

CJ: [REDACTED]
[REDACTED]

Sachbearbeiterin: [REDACTED]

«Anrede»
«Titel» «Vorname» «Nachname» «Nachgestellter_Titel»
«Name»
«ZH»

«Straße» «ON»
«Postleitzahl» «Ort»
«Land»

Data protection complaint (Art. 5, Art. 6 GDPR)

[REDACTED]
by RSb/letter/email «emailadresse»

DRAFT DECISION

DECISION

The Data Protection Authority decides on the data protection complaint of [REDACTED] (complaining party) of 30 September 2025 against [REDACTED] (responding party) for infringement of the rights under Articles 5 and 6 GDPR as follows:

- The appeal is upheld and it is found that the respondent infringed the complaining party's rights under Articles 5 and 6 of the GDPR by carrying out a keeper query on the complaining party's vehicle and by processing the keeper data of the complaining party in the context of an alleged exceedance of parking time.

Legal bases: Articles 5, 6, 51(1), 57(1)(f), 60(7) and 77(1) of Regulation (EU) 2016/679 (General Data Protection Regulation; 'the General Data Protection Regulation'): GDPR), OJ L 119, 4.5.2016, p. 1; Sections 18(1) and 24(1) and (5) of the Data Protection Act (DSG), BGBl. I No 165/1999 as amended.

JUSTIFICATION

A. Arguments of the parties and course of proceedings

Data Protection Authority's comment on the procedure: The procedure does not constitute a legally binding element, but is optional. It is therefore generally not necessary to mention the party's arguments separately in the statement of reasons (cf. Hengstschläger/Leeb, AVG § 60 paragraph 22 (as at 1.3.2023, rdb.at)).

The procedure was initiated following a data protection complaint lodged by bP on 30 September 2025. The complaint was forwarded by the Bavarian State Office for Data Protection Supervision to the Data Protection Authority.

B. Subject-matter of the complaint

The subject-matter of the complaint is the question whether the respondent infringed the complaining party's rights under Articles 5 and 6 of the GDPR by carrying out a holder consultation on the complaining party's vehicle and processing the complaining party's holder data in the context of an alleged exceeding of parking time.

C. Factual findings

The complainant is the holder of the vehicle with the registration number [REDACTED].

The respondent operates an automated parking space monitoring system at the [REDACTED] site (registration of registration marks at entry and exit). For charging operations at the [REDACTED] charging stations located on site, it is foreseen that the parking time can be extended on the same day via a QR code by uploading the license plate and a loading document.

On 27 November 2024, the complaining party loaded the QR code at [REDACTED] and transmitted its registration number on the same day.

On 27 November 2024, 7:13 p.m., the complaining party received an acknowledgement of receipt by e-mail from the respondent, the subject of the e-mail: RE:Guest _EV _CHARGING _[REDACTED] _C _[REDACTED]. On 28 November 2024, at 8:40 a.m., the complaining party also received confirmation from [REDACTED] that its registration number for the charging process was successfully deposited on 27 November 2024.

The signs at [REDACTED] are as follows:

Kundenparkplatz
Automatische Parkzeitmessung
Customer parking
Automatic parking meter

P

Einfach kundenfreundlich – ohne Parkscheibe
Simple and customer-friendly – no parking disc needed

1,5 Std.
Kostenfreie Höchstparkdauer
für Kundenaufenthalte während der Öffnungszeiten
Maximum allowed parking time
for customers during opening hours

80 Euro
Bei Überschreitung
der kostenfreien Höchstparkdauer
When exceeding
the maximum allowed parking time


Absolutes Halteverbot
außerhalb der Öffnungszeiten
Absolute stopping ban
outside opening hours

Zuzüglich zur Vertragsstrafe werden Kosten zur Haltermittlung erhoben. Bitte beachten Sie unbedingt den aushängenden Datenschutzhinweis und die Vertrags- und Einstellbedingungen.
In addition to the fine, costs to determine the vehicle owner will be charged. Please be aware of the data privacy policy and the contractual terms and conditions.

Private Parkeinrichtung
Private Parking

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Höchstparkdauer bei Ladevorgang beachten!
Please consider the maximum allowed parking time during your charging process.

Brauchst du mehr Zeit zum Laden?
Do you need more time for your charging process?



