Dispute room

Decision on the merits 45/2022 of 30 March 2022

File number : DOS-2021-04068

Subject : Notice concerning the expiry dates of the SIDIS SUITE database

The Disputes Chamber of the Data Protection Authority, composed of Mr Hielke Hijmans,

chairman, and Messrs Romain Robert and Dirk Van Der Kelen, members.

Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on

the protection of natural persons with regard to the processing of personal data and

on the free movement of such data and repealing Directive 95/46/EC (General

Data Protection Regulation), hereinafter GDPR;

In view of the law of 3 December 2017 establishing the Data Protection Authority, hereinafter WOG;

Having regard to the internal rules of procedure, as approved by the House of Representatives

on December 20, 2018 and published in the Belgian Official Gazette on January 15, 2019;

Having regard to the documents in the file;

has made the following decision regarding:

The defendant:

the Federal Public Service Justice, with registered office at 115 Waterloolaan,

1000 Brussels, and

signed up

in the Crossroads Bank for Enterprises with

company number 0308.357.753, represented by

counselor mr.

Emmanuel JACUBOWITZ, with office at 1160 Brussels, Tedescolaan 7, hereinafter

"the defendant".

I. Facts and procedure

1. On 21 May 2021, the Data Protection Authority will receive from the Supervisory Body

police information (hereinafter “COC”) the following notification:

“The Supervisory Body has already

in several files concerning an application for

indirect access of a citizen in the police databases determined that the

expiry dates of the SIDIS database (Database of the Prisons System), pursuant to Article

9 of the Law of 5 May 2019 containing various provisions relating to the computerization of Justice,

modernization of the statute of judges in corporate matters and on the notarial

deed bank law, were (largely) exceeded. One thing or another makes that, when for example

registrations in the police databases have been or are being deleted, the police officer anyway

can still see the registrations in SIDIS and thus again the (police) past of the person concerned

(at least partially) can reconstruct. That is of course not the intention.

The Supervisory Body will inform the DPA responsible for the SIDIS database,

being the GBA and this in light of the importance of good information management in the

security chain in general and within the police or judicial services in particular

and for any useful follow-up under the existing cooperation protocol between our

organizations.”

2. On May 26, 2021, the Inspectorate decides on the basis of Article 58, paragraph 1 of the GDPR and Article 63.3° WOG

to submit the file of its own accord given the fact that there are serious indications

of the existence of a practice which may give rise to a breach of the

basic principles of personal data protection.

3. The inspection will be completed by the Inspectorate on 17 August 2021, the report will be submitted to the

file and the file is forwarded by the Inspector General to the President of

the Disputes Chamber (article 91, §1 and §2 WOG).

The report contains findings with regard to the above-mentioned notification from the COC and decision

that an infringement of Articles 5 (1) e) and (2) GDPR, Article 24 (1) GDPR and

Article 25(1) GDPR (Storage limitation and appropriate technical and organizational measures to

storage limitation and processing in accordance with the GDPR)

The report also contains findings that go beyond the subject-matter of the above-mentioned

notification. The Inspectorate establishes, in general terms, that:

1. a breach of Article 30(1), (3) and (4) GDPR can be established

(Obligations with regard to the processing register);

2. a breach of Article 38(1), (2) and (6) and Article 39 GDPR can be established

(Position of the Data Protection Officer)

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4. On 23 August 2021, the Disputes Chamber decides on the basis of Article 95, §1, 1° and Article 98 WOG that

the file is ready for treatment on the merits.

5. On August 23, 2021, the defendant will be notified of the

provisions as stated in article 95, §2, as well as of these in article 98 WOG. They will also be

pursuant to Section 99 WOG of the time limits to submit their defences.

The deadline for receipt of the defendant's response was set

on October 18, 2021.

