Litigation Chamber

Decision on the merits 137/2021 of 8 December 2021

File number: DOS-2020-00727

Subject: Complaint for lack of response to a request to delete data from

personal character following the exercise of a right of opposition to a communication of

unsolicited direct marketing

The Litigation Chamber of the Data Protection Authority, made up of Mr. Hielke Hijmans,

Chairman, and Messrs. Yves Poullet and Frank De Smet, members;

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

of natural persons with regard to the processing of personal data and to the free movement

of this data, and repealing Directive 95/46/EC (General Data Protection Regulation),

hereinafter “GDPR”;

Having regard to the Law of 3 December 2017 establishing the Data Protection Authority, hereinafter "LCA";

Having regard to the internal regulations as approved by the House of Representatives on December 20, 2018

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

Considering the documents in the file;

made the following decision regarding:

the complainant :

X, hereinafter “the plaintiff”;

the defendant:

Y, represented by Me Edward Daneels, hereinafter "the defendant"

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I. Facts and procedure□

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1. On February 12, 2020, the complainant filed a complaint with the Data Protection Authority□

(hereinafter "the Authority") against the defendant.□

2. The subject of the complaint concerns the lack of information on the processing of personal data□

complainant's personnel not having been collected directly from him (Article 14 of the GDPR)□

as well as the lack of appropriate follow-up in due time (article 12.3 of the GDPR) to the requests of the□

complainant to exercise his right to obtain information on the origin of the personal data□

concerning him which were processed by the defendant in the context of communications□

unsolicited direct marketing (article 15.1.g of the GDPR), his right to object to this treatment□

(article 21.2 of the GDPR), as well as his right to have the data concerning him deleted (article□

17.1.c) GDPR).□

3. The complainant received in December 2019 a letter addressed to his name with an invitation to□

ask for a non-binding price offer. The content of this letter reveals that the□

defendant was aware that the plaintiff had construction or renovation projects,□

when the complainant is not one of his clients.□

4. Following this, the Complainant sent a first request to the Respondent by e-mail on□

5 December 2019 in which he opposes the processing of his personal data by□

the defendant and requests the deletion of all the data concerning him located in the□

possession of the defendant. The complainant also asks for the identity of the organization which□

provided his personal data to the defendant.□

5. On January 6, 2020, the Complainant sent the same request to the Respondent by post□

recommended.□

6. The complainant's two requests, although they were submitted more than 30 days apart, did not□

given rise to no response from the controller.

7. On March 2, 2020, the complaint was declared admissible by the Front Line Service on the basis of the articles 58 and 60 of the LCA and the complaint is forwarded to the Litigation Chamber under article 62, § 1 of the LCA.

8. On October 23, 2020, pursuant to Article 58.2.c of the GDPR and Article 95, § 1, 5° of the LCA, the Litigation Chamber takes decision 69/2020 against the defendant and decides order, before deciding on the merits, to comply within one month with the request of the complainant to exercise his right to information (article 14.1 of the GDPR), his right to object (article 21.2 of the GDPR) and his right to erasure (article 17.1.c of the GDPR) and therefore to inform the plaintiff of the source of his personal data as well as to proceed with the erasure of his personal data. The consequences of this decision, accompanied by the documents

supporting documents, must be sent to the Litigation Division within one month of the notification of the decision.

9. On October 27, 2020, the Respondent requests a Dutch translation of the decision from the by means of a letter addressed to the Litigation Chamber. This is published on the website of the Authority on December 11, 2020.

10. On December 9 and 14, 2020 as well as February 26, 2021, the Litigation Chamber receives letters from the complainant stating that at the end of the 30-day period from the date of notification of the decision 69/2020, he still has not received any response from the defendant.

