Litigation Chamber

Decision on the merits 84/2022 of 24 May 2022

File number: DOS--2020-02294

Subject: Complaint from the Order of Francophone Bars of Belgium (OBGF) and Mr. Forges

against referencing sites

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

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

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 LVP);

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 :

Order of the French-speaking and German-speaking Bars of Belgium (O.B.F.G.) and

Mr. Forges, represented by Mr. Etienne Wéry, lawyer, whose firm is established

at 1050 Brussels, avenue de la Couronne 224, hereinafter “the complainant”;

The defendant: Y, hereinafter “the defendant”.

I. Feedback from the procedure

1. On June 4, 2020 the Order of French-speaking and German-speaking Bars of Belgium (OBFG hereafter

after) and Mr. Forges (hereinafter “the complainant”) lodged, via their counsel, a complaint with

the Data Protection Authority against the defendant.

2. The subject of the complaint concerns the referencing sites sos-services.be and sos-avocats.com,

both operated by the defendant. The complainant indicates that lawyers who are members of the

plaintiff are included on these sites without legal basis and without them even being informed. the

complainant also informs that the information about them is often erroneous, and that

testimonies falsely attributed to the referred lawyers appear there. It also raises

a lack of compliance with the GDPR both of the privacy charter and of the information relating to

the use of cookies by the two aforementioned websites.

3. Following several requests by local orders, the president of the complainant's order contacted

in September 9, 2019 the manager of the websites on this subject, without response.

4. On July 10, 2020 the complaint was declared admissible by the Front Line Service on the basis

of Articles 58 and 60 of the LCA and the complaint is transmitted to the Litigation Chamber pursuant to

of article 62, § 1 of the LCA.

5. On August 10, 2020, the Litigation Division decides, pursuant to Article 95, § 1, 1° and Article

98 of the ACL, that the case can be dealt with on the merits.

6. On August 10, 2020, the parties concerned are informed by registered letter of the provisions

as set out in article 95, § 2, as well as in article 98 of the LCA. They are also

informed, pursuant to Article 99 of the LCA, of the deadlines for transmitting their conclusions. The

deadline for receipt of the defendant's submissions in response was set for 21

September 2020, that for the complainant's reply submissions on October 12, 2020 and

that for the conclusions in reply of the defendant on November 2, 2020.

7. On September 22, 2020, the Litigation Chamber received an email from the defendant announcing

its conclusions, but without an attachment. September 25, 2020 the Clerk of the House

Litigation responds to the defendant by drawing its attention to the absence of conclusions

in his email of September 22, 2020. This email remained unanswered from the

defendant. On October 15, the registry of the Litigation Chamber sends an email to the

defendant in order to inquire about its conclusions. This responds on November 2, 2020 and

sends its conclusions, indicating that in the event of a request for an extension of the response time by

plaintiff, the defendant would not oppose it.

8. The defendant also requests a hearing for the purpose, as it indicates, of presenting

its good faith and above all its lack of will, on the one hand, to infringe the rights of

data subjects, and on the other hand, to carry out any trade in the data collected.

9. On November 3, 2020, the complainant contacted the registry of the Litigation Chamber indicating

that the dismissal of the defendant's conclusions from the proceedings would not be requested, except

condition of being able to benefit from an extension of the deadline for submissions in reply.

10. On January 4, 2021, the Litigation Chamber receives the submissions in reply from the

complainant.

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

12. On February 4, 2022, the parties are informed that the hearing will take place on March 28, 2022.

13. On March 28, 2022, the parties are heard by the Litigation Chamber.

14. On March 30, 2022, the minutes of the hearing are submitted to the parties.

15. The Litigation Chamber does not receive comments from the parties concerning the

minutes, which it decides to take up in its deliberation.

16. On April 22, 2022, the Litigation Division informed the defendant of its intention to

proceed with the imposition of an administrative fine as well as the amount thereof, in order to

give the defendant the opportunity to defend themselves before the penalty is effectively

inflicted.

17. The defendant does not follow up on the possibility of defending itself or sharing its remarks

concerning the Litigation Division's intention to impose an administrative fine and

the amount thereof.

