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Litigation Chamber

Decision on the merits 38/2021 of 23 March 2021

File number: DOS-2020-00404

Subject: Complaint against the Belgian Monitor for lack of basis of lawfulness and refusal to erase

of personal data published in the Annexes to the Belgian Official Gazette

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

Hijmans, chairman, and Messrs. Y. Poullet and C. Boeraeve, members, taking up the case in this

composition;

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 the

free movement of such data, and repealing Directive 95/46/EC (general regulation on the protection

data), hereinafter GDPR;

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

Having regard to the 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;

Considering the documents in the file;

Made the following decision regarding:

The complainant: Mr. X., represented by his counsel Maître Sari Depreeuw, lawyer, whose firm

is established at 1050 Brussels, avenue Louise, 81 (hereinafter the complainant)

The defendant: The SPF Justice established at 1000 Brussels, Boulevard de Waterloo 115, represented

by Mr. Jean-Paul Janssens, Chairman of the Management Committee

(hereinafter the defendant)

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1. Feedback from the procedure

Having regard to the complaint filed on January 21, 2020 by the complainant with the Data Protection Authority

(ODA);

Considering the decision of February 20, 2020 of the Front Line Service (SPL) of the APD declaring the complaint

admissible and the transmission thereof to the Litigation Chamber;

Having regard to the letter of March 5, 2020 from the Litigation Chamber informing the parties of its decision to

consider the file as being ready for substantive processing on the basis of Article 98 LCA and their

communicating a schedule for sharing findings;

Having regard to the defendant's main conclusions of April 6, 2020;

Having regard to the complainant's conclusions of April 21, 2020;

Having regard to the defendant's reply submissions of May 6, 2020;

Having regard to the invitation to the hearing sent by the Litigation Chamber to the parties on August 20, 2020;

Considering the hearing during the session of the Litigation Chamber of October 9, 2020 in the presence of Masters

S. Depreeuw and O. Belflamme, representing the complainant and Mr. A. Hoefmans, director of

the Data Protection Unit of the FPS Justice and Mr W. Verrezen, Director of the Belgian Monitor

both representing the defendant;

Having regard to the minutes of the hearing and the observations made thereon by the parties who

been attached to these minutes. The Litigation Chamber notes that according to its comments, the

defendant states that it realized during the hearing that the Royal Decree of 30

January 2001 several times invoked in terms of conclusions in support of his defense had been replaced

by a new royal decree of April 29, 2019, (M.B., April 30, 2019) adopted after the entry into force

of the GDPR. The defendant specifies that this new royal decree did not modify the content of Article 11.5

invoked, now replaced by article 1-9 § 51.

1 Article 1-9 § 5: Rectification of an error made in an act, an extract from an act, a decision or a document

published in the Annexes to the Belgian Official Gazette is filed and published in accordance with the preceding paragraphs. The

rectification of an error made in a document the filing of which has been published by mention in the Annexes to the

Belgian Monitor is effected by filing at the registry in accordance with the preceding paragraphs, of one or more pages

rectified or additional, bearing the word "rectification", attached to a page containing the indications provided for

in paragraph 2, paragraph 4 and indicating the document to which the correction relates. The corrected pages or

additional are on file. The filing of corrected or additional pages gives rise to publication by

extract from the Annexes to the Belgian Official Gazette.

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2.

Facts and purpose of the request2

1. The complainant is a shareholder of SPRL Bureau X. The complainant holds the vast majority of

shares of the SPRL, its partner by holding a very small minority.

2. The shareholders of the company – including the complainant – decided to carry out a capital reduction of

the company whose articles of association have, following this operation, been modified by a decision of

the extraordinary general meeting at the beginning of 2019 (article 316 of the Companies Code).

3. In February 2019, an extract of this decision was published in the Annexes to the Belgian Official Gazette, available

both in paper version and in electronic version that can be consulted via the Internet.

4. The extract published in the Belgian Official Gazette contains the decision to reduce the capital of the company, the amount

initial capital, the amount of the reduction with mention of the new amount of the share capital and

of the new text of the statutes. These are indeed the elements required by Article 69 combined with

Article 74 of the Companies Code.

5. In addition, the extract mentions, among other things, the names of the two partners (including the plaintiff), the amounts

refunded to them and their bank account numbers.

6. This part of the extract published in Dutch (point 5 above) is reproduced below:

(…)

-

aan de heer X , voornoemd, door uitbetaling op de rekening met nummer (..) op zijn

naam van het bedrag van (..);

-

aan de heer Z, voornoemd, door uitbetaling op de rekening met nummer (..) op zijn

naam, van het bedrag van (..)

Free translation

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to Mr. X, mentioned above, by payment into account number (..) at his

name in the amount of (..);

-

to Mr. Z, mentioned above, by payment into account number (..) at his

name, for an amount of (..)

(Hereafter the disputed passage)

2 Given that the capital reduction took place before the entry into force of the new Code of Companies and

associations, the Companies Code of 7 May 1999 is applicable to the facts of the case.

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7. This excerpt was prepared by the plaintiff's notary pursuant to the Companies Code (article 74

paragraph 1, 1° juncto article 69, paragraph 1, 5°3) and then sent by the latter to the court registry

of the company within the territorial jurisdiction of the company to be published in the Annexes to the Belgian Official Gazette 4.

8. Considering that his notary had erred in including the litigious passage in the

request for publication of the extract of the capital reduction decision, the plaintiff, by

through his notary and his data protection officer (DPO), initiated

steps to obtain the deletion of this litigious passage from the defendant.

9. On March 28, 2019, the DPO of the plaintiff's notary sent an e-mail to the DPO of the defendant

inviting the latter to erase the two paragraphs quoted above in execution of the right to

erasure of the complainant (Art. 17 GDPR). In concrete terms, the DPO of the complainant's notary has, for

account of the latter, requested (a) the deletion of the publication of the extract containing the

contentious passage and (b) its replacement by the publication of an extract without this contentious passage.

10. On April 10, 2019, the Respondent replied in the negative to the Complainant's request. His refusal

was based on the exception provided for in article 17.3 of the GDPR (right to erasure) and on its article

865. The Respondent's DPO, instead of the erasure requested, suggested that a

new publication of the extract - without the litigious passage - is made, the initial publication remaining

itself intact.

11. On April 11, 2019, the DPO of the complainant's notary replied to the defendant that his position was not

irrelevant and insisted on the deletion of the publication of the extract containing the passage

litigious.