6. On August 24, 2021, the defendant electronically accepts all communications regarding the case.

7. On 15 October 2021, the Disputes Chamber will receive the statement of defense from the defendant

with regard to the findings with regard to the subject of the notification. The defendant

does not dispute the findings of the Inspectorate in this regard, but emphasizes that it takes the necessary

provides remedial measures to comply with the processing as soon as possible

with Article 9 of the law of 5 May 2019 containing various provisions on computerization

of Justice, modernization of the statute of judges in corporate matters and on the notarial

deed bank (hereinafter “Law of 5 May 2019”)1. This conclusion also contains the response of the defendant

regarding the findings made by the Inspectorate outside the scope of the report.

8. On February 15, 2022, the defendant will be notified that the hearing will take place

on March 16, 2022.

9. On March 16, 2022, the defendant will be heard by the Disputes Chamber and will thus receive the

opportunity to present its arguments. Subsequently, the case is

Dispute chamber under consideration.

10. On March 17, 2022, the record of the hearing shall be submitted to the defendant in

in accordance with article 54 of the internal rules of the DPA. The defendant gets

hereby the opportunity to have any comments in this regard added as an attachment to

the official report, without this implying a reopening of the debates.

11. On March 23, 2022, the defendant provides the Disputes Chamber with the written answers to the

questions asked during the hearing.

II. Justification

12. The Disputes Chamber then assesses each of the findings included in the report of the

Inspectorate in the light of the pleas put forward by the defendant in this regard.

1 Law of 5 May 2019 containing various provisions on the computerization of justice, modernization of the statute of judges in

corporate affairs and with regard to the notarial deed bank, Belgian Official Gazette 19 June 2019.

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a) Storage limitation and accountability principle (Article 5(1)(e) and (2) GDPR) and the

principle of appropriate technical and organizational measures to prevent the processing

in accordance with the GDPR (Article 24(1) of the GDPR and Article 25(1) of the GDPR)

13. The Disputes Chamber recalls that every controller follows the principle of

storage limitation, as stipulated in Article 5 (1) e) of the GDPR and must be able to do so

demonstrate. This results from the accountability obligation in Article 5(2) of the GDPR in conjunction with Article 24,

paragraph 1 of the GDPR as confirmed by the Disputes Chamber2. As already explained above regarding

this case, the fact that data of a criminal nature of data subjects in the SIDIS SUITE database

remain registered, despite the legal obligation to only keep this data up to ten

years after the release of the person concerned.

14. The first element that is the subject of investigation by the Inspectorate concerns the

assessment of the extent to which the defendant has made the necessary technical and organizational

has taken measures to comply with the storage limitation principle.

15. The Inspectorate notes that the current ICT system is not adapted to the principle of

organize storage limitation as a result of which it infringes Articles 5 (1) e) and (2) GDPR, Article

24(1) and 25(2) GDPR.

16. The Inspectorate applies the following considerations to this end:

• The aforementioned COC document shows that the aforementioned expiry periods are not

were complied with for various stakeholders;

• During the investigation, the defendant stated that:

i. it was decided to replace SIDIS Suite with a new GDPR compliant

application;

ii. there was a need “after taking note of the questions from the GBA” for a “direct and

mitigating measure”;

iii. adjustments are needed “to ensure the principle of storage limitation”.

17. The defendant argues in its claims that:

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see the facts and conclusion established by the Inspectorate on page 9 of the

inspection report not contested, in particular that the maximum time limits imposed by Article 9 of

the law of 5 May 2019, were not complied with for the personal data of the data subjects.

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it has taken the necessary remedial measures to ensure the processing as soon as possible

accordance with Article 9 of the law of 5 May 2019. The defendant indicates

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https://www.dataprotectionauthority.be/professioneel/publicaties/besluiten.□

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ground□

2020□

from□

June□

at□

23□

available□

through□

the□

webpage□

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to subscribe to the quote requested for this purpose 'soon' in its conclusions. The defendant□

submits the request for the quotation for this purpose.□

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it was decided, from a regulatory point of view and as an organizational measure, to□

to start a regulatory process to give concrete implementation to Article 9 of the Act of□

5 May 2019, whereby the intended technical measures will also become legal where necessary□

anchored by royal decree.□

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the principles of data protection by design and data protection by□

default settings were discussed□

in the presence of the official of the□

data protection in the context of the project leading to the replacement of the□

current database SIDIS SUITE.□

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organizational measures were planned in the short term to work out a procedure

to have all new business cases and projects go through a privacy compliance procedure

screen. In its conclusions, the defendant states that additional FTEs are included in the personnel plan

were provided for the Information Management and Data Protection service.