II. On the competence of the DPA

18. It is important to emphasize, in the present case, that the disputed processing operations took place, as

indicated by the defendant during the hearing of April 28, 2022, since 2016. However, the DPA and therefore,

the Litigation Chamber, were created by the LCA, which entered into force on the same day as

GDPR, i.e. May 25, 2018. The Litigation Chamber therefore does not consider itself

not competent to verify the legality of the processing for the period prior to May 25

2018, even if it would like to point out that the law of 8 December 1992 on the protection

of privacy with regard to the processing of personal data already applied the

same principles as those discussed below. Only the treatments of

data occurring after May 25, 2018 will be analyzed.

19. Also, the Litigation Chamber underlines that since the entry into force on January 10, 2022 of the

law transposing the European electronic communications code and amending

of various provisions on electronic communications of December 21, 2021

(hereinafter: "Law of 21 December 2021), the DPA is now competent, under Belgian law,

to control the provisions relating to the placement and use of cookies. The law

mentioned above introduced, among other things, amendments to the Communications Act

Decision on the merits 84/2022 - 4/25

Electronics (LCE below). More specifically, article 256 of the law of December 21, 2021

provides for the repeal of article 129 LCE and the transfer of this provision to the law of July 30

2018 on the protection of natural persons with regard to the processing of personal data

personal character (hereinafter LVP). Article 10/2 of the LVP now indicates:

“In application of article 125, § 1, 1°, of the law of June 13, 2005 relating to communications

electronically and without prejudice to the application of the regulations and this law, the storage

information or obtaining access to information already stored in the equipment

terminals of a subscriber or user is authorized only on condition that:

1° the subscriber or user concerned receives, in accordance with the conditions laid down in the regulations

and in this law, clear and precise information concerning the purposes of the treatment and its

rights based on the regulations and this law;

2° the subscriber or the end user has given his consent after having been informed in accordance

at 1°.

Paragraph 1 does not apply to the technical recording of information or access to

information stored in the terminal equipment of a subscriber or an end user having

for the sole purpose of carrying out the sending of a communication via an electronic communications network

or to provide a service expressly requested by the subscriber or end user when this is

strictly necessary for this purpose. »

20. Given that the APD is competent to control the provisions of the Privacy Act, it is

competent to control the placement and use of cookies.

21. In view of the foregoing, in the present case, it is therefore necessary to distinguish between several periods

with regard to the basis of the competence of the DPA to control the placement and

the use of cookies.

22. Not being competent to control the processing operations carried out before the creation of the DPA on

May 25, 2018, the Litigation Chamber will not rule on the disputed processing (including

including the placement and use of cookies) operated by the defendant from 2016 to May 25

2018. The Litigation Chamber also notes that the defendant indicated in its

conclusions to have ceased the processing of personal data relating to lawyers for

which it did not have a basis of lawfulness during the present proceedings, without

indicate a specific date. A check on the website seems to attest to the truth of the

subject even if it cannot be excluded that the data removed from the website will still be

used.

23. Regarding the placement and use of cookies operated between May 25, 2018 and

the entry into force

The 10

January 2022 from

the

law transposing the code of

European electronic communications and modification of various provisions relating to

of electronic communications of December 21, 2021 (assigning as indicated above the

Decision on the merits 84/2022 - 5/25

exclusive competence to control the placement operation and the use of cookies at

DPA), the jurisdiction of the Litigation Chamber is developed in the paragraphs below.

below.

24. The competence of the DPA with regard to Directive 2002/58/EC (hereafter: e-privacy Directive) is

developed in previous decisions of the Chamber, in particular in the decisions

12/2019 of December 17, 2019, 24/2021 of February 19, 2021, as well as 19/2021 of February 12, 2021.

This section includes a summary of the Chamber's position.

25. Pursuant to Article 4 § 1 LCA, the DPA is responsible for monitoring compliance with the

fundamental principles of data protection, as affirmed by the GDPR and other

laws containing provisions relating to the protection of the processing of personal data

personal. Also, pursuant to Articles 51 and s. of the GDPR and article 4.1 LCA as well as 33

§ 1st LCA, it is up to the Litigation Chamber as an administrative litigation body

of the DPA, to exercise effective control of the application of the GDPR and to protect the freedoms and

fundamental rights of natural persons with regard to processing, in compliance with

Article 8 of the Charter of Fundamental Rights of the European Union.

