Litigation room

Decision on the substance 75/2023 of 14 June 2023

File number : DOS-2021-07350

Subject: Processing of personal data on a platform

The Disputes Chamber of the Data Protection Authority, composed of Mr Hielke Hijmans, chairman, and Messrs. Dirk Van Der Kelen and Jelle Stassijns, members;

Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and revocation of Directive 95/46/EC (General Data Protection Regulation), hereinafter GDPR;

Having regard to the law of 3 December 2017 establishing the Data Protection Authority, hereafter WOG;

Considering the regulations of internal order, as approved by the Chamber of Representatives on 20 December 2018 and published in the Belgian Official Gazette on January 15, 2019;

Having regard to the documents in the file;

Made the following decision regarding:

The complainants:

Healthcare providers X represented by Mr. Ann Dierickx, office clerk at 3000 Leuven, Mechelsestraat 107-109, hereinafter “the complainants”;

The defendant: Y, represented by 'Mr. Emmanuel Cornu and Mr. Eric DeGryse, with offices at 1050 Brussels, Avenue Louise 250/10, hereinafter "the defendant”.

I. Facts and Procedure

1.

On

23

November

2021

serve

the

complainers

An

complaint

in

bee

the

Data Protection Authority against the Defendant.

2. On November 25, 2021, the complaint will be declared admissible by the First Line Service on

pursuant to Articles 58 and 60 WOG and the complaint is dismissed pursuant to Article 62, § 1 WOG

submitted to the Disputes Chamber.

3. On December 10, 2021, in accordance with Article 96, § 1 WOG, the request of the

Disputes Chamber to carry out an investigation transferred to the Inspectorate,

together with the complaint and the inventory of the documents.

4. The investigation by the Inspectorate will be completed on February 2, 2022, it will be

report is appended to the file and the file is reviewed by the Inspector General

sent to the Chairman of the Litigation Chamber (Article 91, § 1 and § 2 WOG).

The report contains findings regarding the subject of the complaint and decision

that:

1. there is a violation of Article 5 (1) (a) and (2) and Article 6 (1) GDPR; and that

2. there is an infringement of Article 12(1),(2) and (3), Article 17, Article 19, Article

24 (1) and Article 25 (1) GDPR.

5. On February 4, 2022, the Litigation Chamber will decide on the basis of Article 95, § 1, 1° and Article 98

WOG that the file is ready for treatment on the merits.

6. On 4 February 2022, the parties involved will be notified by email of the

provisions as stated in Article 95, § 2, as well as those in Article 98 WOG. Also

they are informed of the time limits for their

to file defenses.

The deadline for receipt of the statement of defense from the defendant was

hereby recorded on 18 March 2022, this for the statement of reply of the complainants

April 8, 2022 and this one for the defendant's rejoinder on April 29, 2022.

7. On 8 February 2022, the complainants will electronically accept all communication regarding the case

and ask the complainants for a copy of the file (article 95, § 2, 3° WOG), which was sent to them

transferred on February 9, 2022.

8. On February 17, 2022, the defendant electronically accepts all communications regarding the

case. The defendant hereby makes a reasoned statement to the Disputes Chamber

request to change the procedural language from Dutch to French, as well

the defendant asks for a copy of the file (article 95, § 2, 3° WOG), which was sent to her

transferred on March 14, 2022.

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9. On February 21, 2022, the Disputes Chamber receives a request from the complainants on the

to keep Dutch as the language of proceedings.

10. On March 7, 2022, the Disputes Chamber will inform the parties about the retention of the

Dutch as a procedural language in accordance with its language policy, as there is only 1

procedural language. However, the Disputes Chamber states that the parties can turn to it address in the national language of their choice and that the Dispute Chamber will respond to the parties in the language they prefer. The Disputes Chamber makes adjusted terms for this for the parties to submit conclusions about.

11. On March 14, 2022, the Disputes Chamber receives the defendant's objection to the retention of Dutch as a procedural language and that proposed by the Disputes Chamber language arrangement. On the same day, the Disputes Chamber will send adjusted deadlines submit claims to the parties.

The deadline for receipt of the statement of defense from the defendant was hereby set on 25 April 2022, this for the statement of defense of the complainants on 16 May 2022 and those for the defendant's rejoinder on 6 June 2022.

12. After assessing the objection regarding the language of the proceedings of the defendant, the Litigation Chamber on March 22, 2022 the decision regarding the preservation of the Dutch as the language of the proceedings to the parties, with adjusted deadlines for submission.

The deadline for receipt of the statement of defense from the defendant was hereby set on 3 May 2022, those for the statement of reply of the complainants on 24 May 2022 and those for the defendant's statement of defense on 14 June 2022.

13. On March 18, 2022, the Disputes Chamber will receive the statement of defense from the defendant. First, the defense alleges a violation of Articles 41 and 42 of the coordinated laws on the use of languages in administrative matters for conservation of Dutch as a procedural language. On the merits, the defendant argues that the processing constitutes lawful data processing. Subsequently, the defendant claims that she has proceeded to the deletion of the personal data from the first knowledge of the data erasure request.

14. On 17 May 2022, the Disputes Chamber will receive the statement of reply from the complainants. The The complainants argue that the defendant complied with the rules in the contested processing

from Articles 5 (1) (a), 5 (2) and 6 GDPR. Then the complainers enter

indicates that the defendant has belatedly proceeded to a complete removal of the

personal data in question violated the provisions of the GDPR.

15. On 13 June 2022, the Litigation Chamber received the statement of rejoinder from the

defendant in which she repeats her arguments from the statement of defense and

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additionally notes that the complaint was filed on behalf of the practitioners, but the

statement of reply was submitted on behalf of Z comm.v.

16. On September 28, 2022, the parties will be notified that the hearing will

take place on November 18, 2022.

17. On November 18, 2022, the parties appearing will be heard by the Disputes Chamber.

18. On November 21, 2022, the minutes of the hearing will be sent to the parties

transferred.

19. On January 26, 2023, the Disputes Chamber receives some from the defendant

remarks with regard to the official report which it decides to include in

her deliberation.

20. On 16 May 2023, the Disputes Chamber informed the defendant of its intention

made to proceed to the imposition of an administrative fine, as well as the

amount thereof in order to give the defendant the opportunity to defend himself,

before the sanction is effectively imposed.

21. On June 5, 2023, the Disputes Chamber will receive the response of the defendant to the

intention to impose an administrative fine, as well as the amount

of them.

