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Litigation Chamber

Decision on the merits 115/2022 of 19 July 2022

File number: DOS-2020-01492

Subject: Complaint relating to the communication of data relating to the health of employees

(staff movements – declaration of incapacity) - reprimand

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

Hijmans, chairman, and Messrs. Jelle Stassijns and Romain Robert, members, taking over the business

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

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

data protection), hereinafter "GDPR";

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

ACL);

Having regard to the Law of 30 July 2018 relating to the protection of natural persons with regard to

processing of personal data (hereinafter LTD);

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

December 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 complainant".

The defendant: Y, hereinafter “the defendant”.

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I. Facts and procedure

1.

On March 16, 2020, the complainant filed a complaint with the Data Protection Authority.

data (APD) against his immediate superior, Mr Z, director at Y,

defendant.

2.

Under the terms of her complaint, the complainant denounces the disclosure of personal data

about her health by her manager at a department meeting at which she

was not present. Specifically, the complainant reports that when contacted by telephone by

some of her colleagues who wanted to hear from her, she realized

that during the meeting of his service on February 18, 2020 - i.e. the service (....) of Y -, the

Director Z had announced his departure as well as read the document issued by Cohezio to

destination of the defendant stating his inability to work in the future within

the defendant.

3.

It appears from the documents in the file that on February 7, 2020, a prevention adviser – doctor

du travail de Cohezio informed the defendant of the plaintiff's inability to occupy

any position within it. This information was passed on internally by the resources

to the general management of the defendant, who informed the director of the department

concerned, Mr Z.

4.

On April 29, 2020, the APD Front Line Service (SPL) reminded the complainant that

the GDPR applies to the processing of personal data, automated, in whole or

in part as well as to the non-automated processing of data contained or intended to appear

in a file. If these conditions are not met (for example, specifies the SPL, if it is

question of the oral transmission of personal information that does not come from

from a database or a file and which are not intended to be stored there1),

the DPA is not competent. The SPL concludes at this stage that in the event of this

complaint under which the complainant denounces only oral remarks, the complaint will be

declared inadmissible and the file closed, unless there is a new element on the part of the complainant.

5.

On April 30, 2020, the complainant reported to the SPL that the information given during the meeting

mentioned above was recorded in the minutes of this service meeting. She produces this

minutes and adds that this is communicated by e-mail to all members

department (present or absent at the meeting, i.e. 17 people). It is moreover

stored on the defendant's server with free access and thus made accessible to

1 The Litigation Chamber here draws the reader's attention to its decision 143/2021 of December 22, 2021 under the terms of

which she insisted on the fact that "in order to achieve the intended purpose - to recruit only candidates vaccinated

- the response to the verification of the vaccination status which is carried out orally during the application interview involves

necessarily a processing of personal data. It is hardly conceivable that no treatment

does not intervene, especially given the size of the hospital network which employs thousands of collaborators". In other words,

Chambre Litigation specifies that personal data communicated orally must be protected by the

GDPR when they are (necessarily) required to appear in a file, for example recorded in a file

or in the minutes of a meeting as in this case.

all the members of its personnel, including departments other than that in

where the complainant worked.

6.

The minutes of the meeting produced by the complainant mention in particular the following:

as far as she is concerned: her absence for several weeks, the fact that she was the subject of

of a report by Cohezio, the fact that she was declared unfit for work within the

defendant by Cohezio and the fact that she will no longer work with the

defendant.

For the rest, the part of the minutes concerning the complainant relates the announcement of her departure and mentions that colleagues have questioned the allocation of his office, on their personal effects and on the future recruitment of a replacement for the position which she occupied.

7.

On September 30, 2020, after further examination, the complaint was declared admissible by the SPL on the basis of Articles 58 and 60 of the LCA and the complaint is transmitted to the Chamber Litigation under article 62, § 1 of the LCA.

8.

On October 13, 2020, the Litigation Chamber decides, pursuant to Article 95, § 1, 1° and article 98 of the LCA, that the case can be dealt with on the merits.

9.

On the same date, the parties concerned are informed by registered mail of the provisions as set out in article 95, § 2 as well as in article 98 of the LCA. They are also informed, pursuant to Article 99 of the LCA, of the deadlines for transmitting their conclusions, i.e. November 25, 2020 and January 8, 2021 respectively for the submissions in response and reply of the defendant on the one hand and on December 17 2020 for the submissions in response of the complainant on the other hand.

