

[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 application of Mag.a Xenia A*** (applicant)□

from June 8, 2018 on the granting of approval in accordance with Section 7 (3) DSG as follows:□

1. Approval is granted to the applicant with regard to the project "History□

Publication with the working title 'Local history of P***berg bei T***kirchen'"□

personal data, determined from□

a) publicly accessible land register entries,□

b) Trade files of the municipality of P***berg near T***kirchen (while maintaining the 30-□

year blocking period of municipal files),□

c) Minutes of meetings of the municipality of P***berg and its affiliated□

Municipalities of Buch*** and A***furth am R*** (while maintaining the 30-year□

embargo period for municipal files),□

d) Construction files of the municipality of P***berg (exclusively relating to the year of the granted□

building permits),□

with the aim of processing personal results.□

2. Otherwise, the application, insofar as it relates to data processing, will be□

Achievement of the historical research purpose, i.e. the development of the local chronicle□

Municipality of P***berg near T***kirchen by the applicant (in particular the□

Transmission of the relevant personal results to the municipality□

P***berg bei T***kirchen or the publication of the same as part of the planned

anniversary event), rejected.

3. In order to safeguard the interests of the data subjects that are worthy of protection, the following

Conditions granted:

a) The data is processed exclusively by the applicant.

b) Access to the records with 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) Personal data will only be taken from the viewed databases in

absolutely essential extent by the applicant for the purposes of

objective historical project processed.

4. 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 of the Federal Administrative Tax Ordinance

1983, Federal Law Gazette No. 24 as amended (BVwAbgV), the applicant has an administrative fee in

Height of

to pay.

6.50 euros

Legal basis: Section 7 of the Data Protection Act (DSG), Federal Law Gazette I No. 165/1999 as amended;

Art. 25 in conjunction with Art. 33 of Regulation (EU) 2016/679 (General Data Protection Regulation -

GDPR), OJ No. L 119 p. 1; as well as § 78 of the General

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

TP 1 of the Federal Administrative Tax Ordinance 1983 (BVwAbgV), Federal Law Gazette No. 24 as amended.

REASON

With an application dated June 4, 2018, the applicant requested approval "[...] of the

Use and publication of personal results [...]” for the purpose of

Creation of a contemporary historical publication, namely a local chronicle on the occasion□

a local jubilee of the local community of P****berg near T****kirchen, district of Southeast Styria.□

The local chronicle was created on behalf of the local community of P****berg□

T****kirchen.□

The results of all historical research would be published in the form of a book□

Total volume of approx. 300 A4 pages, in an edition of 1,000, on October 27th□

Presented in 2018 as part of the community's anniversary celebrations. The publication□

pursue neither profit nor damage intention and be partisan as well□

denominationally independent.□

In the chapter "Houses" is the presentation of the history of ownership of the individual houses□

intended. This so-called "house book" has not only been in use for many years□

popular, but also from a professional point of view essential subject area in□

Local chronicles throughout Austria. The history of the house and farm goes back to time□

of the earliest available records of feudalism and furnish□

such key insights into local and population history. For the full□

Presentation of the occupation history up to the present are next to the old ones□

Land registers or manorial land registers and records also□

publicly accessible current land register data required.□

It is due to the GDPR for use or publication□

personal results even from publicly accessible data□

of the persons concerned is required. The local community P****berg near T****kirchen has□

over 402 house numbers, which results in an estimated group of up to 1,000 people□

potential owners to be interviewed (including former owners who are still alive□

owners) who not only contacted, but also asked for concrete written□

Feedback or approval must be requested.□

Obtaining the declarations of consent in this case means one□

disproportionate effort. Determining whether former□

Property owners are deceased or not, is due to the□

legal blocking period for death registers is also only possible with great difficulty.□

A. Findings of Facts□

The aim of the present historical project is to develop a□

contemporary historical publication by the applicant, namely a local chronicle□

on the occasion of a local anniversary of the local community P***berg near T***kirchen, district□

Southeast Styria. It is envisaged that the results of all relevant historical□

Research in the form of a book with a total of approx. 200 pages A4, in a□

Edition of 1,000, on October 27, 2018 as part of the anniversary celebrations□

to present to the community. The publication pursues neither profit nor□

intention to cause damage and is independent of party politics and denomination.□

The applicant is a master of philosophy, majoring in folklore. the□

Processing of the thematic content of the historical project will follow the rules□

of scientific research.□

In connection with this historical publication (also) personal□

Data from the following databases are processed or published:□

- Data determined from publicly accessible land register entries□

- Data determined from trade files of the municipality of P***berg near T***kirchen (under□
compliance with the 30-year blocking period for municipal files)□

- from meeting minutes of the municipality of P***berg and its integrated□

Municipalities of Buch*** and A***furth am R*** (while maintaining the 30-□
year blocking period of municipal files)□

- Data determined from construction files of the municipality of P***berg (exclusively concerning the□
year of granted building permits)□

A statement by the local community of P***berg near T***kirchen, the databases for□

to make available is available.□

The local chronicle is published on the occasion of a local jubilee of the local community of P****berg□

T****kirchen, district of Southeast Styria, is being developed and is to be part of the□