II. Motivation

II.1. Decision on Dutch as a procedural language

22. As already explained, the defendant objected to the Dutch als

procedural language. The defendant argues that Dutch should be retained as the language of proceedings is contrary to Articles 41, §1 and 42 of the Royal Decree of 18 July 1966 containing coordination of the laws on the use of languages in administrative matters (hereinafter: SWT)1 not has complied.

23. In view of the above, the question arises which language legislation applies to the procedure before the Litigation Chamber.

24. With regard to the procedural language for the GBA, Article 57 of the WOG in the within the framework of the dispute resolution procedure that "[t]e DPA uses the language in which the procedure is conducted according to the needs specific to the case".

Pursuant to this Article 57 WOG, read in conjunction with Article 60 WOG, the procedure conducted in one of the national languages. However, this article 57 WOG is general

1 B.S. August 2, 1966.

formulated and does not provide for any general foreseeable regulation of the procedural language the parties to a multilingual procedure.

25. The Marktenhof has already discussed some elements regarding the language used in the proceedings clarified before the Litigation Chamber. It has determined that the law of 15 June 1935 on the language used in court cases does not apply to the Disputes Chamber:

"It is undisputed and indisputable that the language law of June 15, 1935 does not apply to conducted the procedure before the GBA. In principle, every person/legal entity must oppose those who are prosecuted for a complaint have the opportunity to defend themselves in their own language (and not in that of the complainant)."

26. The Marktenhof continues: "[t]he GBA, which is an autonomous government service is with legal personality, is a central service whose scope covers the entire country within the meaning of the laws of 18 July 1966 on the use of languages in administrative matters. Out of service

it is in its relations with the public, individuals and private companies

subject to the provisions of Articles 40 to 45 of the aforementioned

language laws."2

27. These articles read as follows:

"Art. 41. - § 1. - The central services for their relations with private individuals

use of those of the three languages used by those concerned."

"Art. 42. - The central services draw up the deeds, certificates, statements, authorisations

and permits in those of the three languages of which the interested private individual uses

asks."

28.

In a recent interlocutory judgment dd. March 8, 20233, the Marktenhof established that there

there is disagreement about the applicability of this language legislation to the procedures

for the Dispute Chamber. The Marktenhof considers in this regard: "[t]end a

create a clearer framework and provide foreseeability for the parties in this regard,

the Marktenhof should rule on this, possibly after questioning it

Constitutional Court". However, the Disputes Chamber notes that this judgment dates from after the

decisions of the Disputes Chamber to use Dutch as the language of proceedings,

therefore not taken into account in those decisions.

29.

In her judgment dd. July 7, 2021, the Market Court has in any case clearly stated that in

principle

any person/legal entity against whom a complaint is being prosecuted, the

must have the opportunity to defend himself in his own language (and not that of the complainant). It

2 Brussels Court of Appeal, Marktenhof section, 7 July 2021, 2021/AR/320, p. 19-20.

3 Brussels Court of Appeal, Marktenhof section, 8 March 2023, 2023/AR/184, p. 12.

evading the prosecuted party to his or her language may, among other things, be a violation
form part of the rights of defence.
30. Since only one official procedural language can apply
The Disputes Chamber must therefore decide whether this should be Dutch or French in the present case
are. The Disputes Chamber decided to keep Dutch as the language of proceedings. Hereby
decision held by the Disputes Chamber
take into account the following elements: the
The defendant's registered office is located in (bilingual) Brussels
Capital Region, the statutes of the defendant are drawn up in Dutch, de
the defendant is active throughout the territory of Belgium, and the complainants are Dutch-speaking.
The Disputes Chamber points out that it has not taken this into account in this assessment
with the objections regarding French as the procedural language formulated by the lawyer
of the complainants as stated in the letter dd. February 4, 2022 it was determined that “if a
the defendant wishes to file a reasoned objection to the use of this language
make it possible to do so within a period of 14 days after the sending of this letter, at
preferably via litigationchamber@apd-gba.be or via the contact details above
this letter” (own underlining).
31. The Disputes Chamber has also taken the findings into account in this decision
of the Marktenhof that any natural or legal person against whom a complaint
persecuted must have the opportunity to defend themselves in their own language. The
The Disputes Chamber has therefore proposed a regulation by analogy with Articles 41,
§1 and 42 SWT. First of all, the Litigation Chamber reminds that these articles only refer to the
regulating language use between the private individual and the central government department, that is in this case
respectively each party and the Disputes Chamber, by extension the GBA. These articles
therefore do not regulate in which language the parties must communicate with each other.
The proposed language regime was as follows. By analogy with the above

position of the rights of defense of the defendant, states the

Disputes Chamber in the first place that both must be able to turn to the Disputes Chamber

their own language. The parties were therefore free to submit procedural documents and conclusions to

the Dispute Chamber in their language of choice. These procedural documents filed by a party

would not, however, be translated by the Litigation Chamber for the benefit of the

other party; nor would it be responsible for the related costs incurred by the parties

with the translation of these documents. The parties also did not have to provide translations of their own

provide procedural documents for the other party. Both sides would too

simultaneously receive the decision in their preferred language.

At the start of the hearing at the Litigation Chamber, the Chairman also stated

indicated that the parties could express themselves in the language they preferred.

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32. The Disputes Chamber notes that the defendant has submitted claims in Dutch

submitted and expressed himself during the hearing in Dutch, as a result of which the

Disputes Chamber, in accordance with the above arrangement, is also available in Dutch

parties.

33. The Disputes Chamber therefore rules that, in accordance with the case law of the

Marktenhof, the rights of defense had not been violated since the defendant

could defend itself in its own language, and the Litigation Chamber would also address the

parties in their chosen language. This is also evident from the fact that the letters

containing the deadlines for submissions received after the first objection of the

defendant about the language of the proceedings, by the Disputes Chamber in both languages

parties were transferred.

II.2. Identity of the complainant

34. The Disputes Chamber notes that the complaint was filed on behalf of a number of individuals

appointed professionals who were all represented by the same

counselor. The conclusion of reply dd. May 13, 2022 have been filed due to the

limited partnership Z of which the professionals who have the complaint

be a retired member.

35. The Disputes Chamber finds that comm.v. Z, on whose behalf the submissions of reply were made

filed, no party is involved.

II.3. Article 5 (1) (a) and (2) and Article 6 (1) GDPR.

36.

In its conclusions, the defendant argues that a distinction must be made

between the free profiles on the one hand and the paying profiles on the other hand. The

Litigation Chamber will first assess the legality of the free profiles and

then the legality of the paying profiles.