12. In an e-mail of April 30, 2019, the DPO of the defendant provided arguments

additional information to justify its refusal to erase the disputed passage.

3 Article 74: The following are filed and published in accordance with the preceding articles: 1° the acts bringing change

the provisions of which this code requires the publication.

Article 69 paragraph 1, 5°: Extract from the memorandum of association of companies, with the exception of interest groups

economic, contains: 5° where applicable the amount of the share capital; the amount of the released part; the amount

authorized capital; for limited partnerships, the amount of securities released or to be released as a limited partnership

and for cooperative societies, the amount of the fixed part of the capital.

4 The formalities for publication by the Belgian Monitor were provided for in the Royal Decree of 30 January 2001 on

execution of the Companies and Associations Code, in particular in its article 11, which has been replaced as it

was clarified in the retroacts of the procedure, the royal decree of 29 April 2019 implementing the Code of

companies and associations.

5 GDPR Article 86: Treatment and public access to official documents:

Personal data contained in official documents held by a public authority or by

a public body or a private body for the performance of a mission of public interest may be

communicated by that authority or body in accordance with Union or Member State law

to which the public authority or public body is subject, in order to reconcile the public's right of access to documents

officials and the right to the protection of personal data under this Regulation.

13. On 30 April 2019, the DPO of the complainant's notary requested an opinion from the DPA. On July 5, 2019, the SPL

of the APD thus recalled in particular (1) that a royal decree (i.e. the royal decree of January 30, 2001
then invoked by the defendant in support of its refusal to erase) cannot take precedence over a
European regulation (i.e. on the GDPR) as well as (2) the conditions of the right to erasure.
14. Several requests were subsequently made by the complainant's notary on July 8
2019, October 25, 2019, November 19, 2019, and January 8, 2020 without success. The disputed extract did not
been withdrawn from the Belgian Official Gazette.
15. On January 21, 2020 the complainant filed a complaint with the APD.
16. According to his complaint, the plaintiff alleges the following:
(1) a breach of Article 6 of the GDPR on the part of the defendant for publication of its
personal data on the Internet without basis of lawfulness.
(2) A breach of Article 17 of the GDPR on the part of the defendant for not having
deleted his personal data following the exercise of his right to erasure.
17. Under the terms of its conclusions of April 21, 2020, the complainant asks the Litigation Chamber
to rule that his complaint is justified and that the legal conditions of the right to erasure
are met in accordance with Article 17.1. of the GDPR. The Complainant requests that he be ordered to
the defendant to comply with the exercise of its right to erasure and to erase the data at
personal character concerning him (in particular the names, bank account numbers and
amounts paid both relating to himself and his partner) within 10 working days after the
notification of the DPA's decision under penalty of a penalty payment per day of delay, the amount of which
is to be determined by the DPA pursuant to Article 100 § 1, 6, 10 and 12 of the LCA. The complainant there
also denounces a breach of Article 5.1. c) and Article 5.1. e) GDPR.
18. The Litigation Chamber would like to point out from the outset that in the context of the control mission of the
compliance with the GDPR entrusted to the DPA (of which it is the administrative litigation body) both by the
European legislator (article 58 of the GDPR) and by the Belgian legislator (article 4 LCA), it will examine
the facts reported by the complainant both in the light of the articles of the GDPR referred to in the complaint form
complaint that he lodged on January 21, 2020 only in the light of the articles of the GDPR that he referred to in a

second stage through its conclusions of April 21, 2020.

19. Indeed, the Litigation Chamber decides here, as it had done in its Decision 19/2020 already,

that the complainant cannot be required to identify in a clear, precise and exhaustive manner the

legal provisions in support of which he lodges his complaint. This work of qualifying the facts –

constituting breaches of the regulations in force in terms of data protection

if applicable – returns to the Inspection and the Litigation Chamber.6

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20. After nearly two years of operation, the Litigation Chamber notes that the

complainants who lodge a complaint with the DPA do not necessarily know the provisions

of the GDPR or other specific legislation that would apply with respect to the facts that they

report and which they believe to be contrary to the applicable regulations in terms of

protection of personal data. The Litigation Chamber is in this respect of the opinion that it

cannot be required of them to have this knowledge in order to lodge a complaint.

21. If the Litigation Division were to refuse to examine grievances brought by the plaintiff in

course of proceedings relating to the facts denounced in his complaint, it would considerably reduce, even

would seriously jeopardize the effectiveness of the exercise of the right to lodge a complaint recognized in Article

77 GDPR. To say otherwise would be tantamount to requiring the complainant to identify, under the terms of its

complaint, all grievances relating to the facts that he denounces. This would erode, the Litigation Chamber holds

point out, in an unacceptable way the right to file a complaint and more generally, the right

fundamental to the protection of data which, to be effective, must be able to be controlled by the

supervisory authorities, in particular via the complaints it receives. The control of law

fundamental to the protection of data by an independent authority indeed contributes to

the essence of this right and is enshrined in Article 8.3. of the Charter of Fundamental Rights. Once

again, to affirm the contrary would also amount, de facto (and on the basis of the observations that can

make the Litigation Chamber over its almost two years of operation), to require the complainant

that he is assisted by a lawyer or any other legal adviser (as soon as his complaint is filed),

which cannot condition the exercise of a fundamental right with the data protection authority.

data. The Litigation Chamber is also of the opinion that as far as possible, the right to bring

complaint must, like the exercise of the other rights recognized by the GDPR (Chapter III), be free of charge

(Article 12.5 GDPR). Finally, the supervisory authorities must also facilitate the exercise by

data subjects of their rights, including the right to lodge a complaint (article 57.2. of the

GDPR).

22. In

the species,

the

facts that are not disputed and do not require clarification

additional information, the Litigation Division did not, as permitted by article 94.3° LCA, have

recourse to the Inspectorate. The absence of recourse to the Inspectorate when the facts are clearly

established cannot have the consequence of depriving the Litigation Chamber of examining the facts

denounced by the complaint with regard to all the relevant grievances insofar as it concerns

6 See. in this regard, the note on the role of the complainant available on the DPA website:

https://www.autoriteprotectiondonnees.be/publications/note-relative-a-la-position-du-plaignant-dans-la-

procedure-within-the-litigation-chamber.pdf

legal arguments related to the facts reported in the complaint and in respect of the debate

contradictory as it pointed out in its Decision 17/2020 (points 20-28).