26. It is not disputed by the defendant that the disputed websites collect data

of a personal nature through cookies.

27. For processing prior to the entry into force on 10 January 2022 of the law relating to

transposition of the European electronic communications code and modification of

various electronic communications provisions of December 21, 2021

(attributing, as indicated above, the exclusive competence to control the operation of

placement and use of cookies at the APD), the Belgian Institute for Postal Services and

telecommunications (BIPT) was the controller for the LCE, including for article 129 of the LCE

which executes article 5.3 of the e-privacy Directive, in accordance with article 14, § 1 of the law of 17

January 2003 relating to the status of the regulator of the postal and

Belgian Telecommunications (hereafter: BIPT).

28. In its Opinion 5/2019 on the interaction between the ePrivacy Directive1 and the GDPR, the Committee

European Data Protection Authority (hereinafter: "EDPB") confirmed that the authorities of

data protection are competent to apply the GDPR to the processing of

data, also in the context where other authorities would be competent, under

the national transposition of the e-privacy Directive, to monitor certain elements of the

processing of personal data.

1 EDPB, Opinion 5/2019 on the interactions between the "privacy and electronic communications" directive and the GDPR, in

in particular with regard to the competence, tasks and powers of data protection authorities, § 69

Decision on the merits 84/2022 - 6/25

29. It also emerges from this opinion that the e-privacy Directive aims to “clarify and supplement” the

provisions of the GDPR with regard to the processing of personal data in

the electronic communications sector, and in doing so to ensure compliance with Articles 7

and 8 of the EU Charter of Fundamental Rights.

30. The Litigation Chamber notes, in this regard, that Article 8.3 of the Charter provides that the

processing of personal data is subject to the control of an authority

independent, responsible for data protection.

31. In addition, the legal predecessor of the EDPB (the Article 29 Working Party on the Protection of

data) also clarified that GDPR requirements for obtaining consent

valid apply to situations that fall within the scope of the e-Directive.□

privacy2.□

32. In the Planet49 judgment, the Court of Justice of the European Union confirmed that the collection of□

data through cookies could be qualified as processing of personal data□

staff3. Therefore, the Court interpreted article 5.3 of the e-privacy Directive with the help of the GDPR4,□

more particularly on the basis of article 4.11, article 6.1.a of the GDPR (requirement of□

consent) and Article 13 of the GDPR (information to be provided).□

33. As indicated above, the competence of BIPT to monitor certain elements of the processing –□

such as the placement of cookies on the Internet user's terminal equipment - did not carry□

prejudice to the general competence of the DPA. As specified by the EDPB, the authorities of□

data protection remained competent for processing (or elements of□

processing) for which the e-privacy Directive does not provide specific rules5. There was□

a complementarity of competences between BIPT and the DPA in the specific case, in□

to the extent that on the basis of Article 4 of the LCA, the DPA is responsible for monitoring compliance with the□

fundamental principles of data protection, as affirmed by the GDPR and in the□

other laws containing provisions relating to the protection of personal data□

personnel), and that consent is indeed a fundamental principle in this area.□

34. The complaint also relates to the processing operations following the placement of cookies□

defendant's websites.□

35. Also, the Brussels Court of First Instance clearly indicated that the predecessor□

under DPA law was competent to submit a requisition to a court "to the extent□

2 Data Protection Working Party, Guidelines on Consent within the meaning of Regulation 2016/679,□

WP259, p. 4.□

3 Judgment of the Court of 1 October 2019, Planet49, C-673/17, ECLI:EU:C:2019:801, paragraph 45.□

4 As well as with the help of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protec

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

5 EDPB, Opinion 5/2019 on the interactions between the "privacy and electronic communications" directive and the GDPR, in

in particular with regard to the competence, tasks and powers of data protection authorities, § 69.

where it concerns alleged violations of the privacy law of December 8, 1992, to which

Article 129 of the LCE, which clarifies and supplements it, expressly refers"6. As

indicated above, the former article 129 LCE constituted the implementation in Belgian law of article 5.3

of the e-privacy life directive.

36. The DPA was thus also competent, before the entry into force of the law of 21 December

2021, to verify whether the requirement of the fundamental principle that the processing is lawful

around cookies is or is not in line with the GDPR consent terms.