II.3.1. Article 6(1)(f) GDPR (Free Profiles)

37. The Litigation Chamber recalls that pursuant to Article 5(1)(a) GDPR personal data

must be lawfully processed. This means that the processing must be done on

based on the processing grounds as set out in Article 6 GDPR.

38. The Inspectorate maintains that the defendant has fulfilled the obligations imposed by Article 5(1)

a) and has not complied with paragraph 2 of the GDPR and Article 6 of the GDPR. To this end, the

Inspectorate applies that the fact that personal data of certain data subjects such as

the Complainants are publicly accessible on certain professional websites, does not imply

that those data subjects can reasonably expect that those personal data

then systematically and on a systematic basis by the defendant without their consent

large-scale manner be made available to anyone who accesses its website

used and processed further.

39. The defendant argues in its conclusions that it does not invoke the authorization for the

processing of the personal data, as this is organizationally difficult to achieve.

However, the defendant argues that the processing is lawful under Article 6(6).

1, f) GDPR (legitimate interest) with regard to the free profiles.

40. In order to be able to rely on the

legitimacy ground

by

It

“justified

interest",

serves

the

to demonstrate to the controller that:

1) the interests it pursues with the processing can be justified

be recognized (the “goal test”);

2) the intended processing is necessary for the fulfillment of these interests

(the “necessity test”); and

3) the balancing of these interests against the interests, fundamental

freedoms and fundamental rights of data subjects

in favor of the

controller or a third party (the “balancing test”). 4

41. The Disputes Chamber will check whether these conditions have been met with regard to the

litigious processing.

(i)

Is there a legitimate interest? (target key)

42. The first condition is that the defendant pursues the interests of itself or a third party

that qualify as justified5. The interests must be on the date of processing

be existing, current, and not of a hypothetical nature.6 A legitimate interest must

be lawful, sufficiently clear, actual and not speculative.7

43. The defendant puts forward three different interests:

a. the interest of a third party (the potential patient): namely increasing the

access to health care for patients and their free choice

facilitating health care providers through the right to freedom of expression, viz

granting the opportunity to write reviews about the healthcare provider (in

the case of paying profiles) on the one hand and the possibility to take note

4 CJEU, 4 May 2017, Valsts policijas Rīgas reģiona pārvaldes Kārtības policijas pārvalde t. Rigas pašvaldības SIA 'Rīgas satiksme', C-13/16; ECLI:EU:C:2017:336, para. 28-31 and CJEU Judgment of 11 December 2019, TK v/ Asociația de Proprietari bloc M5A-ScaraA, C-708/18, ECLI:EU:C:2019:1064, para. 40-44. See also previous decisions in the same sense

of the Disputes Chamber, including 21/2022 of February 2, 2022.

5 Some questions about the legitimate interest are considered to be answered by the Court of Justice of the European Union in case C-621:22 (Koninkijke Nederlandse Lawn Tennisbond v. Autoriteit Persoonsgegevens.

6 CJEU, 11 December 2019, Asocia□ia De Proprietari Bloc M5a-Scara A, C-708/18, ECLI:EU:C:2019:1064, para 44.

7 Opinion 06/2014 on the concept of "legitimate interest of the data controller" in Article 7 of Directive 95/46/EC, 9 April 2014, Article 29 Data Protection Working Party, p.31.

of these reviews on the other hand. As for the interest of the potential patient

the defendant argues that through the platform it enables patients to

easy to find and contact a healthcare professional

record with him/her by sharing not only useful, but even

necessary information. The defendant argues that this contributes to the law

of each patient to access health care, as well as his right to free

choice of the professional he wishes to consult, as guaranteed

by Article 6 of the Law of 22 August 2002 on the rights of

patients. Secondly, the platform also allows patients to express an opinion

sharing about the healthcare provider (with a paying profile). It justified

interest here is to implement Article 11 of the Charter of the

Fundamental rights of the European Union in conjunction with Articles 19 and 25 of the Constitution in which the

right to freedom of expression is guaranteed.

b. the interests of those involved

(i.e. the professionals

in the

healthcare), namely attracting new patients and creating

of appointments via the platform; and

c. the defendant's own economic interest, based on the freedom of

entrepreneurship.

44. With regard to this first condition, the Litigation Chamber is of the opinion that the platform

which is controlled by the defendant an interest of the controller,

the healthcare providers and a general interest of the patients of the platform.

45. First of all, the collection of data about healthcare providers can be regarded as

an expression of freedom of information under Article 11 of the Charter of the

fundamental rights of the EU (hereinafter: Charter), both in its active and passive

dimension, namely actively adding the data as well as consulting the

facts. In addition, there is also a social desirability of the platform.

Thanks to this platform, patients can make a more informed choice about their treatment

healthcare providers. The right of users to spread opinions is also one

fundamental right enshrined in Article 11 of the Charter.

46. Next, the interest of the data subject is to gain more visibility and

easy to find, also an interest that can be regarded as legitimate.

47. Finally, the operation of the platform also forms part of the provisions of Article 16 of the

charter

anchored

fundamental

straight

of entrepreneurship

of the

controller. In this case, the Disputes Chamber finds that the defendant in

within the framework of the exercise of its commercial activities

interests.

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48. In view of the above, the Disputes Chamber finds that the defendant meets the first

condition has been met a priori.

(ii) Is the processing necessary? (necessity test)

49. The Court of Justice has ruled on this, inter alia, in the TK judgment

condition of necessity:

“With regard to the second condition of Article 7(f) of Directive

95/46, namely that the processing of personal data must be necessary

for the protection of the legitimate interest, the Court recalled

brought that the exceptions to the protection of personal data and the

its limitations must remain within the limits of what is strictly necessary

(judgment of 4 May 2017, Rīgas satiksme, C□13/16, EU:C:2017:336, paragraph 30 et seq.

cited case law).

In assessing this condition, the referring court must verify whether it

legitimate interest of the data processing that is pursued

with the video surveillance at issue in the main proceedings and which essentially consists of the

to ensure the safety of goods and persons and to prevent criminal offences

cannot reasonably be achieved as effectively with others

means that are less detrimental to fundamental freedoms and

rights of the data subjects, in particular the right to respect for the

private life and the right to protection of personal data as guaranteed

by Articles 7 and 8 of the Charter."8

50. The Court of Justice also notes that the condition relating to the necessity of

the processing, moreover, must be examined in conjunction with the principle of

'minimum data processing' laid down in Article 6(1)(c) of the Directive

95/46. According to that provision, personal data must be 'adequate, relevant

and are not excessive [...] in relation to the purposes for which they are collected or

for which they are subsequently processed".9 The Court of Justice has also

clarifies that if there are realistic and less invasive alternatives, the treatment

is not "necessary".10

51. This case law formulated in relation to Article 7(e) of Directive 95/46/EC

remains relevant to this day. Article 6(1) of the GDPR takes over the wording from

Article 7 of Directive 95/46/EC.

