

GZ: DSB-D123.800/0001-DSB/2018 from 28.11.2018□

[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 Mr.□

Harald V\*\*\* (appellant) of 20 November 2018 against the Austrian□

Parliament, Committee of Inquiry of the National Council (Respondent), because□

Violation of the right to secrecy and erasure as follows:□

- The complaint is rejected.□

Legal basis: §§ 1 and 6 General Administrative Procedures Act 1991 - AVG,□

Federal Law Gazette No. 51/1991 as amended; Sections 4 (1) and 35 (2) of the Data Protection Act – DSG, Federal Law Gazette

No. 165/1999 as amended; Art. 77 General Data Protection Regulation - GDPR, OJ No. L 119, p.1;□

Art. 24 and 53 Federal Constitutional Law – B-VG, Federal Law Gazette No. 1/1930 as amended; §§ 31 ff, § 38□

as well as § 19 of Appendix 1 to the Rules of Procedure Act 1975 - GOG, BGBl.□

No. 410/1975 as amended.□

REASON□

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

With a submission dated November 20, 2018, the complainant submitted that he had□

\*\*\*Committee of Inquiry testified before the National Council and the minutes are closed□

this statement, although three years have now passed, still□

released. They are particularly worthy of protection from publication□

personal data affected. He requested the deletion of the data and be that□

Request for deletion has been rejected. □

B. In legal terms it follows that: □

Even if the GDPR requires the data protection supervisory authorities to supervise the organs of the □

Legislation - unlike courts in the context of judicial activity (Art. 55 □

Paragraph 3) - not simply denied, the European legal system is the separation □

inherent in the powers of state. A control of the administration (executive) over the □

Legislation (legislature) is excluded. □

The National Council and its committees are the body through which the legislative □

Competence (jointly with the Bundesrat) is exercised at federal level. the □

The National Council is authorized to conduct investigations into completed processes in the field of □

implementation of the Confederation (Art. 24 and Art. 53 Para. 2 B-VG). the □

Committee of Inquiry to which the complainant testified and in which □

the statement was recorded, is thus an organ of state power legislation □

is attributable. □

The data protection authority is responsible for supervising compliance with the requirements of the □

DSGVO and the DSG according to Art. 77 DSGVO in connection with §§ 4 and § 35 paragraph 2 □

DSG. Exceptionally, the data protection authority is also responsible for the supervision of organs □

the legislature - insofar as provided for in the constitutional provision of Section 35 (2) DSG □

– for individual administrative matters of certain legislative bodies. In □

to an extent beyond that is a control of the legislature by a □

Executive body, as defined by the administrative data protection authority, not □

intended. □

As already stated, committees of inquiry and protocol □

Records of evidence gathering (§ 19 of Annex 1 to the GOG, VO-UA) □

Tasks of legislative control over the administration and are therefore not subject to the □

Jurisdiction of the Data Protection Authority. □

The Data Protection Authority exercises its competence ex officio and at every stage of the process (§ 1 and § 6 para. 1 AVG).

Since the minutes cited by the complainant belong to a legislative body in

(Constitutionally) legally assigned scope of action, was the

Appeal to be dismissed for lack of jurisdiction.