

GZ: DSB-D084.133/0002-DSB/2018 from 08.08.2018□

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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 basis of the notification of a□

Data protection violation of the N*** Aid and Rescue Association, National Association ****□

(Responsible), initiated on July 12, 2018 proceedings regarding an infringement□

of personal data protection as follows:□

- The person responsible is assigned within a period of four weeks□

those individuals whose health records were affected by the security breach dated□

July 10, 2018 to notify and provide evidence of this□

and to send a copy of the letter to the data protection authority.□

Legal basis: Art. 4 Z 12 and Z 13, Art. 33, Art. 34 and Art. 58 Para. 2 lit. e of□

Regulation (EU) 2016/679 (General Data Protection Regulation – GDPR), OJ No. L 119□

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A. Procedure□

REASON□

1. By letter dated July 12, 2018, the N*** Aid and Rescue Association reported,□

Landesverband **** (person responsible), the violation of the protection of personal□

Data according to Art. 33 GDPR.□

Accordingly, during an operation of the emergency doctor vehicle R *** on July 10th□

In 2018 the drug book "somewhere in the U*** district on the street" was lost. In□

the narcotics book are the entries and exits required by the Narcotics Act□

of the narcotics depot of this operational resource have been documented. That's what it's all about□

It is a structured filing of personal data (sometimes special□

categories of data) in paper form. There is no data encryption□

happened.□

Approximately 150 data records of the patients of the emergency services are from the injury□

Categories First and last name, physical health status, amount administered□

of the narcotic drug and the amount issued; furthermore records from□

seven external employees (emergency doctors of the S*** clinics) of those responsible and of□

approx. 50 emergency paramedics category personnel number and signature.□

The search for the drug book by the team and by the□

Clerk "P**" on July 10th and 11th, 2018 was unsuccessful. The responsible□

base-coordinating emergency doctor, the state emergency doctor coordinator and the responsible□

Hospital pharmacy were informed about the incident.□

2. With an improvement order from the data protection authority dated July 24, 2018, the□

Those responsible are asked to complete their report within two weeks.□

In particular, information is missing as to whether the persons concerned□

security breach were informed or a reason why the□

Those responsible assume that the violation of the protection of personal□

Data not expected to pose a high risk to personal rights and□

freedoms of the persons concerned. The message does not indicate whether a□

Loss report had been returned, whether through the search for the drug book□

measures to remedy the violation and to inform the□

responsible physicians and hospital pharmacies□

Mitigating the possible adverse effects on the data subjects□

had been set. In addition, whether the drug book also in an electronic□

version is available or a copy of the same is available or what precautions are taken□

would generally be taken to ensure that the data of a narcotics book in□

would be processed in a way that ensures adequate security of the□

personal data guaranteed.□

3. In a letter dated July 30, 2018, the person responsible supplemented her report□

Security breach according to Art. 33 GDPR. In particular, she stated that□

Narcotics book had not been found and no copy or electronic□

version available. The data was not pseudonymised.□

Regarding general precautions to ensure adequate security□

the processing of personal data was carried out, the drug register will□

stored in the documentation folder in the emergency vehicle; have access to the vehicle□

only the staff on duty (paramedics, emergency doctor and trainees). There is none□

Data backup and only one way of restoring from other sources□

(Deployment and emergency doctor documentation as well as other narcotics books in which a□

transfer to the relevant depot is noted). This can be done manually with some□

effort to be carried out.□

On the possible consequences of the security breach for rights and freedoms□

natural persons, the person responsible took the following position:□

The likelihood of exposure, identity theft or fraud was rated as□

"very low" and the severity of the possible consequences assessed as limited. the□

Probability of loss of confidentiality from professional secrecy□

underlying personal data is to be assessed as "low".□

Damaging and discriminatory consequences, financial losses, significant□

economic or social disadvantages as well as the unauthorized cancellation of the□

Pseudonymization would not result from the infringement at issue□

result.□

This risk assessment shows that a report to the authorities is mandatory□
have; but no data subject information. The notification to those concerned□
people was not carried out because the risk assessment was based on the available data and□
Facts do not indicate a potentially high risk. Violation of the availability of□
personal data does not affect the data subjects in any way, since the□
personal data processing is only subject to a legal documentation obligation□
serve the person responsible. The breach of confidentiality could potentially□
have the consequences described above for those affected, the probability of this is□
however, to be classified as very low to low, as it is unlikely that the book□
accidentally found by someone and at this time because of the□
weather influences is still readable at all. The personal data processed□
Data "in the wrong hands" allowed exposure or exposure□
Identity theft / - fraud only with great research effort and consultation□
additional information from other sources.□

B. Subject of the proceedings□

Objectively, the question to be clarified is whether in the proceedings concerning the□
Security breach according to Art. 33 GDPR taking into account the□
Likelihood of personal data breach□
expected to lead to a high risk according to Art. 34 GDPR, the□
The data protection authority has to give the order to the person responsible□
to notify the persons concerned.□

C. Findings of Facts□

On July 12, 2018, the Controller reported a security breach pursuant to Art. 33□
DSGVO, accordingly on July 10, 2018 the drug book that is the subject of the proceedings□
was lost.□