8 CJEU, 11 December 2019, Asocia□ia De Proprietari Bloc M5a-Scara A, C-708/18, C-708/18, ECLI:EU:C:2019:1064, para

46-47.

9 CJEU, 11 December 2019, Asocia□ia De Proprietari Bloc M5a-Scara A, C-708/18, C-708/18, ECLI:EU:C:2019:1064, para 46.

10 CJEU, 9 November 2010, Volker & Markus Schecke GbR and Hartmut Eifert v. Land Hessen, , merged cases

C□92/09 and C□93/09, ECLI:EU:C:2010:662.

52. The defendant argues in this context that the personal data listed on the platform

are exclusively professional and public data, which also apply to others

professional websites can be found. In addition, the defendant also has the

e-mail addresses of the complainants who

mere

used internally to get involved

to inform professionals via the so-called performance mails. Finally, the

the defendant that there are several such professional websites that

association of professionals, such as the websites of the Order of Doctors or of the

Psychologists Committee.

53. The Litigation Chamber notes that the second condition also appears to be met,

as the surname, first name, specialty of the healthcare providers involved are necessary

to enable users of the website to contact them.

(iii) Balancing of Interests

54. Finally, the interests or fundamental rights of the data subject should not be overridden

outweigh the interests of the controller or the third party around them

to be able to successfully rely on Article 6 (1) (f) GDPR, which must always be assessed

in the light of the specific circumstances of the case.11 The Court of Justice

notes that the seriousness of the

infringement, nature of the personal data involved, the nature and concrete manner of

processing of the data concerned and the reasonable expectations of the data subject

that his personal data will not be processed if he has no reasonable need for further processing

can expect processing.12

55. As regards the balancing of interests, the defendant argues that only an absolute

minimum of professional data of the data subjects are processed, that these

personal data are not sensitive in nature and that these personal data are already public

available on the websites of third parties, or from some data subjects on their own

website. The defendant argues that it is within the reasonable expectations of the person concerned

falls that their personal data is processed by a platform such as that of the

defendant, in view of the fact that the complainants themselves are involved in the establishment of

such a platform. The defendant points out that the legitimate interest pursued by

its pursuit does not differ from the legitimate interest of similar ones

platforms. The defendant argues that its platform is more easily accessible to

the patients as it is an easily navigable database in which care providers are selected

all kinds of specializations of the health sector are included.

11 CJEU, 11 December 2019, Asocia□ia De Proprietari Bloc M5a-Scara A, C-708/18, ECLI:EU:C:2019:1064, para 56.

12 CJEU, 11 December 2019, Asocia□ia De Proprietari Bloc M5a-Scara A, C-708/18, ECLI:EU:C:2019:1064, para 57 and 58 ;

Opinion 06/20214 on the concept of “legitimate interest of the data controller” in

article 7 of Directive 95/46/EC, 9 April 2014, Article 29 Data Protection Working Party, p. 50 et seq. can be consulted via

https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2014/wp217_en.pdf.

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56. The Disputes Chamber is of the opinion that there has been a serious breach of the

fundamental rights of data subjects. The defendant collects on a large scale – without

consent – personal data of tens of thousands of healthcare professionals

in the

healthcare. This data is then published on the platform of the

defendant from which it derives commercial profits. As for the nature of the

contact details, the Disputes Chamber notes that these are indeed public

facts. The public nature of the personal data does not prevent the

processing continues to require appropriate safeguards. The fact that personal data for

being publicly available is a factor that can be taken into account in the assessment

especially if its disclosure was accompanied by a reasonable expectation

of further use of the data for certain purposes.13 In this context, the

Litigation Chamber that the disputed processing is not within the reasonable expectations of

the person concerned falls.14 The contact details of the healthcare professionals will be

published on their own website or that of their group practice or hospital, with their

consent to that processing. It is not within their reasonable expectation that this
data is further processed for other purposes, such as the publication of this
personal data by commercial parties (in this case based on commercial interest
of the defendant).

57. When weighing up interests, the Disputes Chamber also takes into account the principle of
data minimization. In this context, the Disputes Chamber refers to the retention periods of
these personal data determined by the defendant. In the privacy policy states
the defendant the following:

“[The Respondent] will store the personal data it collects in electronic and/or
keep printed form for the time absolutely necessary to comply with the
the aforementioned processing purposes and for as long as such retention becomes necessary
deemed for us to comply with our legal obligations or to comply with our legal obligations
defend interests in court.”

58. This wording allows the controller to process these personal data
indefinitely, and possibly even indefinitely. Considering it
The Disputes Chamber therefore concludes above that the processing is not in
proportionate to the goal.

59. The Disputes Chamber therefore concludes that the services provided by the defendant exist
from the collection of personal data from public sources and the processing thereof

13 Article 29 Working Party, Opinion 06/2014 on the “Notion of legitimate interests of the data controller under Article 7 of Directive 95/46/EC,
https://ec.europa.eu/justice/article-29/documentation/opinion-recommendation/files/2014/wp217_en.pdf.

14
https://www.dataprotectionauthority.be/publications/besluit-ten-gronde-nr.-84-2022.pdf.
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on its platform. For the collection and processing of that personal data, the

defendant did not ask for consent, although the consent was the most

constitutes an appropriate legal basis to the extent that the processed personal data relates

have on individual natural persons. The freedom of enterprise as recognized

in Article 16 of the Charter of Fundamental Rights of the European Union is not unlimited

and stops where other fundamental rights – as it protected in Article 8 of the Charter

right to protection of personal data – start. Consequently, the Litigation Chamber

considers that the interests raised by the defendant do not prevail over those of

The involved.

60. Under these circumstances, the Disputes Chamber is of the opinion that the defendant does not

can successfully invoke a legitimate interest. Consequently, there is one

infringement of Article 6 (1) f) GDPR with regard to the free profiles.