11. On March 22, 2021, the parties concerned are informed by registered letter of the provisions as set out in article 95, § 2 as well as in article 98 of the LCA. They are also informed under Article 99 of the LCA, deadlines for transmitting their conclusions. The deadline for the receipt of the submissions in response from the defendant was set for May 3, 2021, that for the submissions in reply of the complainant on May 24, 2021 and that for the submissions in reply of the defendant as of June 14, 2021.

12. By letter sent on March 30, 2021 to the Litigation Chamber, counsel for the defendant

requests that the language of the proceedings be Dutch. The defendant emphasizes

in particular the fact that it is established in the unilingual Dutch-speaking area and that its organs do not

do not speak French well enough to defend themselves in court.

13. On April 29, 2021, the Litigation Chamber decides to accept the change of language,

in accordance with its language policy note.1 Pending translation of the

documents in the file, the deadlines for the submission of conclusions are suspended.

14. On June 1, 2021, the translated documents of the file as well as decision 69/2020 are communicated

to the parties. These are also informed, pursuant to Article 99 of the LCA, of new

deadlines for transmitting their conclusions. The deadline for receipt of the conclusions in

respondent's response was set for July 13, 2021, that for the submissions in reply of the

plaintiff on August 3, 2021 and that for the submissions in reply of the defendant on

August 24, 2021.

15. On July 12, 2021, the Litigation Chamber receives the submissions in response from the

defendant. The defendant states that it was contacted proactively by company Z, which

claims to be a specialist in public and private markets and who offered to sell him

publicly available private data, i.e. data published at counters

1 Note on the language policy of the Litigation Chamber, available on the website of the Authority for the protection of

data via this

: https://www.autoriteprotectiondonnees.be/publications/note-relative-a-la-politique-linguistique-de-la-

litigation-chamber.pdf

link

environment of Belgian authorities in the context of applications for urban planning permits and permits

to build official as well as intentions to build. The defendant accepted this proposal.

16. The Respondent further acknowledges that the Complainant, who appeared on the purchased lists, received

unsolicited emails from him.

17. Given that the defendant believed in good faith that the data it had obtained from Z against payment were completely "legal", she did not react immediately to the various correspondence to his address. The defendant was indeed convinced that it had nothing to to reproach.

18. Defendant's digital database dates back to January 4, 2020 and all data prior to that date can no longer be traced, including the complainant's address. In concrete terms, this means that the complainant's data is currently no longer included in the defendant's database (which is corroborated by exhibit 3).

19. Finally, the defendant argues that if it were to be held liable for the misuse information obtained, then Z, who sold him the commercial information, would a priori be also at fault. In essence, the defendant believes it can plead invincible error as ground for exoneration from criminal liability.

20. On July 12, 2021, the Litigation Chamber received a letter from the complainant in which the latter declares that he is satisfied with the answers obtained and therefore considers the case closed.

21. On October 7, 2021, the Litigation Division informed the defendant of its intention to proceed with the imposition of an administrative fine as well as the amount thereof, in order to give defendant the opportunity to defend itself before the penalty is actually imposed.

22. On October 22, 2021, the Litigation Chamber received the defendant's reaction concerning the intention to impose an administrative fine, as well as the amount thereof. The defendant argues that this is the first time she has been fined for a GDPR violation.

Secondly, the defendant insists on the fact that it used in good faith the data which it had been communicated by a professional office in terms of commercial advertising, that she has therefore always assumed that she had absolutely nothing to reproach herself for and she invokes therefore the invincible error as a ground for exoneration from criminal liability. The defendant further states that its digital database only goes back to January 4, 2020 and that

all previous data is no longer available.

23. With regard to the administrative fine envisaged, the defendant asserts in the first place

that it is completely disproportionate. The defendant further considers that the complainant withdrew

his complaint from the moment he became aware of the fact that his name and data had been

deleted from the customer file, as explained in the defendant's first submissions.

Finally, the defendant submits that a warning or a reduction of the fine is necessary.