18. On the basis of the inspection report and the documents submitted by the defendant, the

Litigation Chamber finds that the defendant often outdated information systems, such as SIDIS SUITE,

should manage. The SIDIS SUITE software, originally intended for certain police forces

in the US, was converted in 2012 under a public contract from the FPS Justice for

the Belgian penal institutions. Since 2014, this software has been adapted several times according to the

needs of the partners who need access to that information necessary for the

performance of their core tasks, taking into account their specificity. The defendant indicates in her

conclusion that the contract with the developing consortium of SIDIS SUITE has expired and that

meanwhile, it was decided to launch a new public procurement ("NewAppEpi") to replace the outdated

completely replace the SIDIS SUITE software. As a result, no more investments were made in

SIDIS SUITE, given the limited resources (both in terms of personnel and budget) available to the

defendant has.

19. The defendant informs the Inspectorate that as a direct and mitigating measure as a result of

under the present procedure it was decided not to terminate the development of the new NewAppEpi

to wait. Instead, implementation will be carried out in accordance with the

data protection guidelines proposed in the past calling for the

limiting as much as possible the direct querying of an authentic source. In addition, the

defendant that it will consider how and to what extent SIDIS SUITE must be adapted in order to

principle of storage limitation and what the financial feasibility is to replace the existing

software accordingly.

20. The Disputes Chamber infers from the above that the defendant had the opportunity to

information system earlier but has not used it. The defendant thus

failed to make use of measures that could have enabled him to comply

to the obligations laid down in article 9 of the law of 5 May 2019.

21. During the hearing dd. March 16, 2022, the defendant explains which steps have already been taken

were since the transmission of his conclusions. The defendant submits documents proving that

a quote has been issued for a change request, the purpose of which is to provide concrete and

immediately the actual terms of availability and consultability in accordance

to comply with the legal retention periods. This change request is accepted by the defendant

deemed necessary pending the arrival of NewAppEpi to meet the legal deadlines of

availability and accessibility. The delivery of the change request is over

earliest feasible in October 2022. Defendant explains this timing due to the complexity of the

intervention and the investment involved.

22. Also during the hearing, the defendant will inform the state of the development of

NewAppEpi and the preceding DPIA. The tender procedure for the development of

NewAppEpi is currently in the candidate selection phase. At the end of January 2022, the

candidates can submit their proposal and in the course of March 2022 they can submit their first demos

Submit. Public procurement pays due attention to the protection of

personal data. The government contract awards three lots: the first two explicitly deal with a

number of aspects of data protection and information security, or aspects that have a direct

have an impact on. The third lot is entirely devoted to data protection and information security,

whereby a full privacy compliance is guaranteed, which is therefore more extensive than the legal

retention periods. In addition, the public procurement explicitly provides for the preparation of a DPIA

with which the candidate will actively participate.

23. Furthermore, the defendant explains that a team “NewAppEpi” is being set up at DGEPI level, which

concretely with the application developer. The defendant also provides for the incorporation