II.3.2. Article 6(1)(b) GDPR (paying profiles)

61. As far as the paying profiles are concerned, the processing is lawful according to the defendant

based on Article 6(1)(b) GDPR (performance of a contract). The professionals

can choose to enter into an agreement with the

defendant. Within the framework of this agreement, these professionals can oppose

payment participate in the shaping of their profile on the platform by eg

adding a CV or by indicating which languages they speak. In addition, there are one

series of other benefits such as better visibility on the platform, a

management instrument to save time when making agreements, an instrument to

send appointment reminders, etc.

62. The Disputes Chamber finds that the complaint and the inspection report only concern

have on the processing of personal data in the context of free profiles. This case

after all, concerns doctors who do not want to conclude such an agreement with the

defendant. The Disputes Chamber will therefore not proceed to the assessment of the

lawfulness of the data processing in the context of the paying profiles.

II.4. Article 12(1),(2) and (3), Article 17, Article 19, Article 24(1) and Article 25(1)

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63. Article 12 (1) GDPR stipulates that the controller must take appropriate measures

must take in order for the data subject to receive the information in connection with the processing in a

concise, transparent, intelligible and easily accessible form and in clear and

simple task. Article 12 of the GDPR regulates the way in which data subjects

be able to exercise rights and stipulates that the controller shall exercise them

of those rights by the data subject (Article 12(2) of the GDPR), and him

without delay and in any event within one month of receipt of the request

give information about the measures taken in response to his request (Article 12, par

3 GDPR).

64. A data subject should have the right to request the erasure of his or her personal data

if they are processed in violation of the GDPR. Article 17 (1) GDPR sums up

a number of cases in which the data subject has the right to without unreasonable

delay

are

personal data

at

to leave

to delete

Through

the

controller, such as in the situation where personal data is unlawful

have been processed.

65. Article 24 GDPR requires the controller, taking into account the

nature, scope, context and purpose of the processing, appropriate technical and

takes organizational measures to ensure and be able to demonstrate that the

processing is carried out in accordance with this Regulation.

66. Article 5,

paragraph 2, and Article 24 GDPR

impose general accountability and

compliance requirements to data controllers. More specifically, these require

provisions of controllers that they take appropriate measures to

prevent any violations of the rules of the GDPR in order to protect the right to

to ensure data protection.

67. Finally, Article 19 GDPR stipulates that the controller must inform each recipient

to whom personal data has been provided,

notifies you of any deletion of

personal data in accordance with Article 17 (1) of the GDPR, unless this proves impossible

or disproportionate effort.

II.4.1. Findings in the Inspection Report

68. The Inspectorate finds that there is a violation of the above articles and refers

to the following elements:

a. the defendant did not provide the Inspectorate with any supporting documents

how the request to remove the complainants was answered;

b. the defendant did not provide any supporting documents to the Inspectorate

that on January 14, 2022, the necessary steps were effectively taken to reduce the

delete personal data of the complainants;

c. the defendant did not provide any supporting documents to the Inspectorate

that it was effectively unable to comply with the request for removal from the complainants

was sent by registered mail.

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II.4.2. Defendant's position

69. The defendant disputes this finding and maintains, in essence, that it is indeed an effect

has given to the complainants' data erasure request on 14 January 2022. Om

to begin with, the defendant points out that it only became aware of it on 13 January 2022

of the data erasure request of the complainants. The registered letter dd. 25

October 2021 addressed to the registered office and delivered there on October 26

2021 was not received by (an employee of) the defendant. The

the defendant's business manager, to whom the letter was addressed, has it

receipt not signed. In this context, the defendant argues that in Belgium
that moment was in a lockdown period with mandatory home working, which made the employees
and the defendant's business manager could not receive the registered letter
to take. The defendant therefore argues that the actual knowledge of the request for
data erasure took place on January 13, 2022 and that it was being implemented
given to that request on January 14, 2022. The defendant puts forward various claims in this regard
documents, such as a statement from the employee who provided the personal data
has removed. In addition, the defendant also takes screenshots of the internal
management platform stating that on January 14, 2022, this data will be in the “removed from
[defendant]".

70. The defendant further states that there is a memorandum in the intern with regard to almost all complainants
management platform is included reminding that she will not be in touch again
with the relevant professional. In this respect, the defendant refers to the
Guidelines 5/2019 “on the criteria for the right to be forgotten in the
search engine cases under the GDPR”.15 To the extent that one can the defendant
consider it a search engine for healthcare professionals, can
a request addressed to it can also be regarded as a request for delisting, whereby
complete deletion of data does not take place and the search engine is therefore useful
can give to the request of the complainants never to be contacted again. The
the defendant states that, pursuant to the conclusions of the reply dd. May 13, 2022, also this note
removed and provide evidence to this effect. This results in the defendant
can no longer guarantee that the complainants will never be contacted again, because,
Now that this information no longer exists, they can no longer know that the practitioner is in it
issue has requested never to be contacted again.

71. Next, the defendant argues that it cannot be criticized for not having the
has taken the necessary technical and organizational measures, in view of the

15 EDPB, Guidelines 5/2019 on the criteria for the right to be forgotten in search engine cases

pursuant to

through

https://edpb.europa.eu/sites/default/files/files/file1/edpb_guidelines_201905_rtbfsearchengines_afterpublicconsultation

_nl.pdf.

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notification system to the Google search engine that the defendant has integrated into

its internal management platform. This notification procedure is triggered as soon as a

employee processes the request for data erasure on the management platform. The

actual removal by the search engine (of the search results related

to the) personal data is normally done after 15 days, depending on the

priorities/capacities of the search engine, this may take longer in certain cases. It

the fact that the results can still be found on Google is due to a reactivity problem

with Google itself and not with the defendant.

72. Finally, the defendant claims that it has not fulfilled the obligations arising from Article 12(1)(2)

and paragraph 3 GDPR has complied. She actually has the request for data erasure

received on January 13, 2022, it complied with it on January 14, 2022 and it

informed those involved on 7 February 2022. The same applies

for the additional request to delete the internal note mentioned above. This one has
received by the defendant through the conclusions of the reply dd. May 13, 2022, she has this
implemented on May 17, 2022 and on May 23, 2022, it advised the lawyer of the
stakeholders are informed. In this context, the defendant notes that the list
of those involved in the complaint was more limited in number than the letter dd. October 25, 2021. Op
May 13, 2022, via the statement of defense, the defendant learned that in the registered
write dd. October 25, 2021, 5 other professionals were also mentioned
of which it had not yet deleted the data. The defendant has in good faith
always complied with all requests for data erasure that it has received.

73.