Scanne den QR-Code, wenn du den E-Auto länger als die erlaubte Parkdauer laden musst. Trage deine Kontaktdaten ein und lade einen Ladebeleg noch am selben Tag auf der Website hoch, um deine Parkzeit zu verlängern.
Scan the QR code if you need to charge your electric car longer than the allowed parking time. Enter your contact details and upload a charging receipt on the website the same day to extend your parking time.

Kein Beleg vorhanden?
Ein Foto des Ladevorgangs oder ein Screenshot deiner Lade-App reicht aus. So vermeidest du Strafgebühren.
You do not have a receipt?
A photo of the charging process or a screenshot of your charging app is sufficient. This way, you avoid penalty fees.

Bitte beachten: Ohne rechtzeitigen Nachweis wird ein Parkverstoß erfasst, den du nicht stornieren kannst. Es gelten der aushängende Datenschutzhinweis und die AGB.
Please note: Without timely proof, a parking violation will be recorded that cannot be cancelled. The privacy notice and the terms and conditions displayed apply.

By letter of 9. On 1 December 2024, the respondent requested the complaining party to pay € 87.00 on the grounds that it had committed a parking offence on 27 November 2024 and had exceeded the permitted parking time due to an insufficient parking permit.

Evidence assessment: The findings are based on the arguments of the complaining party, which are uncontested in this respect, and on the documents enclosed with the complaint.

The notification of the complaining party's loading operation was not synchronised in due time with the respondent's automated control system due to an internal processing error by the respondent party and a keeper query was carried out at the [REDACTED] on 29 November 2024 on the keeper data of the complaining party's motor vehicle. The Respondent received the surname, first name and address of the complaining party from the Holder's query.

Evidence assessment: The findings are based on the arguments of the respondent of 2 March 2026, which are uncontested in that regard.

D. From a legal point of view, it follows that:

Under Article 4(1) of the GDPR, 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

However, it is questionable for whom the person must be identifiable in order for a date to be considered personal. In that regard, recital 26 of the GDPR states that, in order to qualify a database as personal data, it is not necessary for the controller to be able to carry out the identification itself, but it is sufficient that any third party can reasonably be expected to carry it out, taking into account costs and time, as well as available technology and technological development (see also *Klabunde* in *Ehmann/Selmayr*, DS-GVO, Comment² [2018], Article 4, paragraph 17; see also the judgment of the Court of Justice of 19 October 2016, C-582/14).

According to the case law of the BVwG, the vehicle registration number is a personal data (cf. instead of many BVwG 23 September 2022, GZ: W137 2252921-1).

As a short excursus, it is therefore noted that the respondent's argument that 'the photograph of the vehicle and the registration plate do not allow any conclusions to be drawn about the identity without linking to a natural person, thus fully preserving the protection of the data subject after the deletion of the holder data on 29 October 2025' cannot be accepted.

The subject-matter of the present complaint is the question whether the respondent infringed the complaining party's rights under Articles 5 and 6 of the GDPR by carrying out a holder consultation on the complaining party's vehicle and processing the holder data of the complaining party in the context of an alleged parking time overrun.

The processing of personal data is permissible if it is carried out – in compliance with the processing principles referred to in Article 5 GDPR – on the basis of one of the grounds for authorisation referred to in Article 6 GDPR.

In the present case, the respondent itself states that, due to an internal processing error on the part of the respondent, the filing of the complainant's loading operation was not synchronised in good time with the respondent's automated control system. There was therefore no breach of the parking regulations, on the basis of which a holder inquiry would have had to be carried out.

For the purpose of querying the holder's data at the [REDACTED] and processing the holder's data for the purpose of penalising a parking time overrun, none of the conditions of Article 6(1) GDPR apply. The respondent claims that it has a legitimate interest in the management of private land and the sanctioning of breaches of contract, but in the present case there is precisely no breach of contract and the processing at issue was not necessary to safeguard the respondent's legitimate interests.

The keeper data was requested for the purpose of penalising a parking time overrun, which, however, did not exist, which is why there is also an infringement of the principles of Article 5(1) of the GDPR.

The appeal had to be upheld.

Finally, the Data Protection Authority points out that pursuant to Paragraph 24(6) of the DSG, appeal proceedings may be terminated informally if the respondent subsequently rectifies the alleged infringement by complying with the complainant's requests until the conclusion of the proceedings. This procedural facilitation of the enforcement of data subject rights therefore applies only to rights linked to applications – which do not specifically include the rights under Articles 5 and 6 of the GDPR.