of a task force whose mission is to ensure that the development of the NewAppEpi and the
legal framework on which the new application is based are aligned to create a
advanced digitization. These working groups are currently being set up.
24. As indicated in its Opinion, the defendant confirms at the hearing that it was decided
to immediately implement a regulatory process parallel to the development of the new application
link whereby concrete implementation is given to the aforementioned Article 9 of the law of 5 May 2019
so that the technical solution is also legally anchored in a KB. KB's design will be on the
be submitted by the defendant to the GBA for advice via the standard procedure at an appropriate time.
25. Finally, at the hearing, the defendant sets out the organizational measures that have been
planned to work out a procedure for all new business cases and projects on privacy
compliance screening where the data protection officer and the service
Information Management and Data Protection are actively involved. The defendant provides
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efforts to raise awareness at the level of local program manager officers in advance
and support where necessary when they start an initiative. Another organizational
measure taken by the defendant is the establishment of the Program Board Meeting
(Digital Transformation Officer) who supports all workflows and monitors privacy
compliance. At the request of the data protection officer, an aspect group
data protection started. Its mission and composition are in preparation so that it
can start up from the second quarter of 2022. In the context of the foregoing, the
personnel plan the need for additional FTEs for the service
Information management and
Data protection expressed.
26. The defendant argues in its claims and at the hearing that there are only limited resources
are available to carry out these adjustments in the information system.
27. The Disputes Chamber is of the opinion that it is part of the normal expectations of a

data subject whose data of a criminal nature are processed by the government that the

obligations under the GDPR and other legal provisions are complied with. Regarding it

The defendant's argument that such an adjustment requires a great deal of time and investment, notes the

Dispute chamber on that this usually owns

is on every

fundamental modification of

IT systems, which is all the more true in the case of old systems

as in the present case. The need to spend time and invest in

adapted computer systems in order to guarantee the rights of the data subjects is not

limited to future software, but is necessary in the interest of each data subject whose

personal data of a criminal nature can be consulted via SIDIS SUITE. The starting point

after all, it must be that the defendant, just like any other controller,

makes efforts to process personal data in a correct manner in accordance with

the applicable regulations and does not take a wait-and-see attitude and therefore not only after

intervention of the Data Protection Authority takes action to make that adjustment

accomplish.3

28. The Disputes Chamber also refers in this regard to the judgment of the Marktenhof dd. October 9, 2019

in which it states that the fact that adapting a computer program takes a number of months

would require work and/or constitute additional financial costs for the (banking) institution, does not allow to

[X] to disregard the rights of the data subject.4 By analogy, it can therefore be stated that

this reasoning also applies in this case to the principles of data protection such as

determined in Article 5 of the GDPR when they must be applied by a government that is

processes personal data of a criminal nature on a large scale.

3 See also Decision 141/2021

2021.pdf)

4 See Marktenhof judgment dd. October 9, 2019, p. 15 (https://www.dataprotectionauthority.be/publications/besluit-ten-

ground-no.-66-2021.pdf).

(https://www.dataprotectionauthority.be/publications/besluit-ten-gronde-nr.-141-

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29. The Disputes Chamber also points out that the defendant, because of its capacity as

public service responsible for justice has an exemplary role in the area of compliance

of the legislation on the protection of personal data. It is also important that this service

processes a large amount of personal data. In accordance with the “lead by example” principle

it must therefore ensure at all times that it acts in accordance with the said legislation and

in particular the above-mentioned essential provisions of the GDPR regarding the exercise

of the rights of data subjects. It can be expected from a properly functioning government service

ensure that it has a computer program that meets current standards,

which includes a properly functioning archiving function.

30. The Disputes Chamber takes into account the statements of the defendant to

2022 to have implemented the aforementioned change request in SIDIS SUITE, but notes that all

measures proposed by the defendant are still in the start-up phase or are still underway

must become. Nevertheless, the Disputes Chamber reminds that the aforementioned retention periods

arising from the law of 5 May 2019, which entered into force almost three years ago. Also

reminds the Disputes Chamber that the GDPR came into effect already in May 2016 and on 25 May 2018

became applicable.

31. In addition, several of the above-mentioned corrective actions have just started

after a few reports from the COC and an investigation by the Inspectorate. Consequently, the

The Disputes Chamber is of the opinion that the impossibility to date to comply with the obligation

to keep the data in the database only available for consultation until no later than ten years after the

release of the person under whose detention the data are processed a

infringes Article 5(1)(e) and (2) GDPR and Article 24(1) GDPR and Article 25(1) GDPR.

b) Register of processing activities (Article 30 GDPR, paragraph 1, a), b), c), f), g), paragraph 3 and paragraph 4).