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23. In the present case, the complaints based on non-compliance with Article 5.1. c) (principle of minimization) and article

5.1.e) (principle of limited retention) of the GDPR brought by the complainant by way of conclusions

are, moreover, without prejudice to the foregoing, intrinsically linked to the question of the existence

or not of a basis of legitimacy (article 6 of the GDPR) raised from the outset by the terms of the complaint.

Indeed, in the absence of a basis of legitimacy (article 6 of the GDPR) authorizing the processing of data, the

controller does not respect the principle of minimization either, which requires that only

data that is adequate, relevant and limited to what is necessary to achieve the purpose

continued are processed. By failing to act on the complainant's right to erasure

(raised from the outset by the complaint), the data controller (potentially) contravenes

also to the principle of the limited retention period of the data processed.

24. Therefore, any argument that the defendant was not, in this case, notified as soon as

the beginning of the procedure of what he was accused of must here be dismissed.

25. The defendant asks the Litigation Chamber to dismiss the plaintiff's complaint,

according to her, no breach of the GDPR can be observed on her part.

3.

The hearing of October 16, 2020

26. During the hearing on October 16, 2020, the parties had the opportunity to present their point of view,

referring extensively to their previously reported findings.

27. More specifically, the following elements emerged from this hearing:

-

Counsel for the complainant clarified that the personal data directly

relating to his associate should also be considered as data to be

personal character concerning him and that his request for erasure therefore carried

also on these (see point 17 above).

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The parties have indicated that they agree that the publication of the data

personal details of the complainant appearing in the contentious passage were not covered by

the disclosure requirement provided for in the Company Code.

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The defendant confirmed its status as data controller.

The defendant indicated that it was not authorized to sort out the data whose

publication is required by the Company Code and those whose publication is

regularly desired. Indeed, it is not uncommon for natural persons or

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morals wish to add data to the publication, data whose publication

is not legally required by the Companies Code for example. The defendant has

added that in practice, this sorting is also impossible to carry out given the number

extracts of acts to be checked marginally daily (only the presence of

certain mentions and format are checked)7.

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Via a request for rectification, the rectified publication necessarily refers to the

publication that it rectifies (and in this case, whoever is looking for the publication can

find via the date mentioned on the rectification notice).

28. A complete record of this hearing was drawn up and communicated to the parties as it was

specified in the retroacts of the procedure.

PLACE

4. As to the breaches on the part of the defendant

As a preliminary

29. The Litigation Division notes that the defendant qualifies as data controller. In

Within the framework of its own discretion with regard to this qualification8, the Chamber

Litigation also retains this qualification considering that with regard to the disputed passage of

extract published, the defendant indeed acted in this capacity, by defining both the purpose

than the means (article 4.2 of the GDPR).

30. The Litigation Chamber notes that the defendant repeatedly emphasizes that the error

generator of all the procedure which leads to the present decision was committed by the notary

of the plaintiff during the transmission of the document to be published in the Annexes to the Belgian Official Gazette.

7 Extract from the hearing report:

The case is processed by the Company Court before being sent for publication in the Moniteur. By "treat", we must

here hear that the clerk of the Company Court scans the document, adds the necessary references

(number, etc.) and carries out a purely formal check of the document submitted (is it dated?, signed? etc.). Circular

specifies that the registry must limit itself to this formal control without being able to modify the content of the document. This co

is the responsibility of the notary who filed it. The registry processes 800 to 900 acts per day. It has 24 hours

to accept the file and 48 hours to send it to the Belgian Monitor.

8 See. in this regard, European Data Protection Board (EDPB), Guidelines 07/2020 on the concepts of

controller and processor in the GDPR, version 1.0. from September 2, 2020.

These guidelines have been submitted for public consultation and are subject to change.

https://edpb.europa.eu/sites/edpb/files/consultation/edpb_guidelines_202007_controllerprocessor_en.pdf. See

also decision 81/2020 of the Litigation Chamber (point 46).

31. Admittedly, the defendant intervened after the plaintiff’s notary, who prepared the deed to

publish which contains the disputed passage and forwarded it to him. There was no less intervention

succession of two separate data controllers, the notary first, the defendant

then performing separate processing.9

32. Even if the initial error was made by the complainant's notary, compliance with the GDPR is required

for each treatment performed. Therefore, the error made by a first data controller

does not cover a breach of the GDPR for which the "subsequent" controller (for

use the terms invoked by the defendant) would be guilty. This notion of

responsible for “subsequent” processing is also not enshrined in the GDPR. In this case the

Litigation Chamber simply notes a successive intervention of two managers of

processing. Admittedly, the defendant was initially the recipient of the data within the meaning of Article 4.9.

of the GDPR, but this quality does not exclude that in turn, it has intervened as responsible

treatment.

4.1. As for the breach of Article 6 of the GDPR (lawfulness of processing) and Article 5 .1. c) (principle

minimization)

33. The Litigation Chamber recalls that pursuant to Article 6 of the GDPR, the processing of data

of a personal nature is only lawful if and insofar as it is based on one of the bases of

lawfulness listed in Article 6 of the GDPR.

34. It is undisputed that the extract published in the Annexes to the Belgian Official Gazette contains data from

personal nature relating to the complainant within the meaning of Article 4.1. of the GDPR and that therefore this

publication must be based on one of the bases of lawfulness of Article 6 of the GDPR. Bedroom

Litigation specifies in this respect that, as invoked by the complainant, the personal data

personal relating to the latter include both his identity elements, his account number and

the amount paid to him as the same information relating to his partner. All

this information must be considered as personal data relating to

to the complainant.

Defendant's position

35. The defendant explains that the plaintiff did not specify when he believed he noticed a

breach of Article 6 of the GDPR. The defendant argues for its part that both in terms of

concerns the publication in the Annexes to the Belgian Official Gazette in February 2019 only with regard to the

9 See. also decision 81/2020 of the Litigation Chamber (point 46).

period following the complainant's subsequent request for erasure, it is the basis for processing

data of the latter on a basis of valid lawfulness in compliance with Article 6 of the GDPR.