In a secondary order, the defendant argues that there is no error, nor
negligence. After all, the complainants themselves decided to cancel their request by email during the lockdown period
send by registered mail. However, the defendant sends to the
professionals whose e-mail address she has, a performance mail in which she
are informed about the statistics of their profile, and through this mail they also receive
access to their profile where they can change or delete their data
to ask. The relevant healthcare practitioner can use a button at the bottom of the performance mail
unsubscribe from the emails. A request for data erasure can also be sent
to the e-mail address mentioned above in the privacy policy. The defendant argues
therefore more efficient and reliable options were available to the complainants,
then only a request by registered letter. The reference to decision 74/2020 of
the Disputes Chamber by the Inspectorate is therefore incorrect, since the defendant
offers data subjects various options for exercising their rights.

74. Only after receipt of the letter from the Inspectorate dated. January 13, 2022 in the building where
its offices are located, the defendant was able to take note of the registered letter
dd. October 25, 2021 after finding it in a pile of advertising mail. The letter was there

apparently deposited by a third party, a neighbor or the postman himself, and the

the defendant cannot be held liable.

75. Finally, the defendant argues that it was under no obligation to comply with the

request for data erasure since none of the cases from Article 17 (1) a)-d) GDPR apply

apply in this case. In addition, Article 17(3)(a) GDPR provides for an exception

to the right to erasure insofar as the processing is necessary for the right to freedom

of expression and information.

II.4.3. Review by the Litigation Chamber

76.

In section II.3, the Litigation Chamber determined that the personal data of the complainants

were processed unlawfully with regard to the free profiles. The defendant served

therefore pursuant to Article 17 (1) (d) GDPR to delete the personal data, if

that was requested.

77. Based on the above, the controller must make an arrangement

to enable data subjects to exercise their rights easily and simply

to practice. A controller is not allowed any unnecessary thresholds

raise for data subjects to exercise the aforementioned rights. When a

controller has a policy that prevents the exercise of the said

interferes with rights and actively propagates this policy, there may be

violation of article 12, second paragraph, of the GDPR.

78. Recital 59 of the GDPR further clarifies the standard in Article 12 of the GDPR:

“There should be arrangements in place to enable the data subject to exercise his rights

under this Regulation, such as mechanisms to

requests

to with

name

insight

in

and

rectification

or erasure

by

personal data and, if applicable, to obtain it free of charge, as well as to

to exercise the right to object. [...]”

79. In view of the above, the Disputes Chamber concludes that the defendant indeed

provides various possibilities to exercise the right to data erasure. Hereby

the Disputes Chamber notes that the possibility to delete the data via the

profile implies that the data subjects should make use of the unlawful

created profile to delete this profile, which cannot be the intention. The same

can be said about the unsubscribe button in the performance mails. The defendant points

Please note that the data erasure request can also be sent to the email address

stated in the privacy policy. However, it is more difficult to receive an e-mail

check. The Litigation Chamber points out that the defendant writes in its privacy policy

that data subjects can exercise their rights by writing to the mentioned e-mail

e-mail address or the stated postal address. Consequently, the data subjects must also be able to use it

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making a registered letter, whether or not with acknowledgment of receipt, since this

is a very common means of official and formal communication and those involved

guarantees that it will be received by the recipient.

80. The defendant argues that the registered letter was sent during a

lockdown period during which the employees and the manager worked at home. The

Litigation Chamber notes that teleworking was strongly recommended in the period October 2021, and not obligatory.16 The defendant was therefore not unable to organize itself to perform certain activities, such as following up on mail. The Dispute Room finds that the defendant has not taken the appropriate measures to enforce the right to facilitate data erasure of the data subject, which constitutes a violation of Article 12, paragraph 2 GDPR.

81. Due to the lack of facilitation of the exercise of the right to erasure, the right to erasure was not exercised in time, in accordance with Article 12 (3) GDPR. The Litigation Chamber finds that this non-compliance is the result of inadequate facilitation of the exercise of the rights, and that the the defendant soon after receipt of the letter from the Inspectorate dated. January 13, 2022 acted as well as for subsequent requests soon after becoming aware of them has.

82. The Inspectorate also finds a violation of Article 19 GDPR, but justifies this determination not. Nor does she submit documents in this regard. The Dispute Room therefore considers this infringement to be unproven.

83. In view of the above, the Disputes Chamber concludes that there has been an infringement to Article 12 (2) GDPR.

II.5. Sanctions and Corrective Actions

II.5.1. General

84. On the basis of the documents in the file, the Disputes Chamber establishes that there is following infringements:

a. Article 5, paragraph 1, a) j° Article 6, paragraph 1, f) with regard to the lawfulness of the processing of personal data; and

b. Article 12 (2) GDPR j° Article 17 (1) GDPR for not taking the appropriate measures to facilitate the exercise of their rights by data subjects.

16 https://www.info-coronavirus.be/nl/news/occ-2610/.

85. Pursuant to Article 100 of the WOG, the Disputes Chamber has the authority to:

1° to dismiss a complaint;

2° to order the exclusion of prosecution;

3° to order a suspension of the judgment;

4° propose a settlement;

5° formulate warnings and reprimands;

6° to order that the data subject's requests to exercise his rights be complied with

to practice;

7° order that the data subject be informed of the security problem;

8° order that the processing be temporarily or permanently frozen, restricted or prohibited;

9° order that the processing be brought into compliance;

10° rectification, restriction or deletion of data and notification

to recommend it to the recipients of the data;

11° to order the withdrawal of the accreditation of certification bodies;

12° to impose penalty payments;

13° to impose administrative fines;

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

to recommend an international institution;

15° transfer the file to the prosecutor's office of the public prosecutor in Brussels, who

It

informs you 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 Data Protection Authority.

II.5.2. Established infringement of Article 5(1)(a) j° Article 6(1)(f) and Article 12(2)

GDPR in conjunction with Article 17 (1) GDPR.

II.5.2.1.

Administrative fine

86. In accordance with Article 101 WOG, the Disputes Chamber decides an administrative one

impose a fine on the defendant for the following infringements:

o Article 5, paragraph 1, a) j° Article 6, paragraph 1, f) with regard to the lawfulness of the

processing of personal data; and

o Article 12 (2) GDPR j° Article 17 (1) GDPR for not taking the appropriate

measures to facilitate the exercise of their rights by data subjects.