10. A copy of the file (art. 95, §2, 3° LCA) is sent to the parties by means of this same letter of October 13, 2020.

11.

By return email of October 13, 2020, the defendant agrees to receive all case-related communications electronically.

12. This e-mail sent directly to the Litigation Chamber by Director Z implicated by the complainant further states the following:

Mr. Z indicates that with regard to the complaint against him, he wishes

bring to the attention of the Litigation Chamber that in the context of the meeting of

service mentioned, he informed the entire team of the movements in

personnel matters. Aware of the delicate nature of the situation of the

complainant and in order to avoid any discussion or rumor about her departure from the

management and, more broadly, of the defendant, he reports that it seemed to him relevant

to use the same terms as those used by the General Secretariat (management

general) of the defendant.

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He specifies that he was never in possession of the medical diagnosis of the complainant

and that it is on the basis of a note between the Human Resources Department and the

General Management of the defendant, and in particular of the terminology used in

Article 410 of the Civil Service Code (unsuitability)2, which he informed the

co-workers in his management.

He adds that his intention was to remain as factual as possible in order to avoid any

form of interpretation of the situation and that in no case did it intend to

harm the complainant or disseminate confidential information concerning her.

On the contrary, he continues, he wished to be able to ensure maximum serenity to the

within his team.

On October 28, 2020, Mr Z will send the same message to the Litigation Chamber,

these messages being worth “conclusions” for the defendant (see below points 22 et seq.).

13.

On December 15, 2020, the Litigation Chamber receives the conclusions in reply of the

complainant. The complainant highlights that it is not disputed that Mr. Z read the

document sent by Cohezio mentioning his inability to perform his duties during the

service meeting on the one hand and which he has also validated, according to the internal procedure which

requires, the provision of the minutes of the meeting on the server of the

defendant on the other hand. The complainant further adds that her manager could have

announce his departure to his colleagues without mentioning the reason for this departure or ask him

his possible consent to the communication of this sensitive data.

14.

The Litigation Division did not receive any submissions in reply from the

defendant and none of the parties requested a hearing within the meaning of Article 93 of the LCA

and Article 51 of the Internal Regulations (RoI) of the APD as they had been

invited to do so if they so wish via the aforementioned letter of October 13, 2020 from the

Litigation Chamber.

II. Motivation

As for the identification of the data processing in question

15.

As the SPL recalled in its letter of April 29, 2020 to the complainant's address

(point 4), the GDPR - whose DPA is responsible for ensuring the correct application - applies

2 Art. 410. § 1. Subject to Article 412 and by way of derogation from Article 405, a staff member shall be granted leave without

time limits: 1° when his illness is caused by an accident at work, by an accident occurring on the way to

work or by an occupational disease; 2° when the agent has been removed from his post following a decision

of the occupational physician noting his inaptitude to occupy a post (referred to in article 2 of the royal decree of 28 May

2003 relating to the surveillance of workers' health – AGW of 18 October 2012, art. 31) and that no work of

replacement could not be assigned to him. (…) Version in force from 1 January 2020:

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“to the processing of personal data, automated in whole or in part, as well as

that to the non-automated processing of personal data required to appear in

a file”3 (article 2.1 of the GDPR).

16.

It is undisputed that both the statements made orally by Director Z during the meeting

of service that their recording in the minutes of this meeting constitute

personal data relating to the complainant. Section 4.1. of the GDPR defines in

personal data as being “any information relating to a

identified or identifiable natural person”. The information that the

complainant (cited by name – see point 6) had been absent for several weeks, had

been the subject of a Cohezio report, had been declared unfit for work and would no longer work

with the defendant in the future are indeed information which makes it possible to

identify it, in this case directly.

17.

The Litigation Division further notes that the information that the complainant has

been declared unfit for work by the well-being and prevention at work service

also constitutes data relating to the health of the complainant within the meaning of Article 4.15

of the GDPR.

18.