II. Motivation

24. As it explained in its note on "Politique de classification sans suite"2, the Chamber

Litigation recalls that if the facts illustrated in the complaint are sufficiently clear to establish

a violation of the GDPR, the Litigation Chamber can take a decision without soliciting the point

view of the defendant against whom the complaint is brought, and this within the framework of a

so-called "light" decision, as provided for in Article 95 of the LCA (e.g. a warning or a

injunction to satisfy the plaintiff's request to exercise his rights). In this case, the ACL has no

unintended effect of obligation to seek the point of view of the controller/processor

in order to enable the Authority to offer a more rapid response to the needs of the citizen at the end of

of a simplified procedure.

25. Decision 69/2020 of October 23, 2020 was a so-called "light" decision. Make a decision without

having heard the defendant's arguments, however, carries the risk of not taking

account of material factual or legal circumstances (e.g. force majeure, reality

technique) which could have led the Litigation Chamber to qualify its decision. In respect

principles of good administration, it is important to hear the arguments of any party

before making a decision that affects it. Decisions of an administrative authority

such as the Litigation Chamber must be founded both in law and in fact, and to be

impartial, i.e. without prejudice and without one of the parties being favored because one of them

they would not have been heard. Therefore, in the case against the defendant, the

Litigation Chamber took a "prima facie" decision, i.e. based on an "appearance of
law", without prejudging the merits of the case (see in this respect the terms of the operative part of the decision
69/2020).

26. If the defendant decides to comply with the decision rendered, the dispute is thus closed and a
solution acceptable to both parties is obtained in a simpler and faster way
in accordance with the procedure provided for in Article 95 of the LCA.

27. If, on the other hand, the controller/processor does not comply with the decision (or in the event
challenge), a procedure on the merits is launched.

28. In the present case, as mentioned in point 6 above, the defendant did not give
following Decision 69/2020.

29. In view of the foregoing, the Litigation Division considers that in this case, on the basis of the
elements available to it, in particular the documents filed by the complainant as well as
2 https://autoriteprotectiondonnees.be/publications/politique-de-classement-sans-suite-de-la-chambre-contentieuse.pdf.

conclusions of the defendant, it is justified in imposing an administrative fine on the
defendant on the basis of Article 100, § 1, 13° of the LCA for the following reasons.

II.1.

The right to information (article 14 of the GDPR)

30. In the present case, it appears from the documents filed in the context of the proceedings that the
defendant obtained complainant's personal data from a third party, Z, without
that the plaintiff is aware of it or is informed of it, as provided for in Article 14 of the
GDPR.

31. Article 14 of the GDPR indeed provides that where personal data have not been
collected from the data subject, the controller provides in particular the
following information to the data subject: the identity and contact details of the person responsible for the
processing and, where applicable, the representative of the controller; if applicable, the

contact details of the data protection officer; the purposes of the processing for which□

intended the personal data as well as the legal basis for the processing; them□

categories of personal data concerned; where applicable, the recipients or□

categories of recipients of personal data; where applicable, the fact that the□

controller intends to transfer personal data□

to a recipient in a third country or an international organisation.□

32. The controller must also inform the data subject of the duration of the□

storage of personal data, or if this is not possible, the criteria□

making it possible to determine this period; the legitimate interests of the controller or of a□

third parties if the processing is based on Article 6, paragraph 1, point f); human rights□

concerned to request from the controller the rectification or erasure of the data□

personal data concerning them, or the limitation of the processing of personal data□

personal data concerning them as well as the right to oppose the processing and the right to data portability□