87. For a violation of Articles 5 and 6 of the AVG, the Disputes Chamber can, on the basis of

Article 83, paragraph 5, a) GDPR impose an administrative fine of up to EUR 20,000,000 or before

a company up to 4% of the total global annual turnover in the previous financial year,

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if this number is higher. A violation of the aforementioned provisions therefore gives

in accordance with Article 83 (5) GDPR gives rise to the highest fines.

88. For a violation of Article 17 GDPR, the Disputes Chamber can, on the basis of Article 83, paragraph

5, b) GDPR also impose an administrative fine up to an amount of 20,000.00

EUR or for a company up to 4% of total worldwide annual turnover in the foregoing

fiscal year if that figure is higher.

89. The Disputes Chamber considers it appropriate to impose an administrative fine

amount of EUR 10,000 (article 83, paragraph 2, article 100, §1, 13° WOG and article 101 WOG). This

fine is imposed for both the infringement of Article 5(1)(a) j° Article 6(1)(f) GDPR and

the infringement of Article 12 (2) GDPR and Article 17 (1) GDPR.

90. It should be pointed out in this context that the administrative fine does not matter

purports to terminate an offense committed, but a firm enforcement of

the rules of the GDPR. After all, as can be seen from recital 148 GDPR, the GDPR states

First of all, in the event of any serious infringement – including the first finding of an infringement – penalties, including administrative fines, in addition to or instead of appropriate ones measures are imposed.17 Below, the Disputes Chamber demonstrates that the infringements that the defendant has committed on the aforementioned provisions of the GDPR by no means minor infringements, nor that the fine would impose a disproportionate burden on a natural person as referred to in recital 148 GDPR, where in either case can be waived from a fine. The fact that it is a first adoption of a by the defendant committed an infringement of the GDPR, does not affect this in any way On the possibility for the Disputes Chamber to An administrative impose a fine. The Disputes Chamber will impose the administrative fine application of Article 58(2)(i) GDPR. The instrument of administrative fine has in no way intended to terminate infringements. To this end, the GDPR and the WOG provide for a number of corrective measures, including the orders referred to in Article 100, §1, 8° and 9° WOG.

17 Recital 148 states: “In order to strengthen enforcement of the rules of this Regulation, penalties, including administrative fines, to be imposed for any breach of the Regulation, in addition to or instead of appropriate measures imposed by the supervisory authorities pursuant to this Regulation. If it concerns a minor infringement or if the expected fine would place a disproportionate burden on a natural person, a reprimand can be chosen instead of a fine. However, it must be taken into account be taken into account the nature, seriousness and duration of the infringement, the intentional nature of the infringement, with

harm reduction measures, with the degree of responsibility, or with previous relevant infringements, with the manner on which the breach has come to the knowledge of the supervisory authority, with compliance with the measures that were taken against the controller or processor, with adherence to a code of conduct and with any other aggravating or mitigating factors. Imposing punishments, including administrative ones fines, should be subject to appropriate procedural safeguards in accordance with the general principles of Union law and the Charter, including effective remedy and due process.

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91. In determining this amount, the Litigation Chamber bases itself on the 2021 annual report which was deposited with the national bank on July 8, 2022, showing that the turnover is 605,865 amounts to EUR. The amount roughly corresponds to 4% of this annual turnover.

92. Taking into account Article 83 GDPR, the case law of the Marktenhof18, as well as the criteria set out in the EDPB guidelines on the calculation of the administrative fines,19 the Disputes Chamber motivates the imposition of a administrative fine in concrete terms, taking into account the following when assessing elements:

Severity of the violation (Article 83(2)(a) GDPR)

93. The Litigation Chamber has established that, with regard to the free profiles, personal data of tens of thousands of professionals throughout Belgium collected and processed without lawful basis. The defendant cannot successfully invoke Article 6 (1) (f) GDPR (legitimate interest) as they do not meets the conditions as developed by the European Court of Justice Union. The defendant collects data from various types of sources without this within the reasonable expectation of the healthcare professionals involved. Although the interests pursued by the defendant are legitimate, and the processed personal data are limited to what is necessary to the litigious processing, they do not prevail over those of the data subjects.

The number of data subjects (Article 83 paragraph 2, a) GDPR)

It concerns tens of thousands of professionals

in healthcare, geographically

spread throughout Belgium.

Negligent or intentional nature of the breach (Article 83(2)(b) GDPR)

94. As to whether the infringement was intentional or negligent

was committed (article 83.2.b) of the GDPR), the Litigation Chamber reminds that "not

intentionally" means that it was not the intention to commit the infringement, although the

the controller had not complied with the duty of care pursuant to

the law rested upon him. In this case, the Disputes Chamber rules that the infringement is not of

is intentional in nature, because the defendant has indeed made an analysis in order to

determine which legal basis would be most appropriate in the present case. There is consequently

no - apparent - intention to violate the GDPR on the part of the defendant. This turns out

among other things from the argument of the defendant in which it argues that the applicability

of consent as a legal basis (Article 6(1)(a) GDPR) was examined for the

18 Brussels Court of Appeal (Marktenhof section), X t. GBA, Judgment 2020/1471 of 19 February 2020

19 Guidelines 04/2022 on the calculation of administrative fines under the GDPR, 12 Mon 2022 (version for public

consultation).

intended processing, but was found to be less suitable. In this context, the

Litigation Chamber, however, notes that the defendant has the contact details of the

data subjects – because they were collected to be placed on the platform

places – and that, as described in this decision, there is no doubt that

consent is the only appropriate legal basis for this processing. Permission could

simply asked. After all, the defendant could use one

standard request with limited individualization as appropriate. The Dispute Room

therefore considers that the infringement was committed through negligence.

The duration of the breach (Article 83(2)(a) GDPR)

95. The Litigation Chamber also refers to the duration of the infringement, namely since 25 May 2018 to date as it has not yet been terminated. This means a long term and structural violation of a basic principle (lawfulness) of the GDPR.

Aggravating circumstance (Article 83(2)(k) GDPR)

96. The Litigation Chamber also takes into account the fact that the defendant made a profit that arises from the unlawful processing as an aggravating circumstance.

Mitigating circumstance (Article 83(2)(k) GDPR)

97. The Litigation Chamber also takes into account the fact that the defendant has never before was the subject of an enforcement procedure of the DPA (article 83, paragraph 2, e) GDPR).

98. The Disputes Chamber finds that the defendant has quickly implemented the right to erasure as soon as it has become aware of the request in question of the data subject. With regard to the inadequate facilitation of the right to data erasure of the complainants, the Disputes Chamber is of the opinion that no additional fine must be imposed.