The Litigation Chamber recalls in this respect that the GDPR has opted for a broad definition

health data. Article 4.15 of the GDPR thus defines the data relating to

health as "personal data relating to the physical health or

mental health of a natural person, including the provision of health care services, which

reveal information about that person's state of health. Recital 35 of the

GDPR which sheds light on this definition confirms the choice of a broad concept and not

restrictive4. The information that the complainant was declared unfit for work by

professionals whose mission is specifically to assess the capacity of

workers to exercise their function, certainly does not reveal the physical or mental pathology

from which the plaintiff suffers. Such a service is indeed not authorized to reveal a

any medical diagnosis or any other consideration of a medical nature

that the only information that the employee is not or no longer able to exercise his

functions is sufficient for the purpose pursued: either to allow the employer to derive the

3 It is the Litigation Chamber which underlines.

4 Recital (35): Personal data relating to health should include all personal data

relating to the state of health of a data subject which reveal information about the state of physical or

mental past, present or future of the person concerned. This includes information about the natural person

collected during the registration of this natural person in order to benefit from health care services or during the

provision of these services within the meaning of Directive 2011/24/EU of the European Parliament and of the Council1 for the b

Physical person; a specific number, symbol or element assigned to a natural person to identify him from

unique way for health purposes; information obtained during the testing or examination of a part of the body or a

bodily substance, including from genetic data and biological samples; and any information

regarding, for example, illness, disability, risk of illness, medical history, clinical treatment

or the physiological or biomedical condition of the data subject, regardless of its source, whether by

example of a physician or other healthcare professional, hospital, medical device, or diagnostic test

in vitro.

consequences in terms of the rights of the employee, possible departure/reclassification,

staff movements etc. This information of the incapacity does not reveal any less

information relating to the complainant's state of health and must therefore be considered

as personal data relating to his health within the meaning of Article 4.15 of the

GDPR.

19.

Similarly, the other information recorded in the minutes (such as

identified in point 15) relating to the long absence of the complainant and the fact that she

is the subject of a report by Cohezio also constitute, and for the same reasons,

health data.

20.

The material scope of the GDPR further requires that there be "processing" of

personal data within the meaning of Article 4.2 of the GDPR, this processing being defined

as “any operation or set of operations whether or not carried out using processes

automated and applied to personal data or sets of data

such as the collection, recording (…), communication by transmission, dissemination

or any other form of provision, (…)”.

21.

In this case, the Litigation Chamber therefore considers that the recording in writing of the

aforementioned information relating to the complainant (point 15) - including in particular her incapacity

-, in the minutes of the meeting (which was communicated to the Litigation Chamber

as part) is a processing of personal data within the meaning of Article

4.2 of the GDPR subject to its application in execution of its article 2.

22.

The availability of the minutes of the service meeting is not

challenged by Mr Z in the writings he sent to the Litigation Chamber (point

12). However, the Litigation Chamber was not able to verify materially

that these meeting minutes were effectively made available to the staff of the

defendant by e-mail and on its server. If this were to be the case, this provision

of the complainant's personal data is additional processing which

is added to the recording of these data in the minutes drawn up and saved

electronically and the following findings of violation also apply to it.

Regarding the identification of the data controller

23.

The Litigation Chamber notes that under the terms of the complaint form filed, the

complainant directs her complaint directly against her supervisor,

Mr. Z. It nevertheless mentions the latter's quality as director within the

defendant.

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24. The Litigation Chamber has already had occasion5 to point out that it is often complex for the complainant to correctly identify the data controller with regard to the treatment(s) that he denounces, these notions being legally defined in articles 4.7 of the GDPR and probably difficult to understand by a person not versed in the matter.

25. The Litigation Chamber recalls here that a data controller is defined "the natural or legal person or any other entity which alone or jointly with others, determines the purposes and means of the processing of personal data personnel" (article 4.7 of the GDPR). It is an autonomous concept, specific to the data protection regulations, the assessment of which must be made at the starting from the criteria it sets out: the determination of the purposes of the data processing concerned as well as that of the latter's means.

26. In its Guidelines 07/2020, the European Data Protection Board (EDPS) states that if the data controller may, under the terms of the aforementioned definition of section 4.7. of the GDPR, of course being a natural person, in practice, it is usually the organization itself, not a person within it (such as the general manager, an employee or a member of the board of directors), who acts as data controller within the meaning of the GDPR6. Indeed, even though it has certainly a certain autonomy in the exercise of its functions, it is not in this case not Director Z as such who determines the purposes and means of processing but the organization in which he works. Except to exceed its functions - this which has not been demonstrated in this case - he is not responsible for processing. Bedroom Contentious therefore considers that it is the defendant, and not one of its directors, who is

the data controller since it is up to the defendant to determine the

purposes and means of the processing carried out within it.