36. With regard to the publication in February 2019, the defendant declares, in the terms of its first

at the very least, to be able to rely on three bases of lawfulness: (1) the consent of the

complainant (Article 6.1 a) of the GDPR combined with Article 7 of the GDPR), (2) Article 6.1 c) of the GDPR10 in

that the publication results on the part of the defendant from the necessary execution of a

legal obligation arising from article 73 paragraph 2 of the Companies Code and the royal decree of 29 April

2019 implementing the Companies and Associations Code and finally, (3) article 6.1 e) of the

GDPR11 in that the publication of the information transmitted by the complainant's notary falls under the mission of public interest of official documentary source ensured by the Belgian Monitor in application of the Law of February 28, 1845 prescribing a new mode of sanction and promulgation laws and the Law of May 18, 1873 containing Title IX, Book I, of the Commercial Code relating to companies. The defendant also specifies that the exercise of this mission of public interest falls within in the context of the aforementioned Article 86 of the GDPR relating to public access to official documents.

37. It was recalled in section 3 above that during the hearing, the representatives of the defendant explained that the defendant was, according to instructions received by circular, not authorized to make any sorting between, on the one hand, the data required by the Companies Code or any other text whose publication is requested and on the other hand, those, additional, that some wish to see published notwithstanding the fact that their publication is not legal required. They also indicated that, in practice, this sorting is not possible given the number of extracts of acts to be published daily.

38. With regard to the continued publication after the complainant's request for erasure, the defendant considers that it can continue to rely on Article 6.1 c) of the GDPR. She invokes the article 1-9 § 5 of the Royal Decree of 29 April 2019 implementing the Companies and Associations Code which provides for a rectification procedure in the event of an error made in a document published in the Appendices to the Belgian Official Gazette, excluding any possibility of pure and simple erasure of an act published. The absence of a legal requirement obliging (even authorizing) the Belgian Monitor, in its capacity as responsible for the processing, to delete the act or the data relating to the complainant which appear there, therefore does not compromise, still according to the defendant, the legality of maintaining the publication of the data from the disputed extract after the request for erasure.

10 Article 6 § 1 c) of the GDPR: Processing is only lawful if and insofar as at least one of the conditions following is met: (…) c) the processing is necessary for compliance with a legal obligation to which the controller is submitted.

11 Article 6 § 1 e) GDPR: Processing is only lawful if and insofar as at least one of the conditions

following is met: (…) e) the processing is necessary for the performance of a task carried out in the public interest or

the exercise of official authority vested in the controller.

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39. As to the principle of minimization (Article 5.1.c) of the GDPR), the defendant emphasizes that this

violation relates to the processing carried out by the notary and not to that which it carried out in application

of its legal obligation recalled above (point 35) which does not authorize it to modify the content

of what is transmitted to him by the notary.

Complainant's position

40. The complainant, for his part, considers that the publication of the disputed passage in the Annexes to the Moniteur

Belgian contravenes Article 6 of the GDPR in that no basis of lawfulness can validly be

invoked by the defendant to justify the publication of the personal data of the passage

litigious that appear therein, regardless of the time at which one places oneself to establish the existence of

this basis of lawfulness.

41. The Complainant argues in this regard that, contrary to what the Respondent claims, there is no

of consent on his part to the publication of the disputed data (article 6.1 a) of the GDPR),

this publication resulting from an error. Nor can the defendant, still according to the

complainant, rely on article 6.1 c) of the GDPR which authorizes the processing of only data

necessary for compliance with a legal obligation whereas in this case, the publication of the data

disputed goes beyond what is required by the relevant articles of the Company Code following

of a capital reduction. The defendant highlights in this respect the ratio legis of the

publication in the Belgian Official Gazette. This serves a dual purpose of informing and protecting

third parties in relation to the company with which they interact on the one hand and to protect the company

itself which can thus make its internal decisions enforceable against third parties on the other hand. The objective

protection of third parties is particularly important in the event of a capital reduction when the

society is impoverished and the guarantees of creditors weakened. The publication of the reduction of

capital, marks in this respect the starting point of a period of 2 months from which the creditors

may, under certain conditions, require security for their previous claims. The
publication of data relating to shareholders, such as the complainant, which reveals how the
repayment of the amount of capital has been made and to which bank accounts of the amounts
paid is irrelevant to this advertising purpose (not required by the Code
companies). The plaintiff also disputes that the defendant can, like the latter
invokes it, relying on Article 6.1 e) of the GDPR, the condition of “necessity” for the execution of
its mission of public interest not being met in this case.

42. Finally, the complainant considers that since the personal data contained in the passage
disputed were neither relevant nor necessary for the purpose of advertising required by the Code of
companies, (i.e., as explained above, informing third parties and protecting creditors), there is
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breach of the principle of minimization enshrined in Article 5.1.c) of the GDPR in respect of the
defendant.

Position of the Litigation Chamber

43. The Litigation Division recalls, as already mentioned in points 33 and 34 above, that any
data processing must be based on one of the bases of lawfulness provided for in Article 6 of the GDPR and
that a basis of lawfulness must exist as long as the processing lasts.12

44. The Litigation Chamber also recalls that it is the responsibility of the data controller to identify
a single basis of lawfulness on which it bases its processing. This requirement also contributes to
principles of loyalty and transparency that it is responsible for implementing (article 5.1.a) of the
GDPR – explained in recital 39 of the GDPR)13. Different consequences arising from one
or other basis of lawfulness, in particular in terms of rights for data subjects, it is not
not allowed for the data controller to invoke one or the other depending on the circumstances. AT
By way of illustration, the data controller cannot, as in the present case, both consider
that it bases the processing on the consent of the data subject (Article 6.1.a) of the GDPR) and
on its legal obligation (article 6.1.c) of the GDPR). Consent can be withdrawn at any time.

time and if it does not have the effect of compromising the validity of the processing carried out before the withdrawal

of consent (article 7.3. of the GDPR), it no longer allows, a priori, the person responsible for

processing to continue the processing for the future (Article 17.1.b) of the GDPR). By declaring to found

the processing on its legal obligation elsewhere (article 6.1.c) of the GDPR), the person responsible for

processing excludes in principle any possibility of opposition to processing, withdrawal of consent

cannot be invoked nor the right of opposition reserved for the hypotheses of article 21.1. GDPR

either to the processing of personal data based on Article 6, paragraph 1, point

e) or f) and not on Article 6.1.c) of the GDPR. By also invoking Article 6.1.e) of the GDPR as

possible basis - which in turn specifically allows the exercise of a right of opposition of the

data subject -, alongside Article 6.1.c) of the GDPR which does not allow it, the data controller

of treatment sows great confusion. In general, by invoking bases of legality

distinct, the data controller who acts in this way creates a certain vagueness in terms of exercising

of the rights of data subjects.