32. Pursuant to Article 30 GDPR, each controller must keep a register of the

processing activities carried out under its responsibility. Article 30(1)(a) to

and with g) GDPR provides that, with regard to

till the

in the capacity of

processing carried out by the controller, the following information must be available:

a) the name and contact details of the controller and any joint

controllers and, where applicable, of the representative of the

controller and the data protection officer;

b) the processing purposes;

c) a description of the categories of data subjects and of the categories of

personal data;

d) the categories of recipients to whom the personal data have been or will be disclosed, including

more recipients in third countries or international organisations;

e)

where applicable, transfers of personal data to a third country or an international

organisation, including an indication of that third country or international organization and,

in the case of transfers referred to in the second subparagraph of Article 49(1) of the GDPR, the documents relating to

the appropriate safeguards;

f)

if possible, the envisaged deadlines within which the different categories of data

must be erased;

g)

if possible, a general description of the

technical and organizational

security measures as referred to in Article 32(1) of the GDPR.

33. In order to effectively implement the obligations contained in the GDPR, it is essential

interest that the controller (and the processors) have an overview of the

processing of personal data that they carry out. This register is therefore primarily a

tool to help the controller comply with the GDPR for the

various data processing operations it carries out because the registry has the most important characteristics

makes it visible. The Disputes Chamber is of the opinion that this processing register is an essential

instrument is under the already mentioned accountability (Article 5(2) and Article 24

GDPR) and that this register is the basis

is subject to all obligations imposed by the GDPR

controller imposes. It is therefore important that it is complete and correct.

34. The processing register must be in written form, including in electronic form

drawn up (Article 30(5) GDPR).

35. Consultation of the register should enable the Data Protection Authority to

taking of the processing operations carried out and of the data relating to those processing operations.

In accordance with Article 30,

paragraph 4 of the GDPR, the controller informs the

processing register available to the supervisory authority at its request.

36. The Inspectorate does with regard to the register of processing activities of the defendant

following findings, as summarized below:

• Not all processing activities are listed in the defendant's documentation,

as a result of which it is incomplete (cf. Art. 30 (1) GDPR).

• The name of the controller and of the

official for

data protection are not displayed correctly (cf. Art. 30 (1) a) of the GDPR).

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There is no indication of the processing purposes (cf. Art. 30(1)(b) of the GDPR).

The brief mentions of those involved such as “Citizens”, “Victims”, “Detainees” and

“Internees” are vague and therefore not concrete.

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There is no description of the categories of data subjects (cf. Article 30(1)(c) of

the GDPR). The brief mentions of those involved such as “Citizens”, “Victims”,

“Detainees” and “Interns” are vague and therefore not concrete.

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There is no indication of the retention periods (cf. Art. 30 (1) f) of the GDPR).

A general description of . is missing

technical and organizational

security measures (cf. Art. 30 (1) g) of the GDPR). However, on page 7 of

this report referred to validated by the management committee of the defendant

“Key Principles of Information Security and Data Protection (Appendix 1)” and “Minimum

Standards Information Security and Data Protection (Annex 2)”.

37. The defendant asserts the following with regard to the findings of the Inspectorate:

• The defendant disputes the facts established by the Inspectorate and the conclusion that the

processing register did not meet the legal requirements at the time of the inspection,

not.

• The defendant argues that it has adjusted the processing register since 2020 and

continues to adjust. According to the defendant, the aforementioned missing categories are:

worked out in detail. In support of this, the defendant submits a template to the

Dispute room.

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Finally, the defendant indicates that the personnel plan provides for additional FTEs

is used for the Information Management and Data Protection service that provides the services on the

will guide and raise awareness in the field.

