

GZ: DSB-D123.937/0001-DSB/2018 from February 4th, 2019□

[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 Mr. Jonas' data protection complaint□

W\*\*\* (complainant) of 18 December 2018, ho. arrived on December 19th□

2018, against the Supreme Court (respondent) for breach of law□

on secrecy as follows:□

- The complaint is rejected.□

Legal basis: Section 1 (1) of the Data Protection Act – DSG, Federal Law Gazette 165/1999 as amended; Section 85□

Para. 1 and 2 Court Organization Act - GOG, RGBI. 217/1896 as amended; Art. 82 and□

Art. 92 Federal Constitutional Law (B-VG), BGBl. No. 1/1930; § 15 paragraphs 4 and 5□

Federal Law on the Supreme Court – OGHG, Federal Law Gazette No. 328/1968 as amended;□

REASON□

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

With a procedural submission dated December 18, 2018, ho. arrived at□

December 19, 2018, the complainant complained that the□

Respondent in the context of the decision documentation of his judgments in□

Federal Legal Information System (RIS) insufficient anonymization□

made and thereby violated his right to secrecy. When□

The Respondent was named the Supreme Court (OGH), which□

Complaint specified decision.□

B. In legal terms it follows that:□

According to Art. 55 Para. 3 GDPR, the supervisory authorities are not responsible for the supervision of the□

Processing carried out by courts in the course of their judicial activities□

responsible.□

According to recital 20 of the GDPR, this serves the independence of the judiciary in the exercise□

their judicial duties, including their passing of resolutions. With oversight□

the data processing operations should be carried out by special bodies in the judicial system□

Member States can be entrusted.□

The GDPR itself does not expressly state what judicial activity a□

constitutes judicial activity.□

According to a well-established opinion in the literature, matters that fall under the□

administration of justice bound by instructions, does not come under the concept of□

"judicial activity" (cf. Schmidl in more detail in□

Gantschacher/Jelinek/Schmidl/Spanberger, comment on data protection□

Basic Regulation<sup>1</sup> [2017] Art. 55 Note 3; Nguyen in Gola (ed.), Privacy□

Basic Ordinance [2017] Art. 55 para. 13; Selmayr in Ehmann/Selmayr (eds.), DS-GVO□

[2017] Art. 55 para. 12ff).□

According to the case law of the data protection authority, an activity of a court lies in□

The scope of judicial activity when a judge is engaged in the exercise of judicial functions□

Office is located or a judge or a public prosecutor otherwise in the care of□

transferred official business is free from instructions (cf. the notices of□

October 16, 2018, GZ DSB-D123.461/0004-DSB/2018, as well as from January 22, 2019,□

GZ DSB-D123.848/0001-DSB/2019).□

As far as the legal documentation by the OGH is concerned, § 15 OGHG regulates the following□

on:□

The federal decision documentation (RIS) contains names, addresses and□

if necessary, also other place and area names that allow conclusions to be drawn□

allow the case in question, by letters, numbers or abbreviations so□

anonymized so that the traceability of the decision is not lost.□

The senate must make these arrangements when passing the resolution.□

As the designated legal act in the independent exercise of judicial office□

came about, a complaint to the data protection authority is not permissible.□

Legal protection in the event of alleged violations of the right to secrecy by a□

Court in the context of judicial activity is based on §§ 83 ff GOG.□

The appeal was therefore dismissed in accordance with the verdict□