27.

Therefore, the Litigation Chamber sent the invitation to conclude on April 8, 2020 both to the

plaintiff than to the defendant as data controller.

Regarding the compliance of the processing with the GDPR

28.

Any processing of personal data must be based on one of the databases

lawfulness provided for in Article 6.1 of the GDPR. Regarding the processing of categories

particular data such as data relating to health as in the present case (points

16-17), the condition of lawfulness referred to in Article 6.1 of the GDPR only applies if Article 9.2 of the

GDPR provides a specific derogation from the general prohibition on processing categories

particulars of Article 9.1. In other words, when data within the meaning of Article 9

5 See. for example decisions 81/2020 and 76/2021 of the Litigation Chamber.

6 European Data Protection Board (EDPB), Guidelines 07/2020 on the notions of controller

of processing and processor in the GDPR, adopted on July 7, 2021 (version after public consultation) available

here: https://edpb.europa.eu/system/files/2022-02/eppb_guidelines_202007_controllerprocessor_final_en.pdf

of the GDPR are processed, their processing must find a basis in article 9.2 of the GDPR read

in conjunction with Article 6.1. of the GDPR.

29. Since the defendant processed data relating to the complainant's health, the

processing of such data should, as just mentioned, find a

based on Article 9.2 of the GDPR, read in conjunction with Article 6.1. of the GDPR.

30.

In this case, the plaintiff does not dispute the lawfulness of the processing by the defendant of

the information that, at the end of the Cohezio report, she was declared unfit for

work. The Litigation Chamber recalls that in addition to the fact that the lawfulness of the processing must
be based on a combined reading of Articles 6.1. and 9.2. of the GDPR, article 9 of the LTD
also applies in this case when data relating to health are
processed.

The national legislator has provided that in execution of article 9.4 of the GDPR7, the person responsible
processing takes the following additional measures, in particular when processing
health data:

1° the categories of persons having access to the personal data,
are designated by the controller or, where applicable, by the data processor.
processing, with a precise description of their function in relation to the processing of
targeted data. This requirement translates the “need to know” principle according to which
only the persons for whom the processing of this data is necessary to
performance of their duties are authorized to do so;

2° the list of the categories of persons thus designated is made available
of the competent supervisory authority by the controller or, where appropriate
where applicable, by the subcontractor;

3° he ensures that the designated persons are bound by a legal obligation
or statutory, or by an equivalent contractual provision, in compliance with the
confidentiality of the data concerned.

31. What is disputed by the complainant is the subsequent communication of information
relating to his health to colleagues in his department as well as to all the staff of the
defendant by making the minutes of the meeting available on the server.

32. As it has already had occasion to specify in other decisions8, the Chamber
Litigation recalls here that the processing of personal data carried out for
purposes other than those for which the personal data was
collected initially cannot be authorized in accordance with article 5.1. b) GDPR that

7 Section 9.4. : Member States may maintain or introduce additional conditions, including limitations,

with regard to the processing of genetic data, biometric data or data concerning health.

8 See. for example decision 80/2022 of the Litigation Chamber and the references cited.

if it is compatible with the purposes for which the personal data were

were originally collected.

33. Taking into account the criteria listed in article 6.4. of the GDPR and recital 509, it should be

verify whether the subsequent processing – in this case the communication of said information

to other members of staff to inform them of staff movements

- is or is not compatible with the purpose of the initial processing.

34. In this case, the Litigation Division notes that this subsequent communication pursues

an objective distinct from the primary purpose, which was to receive information and to

process at the level of human resources departments for personnel management purposes

(end of the employment relationship, granting of rights, possible redeployment/mobility, etc.) At this

respect, only certain persons are, in the exercise of their specific function,

authorized to receive this information, particularly given its sensitivity

and its impact for the data subject and the principle of data minimization

(proportionality - article 5.1.c) of the GDPR).