The categories of personal data affected by the breach (Article 83(2) g) GDPR

As far as the contact details of the data subjects are concerned, these are public personal data and no personal data of a special nature.

Conclusion

99. The whole of the elements set out above justifies an effective, proportionate and dissuasive sanction as referred to in art. 83 GDPR, taking into account the certain assessment criteria. The Litigation Chamber points out that the other criteria of art. 83.2. AVG in this case are not of a nature that they lead to another administrative fine than that which the Disputes Chamber has in the context of this decision

established.

100. In summary, the defendant argues in its response to the sanction form that:

(i)

the seriousness of the offense cannot be deduced from the possibility of it

providing reviews on free profiles, as that option does not exist;

(ii)

the number of people involved cannot be taken into consideration when determining

the fine, as the fulfillment of the interests pursued by the defendant

requires the largest possible number of data subjects and the Litigation Chamber recognizes this

the interests pursued are justified

(iii)

the duration of the alleged infringement cannot be taken into consideration

the determination of the fine, since the defendant could reasonably assume that all along

that there was no infringement, in view of authoritative foreign case law with

relating to an identical situation;

(iv)

the defendant cannot be blamed for negligence as she chose not to provide data

processing on the basis of consent, not because this is practically impossible

would be, but because an analysis showed that the legitimate interests of a

provided a more appropriate basis for the purposes of the intended processing;

(v)

the processing of data by the defendant never reached the stated 'large

negative consequences' can have (and has never had) for those involved

(financial and reputational damage), which the Disputes Chamber deduces from the

review option of profiles, since this option does not exist for the

(free) profiles of those involved;

(vi)

the personal data in the reviews has no potential financial consequences for the

data subjects may have since these reviews do not exist on their free

profiles.

101. The

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additional considerations are discussed below.

102. As the defendant notes in the sanction form, the review option is indeed

not present for the free profiles. This aspect is therefore no longer included in the

the Litigation Chamber's consideration of the seriousness of the breach and its potential consequences

of the data subjects in the context of the consideration of the administrative fine.

103. As for the argument that the number of people involved should not be taken into account

the Disputes Chamber notes that the interest pursued is indeed a broad one

possible database required. As already explained, the target test is only one of the three

conditions for a successful appeal to Article 6 (1) f) GDPR. The illegitimate

processing therefore concerns a large number of persons.

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104. As to the argument that the duration of

the infringement and its negligent nature, the defendant refers to German case law

where a platform similar to that of the defendant was considered

in

comply with the GDPR. The Litigation Chamber takes note of this, but

also refers to an earlier decision dd. May 24, 2022 on her website about a

comparable referral website.20 In this decision, the Disputes Chamber ruled

that such processing does not fulfill the conditions for a successful appeal

to Article 6(1)(f) GDPR. The Disputes Chamber takes account of the relatively recent developments

character of this decision.

105. On the basis of all the elements set out above, the

Litigation Chamber to adjust the proposed sanction from EUR 20,000 to EUR 10,000.

The infringements found justify an effective, proportionate and dissuasive

sanction as referred to in Article 83 GDPR, taking into account the provisions therein

assessment criteria. The Disputes Chamber is of the opinion that a lower fine in the

the present case would not meet the requirement of Article 83(1) of the GDPR

criteria, according to which the administrative fine is not only proportionate, but also

must be effective and deterrent.

II.5.2.2.

Stop order

106. Pursuant to Article 100, paragraph 1, 8° and 9° WOG, the Litigation Chamber also orders

to the defendant to terminate the violation of Article 5 (1) in conjunction with Article 6 (1) (f) GDPR

and keep it terminated. The defendant can comply with this by processing

personal data of healthcare professionals with regard to the

to terminate free profiles on its platform or by, for example, consent,

in accordance with Article 4, 11) of the GDPR to be obtained from the data subjects for the

processing of personal data.

II.5.3. Other grievances

107. The Disputes Chamber proceeds to dismiss the other grievances and findings of the

Inspectorate because, based on the facts and the documents in the file, they do not belong to the

conclude that there has been a breach of the GDPR. These grievances and

findings of the Inspectorate are therefore regarded as manifestly unfounded

within the meaning of Article 57(4) of the GDPR.21

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https://www.dataprotectionauthority.be/publications/besluit-ten-gronde-nr.-84-2022.pdf.

21 See point 3.A.2 of the Dispute Policy of the Litigation Chamber, dd. 18

June 2021, te

https://www.dataprotectionauthority.be/publications/sepotbeleid-van-de-geschillenkamer.pdf

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III. Publication of the decision

108. Given the importance of transparency with regard to decision-making by the

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

Data Protection Authority. It

however, it is not necessary that the

identification data of the parties are disclosed directly.

FOR THESE REASONS,

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

- pursuant to Article 58, paragraph 2 GDPR and Article 100, §1; 13° WOG an administrative one

to impose a fine of EUR 10,000 for the infringement of Article 5, paragraph 1, a) j° Article 6,

paragraph 1, f) GDPR and the violation of Article 12, paragraph 2 in conjunction with Article 17, paragraph 1 GDPR;

- on the basis of Article 100, §1, 8° and 9° WOG order the violation of Article 5, paragraph 1,

a) j° terminate and keep terminated in Article 6 (1) f) GDPR, and then in a

provide a valid legal basis for the processing of the personal data;

- to dismiss the other grievances pursuant to Article 100, §1, 1° WOG.

Pursuant to Article 108, § 1 of the WOG, within a period of thirty days from the

notification against this decision may be appealed to the Marktenhof (court of

Brussels appeal), with the Data Protection Authority as defendant.

Such an appeal may be made by means of an inter partes petition

must contain the information listed in Article 1034ter of the Judicial Code22. It

a contradictory petition must be submitted to the Registry of the Market Court

22 The application states, under penalty of nullity:

1° the day, month and year;

2° the surname, first name, place of residence of the applicant and, where applicable, his capacity and his national register or

3° the surname, first name, place of residence and, if applicable, the capacity of the person to be

enterprise number;

summoned;

4° the object and brief summary of the means of the claim;

5° the court before which the action is brought;

6° the signature of the applicant or his lawyer.

in accordance with Article 1034quinquies of the Ger.W.23, or via the e-Deposit

IT system of Justice (Article 32ter of the Ger.W.).

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(get). Hielke HIJMANS

Chairman of the Litigation Chamber

23 The petition with its appendix is sent, in as many copies as there are parties involved, by registered letter

sent to the clerk of the court or deposited at the clerk's office.