Datas ; when the processing is based on Article 6, paragraph 1, point a) or on Article 9,□

paragraph 2(a) of the right of the data subject to withdraw consent to any□

time, without this affecting the lawfulness of processing based on consent prior to its□

withdrawal ; the data subject's right to lodge a complaint with a supervisory authority;□

of the source from which the personal data originated and, where applicable, a statement□

indicating whether or not they are from publicly available sources; of the existence of a socket□

automated decision-making including profiling referred to in Article 22, paragraphs 1 and 4 and, at least□

in such cases, useful information regarding the underlying logic, as well as the importance and□

the expected consequences of this processing for the data subject.□

33. The Litigation Chamber emphasizes that in this respect, it is not relevant to know in which□

circumstances□

the personal data in question was collected by□

the□

defendant. When the data was not obtained directly from the person

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concerned, Article 14 of the GDPR requires the controller to provide the information

within a reasonable time, at the latest within one month following the obtaining of the personal data

personal and, if the data was intended to be used in order to communicate with the person

concerned, which is the case here, at the time when the first contact was established with the

concerned person.

34. Although Article 14.5 of the GDPR provides for exceptions to the information obligation, in particular

in the event that the data subject already has the information, these exceptions must be

strictly interpreted and enforced. These are indeed exceptions to the transparency requirement,

an essential element of the right to data protection guaranteed by the European treaties. Thereby,

in its Transparency Guidelines3, the European Data Protection Board

has already specified that also by virtue of the responsibility of the data controllers, these

latter must demonstrate (and document) what information is already in the possession

of the data subject, how and when the data subject received it as well as

the absence of any modification of the information in the meantime rendering this information obsolete.

35. Furthermore, the use of the words "to the extent that" in Article 14.5 of the GDPR clearly indicates that

even if the data subject has previously received certain categories of information

referred to in Article 14.1 of the GDPR, the controller always has the obligation to complete these

information in order to ensure that the data subject has all the information

mentioned in articles 14.1 and 14.2 of the GDPR.

36. In other words, it is not enough, as controller, to simply invoke the

assumed "regularity" of personal data or purchased databases; the article

24 of the GDPR indeed provides unequivocally that data controllers must

implement appropriate technical and organizational measures taking into account the

nature, scope, context and purposes of the processing as well as the risks, including the degree

probability and severity varies, for the rights and freedoms of natural persons, to ensure

and be able to demonstrate that the processing of personal data is carried out

in accordance with the principles and obligations enshrined in the GDPR.

37. It is in fact incumbent upon data controllers, before entering into collaboration with

intermediary organizations aiming to improve their marketing campaigns by asking

from them personal data which they do not yet have, to ensure the origin

data, to verify how it was collected, on what legal basis, by whom,

for what purposes, for what period and for what processing. These precautionary measures

result from the due diligence expected of the controller, as well as from

the application of Article 25 of the GDPR, which obliges data controllers to integrate the

3 Available via the following link: https://ec.europa.eu/newsroom/article29/item-detail.cfm?item_id=622227.

protection of personal data from the design phase of their processing,

throughout the data processing cycle.4.

38. It does not appear either from the documents submitted by the complainant or from the conclusions of the defendant that the

Complainant was informed by Respondent in a timely and proper manner, ie.

in accordance with Articles 14.1 and 14.2 of the GDPR. The Litigation Chamber considers in particular

that in the context of the first contact with the complainant, the defendant did not inform

the latter in particular of the legal basis and the purposes of the processing of his personal data

personal data, nor of the source of the personal data processed and that it has therefore

found guilty of a violation of Articles 14.1, 14.2 and 14.3 of the GDPR.

II.2. Lack of timely response to a request to exercise the right of access, the right

of opposition and the right to erasure (Articles 15, 17 and 21 of the GDPR juncto Article

12.3 GDPR)

39. The GDPR does not define what is meant by "processing for the purpose of direct marketing" or

"Direct marketing". In its Recommendation 01/2020 of January 17, 2020 relating to the processing

of personal data for direct marketing purposes5, the Autorité indicates that it is necessary to

understand "direct marketing" as "any communication, whether solicited or unsolicited, aimed at

promotion of an organization or a person, services, products, whether these are

paid or free, as well as brands or ideas, sent by an organization or a

person acting in a commercial or non-commercial context, directly to one or more

natural persons in a private or professional context, by any means, involving the

processing of personal data" (page 8 of the Recommendation – definition).

