unrestrictedly and in compliance with the□

proportionality principle must be weighed against other fundamental rights□

(cf. Art. 1 Para. 2 and Recital 4 second sentence GDPR). To achieve this goal are□

corresponding restrictions on the fundamental right to data protection and the associated□

associated data subject rights, either in the GDPR itself□

(cf. e.g. Art. 1 para. 2 itself, Art. 12 para. 5 and, in connection with the right to□

Receipt of a data copy, Art. 15 Para. 4 GDPR) or by a corresponding□

granted freedom of design ("opening clauses"), which allows the national□

The legislature allows this under the conditions specified in Art. 23 GDPR□

to provide for corresponding restrictions in national regulations.□

It should be noted that in the decisive amendment to the WTBG, unlike in the RAO,□

no use was made of Art. 23 GDPR (see Federal Law Gazette I No. 32/2018). One□

The right to information can therefore only be restricted by taking into account a□

Justify the weighing of interests in accordance with Art. 1 Para. 2 GDPR.□

Taking these considerations into account, it should be noted that no absolute

The right to information applies and also in this context

protect the privacy rights of third parties. Due to the pending

Probate proceedings is effective with regard to granting

Litigation and to protect the litigation interests of the client

Respondent to assume that the interest of the client

Confidentiality and the interests of the respondent to a complete

The complainant's claim for information was rightly countered.

A justified refusal is given in any case if the client is fully

Placing an order, for example, in a pending legal dispute with the information seeker

own process situation would weaken; also in relation to a third party, if his

business relationship would have to be disclosed (see refusal to provide information

Art. 15 GDPR also the already cited finding of the Federal Administrative Court of

September 27, 2018).

The Respondent's refusal to provide complete information is therefore

considered permissible. The Respondent gets a legitimate

Confidentiality interest that the complainant's interest in information

prevails.

For the present procedure this means the following:

3. Information on processing purposes (Article 15 (1) (a) GDPR)

In accordance with Article 15 (1) (a) GDPR, the person responsible for the data subject

to provide information about its processing purposes. This information enables

Verification of earmarking according to Article 5 Paragraph 1 Letter b GDPR.

The Respondent states in its information to the Complainant dated

November 23, 2018 tax advice and auditing on behalf of their clients

as the purposes of the processing and refers to those listed in §§ 2 and 3 WTBG

Activities.□

A defectiveness of the information regarding the processing purposes cannot□  
be recognized.□

#### 4. Information on data categories (Art. 15 Para. 1 lit. b GDPR)□

According to Art. 15 Para. 1 lit b GDPR there is a right to information about the categories□  
personal data being processed.□

From the Respondent's response to information dated November 23, 2018□

It is clear that the Respondent has processed the data categories "names" and□  
"Tax-relevant information on persons" lists. Regarding the mentioned category□

The Respondent, for example, lists "tax-relevant information about persons".□  
"habitual residence" and "living circumstances of the person".□

According to the old legal situation, the "categories of□  
data" that are the subject of the processing (cf. Art. 12□  
Directive 95/46/EG).□

The ECJ stated in the judgment of May 7, 2009 already cited that this□

The right to privacy requires that the data subject□  
can ensure that their personal data is processed correctly□

and the processing is lawful, d. H. in particular that they concern□

Basic data is correct and that it is addressed to recipients who belong to their□  
processing are authorized. This is necessary in order to give the data subject, among other things, the□  
to enable exercise of the right to correction (cf. margin nos. 49 and 51).□

However, if the exercise of the right to correction is to be made possible, this□  
information about the exact entries. Would there be any information about□  
limited to the fact that abstract data categories such as "name", "address" etc.□  
processed, a request for correction could not possibly apply□  
be made (cf. in this sense from the settled case law of□

Data protection authority the decision of February 13, 2018, GZ: DSB-D122.754/0002-□

DSB/2018). An exception could only be seen if this is under the □

perspective of a weighing up of interests in favor of the rights of third parties is required. □

The European legislator took over in the provision of Art. 15 Para. 1 lit. b □

DSGVO ("categories of personal data") almost exactly the same as the previous wording □

on the right to information ("categories of data") in Article 12 lit. a of Directive 95/46/EC. □