37. The DPA was also competent to verify compliance with all the other conditions made

mandatory by the GDPR – such as transparency of processing (Article 12 of the GDPR) or

information to be communicated (article 13 of the GDPR).

38. As confirmed by the Court of Justice in the Facebook and Others judgment, only the recording and

reading personal data using cookies falls within the scope

of Directive 2002/58/EC, while "all previous operations and activities

subsequent processing of such personal data by means of other

technologies do fall within the scope of the [GDPR]" .7

III. On the competence of the OBFG to lodge the complaint

39. Article 220 of the LVP indicates, pursuant to Article 80 of the GDPR:

“§ 1. The data subject has the right to mandate a body, organization or association

not-for-profit, so that he can lodge a complaint on his behalf and exercise on his behalf the appeals

administrative or jurisdictional either with the competent supervisory authority or with

the judiciary as provided for by specific laws, the Judicial Code and the Code of Instruction

criminal.

§ 2. In the disputes provided for in paragraph 1, a body, organization or association without

for-profit must:

1° be validly incorporated in accordance with Belgian law;

2° to have legal personality;

3° have statutory objectives of public interest;

4° to be active in the field of the protection of the rights and freedoms of data subjects in the framework of the protection of personal data for at least three years.

§ 3. The non-profit body, organization or association provides proof, by presenting its activity reports or any other document, that its activity has been effective for at least three years, that it corresponds to its corporate purpose and that this activity is related to the protection of personal data. »

6 Brussels Court, 24th Civil Affairs Chamber, 16 February 2018, case file no. 2016/153/A, point 26, p. 51, available at the address https://www.autoriteprotectiondonnees.be/news/lautorite-de-protection-des-donnees-defend-son-argument-before-the-brussels-court-of-appeal.

7 Judgment of the Court of 15 June 2021, C-645/19, ECLI:EU:C:2021:483, paragraph 74.

:

40. The complainant indicates in the complaint that the OBFG is a legal person under public law created by the law of July 4, 2001, article 11 of which stipulates that the OBFG has legal personality.

41. He also explains that in its article 495, the law of July 4, 2001 provides that the role of the OBFG is to "ensure the honor, the rights and the common professional interests of their members (…)" and "to take the initiatives and the useful measures (…) for the defense of the interests of the lawyer and the litigant". It also includes an extract from the OBFG 2016-2019 activity report reflecting clearly public interest objectives in the mission of the Order: "The State has asked them to take useful initiatives and measures to defend litigants. He gave them a social responsibility (…) The orders acquire a role of guardian of the administration of the

justice and defender of the rule of law. ".

42. Furthermore, the complainant sufficiently demonstrates that the Order is active in the field of

protection of personal data for at least three years, listing and attaching

attached various examples of its activities in this regard. The Order has demonstrated this in particular by

the introduction of an action for annulment of the law of 29 May 2016 relating to the collection and

retention of data in the electronic communications sector before the Court

constitutional law, which gave rise to the judgment of the Court of July 19, 2018 - n°96/2018. We cite

also its voluntary intervention before the same Court in the context of the action in

annulment of the ABSL Fédération des Entreprises de Belgique directed against article 221 § 2 of the

LVP.

43. Insofar as the OBFG fulfills all the criteria of article 220 of the Privacy Act, the Order is well

competent to lodge his complaint before the Litigation Chamber.

IV. The grievances raised by the complainant

IV.1. As for the sos-services.be website

44. The complainant indicates in his complaint and in his conclusions that the lawyers listed on the site

https://sos-services.be/avocats/ are listed with the following information: first name,

name, address, if available, a telephone number and a description of the activities

(alleged) of the lawyer. He also points out that the lawyers listed are not informed of this, and

that

the treatments of

their aforementioned personal data is done without

consent or any legal basis.

Decision on the merits 84/2022 - 9/25

45. The modified version of the site's privacy document (the modification having taken place during

procedure) indicates, concerning the personal data processed (see ..):

“4. The personal data we process

As the Website is intended to reference professionals from different sectors, we are led

to collect the following personal data:

-

-

-

-

-

Last name First Name,

Company number and VAT,

Address,

Telephone, fax and e-mail contact details

Website.