40. The processing of the contact details of the complainant (the data subject, within the meaning of Article 4.1 of the

GDPR), namely his first name, surname and home address, therefore constitutes in the light of this

defines the processing of personal data for direct marketing purposes6, which

implies that the possibility must be offered to the complainant to exercise, in addition to his right of access under

of Article 15 of the GDPR, also his right to object under Recital 70 and Article

21.2 of the GDPR7 and, where applicable, to obtain the deletion of their personal data,

as provided for in Article 17 of the GDPR.

4 Recommendation n° 01/2020 of January 17, 2020 relating to the processing of personal data for marketing purposes

direct, by. 68 - 72, available via the following link: https://www.autoriteprotectiondonnees.be/publications/recommandation-n-01-

2020.pdf.

5 Available via this link: https://www.autoriteprotectiondonnees.be/publications/recommandation-n-01-2020.pdf.

6 Recommendation n° 01/2020 of January 17, 2020 relating to the processing of personal data for marketing purposes

direct, by. 18, available via the following link: https://www.autoriteprotectiondonnees.be/publications/recommandation-n-01-

2020.pdf.

7 According to the Litigation Chamber, the fact that the first decision only mentions a violation of Article 21.1 of the GDPR does

prejudice to the fact that in this case it is rather a question of a violation of Article 21.2 of the GDPR, given the explanation given

defendant in its submissions.

41. Accordingly, the controller is required to provide the data subject, within a

period of one month from receipt of the latter's request, in accordance with Article

12.3 of the GDPR, information concerning the processing of his personal data

(article 15 of the GDPR), the measures taken following the exercise of his right of opposition (article 21.2 of the

GDPR) and the deletion of his personal data (Article 17 of the GDPR).

42. Although the first decision only mentioned a violation of Article 14.1 of the GDPR, the

Litigation Chamber notes firstly that in its conclusions of July 12, 2021, the

defendant admitted that it had knowingly not complied with the plaintiff's requests, because it

felt that he had nothing to reproach himself for, with the consequence that it is ipso facto established that the

defendant violated Article 15 of the GDPR by failing to answer the question of the

complainant regarding the manner in which the defendant came into possession of his data at

personal character.

43. Secondly, according to Article 21.3 of the GDPR, personal data cannot be

may no longer be processed for direct marketing purposes when the data subject objects to

this treatment.

44. Thirdly, as a result of the exercise of the right to object by the data subject in

under Article 21.2 of the GDPR, the controller is also under the obligation,

in accordance with Article 17.1.c) of the GDPR, to erase the personal data from the

data subject as soon as possible, ideally within one month8. It's only if he

processes these same data for another purpose and on a lawful basis specific to the person responsible

of the processing is authorized to keep this data9.

45. The Litigation Division finds that, according to the complaint and the evidence provided, the person in charge of the

treatment had still not responded to the complainant's request more than two months after the sending

of his first request by e-mail and more than 30 days after having received the second request by

registered mail.

46. In this regard, the Litigation Division reminds the Respondent of the obligation provided for in Article 12.4

of the GDPR under which it must provide the data subject, also without delay and at the

later within one month of receipt of the request, the reasons for its

intention not to comply with his request. The defendant should also have informed the

complainant of the opportunity offered to him to lodge a complaint with the Authority.

8 Decision 62/2021 (points 14 e.s.), available via the following link: https://www.autoriteprotectiondonnees.be/publications/avis-n

2021.pdf.

9 Decision 80/2021 (point 21) available via the following link: https://www.autoriteprotectiondonnees.be/publications/decision-qu

at-the-bottom-n-80-2021.pdf.

47. Considering the exhibits and facts in this case, the Litigation Division finds

that the defendant therefore failed to comply with the one-month deadline to respond to the request

to exercise the right of access, the right of opposition and the right to delete data.