38. During the hearing dd. March 16, 2022, the defendant explains which steps have already been taken

were and what steps will still be taken in the processing register

in

to comply with the requirements laid down in Article 30 of the GDPR. This is how everyone

services of the defendant to explicitly prohibit the processing of personal data

documents in order to have the data sheets of the processing register completed accurately in this way.

This is done with the intention, among other things, of checking whether there is a sufficient legal basis for the

processing.

39. The Disputes Chamber rules that the processing register that was transferred by the defendant

incomplete and partly incorrect, as determined in the Inspection Report. In this context, the

Litigation Chamber noted that while the Defendant is currently taking steps to

to rectify infringements, too few efforts have been made to get the processing register up to date

as set out in Article 30 GDPR. The Disputes Chamber again points out in this regard

that the GDPR has now been applicable for four years and entered into force six years ago. Thus

the Disputes Chamber rules that there has been an infringement of Article 30, paragraph 1, a), b) c), f), g) GDPR.

40. In addition, the Inspection Report states that, in addition, the third and fourth paragraphs of Article 30 GDPR do not

were complied with, in particular the obligation to keep the processing register in writing

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and the obligation to make this processing register available to the

inspection service.

41. In her email dd. July 13, 2021, the defendant transmits several electronic documents that

together (partly) form the processing register. In doing so, the defendant argues that, because of

limited personnel capacity has given priority to the documentation and the

processing register of the processing activities with the highest risks, taking into account

the sensitivity of the processed personal data. In the same e-mail, the defendant indicates that on

request of the Inspectorate, also the sheets of the other processing activities in their then

state would be transferred. The Disputes Chamber cannot deduce from further correspondence

that the Inspectorate would have requested these additional sheets.

42. The Disputes Chamber is of the opinion that the defendant timely filed the processing register, albeit partly

incorrect and incomplete, has transmitted in electronic form by mail at the first request of the

inspection service. The additional sheets were not requested further by the Inspectorate.

Consequently, the Disputes Chamber rules that there is no infringement of Article 30, paragraphs 3 and 4 of the GDPR.

c) Data Protection Officer (Article 38(1), (2) and (6) GDPR and 39(1) GDPR)

43. The report of the Inspectorate establishes that the defendant met the requirements to inspect the position of the

data protection officer under Article 38 (1), (2) and (6) GDPR and the duties of the

data protection officer has not complied with Article 39(1) of the GDPR.

44. De

Inspectorate does the following with regard to the data protection officer

findings, as summarized below:

a.

The defendant has no

information or advice from the official for

data protection presented on the technical and organizational measures

to guarantee the principle of storage limitation in the context of SIDIS SUITE.

b.

Not all Defendant entities prioritize inquiries from the officer for

data protection to access all necessary information.

c.

The capacity of the defendant's services is insufficient to meet the requirements

regarding the data protection officer.

d.

The defendant states: “in order to avoid conflicts of interest, the then cumulative

of (interim) DPO with position of Strategic Director has been discontinued”.

45. The GDPR recognizes that the Data Protection Officer is a key figure in the

protection of personal data whose designation, position and duties are subject to rules.

These rules help the controller to comply with its obligations under the

GDPR, but also help the data protection officer to perform his duties properly

to practice.

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46. Article 38(1) of the GDPR requires the controller to ensure that the

Data Protection Officer is involved in a timely and appropriate manner in all

matters related to the protection of personal data.

47. In the defense regarding the position of the data protection officer under Article 38,

Paragraph 1 GDPR, the defendant emphasizes that it must inform the data protection officer as much as

may be involved in proceedings. The Data Protection Officer previously served as

Security Advisor and already in 2015 requested a risk analysis on the merits with regard to SIDIS