When you use the Site, we collect and process data relating to computer equipment

concerning navigation and IP addresses, language, web browser cookies, as well as data

details of your mobile device (GSM, tablet, etc.): the name, model and model number, the

operating system (OS) and kernel version, UDID (only applicable for devices

iOS), the telecommunications network to which your device is connected, the time zone; language

registered in the system: NL/FR/EN, the IP address, the IMEI code (International Mobile Station Equipment

Identity), telephone number, serial number of your card. »

46. The complainant adds that a great deal of information about these listed lawyers is

inaccurate.

47. Furthermore, he also raises the lack of a privacy charter, insofar as the link to the

charter, although available on the website, does not work.

48. He also points out that analytical cookies are installed except, at the very least in

theory, in case of refusal by the user, but there is no list or description

processing purposes. He adds that although in the settings cookies are not strictly

functional are unchecked, after visiting the site, the browser indicates that 6 cookies have despite
all been installed. After verification during the procedure, the Litigation Chamber finds
that this is not or no longer the case.

IV.2. As for the site sos-avocats.com

49. The complainant indicates that this site is constructed in a similar way to the site sos-services.be, and
formulates criticisms similar to this one with regard to the site sos-services.be.

50. The complainant begins by pointing out that the site sos-avocats.com suggests that he is
associated with referenced lawyers (“SOS-Avocats and its team of experienced professionals
in criminal law…”). He indicates that 150 lawyers from his Bar are referenced, with the same
personal data than those on the sos-services.be website (surname and first name, address,
phone, email, area of specialization), and raises the presence of false testimonials.

51. It also indicates that this processing is carried out without a legal basis and without informing the
lawyers involved. Furthermore, the principle of correctness is violated to the extent that
many personal data are incorrect.

52. The complainant also points to the privacy charter, which although existing on this site, would
incomplete.

53. He also points out that no consent is required for the cookies installed
in particular for statistical purposes, and notes the absence of a list of cookies.

54. The complainant claims a violation of Articles 5.1, a), b), c), d) and e) and 6.1, 13 and 14 GDPR and 129
of the law of 13 June 2005 relating to electronic communications (LCE).

V. Position of the Litigation Chamber

55. The Litigation Chamber's analysis applies to the two disputed sites, insofar as
where the processing carried out is similar (or even identical). In cases where it is appropriate to
a distinction, the Litigation Chamber specifically indicates this. The arguments of the
defendant are included in this review.

56. The provisions examined are as follows:

• art 5.1 and 6 GDPR for lack of basis of lawfulness of the processing concerning the

listed lawyers, the purpose of which is to publish this data on the sites

litigious ;

• art 13 GDPR (on the collection of personal data from persons

concerned) for non-availability or incomplete nature of the privacy document and

of the charter relating to cookies while information on the users of the sites

web are collected, and that both websites contain collection points for

personal data (contact form and cookies);

• art 14 GDPR (information to be provided when personal data is collected

elsewhere than with the person concerned) because the personal data concerning

referenced lawyers are treated without their being informed (and without their

consent), this personal data is therefore necessarily obtained elsewhere

only with the lawyers in question;

• art 5.1.a GDPR (principles of loyalty and transparency) because the processing is carried out

without informing the persons concerned, without basis of lawfulness, and relating to

personal data whose data subjects do not know where and how they

were collected;

• art 5.1.d GDPR (principle of accuracy) because many personal data are

erroneous;

• art 5.1.b GDPR (principle of purpose limitation) due to the absence of indication

the purposes of the processing.

57. The Litigation Division notes at the outset that the defendant specifies that it exploits

currently only the site sos-services.be and no longer sos-avocats.com, insofar as

this domain name was transferred to the complainant following the introduction of a complaint on March 24

2020 by him with the Arbitration Center for Internet Disputes.

58. With regard to the site sos-avocats.com, the defendant abstains from any comment

in the face of the complainant's accusations (breach of articles 5.1, a), b), c), d) and e) and 6.1, 13 and 14

GDPR and 129 of the ECL), merely indicating that this domain name is no longer

administered by it since its transfer to the complainant.

