

[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 of the Walter A\*\*\*□

(Appellant) of July 27, 2018 against the N\*\*\* creditor association IT GmbH□

(Respondent) for violation of the right to information due to non-issuance of the□

information as follows:□

- The appeal is dismissed.□

Legal basis: Section 24 (5) and (6) of the Data Protection Act (DSG), Federal Law Gazette I□

No. 165/1999 as amended; Article 12 (2) and (3) and Article 15 of Regulation (EU) 2016/679□

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

## REASON□

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

In his submission of July 27, 2018, the complainant submitted to the□

Data Protection Authority essentially, the Respondent did not□

responded to his request for information of June 1, 2018 in a timely manner. In addition, the e-mail□

Address of the data protection officer on the Respondent's website (\*\*\*-□

datenschutz@n\*\*\*.at) not valid.□

In a letter dated August 6, 2018, the Respondent granted the□

complainant in writing information and sent a copy of this information to the□

Data Protection Authority.□

In his statement of August 13, 2018, the complainant stated that he  
did not accept the complainant's information because it was not within a  
month from the submission of his request for information and is therefore not within the deadline.  
In addition, the data protection authority has nothing against the incorrect e-mail address  
made by the data protection officer and is also his confidential  
Information, despite the note "This information is not intended for submission to third parties",  
by the Respondent to other parties, namely one  
Law firm as data protection officer and the data protection authority,  
been made accessible.

#### B. Subject of Complaint

Based on the submissions of the appellant, it follows that  
The subject of the complaint is whether the respondent is the complainant  
violated his right to information by submitting his request for information  
of June 1, 2018 only answered on August 6, 2018 and be the complainant  
could not submit a request for information by e-mail.

#### C. Findings of Facts

On June 1, 2018, the complainant submitted a written request for information to the  
Respondent via a web form that the Respondent placed on its  
Website at [https://www.n\\*\\*\\*.at/auskunft-art15](https://www.n***.at/auskunft-art15) (accessed on August 20, 2018).  
provides.

The Respondent also offers a contact option on its website at  
[https://www.n\\*\\*\\*.at/datenschutzerklaerung](https://www.n***.at/datenschutzerklaerung) (retrieved on 08/20/2018) the e-mail address  
\*\*\*-datenschutzbeauftragter@n\*\*\*.at.

It could not be determined that the e-mail address on the website of the  
Respondent at one point was \*\*\*-datenschutz@n\*\*\*.at.

The respondent replied to the complainant's request for information

not within the allotted period of one month, which is why the complainant

on July 27, 2018, a complaint about a violation of the right to information at the

data protection authority raised.

In a letter dated August 6, 2018, the Respondent granted the

Complainant in writing information and submitted a copy of this information on

your data protection officer, H\*\*\* & O\*\*\* Rechtsanwälte KG, to the

Data Protection Authority.

Evidence assessment: The statements made are based on what is undisputed in this respect

submissions of the parties. The determinations regarding the e-mail address are based on

the accessed website of the Respondent on August 20, 2018.

D. In legal terms it follows that:

1. To exceed the one-month period:

Art. 12 para. 3 GDPR reads including the title (emphasis added by the

Data Protection Authority):

Article 12

Transparent information, communication and modalities for the exercise of

rights of

affected person

(1) [...] (2)

(3) The person responsible shall provide the data subject with information on the request

measures taken in accordance with Articles 15 to 22 without undue delay, but in any event

available within one month of receipt of the application. This deadline can

Another two months can be extended if this takes into account the complexity

and the number of applications required. The person responsible informs the data subject

Person within one month of receipt of the request for an extension of time,

along with the reasons for the delay. The data subject submits the request

electronically, it is to be informed electronically if possible, provided that it

states nothing else.

§ 24 para. 6 DSG reads including the title (emphasis added by the

Data Protection Authority):

Complaint to the data protection authority

§ 24. (1) [...] (5)

(6) A respondent may, until the conclusion of the proceedings before the

Data Protection Authority subsequently eliminate the alleged infringement by

complies with the complainant's requests. If the data protection authority sees the

If the complaint is irrelevant, it must hear the complainant about it.

At the same time, he must be made aware that the data protection authority

proceedings will be discontinued informally if he does not do so within a reasonable period of time

substantiated why he at least partially acknowledged the originally alleged violation of the law

still considered unresolved. If such a statement by

Complainant changed the nature of the matter (§ 13 para. 8 AVG), then by

the withdrawal of the original complaint and the simultaneous filing

deal with a new complaint. Also in this case

is the original

Complaints Procedure

set informally and the complainant of it

communicate. Late statements are not to be considered.

The Austrian legislator has the responsible person in § 24 Abs. 6 DSG

Possibility created, alleged violations of rights in Art. 12 Para. 3

GDPR beyond, specifically until the end of the

Complaints procedure before the data protection authority, to be eliminated afterwards.

By the Respondent informing the Complainant of its request for information

August 6, 2018 and thus his request for information of June 1, 2018□

corresponded, she made use of the legal provision of § 24 Para. 6 DSG□

and the alleged infringement was subsequently eliminated.□

The complainant's argument that the period of one month is not□

was complied with is therefore basically correct, but leads through the used□

Possibility of subsequent elimination according to § 24 paragraph 6 DSG.□

2. To assert the request for information by email:□

Art. 12 para. 2 GDPR reads including the title (emphasis added by the□

Data Protection Authority):□

Article 12□

Transparent information, communication and modalities for the exercise of□

rights of□

affected person□

(1) [...]□

(2) The controller makes it easier for the data subject to exercise their rights□

in accordance with Articles 15 to 22. In the cases referred to in Article 11, paragraph 2, the□

Controllers only refuse based on the request of the data subject□

To exercise their rights under Articles 15 to 22 when□

makes it credible that he is unable to identify the person concerned.□

In what specific form the responsible persons concerned exercise their□

Rights allowed, therefore by email, web form or otherwise, is by law□

not provided for as long as the exercise of these rights is not made more difficult.□

By having a web form for the Respondent on its website□

Provides requests for information in accordance with Art. 15 GDPR, it offers data subjects□

Persons a suitable opportunity to exercise their rights to information within the meaning of□

Art. 12 para. 2 GDPR.□

There is also an additional contact option on the Respondent's website□

visible via email. Even if that email address hasn't been in the past□

should have worked, the complainant could still exercise his right to□

Claim information using the web form mentioned and otherwise existed for him□

also the possibility to send his request for information by post to the respondent□

address, which is why there is no violation of Art. 12 Para. 2 DSGVO.□

### 3. Conclusions:□

From the point of view of the data protection authority, the result is not a justified complaint□

of the complainant for information in accordance with Art. 15 GDPR and was the complaint□

therefore, for the reasons discussed above, according to Section 24 (5) DSG□

to reject.□

If the complainant submits that the respondent has a copy of the□

information to your data protection officer and the data protection authority,□

although the information was not explicitly intended for third parties, it should be noted that□

The subject of this procedure is the non-disclosure of information in accordance with Art. 15 GDPR□

was. If the complainant, through the transmission of the information in his□

If you feel that your rights have been violated, you can do so by filing a complaint□

to assert in the course of a new procedure.□