45. Without prejudice to the foregoing, since the defendant considers that it can rely on no

less than 3 bases of lawfulness to found the data processing when published in February

12 If a data controller were to change his basis of legitimacy during processing, he cannot

could do so only on the condition of respecting all the conditions of application of this basis and should also

inform the data subject and comply with all other applicable provisions of the GDPR as if, in

in a way, he was starting from scratch with regard to said treatment.

13 See. in this respect Articles 13.1.c) of the GDPR and 14.1.c) of the GDPR.

2019, the Litigation Chamber will examine below whether one of them can effectively validly

found the publication of the disputed passage.

46. As to Article 6.1.c) of the GDPR, also invoked by the defendant, the Litigation Chamber

recalls that it can only be retained when it is based on "processing (of personal data)

necessary for compliance with a legal obligation", every word of this hypothesis being of importance.

47. As part of its defence, the defendant drew the attention of the Litigation Division to the
the fact that the application of Article 6.1.c) of the GDPR should not be misunderstood in this case.
The legal obligation to take into account is that of publication to which the Belgian Monitor is bound
pursuant to article 73 paragraph 2 of the Company Code and the royal decree of 29 April 2019 already
quoted and which, specifies the defendant, required him to publish as it is what the notary had transmitted to him
without the services of the Belgian Monitor being authorized to sort out what is
actually required to publish in application of the Company Code and what would go beyond (see.
points 27 and 37 above). This, according to the defendant, is the legal obligation to which it is
outfit. Therefore, the fact that the published data is not required by the Companies Code is
according to the defendant indifferent: their publication in the Annexes to the Belgian Official Gazette is the result of
the legal obligation of the defendant.
48. The Litigation Division cannot subscribe to this reasoning, which it considers to be contrary to the condition
of necessity set out in Article 6.1.c) of the GDPR and which, in its view, also amounts to denying any update
implementation of the principle of data minimization in violation of Article 5. 1 c) of the GDPR which
requires that only data that is adequate, relevant and limited to what is
necessary for the purposes pursued.
49. This condition of necessity of the processing is found formulated in all bases of lawfulness (except
exception of consent), from point b) to point f) of Article 6 of the GDPR.
50. In its judgment in Huber, the Court of Justice of the European Union (CJEU) has, with regard to this
condition of necessity, specified:
that “having regard to the objective of ensuring an equivalent level of protection in all
Member States, the concept of necessity as it results from Article 7(e)14 of Directive
95/46, which aims to precisely delimit one of the hypotheses in which the treatment of
personal data is lawful, cannot have variable content depending on the
Member States. It is therefore an autonomous concept of Community law which must
14 Member States provide that the processing of personal data may only be carried out if:

(…) e) it is necessary for the performance of a task in the public interest or in the exercise of official authority

with which the data controller or the third party to whom the data is communicated is invested.

receive an interpretation such as to fully meet the purpose of this directive such as

defined in Article 1, paragraph 1 thereof"15 (emphasis added by the Litigation Chamber).

51. According to the conclusions16 he submitted in this case, the Advocate General makes clear in this

regard that "the concept of necessity has a long history in Community law and it is well

established as an integral part of the proportionality test. It means that the authority which adopts

a measure which infringes a fundamental right in order to achieve a justified objective must

demonstrate that this measure is the least restrictive to achieve this objective. Furthermore,

if the processing of personal data may be likely to infringe the fundamental right to

respect for privacy, article 8 of the European Convention for the Protection of Human Rights

and fundamental freedoms (ECHR), which guarantees respect for private and family life, becomes

also relevant. As the Court stated in the Österreichischer Rundfunk and Others judgment, if a

national measure is incompatible with Article 8 of the ECHR, this measure cannot satisfy

the requirement of Article 7(e) of the Directive. Article 8(2) of the ECHR provides

that an interference with privacy can be justified if it pursues one of the objectives set out therein

listed and "in a democratic society, is necessary" for any of these purposes. The courtyard

European Court of Human Rights has ruled that the notion of "necessity" implies that a "need

social imperative" is in question".

52. This case-law, admittedly formulated with regard to Article 7(e) of Directive 95/46/EC, applies to

all the bases of lawfulness which retain this condition of necessity. She remains today

relevant even though Directive 95/46 has been repealed since this condition of necessity

is maintained pursuant to Article 6.1 b) to f) of the GDPR. Article 6.1 of the GDPR takes effect

the terms of Article 7 of Directive 95/46/EC of which it is the equivalent17.

53. The Article 29 Group also referred to the case law of the European Court of

human rights (Eur. Court D.H.) to identify the requirement of necessity18 and concludes that the adjective

15 CJEU, 16 December 2008, judgment Heinz Huber v. Bundesrepublik Deutschland, C-524/06, para.52.

16 Conclusions of Advocate General Poiares Maduro presented on 3 April 2008 in the context of the proceedings before

the CJU having resulted in the judgment cited in footnote 15 above (C-524/06).

17 It should be noted that the only differences to be noted are the addition to article 6.1.d) of the GDPR of the vital interest of an

natural person as the data subject as well as the deletion in Article 6.1.e) of the GDPR of the “third party to which

the data is communicated”, the mission of public interest or falling within the exercise of the public authority in front of

be that of the sole data controller. In addition, a slight wording difference exists between the article

7.1. f) e Directive 95/46/EC and Article 6.1. f) of the GDPR without the scope of this provision being modified.

All these changes have no impact on the condition of necessity.

18 Article 29 Group, Opinion 06/2014 of 9 April 2014 on the notion of legitimate interest pursued by the controller

data processing within the meaning of Article 7 of Directive 95/46/EC, WP 217.

“necessary” thus does not have the flexibility of terms such as “admissible”, “normal”, “useful”,

“reasonable” or “appropriate”.19

54. In support of the foregoing, the Litigation Chamber concludes that the defendant's assessment

of what is "necessary for the performance of its legal obligation" cannot be disembodied from the

purpose pursued by the advertising required by the Company Code20. In its Manni judgment, the CJEU

clarifies in the sense that in order to determine whether the Member States are required to provide for

data subjects the right to ask the authority responsible for keeping an official register

(Commercial register – mention of the bankrupts in this case), to erase or lock the data

recorded in this register or to restrict access to it, it is necessary to take into account the purpose of

registration in the said register21.