SUITE to run. While there is no formal advice regarding SIDIS SUITE by the official

for data protection since his appointment, the defendant argues that there

is becoming

deployed on

informal consultation

between him, the service

Information management and

Data Protection and the respective entities. The Data Protection Officer

has also submitted proposals for guidelines on the more generic problems of

access control.5 Finally, the defendant also indicates that it has informed the officer for
data protection in its programmatic approach to the “digital transformation of”
justice” in which, according to the defendant, an Enterprise Architecture is pursued with generic
components that can be used for the entirety of the defendant's information systems and
will comply with the proposed protective measures. The Inspectorate emphasizes
in this regard that the defendant does not clarify by means of documents how this transformation
of Justice looks or will look like in concrete terms.
48. The defendant underlines that the data protection officer on his own initiative
number of official opinions on services integration and access management.6 From this
opinions, it appears, among other things, that the data protection officer has pointed out the
problem of retention periods, even before the COC becomes the controller of this
had been informed.
49. During the hearing, the defendant clarifies whether and how the officer's involvement for
data protection is formalized in the transformation of justice. There will be a
separate data protection aspect group launched at the initiative of the DPO. The DPO takes
also participates in the Program Board Meeting and is a member of several project groups.
50. In view of the above, the Disputes Chamber determines with regard to Article 38(1) of the GDPR that the
data protection officer was not sufficiently involved in the matters concerning
data protection. It appears from the defendant's documents that the officer for
data protection has not submitted any formal advice regarding SIDIS SUITE. There was
5 It concerns guidelines regarding 1) User management and logical access control, (2) User Access Roles, (3) Data exchange
and access to authentic sources, (4) logging and (5) structured data integration.
6 8. An advice dated. 20 September 2021 on the voluntary advice regarding a standardized
user management and controlled and minimized access to personal data and advice dd. September 20, 2021
concerning advice on the move with regard to the management of the internal authentic sources and the use of authentic
personal data.

committed to informal consultation, and also the data protection officer on his/her own

initiative issued official opinions on other issues. The Disputes Chamber has also noted

taken from the aspect group and task force of which the data protection officer participates

will matter.

51. With regard to the defense under Article 38(2) of the GDPR, the defendant argues that the

data protection officer is generally given access to the requested

information, with the nuance that in certain cases it is not always possible to

requested form de

information

available

to put to the

official for

data protection. The defendant hereby underlines that this arises from any

technical difficulties, and not out of a reluctance to challenge the data protection officer

to inform. In that context, the defendant additionally argues that since 2

June 2020 the service

Information Management and Data Protection was established and an extension of the

personnel plan of the Information Management and Data Protection service was provided. In this case,

asked the concerned services to organize themselves in such a way that the needs and questions

with regard to the protection of personal data. The

the defendant indicates that it provides sufficient additional resources for guidance and awareness-raising

with regard to the protection of personal data.

52. During the hearing, the defendant explains what concrete steps were taken with

with regard to guidance and awareness-raising with regard to the protection of

personal data. A new

structure that goes out

of a

centralization

from

data protection is being developed so that existing capacity can be expanded and

economies of scale can also be created immediately. Negotiations are underway and the

its impact is expected in 2023 at the earliest. In addition, at his request, a

documentation architecture so that the necessary information can be delivered to him quickly.

53. The Inspectorate established that there was a conflict of interest on the part of the official for

data protection7 due to the then cumulative

(interim) officer for

data protection with the position of Strategic Director which has since been discontinued. The

Defendant emphasizes that a full-time data protection officer was currently appointed

appointed. The defendant underlines that for the same reason the above-mentioned Service

Information Management and Data Protection was established so that the

official for

data protection can focus on its core tasks.

54. The Disputes Chamber is of the opinion that the defendant has already taken steps in the right direction for what

concerns the tasks, role and position of the data protection officer, but that there is currently

clear agreements have not yet been formalized about the involvement of the official for

7 See Article 38,

controller or processor shall ensure that these tasks or duties do not give rise to a conflict of interest.

para. 6 GDPR: The data protection officer may perform other tasks and duties. The

data protection. Despite the start of corrective measures, the Disputes Chamber

furthermore, that the capacity of the defendant's services is currently insufficient, and that

Not all entities prioritize DPO requests for

access all necessary information. The Disputes Chamber notes that, although the

cumulative data protection officer with the position of Strategic Director became

discontinued, but a conflict of interest has existed. The Disputes Chamber takes into account

the fact that the defendant has already rectified this.