V.1. As for the principle of legality (articles 5.1.a and 6 GDPR)

59. The principle of lawfulness (Article 5.1.a GDPR) requires the controller to be able to

be based on one of the legal bases provided for in article 6 GDPR, and this throughout the duration of the

treatment. The Litigation Chamber recalls that it is the responsibility of the data controller

to identify a single basis of lawfulness on which it bases its processing, before starting the

treatment8. This requirement also contributes to the principles of loyalty and transparency that it

responsibility to implement (article 5.1.a GDPR). Different consequences stemming from

choice of the basis of lawfulness, in particular in terms of rights for the persons concerned, it

It is not accepted that the data controller relies, for a specific purpose, on

one or the other basis of lawfulness depending on the circumstances.

V.1.1. Contractual necessity (article 6.1.b GDPR)

60. The defendant informs in its submissions, firstly, that the purposes of

processing on the part of the controller “relates, in the first place, to the performance of the contract,

know the presence in the directory and therefore better visibility in search engines

research. ". The Litigation Chamber notes the absence of elements tending to demonstrate the

willingness of the lawyers listed on the litigious sites to be engaged in a relationship

contract with the defendant to improve their visibility on search engines.

research. Article 6.1.b GDPR cannot therefore be used as the basis for the lawfulness of the

treatment by the defendant.

V.1.2. Consent (article 6.1.a GDPR)

61. The defendant then states in its pleadings that "marketing communications"

would have received the consent of the persons concerned. The Litigation Chamber remains

in uncertainty as to the exact meaning of the term "marketing communications". In

the hypothesis where the defendant refers by these terms to the disputed processing of the data

8 See in particular decision 47/2022 of April 4, 2022, § 113, as well as decision 48/2022 of April 4, 2022, §§ 125 and 219.

personal as described above - the referencing of the lawyers concerned on the two sites

web -, the Litigation Chamber recalls that in its capacity as data controller, the

defendant must provide proof of the consent on which it claims to base the

processing carried out (article 24 GDPR). However, the Litigation Chamber notes the absence of such

evidence, for the vast majority of lawyers listed. The defendant in fact submits

only documents tending to demonstrate consent on the part of two lawyers,

among all lawyers listed. He thus submits, in the first place, an email dated April 08

2020 of Me W's secretariat, indicating that the address of the office of

the lawyer. As for this email, the Litigation Chamber notes that the validity of the consent

remains uncertain, since it is not enlightened, given the absence of information concerning

the treatments carried out. Secondly, the defendant also submits an email from Me V. Or,

the Litigation Division finds after examination that the document in question is undated, and

that it is also taken out of any context, which also does not make it possible to verify the

validity of the alleged consent.

62. In addition, the Litigation Chamber notes that the defendant indicates in its conclusions: “

The lawyers' personal data for which the defendant did not have

proof of consent to the mention of their personal data, including data of

contact were completely deleted from the defendant's databases". This

amounts to the implicit acknowledgment by the defendant that it could not rely (at all

the least), for a number of lawyers, on the consent to fulfill his obligation

of legality. The defendant also explained during the hearing of March 28, 2022 that it had

asked an intern she employed in 2016 to take over the list of lawyers and their
personal data available on the website of the Brussels Bar, without contact or request
prior consent from the lawyers concerned. The defendant also
explicitly admitted that it does not have the consent, for a certain number
of lawyers9.
63. In view of the developments set out above, the Litigation Chamber concludes that the
consent does not constitute a valid basis of lawfulness for the processing carried out by the
defendant.
V.1.1.
Legitimate interest (article 6.1.f GDPR)
64. The defendant also indicates that “certain processing operations are undoubtedly based on
the legitimate interest, either of the person concerned, who wishes for example to be contacted again,
either as a defendant”. This assertion demonstrates a misunderstanding of the principle
9 See. Minutes of the hearing of March 28, 2022 page 5-6

lawfulness and the notion of legitimate interest as set out in Article 6.1.f of the GDPR, which for
reminder says:
“the processing is necessary for the purposes of the legitimate interests pursued by the controller
processing or by a third party, unless the interests or freedoms and rights
fundamentals of the data subject which require data protection to be
personal nature, in particular when the data subject is a child" (we
emphasize)
65. It goes against all logic of the GDPR for the controller to rely on
the legitimate interest of the person concerned to base the processing that it operates itself. By
elsewhere, the Litigation Chamber can only reject the defendant's argument according to
which the consent that the latter would have obtained from one of the lawyers to the processing

operated -Me V- constitutes an indication of the interest of the lawyers concerned to be listed.