If the Respondent only names abstract categories and not, like the □

specific entries read, the complainant cannot check whether the □

personal data concerning them is correct. □

In addition, the Respondent has not submitted any substantiated submissions from which □

reasons arise that require complete information regarding the specific □

Entries of these data categories are opposed. A briefing of the □

In the opinion of the data protection authority, specific entries can also □

pendency of proceedings, especially since it is not evident □

why the own process situation through the disclosure of "basic data". □

could be weakened. □

The Respondent is therefore required to provide sufficiently clear information in □

with regard to the data categories and to inform the complainant how □

the actual entries (such as names, tax-relevant information) are. □

5. Information about recipients or categories of recipients (Art. 15 Para. 1 lit. c □

GDPR) □

According to Art. 15 Para. 1 lit. c GDPR there is a right to information about the recipients or □

Categories of recipients to whom the personal data □

have been or will be disclosed, in particular to recipients in □

Third countries or international organizations. □

The ECJ has already stated that the right to information about the recipients or □

Categories of recipients serve as a tool to carry out the necessary verifications□

carry out and in particular to be able to check whether the recipients□

are authorized to process (cf. the judgment of the ECJ of May 7, 2009, margin no. 49).□

In its response, the Respondent named one as the recipient of the transmission□

external experts and IT service providers. In addition, the Respondent mentions□

Courts, authorities, tax consultants, auditors, lawyers and notaries as any□

Recipient.□

The information can either be about the recipient or just categories of recipients□

be granted to which the person responsible has or is still disclosing the data□

will be disclosed (cf. Haidinger in Knyrim, DatKomm Art. 15 GDPR margin no. 39, stand□

1.10.2018, rdb.at). Whether specific recipients or just categories of recipients□

information is to be taken into account in the context of a case-by-case decision□

to assess the rights of third parties and the proportionality of the effort (cf□

the case law of the□

Constitutional Court, VfSlg. 18.230/2007, as well as those of the Administrative Court,□

VwSlg. 17,680A/2009).□

In the present case, only categories of recipients were informed. Before the□

Background of the pending proceedings, where any recipients can be significant,□

In the opinion of the data protection authority, this does not raise any concerns.□

A defectiveness of the information can therefore not be seen.□

6. Information about the storage period (Art. 15 Para. 1 lit. d GDPR)□

According to Art. 15 Para. 1 lit. d GDPR, there is a right to information about the planned duration,□

for which the personal data is stored, or if this is not possible□

is, the criteria for determining that duration.□

From the response to the information it is clear that the Respondent with regard to□

the storage period to relevant professional, tax and□

company law regulations and the respective specific legal

intended storage period.

If possible, information about the planned storage period for the data is to be provided, or

if this is not possible, about the criteria for determining this duration (see

Haidinger in Knyrim, DatKomm Art. 15 GDPR margin no. 42, as of October 1, 2018, rdb.at).

The naming of the legally prescribed storage period is in the opinion of

Data Protection Authority deemed sufficient. An inadequacy of the information

Concerning storage duration can not be recognized.

7. Information about the origin of the data (Art. 15 Para. 1 lit. g GDPR)

If the personal data are not collected from the data subject,

according to Art. 15 (1) lit. g GDPR, there is a right to information regarding everyone

available information about the origin of the data.

The Respondent states in its response to information that it has no information

about the origin of the data.

According to the data protection authority, it is clear that knowledge of

Appellant of the origin of the data in the pending

Probate proceedings can strengthen one's own process situation. the

Respondent could rightly refuse to provide information.

An inadequacy of the information regarding the origin of the data cannot be recognized

will.

8. Motion to impose a fine on the Respondent

Last was about the complainant's express request for imposition

to agree on a fine against the Respondent.

It should be noted that a subjective right to initiate criminal proceedings

against a certain person responsible not from Art. 77 Para. 1 DSGVO or § 24 Para. 1

and 5 DSG is to be derived and, in addition, according to § 25 para. 1 VStG the principle of

Official expediency applies (cf. Fister in Lewisch/Fister/Weilguni [editors, VStG comment2 [2017]])□

Section 25 margin number 1).□

Administrative penal proceedings can therefore only be initiated by a person concerned□

there is no entitlement to the initiation of such.□

Overall, therefore, the decision had to be made in accordance with the verdict.□