55. In view of the above, the Disputes Chamber rules that there has been a violation of Article 38(1)

2 and 6 and Article 39 (1) GDPR.

III. Sanctions

54.

In light of the foregoing, the Disputes Chamber orders in accordance with Article 100, §1, 9° WOG

that the SIDIS SUITE application, and in particular the retention periods, are compliant

subject to the retention periods from Article 9 of the Act of 5 May 2019 and that the appropriate

technical and organizational measures are taken to ensure and to be able to

demonstrate that the processing takes place in accordance with the GDPR (Article 24(1) and 25(1) GDPR). The

The defendant must also inform the Disputes Chamber of:

o allocation regarding NewAppEpi, no later than April 30, 2022;

o the GDPR-compliant processing register and obligations regarding the role, task and position of

the data protection officer, no later than 30 June 2022;

o the result of the implementation of the change request, no later than 15 November 2022.

55. In addition to this compliance order, the Disputes Chamber is of the opinion that a reprimand on the basis of Article

100, §1, 5 WOG is appropriate in this case. The Disputes Chamber notes that the principle of

storage limitation (Article 5(1) e) GDPR) is one of the fundamental principles of the GDPR. Like the

The dispute chamber has already stated above, the accountability principle as determined in

Article 24 and Article 25 GDPR are central to the GDPR. It is also in this context that the importance of the

processing register. As already explained, the processing register is a

essential tool to fulfill that accountability. Also the official for

data protection plays a crucial□

role□

in data protection at a□

controller. The Disputes Chamber reminds that the GDPR is already in effect□

entered into force in 2016, and became applicable on May 25, 2018. Nearly 4 years have now passed□

since the GDPR came into effect, a period that has been underused by the defendant□

is to make its operation GDPR compliant.□

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IV. Publication of the decision□

56. The defendant requests the Disputes Chamber not to proceed with the publication of this□

decision. It argues in this regard that the publication of the present decision□

can get into difficulties. After all, the defendant fears that the means necessary to□

corrective action in this case will have to be used in the framework□

of the consequences of the publication of this decision. These arguments convince the□

Not a dispute room.□

57. In view of the importance of transparency with regard to the decision-making of the Disputes Chamber,□

this decision will be published on the website of the Data Protection Authority, with□

indication of the identification data of the defendant in connection with the public interest of□

this decision in the context of the defendant's exemplary function as a public service,□

on the one hand, and the inevitable re-identification of the defendant in case of pseudonymization,□

on the other hand.□

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FOR THESE REASONS,□

the Disputes Chamber of the Data Protection Authority decides, after deliberation, to:□

- to formulate a reprimand against the defendant pursuant to Article 100, §1,5° WOG.□

- the defendant pursuant to art. 100, §1, 9° WOG, to be ordered to:□

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the processing of personal data in the context of SIDIS SUITE in accordance with

with Article 9 of the Law of 5 May 2019 and Article 5, 1, e), Article 24, paragraph 1 GDPR and

Article 25(1) GDPR,

to complete the processing register in accordance with Article 30(1) a), b), c),

f), g), GDPR

the role, function and duties of the data protection officer in accordance

with Article 38, paragraph 1, paragraph 2 and paragraph 6 and Article 39 GDPR.

The Disputes Chamber grants the following time limits for this and expects the defendant to

reports in this regard against the data below:

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the NewAppEpi allocation by April 30, 2022;

the GDPR-compliant processing register and obligations regarding the role, task and position of the

Data Protection Officer no later than 30 June 2022;

the result of the implementation of the change request no later than November 15, 2022.

Against this decision, pursuant to art. 108, §1 WOG, appeals must be lodged within a

period of thirty days, from the notification, to the Marktenhof, with the

Data Protection Authority as Defendant.

(Get)Hielke Hijmans

Chairman of the Disputes Chamber