The Litigation Chamber finds that the defendant seems to confuse the basis of legality

that constitutes legitimate interest and that based on consent. In any case, this

argument is unfounded, since the defendant does not submit evidence to verify

the validity of the alleged consent of listed lawyers (see paras 61 and 62).

66. Furthermore, even if the defendant, as controller, could rely on

on its legitimate (own) interest in a justified way, the fundamental rights and freedoms of

lawyers concerned, who clearly oppose the processing in question, would weigh

in favor of them.

67. Indeed, in accordance with Article 6.1.f) of the GDPR and the case law of the Court of Justice of

European Union (hereinafter "the Court"), three cumulative conditions must be met

so that a data controller can validly invoke this basis of lawfulness10.

This is, “(…) firstly, the pursuit of a legitimate interest by the person responsible for the

processing or by the third party(ies) to whom the data is communicated (“purpose test”),

secondly, the necessity of the processing of personal data for the

fulfillment of the legitimate interest pursued (“necessity test”) and, thirdly, the condition

that the fundamental rights and freedoms of the person concerned by the protection of

data prevail (“weighting test”)”.

68. In other words, in order to be able to invoke the basis of lawfulness of the legitimate interest

in accordance with Article 6.1.f) of the GDPR, the controller must demonstrate that:

a) the interests it pursues with the processing can be recognized as legitimate (the "test

purpose");

10 See. in particular Court of Justice of the European Union (CJEU), Judgment of November 11, 2019 (C-708/18), TK c. Asocia

of Proprietari block M5A-ScaraA issued under Article 7 f) of Directive 95/46/EC.

b) the envisaged processing is necessary to achieve those interests (the “necessity test”); and

(c) the weighing of those interests against the fundamental interests, freedoms and rights of
data subjects weighs in favor of the controller (the "weighting test").

69. The Litigation Division is of the opinion that the first condition is a priori met by the
responsible for processing in the context of the pursuit of its commercial activities.

70. The second condition seems a priori also met, insofar as the surname, first name,
description of the fields of activity of the lawyers concerned and their website are necessary
so that users of the website can contact them.

71. Nevertheless, the third condition is not met. Indeed, the lawyers concerned are
listed on the two disputed sites without their knowledge (in violation of
elsewhere of Articles 13-14 GDPR, as indicated below) and therefore without being able to expect the
treatments in question. Furthermore, the disputed websites contain information
inaccurate and false (in particular as to the areas of specialization of lawyers
concerned, as to the current nature of their registration with the bar, or concerning the
testimonies not drawn up by the lawyers concerned), which risks undermining
reputation of lawyers taken over. At least for these reasons, the weighting test between the
interests, freedoms and fundamental rights of the persons concerned and the defendant weighs
clearly in favor of the lawyers concerned.

72. Since the three cumulative conditions were not met, the defendant cannot validly
invoke the basis of lawfulness of legitimate interest as a basis for the lawfulness of processing.

73. Insofar as the defendant does not provide evidence that it can rely on one of the
bases of lawfulness of Article 6 GDPR for its processing, the Litigation Chamber concludes that
a breach of Articles 5.1.a and 6 GDPR.

V.2. Regarding the obligation to inform (articles 13 and 14 GDPR)

74. Pursuant to Articles 13 and 14 of the GDPR, any person whose personal data
personal are processed must, depending on whether the data is collected directly from it
or from third parties, to be informed of the elements listed in these articles. In case of direct collection

of data from the person concerned, the latter will be informed of both the elements listed in

GDPR article 13.1 and 2.

75. Articles 14.1 and 2 of the GDPR list elements that are similar, taking into account however that

the hypothesis referred to in article 14 of the GDPR is that where data is not collected

directly from the person concerned but also from third parties. This information is,

whether on the basis of Article 13 or Article 14 of the GDPR to be provided to the data subject

in accordance with the terms set out in Article 12 of the GDPR.