48. The Litigation Chamber also notes that on two occasions, the defendant did not give

following a request by the plaintiff, which the Litigation Chamber considers in this case to be

an aggravating circumstance.

49. The Litigation Chamber therefore considers that the defendant violated Articles 14.1, 14.2,

14.3, 15, 17.1.c) and 21.2 in combination with article 12.3 of the GDPR.

50. Despite the foregoing, the Litigation Division recognizes however that when filing its

conclusions, the defendant provided evidence that the complainant's personal data

were no longer in its databases. The Litigation Chamber also includes

According to the response it received from the complainant in this regard, the defendant followed up on

all complainant's requests adequately, albeit belatedly. Bedroom

Litigation considers that these elements can be considered as circumstances

mitigating.

51. In addition to the corrective measure aimed at bringing the processing into conformity, in particular by providing

adequate information to all data subjects whose personal data

personnel were obtained indirectly, in accordance with Article 14 of the GDPR, the Chamber

Litigation also decides, following the lack of response to the plaintiff's requests in

deadlines, to also impose an administrative fine, the purpose of which is not to

an end to an offense committed but to effectively enforce the rules of the GDPR. As

it is clear from recital 148 of the GDPR, the GDPR indeed puts forward that for any

serious violation – i.e. also when a violation is first established – sanctions, including

including administrative fines, should be imposed in addition to or instead of

appropriate measures11. The Litigation Chamber demonstrates below that the violations of articles

14.1, 14.2, 14.3, 15, 17.1.c) and 21.2 of the GDPR in combination with article 12.3 of the GDPR that the

defendant has committed are in no way minor violations and that the fine does not constitute

not a disproportionate burden for a natural person, as referred to in recital 148 of the

10 Contrary to the lack of an appropriate follow-up, on the part of the defendant, to the previous decision 69/2020 under

section 95 of the LCA, which is not in itself an aggravating factor.

11 Recital 148 states: "In order to strengthen the application of the rules of this Regulation, sanctions including

administrative fines should be imposed for any violation of this Regulation, in addition to or instead of the

appropriate measures imposed by the supervisory authority under this Regulation. In the event of a minor violation or if the fine

liable to be imposed constitutes a disproportionate burden for a natural person, a warning may be issued

rather than a fine. However, due consideration should be given to the nature, gravity and duration of the breach, the character

intent of the breach and the measures taken to mitigate the damage suffered, the degree of responsibility or any breach

relevant previously committed, the manner in which the supervisory authority became aware of the breach, compliance with

measures ordered against the controller or processor, the application of a code of conduct, and any

other aggravating or mitigating circumstance. The application of sanctions, including administrative fines, should be subject to

appropriate procedural safeguards in accordance with the general principles of Union law and the Charter, including the right to

effective judicial protection and due process. [proper underline]

GDPR, two cases in which a fine can be waived. The fact that it is a

first finding of a breach of the GDPR committed by the defendant does not affect the

possibility for the Litigation Chamber to impose an administrative fine. Bedroom

Litigation

inflict

the administrative fine pursuant to

Article 58.2.i) of the GDPR.

The instrument of the administrative fine is therefore in no way intended to put an end to violations.

To this end, the GDPR and the LCA provide for several corrective measures, including the orders cited in

Article 100, § 1, 8° and 9° of the LCA.

52. In view of Article 83 of the GDPR and the case law12 of the Court of Markets, the Chambre

Litigation motivates the imposition of an administrative sanction in a concrete way:

- Seriousness of the violation – The provisions violated are part of the very essence of the GDPR,

know the rights of data subjects under Articles 12 to 22 inclusive of the GDPR.

Violations of the aforementioned articles result in the highest fines of the article

83, paragraph 5 GDPR. In addition to Article 15 of the GDPR, the right of access is also included in

Article 8.2 of the Charter of Fundamental Rights of the European Union and thus constitutes one

central elements of the fundamental right to data protection; he makes

in other words the "front door" which reinforces the control by the persons concerned of the

data concerning them and allows the exercise of other rights that the GDPR confers on the person

concerned, such as the right to object and the right to erasure13.