The entries and exits of the drug depot are documented in the drug register. at□

the outputs in the form of administrations to the patient are the patient's name□

as well as the active substance or the preparation and the number of ampoules (max□

administered dose). An encryption or pseudonymization of the data is□

not happened.□

The violation of availability includes data sets from approx. 150 patients,□

which data of the categories first and last name, physical state of health□

as well as administered narcotics and amount of the same issued. About it□

In addition, there are the personnel number and signature of seven external employees□

(emergency doctors of the S*** clinics) and approx. 50 employees of the responsible persons (emergency paramedics)□

covered by the violation.□

Data recovery is possible. The personal entries of□

Administration can be made from the deployment and emergency doctor documentation as well as the training and□

entrances to the drug depot of the hospital pharmacy.□

A notification to the persons affected by the breach in accordance with Art. 34□

Paragraph 1 GDPR did not take place.□

Evidence assessment: The statements made are based on the submissions of the□

Responsible in the notification of July 12, 2018 and in the supplementary□

Statement of July 30, 2018.□

D. In legal terms it follows that:□

The subject lies in the loss of personal data recording□

Narcotics Book a violation of the protection of personal data due□

loss (cf. Art. 4 Z 12 GDPR).□

Since in the drug book the first and last names, the physical state of health as well as□

the administered narcotic drug and the amount of it issued was recorded,□

the breach also affects health data in accordance with Art. 4 Z 15 GDPR.□

In accordance with Art. 34 Para. 1 GDPR, the person responsible then has the data subject□

immediately to be informed of the violation if the violation of protection□

personal data is likely to pose a high risk to personal rights□

and freedoms of natural persons and no exception under Art. 34□

Paragraph 3 GDPR is available. Whether "probably a high risk" exists, has the□

to make those responsible themselves in a prognosis decision, whereby for the assessment,□

whether such exists, on the guidelines of the Art. 29 group on the notification of a□

Breach of personal data protection pursuant to Regulation 2016/679□

(WP250rev.01), available on the website of the Data Protection Authority□

can be.□

According to Art. 34 Para. 4 GDPR, the obligation to notify can be□

data protection authority to be checked.□

In the present case, the person responsible came to the conclusion in their forecast decision that□

that "based on the available data and facts, there is no potentially high risk".□

may be.□

However, this assessment cannot be followed for the following reason:□

The severity of the risk (damage severity) for the rights and freedoms is assessed□

according to the weight of the endangered right or endangered freedom as well as thereafter,□

what damage the data subjects may incur as a result of the processing.□

Some possible damaging events are listed in Recital 75 of the GDPR□

expressly highlighted. A high risk therefore exists in particular and□

at least typically in the case of extensive processing of special categories□

personal data within the meaning of Art. 9 Para. 1 GDPR, including health data□

fall (cf. Paal/Pauly, General Data Protection Regulation, Commentary, Art. 34, para. 30).□

In the present case, the security breach is a major one□

processing of health data. The threat of damage is□

therefore high. The probability of occurrence of a possible damage is given,□

since the drug book was not found. It is not without every reality of life that

the drug book was found or will be found by an unauthorized person.

The requirements for notification of the breach to those affected

Persons are therefore given. There is also no exception to the

Notification obligation according to Art. 34 Para. 3 DSGVO:

The person responsible does not have appropriate preventive security measures in accordance with

Art. 34 Para. 3 lit. a DSGVO met, which the risk for personal rights and

would have significantly reduced the freedoms of natural persons. A provision by which the

affected data are made inaccessible to unauthorized persons, for example by

Encryption or pseudonymization was not used by the person responsible

met.

The subsequent safety measures, namely searching for the

drug book and the information or education of the employees of those responsible,

were in any case not suitable for minimizing the initially high risk. Also the

Reference to the weather-related illegibility of the drug book is based only

on assumptions of those responsible that are not suitable to refute that at

in a normal course of events it must be expected that a

Damage event realized (cf. Art. 34 Para. 3 lit. b GDPR).

After all, the notification of the persons concerned is not with one

disproportionate effort in accordance with Article 34 (3) (c) GDPR. Of the

Security breach affected the health data of approximately 150 people. the

According to those responsible, the data can be restored – albeit with

Effort - possible.

As a result, it can be assumed that the notification of those affected is suitable

pro futuro to further violations of the personal rights and freedoms of those affected

avoid. The person responsible therefore has all persons (approx. 150) whose

health data affected by the security breach.□

In terms of time, the notification of data subjects of the breach□

to take place immediately (cf. also recital 86). In the specific case□

the notification within a period of four weeks is appropriate, since the□

Loss of affected data manually with some effort from other records□

must be extracted before an individual notification of those affected□

can take place.□

It was therefore to be decided accordingly.□

Finally, it is pointed out that individual addressing of the□

Affected, for example by e-mail, by post or in other ways, they individually□

has to be done in an addressing way. The notification must be in clearer and simpler form□

Language contain the nature of the personal data breach and□

at least the information specified in Art. 33 (3) lit. b, c and d GDPR and□

recommendations include.□