55. To assert the contrary, as defended by the defendant, would be tantamount to agreeing to exempt it from

any review of the relevance of the data it publishes even though, on the contrary, the implementation

implementation of this founding principle of data protection provided for in Article 5.1.c) of the GDPR

belongs to him in his capacity as data controller.

56. Overly, the Litigation Division draws attention to the fact that in this case, the data published have a relatively direct link with the capital reduction operation that took place (which could give their publication an “appearance of legitimacy” or at the very least induce a some understanding for the defendant's position). However, the Litigation Chamber wishes to draw its readers' attention to the fact that the defendant's conception of what he should be understood by "processing necessary for a legal obligation", could, to follow the defendant, be invoked with regard to the publication of any superfluous data, however trivial, delicate or sensitive (including within the meaning of Articles 9 and 10 of the GDPR) whatsoever.

57. In conclusion on this point of Article 6.1.c) of the GDPR, the Litigation Chamber is of the opinion that the only useful interpretation capable of giving full effect to the notion of necessity as imposed by the case law of the CJEU is that which consists in qualifying as “necessary for the obligation of the defendant" the only data necessary for the objective of the publicity measure pursued by the Company Code (articles 69 and 74) which requires publication in the Belgian Official Gazette

19 Eur. D.H., March 25, 1983, Silver and others v. United Kingdom, para 97.

20 See. also Opinion 06/2014 of the Article 29 Group on the notion of legitimate interest pursued by the controller data processing within the meaning of Article 7 of Directive 95/46/EC, WP 217 of April 9, 2014 (page 21):

“For Article 7(c) to apply, the obligation must be imposed by law (and not, for example, by a contractual reason). The law must meet all the conditions required to make the obligation valid and binding, and must also comply with applicable data protection law, including the principles of necessity, proportionality and delimitation of purpose”.

21 CJEU, 9 March 2017, Camera di Comercio c. S. Manni, C-398/15, para 48.

by the defendant. The amounts paid to the partners and their account number not being part of the data listed in these articles and not being likely to participate in the advertising objective sued, they are not necessary to comply with the legal obligation of the defendant. Therefore,

the Litigation Chamber concludes that the defendant cannot rely on Article 6.1. c) in the title
basis of lawfulness for their processing in the present case.
58. As to Article 6.1.e) of the GDPR, also invoked by the defendant, the Litigation Chamber
considers that it cannot be upheld in this case either. As in the case of article 6 .1.c),
the necessity test must be satisfied. It must certainly be assessed here with regard to the mission of
defendant's official source of documentation. The defendant relies in this regard on two
legal texts, i.e. the Law of February 28, 1845 prescribing a new mode of sanction and
promulgation of the laws and of the Law of May 18, 1873 containing Title IX, Book I, of the Code of
business related business. The Litigation Division does not dispute that the mission of
publication pursued by the defendant through the publications (in the Annexes) of the Moniteur
Belgium constitutes a mission of public interest within the meaning of Article 6.1.e) of the GDPR. However, as
as has just been recalled with regard to article 6.1.c) of the GDPR above, only the processing of
data necessary for the realization of this public interest can be qualified as lawful in support of
Article 6.1.e) of the GDPR. In this case, the publication of the complainant's personal data contained
in the disputed passage is no more necessary for that interest than for the fulfillment of the obligation
of the defendant, for the reasons already set out (see point 56 in particular).
59. As to Article 86 of the GDPR also invoked by the defendant in support of its mission of interest
public, the Litigation Chamber agrees with the complainant's analysis that the relevance of this
reference is not obvious. Similarly, it is of the opinion that given this access, it is all the more
more essential that the defendant ensure that only the necessary personal data is
published.
60. Application of Articles 6.1. c) and 6.1.e) being set aside, it remains for the Litigation Division to
examine whether the processing of personal data relating to the complainant could, as defended
the defendant, to rely in this case on the consent of the plaintiff.
61. It is certain, as pointed out in recital 43 of the GDPR as well as the European County of
data protection in its Guidelines 05/202022, that it is not likely that the

public authorities can rely on consent for the processing of personal data

personal character. Indeed, when the data controller is a public authority, it

there is often a manifest imbalance in the balance of power between the controller

22 European Data Protection Board (EDPB), Guidelines 5/2020 on consent to the meaning

of Regulation (EU) 2016/679, adopted on May 4, 2020:

https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_guidelines_202005_consent_en.pdf

and the person concerned who does not allow the condition of freedom of consent to be satisfied.

However, without prejudice to these general considerations, the legal framework of the GDPR does not exclude

reliance entirely on consent as the legal basis for data processing by

public authorities.

62. In this case, the Litigation Division is of the opinion that consent cannot be the basis for the publication

of the disputed extract. In accordance with article 7.1. of the GDPR, it is in fact the responsibility of the person responsible for

treatment, or to the defendant to demonstrate that it has obtained from the data subject a

valid consent, i.e. consent that meets all the conditions of Article 4.11 of the

GDPR. The Litigation Chamber is of the opinion that the defendant has not demonstrated that it obtained a

such consent from the complainant. Even supposing that the defendant had obtained a

consent valid at the time of February 2019 publication, and to follow, quod non always,

the defendant according to which the plaintiff withdrew his consent without consequence on the

validity of the February 2019 publication, the Litigation Chamber is of the opinion that the defendant

nevertheless has no basis of lawfulness as soon as this consent has been withdrawn,

Articles 6.1.c) and 6.1.e) cannot be invoked.

63. As to the defendant's argument that some people wish to publish more than what

prescribed by the applicable regulations, the Litigation Chamber is of the opinion that in this case,

the publication of such data - accepted and carried out by the defendant as responsible

of processing - would be based on a basis other than that of the execution of its legal obligation

or the performance of its public interest mission, which could be consent (Article 6.1.a)

of the GDPR) (see point 61 above). This must meet all the required qualities (see his

definition in Article 4.11 of the GDPR). It is therefore also for the defendant to draw from this

all the consequences in terms of rights for the persons concerned and collection of evidence

obtaining consent.

64. In conclusion, it follows from the foregoing that in the present case, no basis of legitimacy is such

to found the publication by the defendant of the disputed extract containing the personal data

staff relating to the complainant. The Litigation Chamber therefore finds a breach of

Article 6 of the GDPR in its head. This breach is combined with a breach of Article 5.1.c)

of the GDPR. Indeed, in the absence of a basis of lawfulness on which to rely, the publication of these data

also ignores the principle of minimization.