35. The Litigation Division concludes in this case that this subsequent communication is not

not compatible with the original purpose. This communication does not meet expectations

reasonableness of the person concerned. Given the specific legal framework of which the

processing of information processed by Cohezio (personal data relating to

to health) is the subject (limitation of recipients, absence of precise diagnosis), the person

concerned – here the complainant – cannot reasonably expect that these same

data are, on the contrary, communicated widely beyond the only persons

having a functional need to know them. Data sensitivity collides

also to broadly designed compatibility.

36.

It follows that there is no question of compatible further processing, so that a

separate legal basis was required for that communication to qualify as

lawful10.

37. Processing of personal data, including further processing

incompatible as in the present case, is indeed lawful only if it is based on a basis of lawfulness

own. Recital 50 of the GDPR11 is explicit in this regard. These legal bases

9 Recital 50 of the GDPR: [...] In order to establish whether the purposes of further processing are compatible with those for

which the personal data was initially collected, the controller, after having

complied with all the requirements relating to the lawfulness of the initial processing, should take into account, inter alia: any link

purposes and purposes of the intended further processing; the context in which the personal data was

collected, in particular the reasonable expectations of the persons concerned, according to their relationship with the

responsible for the processing, as to the subsequent use of said data; the nature of the personal data;

the consequences for data subjects of the intended further processing; and the existence of appropriate safeguards

both as part of the initial treatment and as part of the planned subsequent treatment.

10 Along the same lines see. the substantive decision 03/2021 of January 13, 2021 of the Litigation Chamber, point 14

https://www.autoriteprotectiondonnees.be/publications/decision-quant-au-fond-n-03-2021.pdf.

11 Recital 50 of the GDPR: The processing of personal data for purposes other than those for

which the personal data was originally collected should only be allowed if it is compatible

distinct are those defined in article 6.1. of the GDPR and, where applicable, when it comes to

of data relating to health as in the present case, of Article 9.2. GDPR read

in conjunction with its article 6.1.

38. The Respondent itself does not cite any basis of legality and the Chamber

Litigation could be limited to this observation. The Litigation Chamber is however of the opinion

that the communication of the complainant's (health) data cannot in this case be based

on no basis of proper lawfulness,

39.

The Litigation Chamber certainly does not call into question the will or the legitimacy of

the defendant to inform its employees of staff movements. In this

meaning, the Litigation Chamber has already stated in its decision 63/2021, that it is appropriate,

within the framework of personnel policy, to inform employees of such

movements. However, to respect

the principle of data minimization

(proportionality) of the data, it is sufficient that this communication remains limited to the

factual communication of the fact that the person concerned, such as the complainant here, is no longer

in service.

40. Regarding the assumptions of Article 9.2. read in conjunction with Article 6.1. of the GDPR, the

Litigation Chamber finds that

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said communication to other members of staff and its recording in a

meeting minutes are not based on the consent of the complainant, although

on the contrary (article 9.2. a) of the GDPR) and this, even assuming that it can constitute

a basis of lawfulness valid in the context of the professional relationship which binds him to the

defendant, quod non;

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said communication to other members of staff and its recording in a

minutes of the meeting cannot be considered necessary for the purposes of

the execution of the obligations and the exercise of the rights specific to the person in charge of the

treatment or to the complainant in matters of labor law, social security and

social protection (article 9.2. b) of the GDPR);

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this communication to other staff members and its recording in a

meeting minutes are not necessary to safeguard vital interests

of the complainant (article 9.2. c) of the GDPR);

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communication and recording in meeting minutes are not

carried out by a foundation, an association or any other non-profit organization

lucrative and pursuing a political, philosophical, religious or union purpose,

in the context of their legitimate activities (article 9.2. d) of the GDPR);

with the purposes for which the personal data was originally collected. In this case, none

separate legal basis from that which allowed the collection of personal data will be required. [...]

