

epicenter.works – for digital rights, Linke Wienzeile 12/19, 1060 Vienna  
Mr. Johannes Rauch  
Federal Ministry of Social Affairs, Health, Care and Consumer Protection  
Stubenring 1  
1010 Vienna

Vienna, 22.12.2022

**Subject: Report by your ministry against epicenter.works**

Dear Minister Rauch,

A week ago, we were informed that our work as a data protection NGO together with the daily newspaper "Der Standard" in the investigation of the data scandal of the Epidemiological Reporting System (EMS) were reported by your ministry. We are accused of § 118a StGB (unlawful access to a computer system), which means we are facing up to two years of imprisonment.

Although this complaint was filed in December 2021, we were only informed of our status as a defendant last week. We have yet to be given access to our investigation file, so we can only comment on the matter to a limited extent. Nor will we do so without a lawyer.

At this point, however, we would like to emphasise that in almost 13 years of activity as a data protection NGO, no charges have ever been brought against us and we have never been named as a defendant in criminal proceedings. Our organisation has uncovered countless IT security vulnerabilities and misuse of personal data in government and private sector IT systems and has succeeded in remedying them.<sup>i</sup> We work strictly according to the principle of "responsible disclosure"<sup>iii</sup> and in the case of the EMS with our media partner "Der Standard", we first contacted your ministry, explained the documented vulnerability to your employees<sup>iii</sup> and only informed the public after the gap had been closed.<sup>iv</sup> We always work according to the strictest ethical and data protection standards, especially with regard to the informed consent of data subjects and the protection of journalistic sources. These principles were also adhered to in this specific case and can also be proven.

During the COVID-19 pandemic in particular, we uncovered and remedied serious data protection deficiencies in the healthcare system on several occasions.<sup>v</sup> We have always been committed to working constructively<sup>vi</sup> and also often working behind the scenes<sup>vii</sup> to make improvements. However, a boundary was crossed last year when a security researcher who reported a serious security vulnerability in oesterreich-testet.at to your organisation lost his job instead of being thanked for his exemplary actions.<sup>viii</sup> We are now accused of an offence that can only be prosecuted by the authorities with the authorisation of the Ministry of Health.<sup>ix</sup>

The fact that our organisation has been reported by your office is a threat to our existence. Although we are Austria's largest data protection NGO, we are still a relatively small organisation financed by



donations. How you intend to ensure that future security vulnerabilities in your IT systems are ever reported to you again remains an open question.

Best wishes,  
epicenter.works

- i <https://epicenter.works/en/about-us/history-new>, <https://epicenter.works/content/136000-corona-testergebnisse-samt-persoenlicher-daten-frei-einsehbar> and <https://www.youtube.com/watch?v=drqQ17BKZtM>
- ii [https://en.wikipedia.org/wiki/Coordinated\\_vulnerability\\_disclosure](https://en.wikipedia.org/wiki/Coordinated_vulnerability_disclosure)
- iii On 14 December 2021, there was a meeting at 3 p.m. with representatives of Department VII / B/8, the competence centre of Department VI / B/7 and one of the Ministry's press spokespersons.
- iv <https://www.derstandard.at/story/2000131971545/massive-sicherheitsluecke-im-zentralen-corona-register-legte-daten-offen> and <https://epicenter.works/content/datenskandal-im-epidemiologischen-meldesystem-ems>
- v <https://www.youtube.com/watch?v=oDo4LYGfjeY> <https://www.youtube.com/watch?v=Q8XJ4K4Dcac>, <https://www.youtube.com/watch?v=Zi1ewWw0Hkg>, <https://epicenter.works/content/e-impfpass-opt-out-moeglichkeit-haette-vertrauen-geschaffen>, <https://epicenter.works/content/wieso-der-elektronische-gruene-impfpass-keine-probleme-loest-aber-neue-schafft>, <https://epicenter.works/content/136000-corona-testergebnisse-samt-persoenlicher-daten-frei-einsehbar>, <https://epicenter.works/content/sicherheitsluecken-im-gruenen-pass-gefaehrden-gesundheitsdaten-aller-sozialversicherten> und <https://epicenter.works/content/die-saeulen-des-gruenen-passes-ueberwachbarkeit-ein-exorbitanter-datenberg>
- vi <https://epicenter.works/content/analyse-der-stopp-corona-app-des-roten-kreuzes> and <https://epicenter.works/content/impfpflichtgesetz>
- vii <https://epicenter.works/content/fuenf-gruende-den-sieg-beim-digitalen-covid-zertifikat-der-eu-zu-feiern> and <https://epicenter.works/content/analyse-der-stopp-corona-app-unmittelbare-verbesserungen-durch-experten-bericht>
- viii <https://www.youtube.com/watch?v=XsU1LOvt5Sk>
- ix § 118a (3) StGB "The offender shall only be prosecuted with the authorisation of the injured party."  
<https://www.ris.bka.gv.at/NormDokument.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10002296&Paragraf=118a>