4.2. As to the breach of the complainant's right to erasure by the defendant (Article 17.1

GDPR)

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65. The Litigation Chamber recalls that Article 17.1 of the GDPR provides that the data subject has

the right to obtain from the controller the erasure, as soon as possible, of data

of a personal nature concerning him and that the controller has the obligation to erase these

personal data as soon as possible, when one of the reasons listed in Article 17.1.

of the GDPR applies, of which the following reason:

-

d)

the personal data has been unlawfully processed.

Complainant's position

66. In support of Article 17.1 d) of the GDPR, the plaintiff considers that the defendant should have given

following his right to erasure on the grounds that the processing of his data under the terms of the passage

in dispute is unlawful when it has no legal basis (Article 6 of the GDPR) and the

publication of such data violates Article 5.1.c) of the GDPR. The complainant considers that by

elsewhere, even assuming that the defendant is justified in invoking Article 6.1 e), quod non

according to the complainant, it falls under the conditions of Article 17.1 c) of the GDPR23. Furthermore, in

refusing to erase said data, the defendant also violates Article 5.1.e) of the GDPR which

requires that the retention of personal data be limited to a period not exceeding that

necessary to achieve the intended purpose.

Defendant's position

67. The defendant does not dispute that it did not comply with the complainant's request for erasure.

She is of the opinion that no assumption of Article 17.1. of the GDPR is not applicable in this case and

that it is justified in relying on the exception in Article 17.3. b) of the GDPR taking into account

the legal obligation incumbent on it, in particular the aforementioned Royal Decree of 29 April 2019 which provides

a rectification procedure excluding any possibility of deletion (article 1-9 § 5). She

adds that since the legislator does not empower him to erase the data of a published act in all

or in part, no breach of Article 5.1.e) of the GDPR can be attributed to it.

Position of the Litigation Chamber

68. The Litigation Chamber is of the opinion that, in support of the breach of Article 6 of the GDPR combined with

Article 5.1.c) of the GDPR which it found in the case of the defendant (see point 64 above),

the complainant is effectively under the conditions of Article 17.1. d) of the GDPR which requires the

controller to erase personal data unlawfully processed within the

as fast as we can.

23 The data subject objects to the processing pursuant to Article 21.1. and there is no legitimate reason

imperative for the processing or the data subject objects to the processing pursuant to Article 21.2.

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69. However, the right to erasure enshrined in Article 17.1. of the GDPR being subject to exceptions, it

it is up to the Litigation Chamber to verify whether one of the exceptions provided for in Article 17.3. from

GDPR is applicable in this case, more specifically article 17.3. b) of the GDPR invoked by the

defendant.

70. The Litigation Chamber considers that for the reasons that follow, the defendant cannot

rely on Article 17.3 b) of the GDPR as an exception to the complainant's right to erasure.

71. This exception provides that the right for the data subject to obtain from the data controller

processing the erasure of personal data concerning him does not apply in the

to the extent that such data processing is necessary to comply with a legal obligation which requires

the processing provided for by Union law or the law of the Member State to which the data controller

processing is subject or to carry out a mission of public interest or falling within the exercise of

the public authority vested in the controller".

72. As mentioned above, the defendant relies in this respect on the rectification procedure provided for

by the Royal Decree of 29 April 2019 from which, according to it, it must be deduced that it is not authorized by the

national legislator to erase data from official publications. In this, the defendant would be

authorized to invoke Article 17.3. b) of the GDPR to refuse to act on any request

erasure taking into account its legal obligation which would prohibit any erasure. The treatment

of all data published would therefore, here too, be necessary for the legal obligation incumbent upon it to

respect. The Litigation Chamber is of the opinion that it is not because a royal decree does not provide

only a rectification procedure which must necessarily be deduced that any erasure is

forbidden. This prohibition, if it were to exist, should be provided for by law in compliance with the

conditions Article 23 of the GDPR and cannot be deduced from an absence of reference to this right in

a royal decree. The GDPR being directly applicable, it is, in the absence of an exception provided for in the

compliance with the conditions it imposes, of application. The Litigation Chamber therefore notes a

absence of a legal obligation that would allow the defendant to invoke Article 17.3.b) of the GDPR.

73. It has also been shown above that the legal obligation to publish in the Appendices to the

Belgian Monitor to which the defendant is admittedly subject, does not require the processing of

data contained in the disputed passage and that therefore the processing of these data is not

necessary for compliance with the legal obligation of the defendant (paragraph 57). This treatment is not

no longer necessary for the performance of its mission in the public interest (point 58). The conditions of the article 17.3.b) of the GDPR invoked by the defendant are therefore not satisfied in this case.

74. To follow even the reasoning of the defendant which consists in assessing the condition of necessity at different times, either at the time of the initial publication on the one hand and at the time of the request for erasure on the other hand, the conclusion of the Litigation Chamber would not remain

less identical. A fortiori, if we place ourselves at the time of the complainant's request for erasure, the (practical) impossibility already mentioned of sorting out prior to publication between what is legally required to publish and what results from the will of the persons concerned falls. In Indeed, the complainant specifically points out superfluous data when requesting erasure. published.

75. The Litigation Division also considers that the arguments based on the nature of the Moniteur Belgian are not such as to oppose the exercise of the complainant's right to erasure. The defendant highlights in this regard the immutability of the publications in the Belgian Official Gazette and its Appendices after their publication and the fact that the legal certainty of official publications would be compromised by the application of a right to erasure exercised with regard to the data they contain.

76. Once again, the Litigation Chamber considers that since in this case, the data would not have should never have been published, their deletion is not likely to compromise legal certainty of the publication, the data whose publicity must be ensured following the reduction of capital remaining intact. In the opinion of the Litigation Chamber, there is no immutability of principle of official publications. The Litigation Chamber recalls here that under the terms of its Manni judgment, the CJEU accepts that the national legislator could introduce a period beyond which the data contained in a public database such as the Trade Register (in case it was the information that the trader had gone bankrupt) would be erased 24. In Huber, cited above, the CJEU sets out the principle that public registers should not

contain only the data necessary for the purpose they pursue and this, in application of the

condition of necessity contained in the basis of lawfulness on which they are based. The CJEU adds

that these records should be updated and superfluous data erased.25

77. The Litigation Chamber concludes from the foregoing that Article 17.3. b) RGOD is not

applicable in this case and that no other exemption from erasure can validly be invoked

by the defendant.