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communication and recording in the minutes of the meeting do not relate

on personal data which would obviously have been made

public by the complainant (Article 9.2. e) of the GDPR);

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communication and recording in the meeting minutes are not

necessary for the establishment, exercise or defense of legal claims or

whenever courts act within the framework of their jurisdictional function

(article 9.2. f) of the GDPR);

-

communication and recording in the meeting minutes are not

necessary for reasons of important public interest (Article 9.2. g) of the GDPR);

-

communicating to other staff members and recording in the

meeting minutes are not necessary for the purposes of preventive medicine

or occupational medicine, the assessment of the worker's ability to work,

medical diagnoses, health or social care, or management

health care or social protection systems and services on the basis of

under Union law, the law of a Member State or under a contract concluded with a

healthcare professional (article 9.2. h) of the GDPR);

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this communication and the recording in the minutes of the meeting are not

necessary for reasons of public interest in the field of public health, such as

that protection against serious cross-border threats to health, or

for the purpose of ensuring high standards of quality and safety in healthcare

and medicines or medical devices (Article 9.2. i) of the GDPR);

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communication and recording in the meeting minutes are not

necessary for archival purposes in the public interest, for research purposes

scientific or historical or for statistical purposes (Article 9.2. j) of the GDPR).

41.

In the absence of a basis of lawfulness legitimizing the processing complained of (subsequent incompatible)

of the complainant's data, the Litigation Chamber concludes that the defendant has

violates Articles 5.1.b) juncto 6.4 and 9.2. read in conjunction with Article 6.1.12 of the GDPR.

The complainant's data were indeed the subject of further processing incompatible

with the specified, lawful and legitimate purposes for which they were initially

collected13, without being able to rely on a basis of proper lawfulness.

Regarding corrective measures and sanctions

42.

Under the terms of Article 100 LCA, the Litigation Chamber has the power to:

1° dismiss the complaint without follow-up;

2° order the dismissal;

12 See. footnote 11 above.

13 Article 5.1.b) of the GDPR.

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 of

these to the recipients of the data;

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 a

international body;

15° forward the file to the public prosecutor's office in Brussels, which informs it of the

follow-up given to the file;

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

Data protection.

43. It is important to contextualize the breaches for which the defendant is responsible

with a view to identifying the most appropriate corrective measures and sanctions.

44. Given the breach of Article 5.1.b) juncto 6.4 and 9.2. read in conjunction with the article

6.1. of the GDPR noted in point 41, the Litigation Chamber is of the opinion that the measure

adequate remedy is to issue a reprimand to the defendant. Like the

defendant is a public authority within the meaning of Article 221, § 2, of the LTD, the Chambre

Litigation is not competent to impose any fine on it. Bedroom

Contentious also invites the defendant to raise awareness among its staff

so that similar situations do not occur in the future.

45. In addition, the Litigation Division also notes that in support of the breaches

found in this decision, it is for the defendant to take, in its capacity

of data controller, the measures necessary to restrict or even eliminate

henceforth the dissemination of information relating to the health of the complainant as identified

in points 17 and 19 with regard to third parties. In line with what it states in point 39 above,

only the information covered by the certificate issued by Cohezio relating to the absence and

reason for absence (inaptitude) are concerned here; the statement – reformulated if necessary - of

that the plaintiff will no longer be in service with the defendant can stand.

III. Publication of the decision

45. Given the importance of transparency regarding the decision-making process of the Chamber

Litigation, this decision is published on the website of the Protection Authority

data (APD). However, it is not necessary for this purpose that the data

identification of the parties are directly mentioned.

FOR THESE REASONS,

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

- Pursuant to Article 100 §1, 5 of the LCA, to formulate a reprimand against the

defendant.

In accordance with Article 108, § 1 of the LCA, an appeal against this decision may be lodged,

within thirty days of its notification, to the Court of Markets (court

d'appel de Bruxelles), with the Data Protection Authority as defendant.

Such an appeal may be introduced by means of an interlocutory request which must contain the

information listed in article 1034ter of the Judicial Code14. The interlocutory motion must be

filed with the registry of the Market Court in accordance with article 1034quinquies of C. jud.15, or

via the e-Deposit information system of the Ministry of Justice (article 32ter of the C. jud.).

(Sr.) Hielke HIJMANS

President of the Litigation Chamber

14 The request contains on pain of nullity:

the indication of the day, month and year;

1°

2° the surname, first name, domicile of the applicant, as well as, where applicable, his qualities and his national register number

Business Number;

3° the surname, first name, domicile and, where applicable, the capacity of the person to be summoned;

(4) the object and summary statement of the means of the request;

(5) the indication of the judge who is seized of the application;

6° the signature of the applicant or his lawyer.

15 The request, accompanied by its appendix, is sent, in as many copies as there are parties involved, by letter

recommended to the court clerk or filed with the court office.