Jubilee celebrations of the community are presented. It will include a chapter with□

include the name "Houses", in which the presentation of the ownership stories of the□

individual houses is provided. This is also the case from a professional point of view□

an important topic in local chronicles throughout Austria. It will be since the□

History of the house and court up to the time of the earliest available records□

of the feudal system are worked out, key findings on local and□

provided population history. For this purpose, for the complete presentation of the□

Ownership history up to the present, in addition to the old land registers and□

manorial arable land and records, also current publicly accessible□

Land register data required.□

The local community of P****berg near T****kirchen has 402 house numbers, from which□

an estimated group of up to 1,000 potential owners to be interviewed□

(including former owners who are still alive) shows that a□

contacted for consent under data protection law or for specific written feedback□

would have to be asked. Another complication would be the blocking period for□

Death books, the inspection of which would be necessary to find out whether former□

property owners are deceased or not.□

Evidence assessment: These findings are based on the submissions in the application dated□

June 4th, 2018 including attachments (academic certificate of the applicant; signed□

Declaration of the local community P****berg near T****kirchen).□

B. In legal terms it follows that:□

§ 7 DSG regulates, among other things, processing for historical research purposes. § 7 paragraph 1 DSG□

expressly focuses on purposes that do not have any personal results□

to have.□

Section 7 (2) DSG regulates data processing for historical research purposes that are not□
under Section 7 (1) leg. cit. fall. This applies to data processing, among other things□
have personal results as their goal (see, for example, Jähnel, data protection law,□
438 [2010] on Section 46 (2) DSG 2000 with the same content in this regard). According to § 7 paragraph 2□
may personal data be processed in accordance with a "[...] special statutory provision□
(Z 1), with the consent of the data subject (Z 2) or with the approval of the□
Data Protection Authority (Z 3) [...]" are processed.□

According to § 7 paragraph 3 the approval of the data protection authority for the processing□
personal data for historical research purposes at the request of the□
to grant those responsible for the investigation, "[...] if obtaining consent□
of the data subject is impossible due to lack of availability or otherwise□
disproportionate effort means (Z 1), a public interest in the□
requested processing exists (Z 2) and the professional suitability of the person responsible□
is made credible (Z 3) [...]". These requirements must be cumulative.□

With regard to the criterion of § 7 Para. 3 Z 1 DSG, the number of□
data subjects, the age of the data or any appropriate safeguards□
drawn. If, for example, no contact details are available, these would first have to be collected,□
which is a disproportionately high effort for a large number of people□
could represent. It may also be that due to the age of the data, the persons□
many have already died. § 7 Para. 3 Z 1 DSG is fulfilled, among other things, if the size□
of the group of persons concerned the disproportionality of the investigation□
stretches (see Gantschacher†/Spanberger in□
Gantschacher†/Jelinek/Schmidl/Spanberger, Commentary on the Data Protection Act [2018],□
§ 7 Note 10).□

If special categories of personal data are processed, according to § 7□

Para. 3 DSG there is an important public interest in the investigation and it

it must be ensured that the personal data are held by the person responsible for

Investigation will only be processed by persons relevant to the subject matter

are subject to the investigation of a statutory duty of confidentiality or whose

reliability in this regard is otherwise credible.

According to § 7 Para. 4 DSG, an application according to § 7 Para. 3 DSG is in any case a dated

Authorized to dispose of the databases from which the personal data

are to be determined, attach a signed declaration that he

makes the databases available for the investigation to those responsible.

B.1. Partial rejection of the application (point 2)

The established facts lead to the conclusion that with regard to this

point, there is no data processing subject to approval.

The approval in the sense of § 7 para. 3 DSG only refers to the case at hand

Data processing to achieve the historical research purpose, in this case

the development of a local chronicle of the municipality of P***berg near T***kirchen. the

The data protection authority can therefore only approve data processing that

serve historical research purposes. If this is reached, there are more

Data processing is not to be assessed according to the special provision of § 7 DSG, but

are subject to the general admissibility requirements of the GDPR. This applies to

In this case, all data processing that takes place after the location chronicle has been drawn up

(In particular the transmission of the local chronicle to the municipality of P***berg near T***kirchen

or the publication of the same at the anniversary celebration). After that he

Responsible persons to assess themselves according to Art 5 ff DSGVO whether the respective

data processing is permitted.

Since in this point there was no case of approval at all, the application was

to be dismissed in this regard.

B.2. In the matter (points 1, 3 and 4):☐

According to the established facts and the legal situation presented at the beginning, both that☐

Criterion of professional suitability for the implementation of the project (Magistra der☐

philosophy, field of study folklore), of (important) public interest☐

(central findings on local and population history) and des☐

disproportionate effort to obtain the consent of the persons concerned☐

Person(s) - estimated group of people of up to 1,000 potentially to be interviewed☐

Owners (including former surviving owners) – met.☐

Furthermore, the person authorized to dispose of the database has a signed declaration☐

submitted to make them available for the research project.☐

The conditions imposed serve to ensure data security when processing the data as well as☐

securing data secrecy.☐

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

provisions. Granting permission to process data for☐

scientific or historical research purposes is not exempt from the fee and☐

Tax exemption clause of Section 69 (6) DSG.☐

[Editor's note: Further information regarding fee payment abbreviated.]☐