78. Therefore, given the shortcomings noted in point 64, the Litigation Chamber finds

a breach of Section 17.1. d) of the GDPR on the part of the defendant. This shortcoming is

combined with a breach of Article 5.1.e) of the GDPR when, in the absence of having been erased on

the basis of Article 17. 1 d) of the GDPR, the storage of this data did not comply with the principle

24 CJEU, judgment of March 9, 2017, Camera di Comercio v. S. Manni, C-398/15, paras 32-35 and 58 et seq.

25 See. paragraphs 59 to 60 of the Huber judgment, cited in note 15 above.

that the data cannot be processed for longer than necessary

to achieve the purpose of the processing.

4. Regarding corrective measures and sanctions

79. Under Article 100 LCA, the Litigation Chamber has the power to:

1° dismiss the complaint without follow-up;

2° order the dismissal;

3° order a suspension of the pronouncement;

4° to propose a transaction;

5° issue warnings or reprimands;

6° order to comply with requests from the data subject to exercise these rights;

(7) order that the person concerned be informed of the security problem;

8° order the freezing, limitation or temporary or permanent prohibition of processing;

9° order the processing to be brought into conformity;

10° order the rectification, restriction or erasure of the data and the notification thereof

data recipients;

11° order the withdrawal of accreditation from certification bodies;

12° to issue periodic penalty payments;

13° to impose administrative fines;

14° order the suspension of cross-border data flows to another State or an organization

international;

15° forward the file to the public prosecutor's office in Brussels, who informs it of the follow-up

data on file;

16° decide on a case-by-case basis to publish its decisions on the website of the Authority for the protection of

data.

80. It is important to contextualize the breaches for which the defendant is responsible in view

to identify the most appropriate corrective measures and sanctions.

81. The Litigation Division recalls in this regard that it is sovereignly incumbent on it as

independent administrative authority - in compliance with the relevant articles of the GDPR and the

ACL - to determine the appropriate corrective action(s) and sanction(s).

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82. The Litigation Chamber notes that on several occasions already, the APD Knowledge Center has

highlighted shortcomings in the implementation of the GDPR with regard to data processing

operated by the Belgian Monitor. For example, in a recent Opinion 99/20, the APD, referring to

Article 1250 of the Judicial Code which refers to an obligation of official publication in the Moniteur

Belgian, raises the following. “As it has already done in Opinion No 141/2019, the Authority [read the DPA]

here again draws attention to the fact that this publication, like any

publication in the Belgian Official Gazette, is not subject to any retention period concerning the data

of a personal nature contained therein. In this regard, the Authority [read the DPA] recalls once again that Article

23 of the GDPR allows the legislator to make not only limitations to the rights referred to in

articles 12 to 22 inclusive of the GDPR but also within the scope of article 5 of the GDPR and therefore, in this

including, in article 5.1.e) of the GDPR. However, such limitations cannot be made without ensuring the

compliance with the conditions stipulated by Article 23 § 2 of the GDPR, starting with the fact that such

limitation must be provided for by the law of the Member State in question. However, to the knowledge of

the Authority [read the APD], there is still no such standard with regard to publications in the

Belgian instructor. The Authority [the DPA] therefore urges once again that this situation be remedied.

situation. »

83. The Litigation Chamber is of the opinion that in the present case, given the breaches noted, the

most appropriate remedy is to issue a reprimand to the defendant (article

100.1., 5° LCA) accompanied by an order to follow up on the plaintiff's exercise of the right to erasure

based on article 100.1.,6° LCA and this, as soon as possible but no later than within a period

30 days from the date of notification of this decision to the parties. The costs that would be incurred

the implementation of this erasure order cannot be attributed to the complainant, the exercise of the

rights of data subjects being, as required by article 12.5. GDPR, free.

84. The Litigation Division does not comment on the appropriateness of a possible fine

administrative action against the defendant. Given the status of “public authority” of

the latter within the meaning of Article 5 of the Law of 30 July 2018 on the protection of persons

with regard to the processing of personal data, read in combination with the

section 83.7. of the GDPR and 221 § 2 of the aforementioned law of July 30, 2018, the Litigation Chamber is not

indeed not authorized to impose such a fine on him.

85. The Litigation Chamber also invites the legislator to work towards bringing the

data processing carried out by the Belgian Monitor with the GDPR, in particular with regard to

the identification of the lawful basis of the data processing carried out, the implementation of the principle

of minimization enshrined in Article 5.1.c) of the GDPR and the exercise of the right to erasure of

persons concerned.

6.

As for transparency

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86. Given the importance of transparency with regard to the decision-making process and the

decisions of the Litigation Chamber, this decision will be published on the DPA website

by deleting the direct identification data of the complainant and the persons cited,

whether physical or legal, with the exception, however, of the Belgian Monitor and the FPS Justice.

87. When it decided to publish its decisions mentioning the identity of the defendants, the

Chambre Litigation motivated its decision by the fact that this publicity would guarantee

rapid compliance, would contribute to a decrease in the risk of repetitions and aimed to inform the

public, taking into account the data controller in question. In addition, any pseudonymization

of the name of the defendant would have been, in these few cases, illusory26.

88. In this case, the Litigation Division is of the opinion that, in support of the aforementioned reasons, the publication of

the identity of the defendant is justified. The removal of the identification of the FPS Justice / Monitor

Belgian is, given the unique nature of the Belgian Monitor, moreover illusory. The maintenance of

this identification is also essential for understanding the decision and therefore, for

the objective of transparency pursued by the Litigation Chamber.

FOR THESE REASONS

THE LITIGATION CHAMBER

After deliberation,

- Decides to address the defendant with a reprimand on the basis of article 100.1, 5° LCA;

- Decides, on the basis of article 100.1., 6° LCA to order the defendant to follow up on

the exercise of the complainant's right to erasure as soon as possible and at the latest within

30 days following notification of this decision. The defendant will inform the

Litigation Chamber, supporting documents, within the same period at the address

litigationchamber@apd-gba.be.

26 See. decision 37/2020 of the Litigation Chamber (point

183)https://www.autoriteprotectiondonnees.be/publications/decision-quant-au-fond-n-37-2020.pdf

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Under Article 108.1 LCA, this decision may be appealed to the Court of

contracts (Brussels Court of Appeal) within 30 days of its notification, with

the Data Protection Authority as defendant.

(Sr.) Hielke Hijmans

President of the Litigation Chamber