- The fact that the violation was committed deliberately or through negligence - The defendant considers

that she believed in good faith that the data she had obtained from Z against payment was

completely "legal" and that she can therefore invoke invincible error as a reason

exemption from criminal liability. This point of view as well as the fact of having neglected to

respond to the complainant's requests show a lack of understanding of the importance of

legislation on the protection of personal data, in particular

principles of purpose and transparency vis-à-vis the data subjects, which, according to the

Litigation Chamber, requires an administrative financial sanction.

- Duration of the violation – The Litigation Chamber notes that on December 5, 2020 and the

January 6, 2021, the plaintiff asked the defendant for an explanation of the origin of his

personal data, objected to the processing of his personal data

personal and requested the erasure of his personal data from the databases

defendant's data, without however the latter ever following up on them.

The Litigation Chamber also points out that the defendant did not give either

following its Decision 69/2020, the Dutch translation of which was nevertheless published on the

12 Brussels Court of Appeal (Market Court section), Verreydt S.A. c. DPA, Judgment 2020/1471 of February 19, 2020.

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https://www.autoriteprotectiondonnees.be/publications/decision-quant-au-fond-n-15-2021.pdf

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website of the Authority on December 11, 2020. Thus, the complainant, who only obtained a response to

his requests that on July 12, 2021, remained 19 months in the dark.

- Any measure taken by the controller to mitigate the damage suffered by the

persons concerned - In its conclusions as well as in its reaction to the

sanction, the defendant declares that it has drawn up a new customer file, in accordance with the GDPR,

whose data only goes back to January 4, 2020 and in which the data to

complainant's personal character no longer appear. Consequently, the defendant no longer has the

possibility of processing the complainant's personal data. In addition, the complainant has

declared on July 12, 2021 that he was satisfied with the measures taken by the defendant.

- Any relevant breach previously committed by the controller –

The Litigation Division takes note of the defendant's statement that it

has not previously committed any relevant data protection breach

of a personal nature. The fact remains, however, that the defendant neglected to

follow up on the previous decision of the Litigation Chamber concerning the same facts,

which constitutes a reason for the Litigation Division not to review the fine proposed to

the decline.

53. All of the elements set out above justify an effective, proportionate and

dissuasive, as referred to in Article 83 of the GDPR, taking into account the assessment criteria that it

contains. The Litigation Chamber draws attention to the fact that the other criteria of the article

83.2 of the GDPR are not, in this case, likely to lead to another administrative fine

than that defined by the Litigation Chamber in the context of this decision.

III. Publication of the decision

54. Seen

the importance of

transparency regarding

the decision-making process of

bedroom

Litigation, this decision is published on the website of the Authority. However, it is not

it is not necessary for this purpose that the identification data of the parties be directly

communicated.

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FOR THESE REASONS,

the Litigation Chamber of the Data Protection Authority decides, after deliberation:

- to order the defendant, in accordance with Article 58 of the GDPR and Article 100, § 1, 9° of

the LCA, to bring the processing into compliance with Article 14 of the GDPR by providing

adequate information to all data subjects whose personal data

personnel were obtained indirectly from Z, within a period of thirty days from

from the notification of this decision, and to communicate the proof thereof to the Chamber

Litigation;

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pursuant to Article 83 of the GDPR and Articles 100, § 1, 13° and 101 of the LCA, to impose on the

defendant an administrative fine of 10,000 euros. for violation of Articles 12.3, 14.1,

14.2, 14.3, 15, 17.1.c) and 21.2 of the GDPR.

Under article 108, § 1 of the LCA, this decision may be appealed within a period of

thirty days, from the notification, to the Court of Markets, with the Authority for the Protection of

given as a defendant.

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(Sr.) Hielke HIJMANS

President of the Litigation Chamber