Decision on the merits 84/2022 - 15/25

76. The Litigation Chamber recalls that an essential aspect of the principle of transparency

light to Articles 12, 13 and 14 of the GDPR is that the data subject should be able

to determine in advance the scope and consequences of the processing in order not to be taken

unawares at a later stage as to how his personal data has

been used. The information should be concrete and reliable, and it should not be

formulated in abstract or ambiguous terms or

leave room for different

interpretations. More specifically, the purposes and legal bases for the processing of

personal data should be clearly spelled out.

77. Furthermore, following the entry into force of the law of 21 December 2021, article 173 of which provides

the repeal of article 129 LCE and the transfer of this provision to the Privacy Act, an obligation

information (as well as obtaining prior consent - except for cookies

strictly essential-) to users when placing cookies is also provided for

article 10/2 of the LVP11.

78. The Litigation Chamber notes that the sos-services.be site contains collection points for

personal data (cookies and a contact form is available for users).

79. The defendant indicates that it modified the privacy policy document, and added a

cookies charter, changes by which it seems to understand that it has complied with the

GDPR requirements. It also does not dispute that before these changes,

it was in breach of these same requirements.

80. The complainant points out that the privacy policy document and the cookies charter remain

incomplete and unclear.

81. The Litigation Division agrees with the complainant's arguments and makes the following findings.

• The identification of the data controller is not clear

82. The identification of the RT is indeed not clear insofar as four entities (“Y Group sprl

“, “Z”, “our service providers who process your data on our behalf”, then “..”)

are mentioned in the part of the privacy policy document on the identification of the

data controller.

11 Art. 10/2: “In application of article 125, § 1, 1°, of the law of June 13, 2005 relating to electronic communications and

without prejudice to the application of the regulations and this law, the storage of information or the obtaining of access to

information already stored in the terminal equipment of a subscriber or user is authorized only to

provided that:

1° the subscriber or user concerned receives, in accordance with the conditions laid down in the regulations and in this law,

clear and precise information regarding the purposes of the processing and their rights based on the Regulation and this law;

2° the subscriber or the end user has given his consent after having been informed in accordance with 1°.

Paragraph 1 does not apply to the technical recording of information or access to information stored in

the terminal equipment of a subscriber or an end user whose sole purpose is to send a communication

via an electronic communications network or to provide a service expressly requested by the subscriber or user

final when strictly necessary for this purpose."

83. The Litigation Chamber also notes that the defendant admitted, during the hearing,

that the mention ".." is an error, which reinforces the finding of the Chamber

Litigation regarding the unclear identification of the data controller in the policy

defendant's private life.

• The list of processing purposes is incomplete

84. The Litigation Division notes that the privacy policy document does not indicate anything about the purposes of processing personal data concerning the lawyers listed (nor of other service providers elsewhere). This constitutes a violation of article 5.1.b GDPR, insofar as this article prescribes that the purposes must be indicated.

• The retention period for personal data is unclear and questionable

85. In this regard, the Litigation Chamber notes that the privacy policy then of the modification made by the defendant (…) indicates:

"9. Retention period for advertising purposes

We keep your collected data:

for contractual purposes: as long as the contractual relationship is ongoing;

for accounting purposes: for a period of 7 years following collection;

for advertising purposes: as long as you have not notified us that you are withdrawing your consent or that you object to the processing of your data for advertising purposes

Prospect data is kept for a period of 3 months. »

Then, under the point "10- Modification of the purpose", appears a point:

"5.8 Extended Shelf Life

The stated retention periods may be extended if, in special cases, in particular when the data is processed for different purposes, there is a longer contractual or statutory retention obligation. »

86. The Litigation Chamber argues that this last paragraph lacks clarity and may mislead the user of the website, in that the formulation adopted by the defendant does not allow users to predict the retention period of the data. Indeed, then that the retention period must be indicated for each processing purpose, the defendant indicates that the retention periods may be extended, in particular in the case of data processed for multiple purposes. However, the defendant could in this

case argue another purpose for storing data whose retention period is

extinguished, without the person concerned being able to have clarity as to the duration of

storage for each purpose.

•

No mention is made of the recipients or categories of recipients of the

personal data processed

Decision on the merits 84/2022 - 17/25

87. However, in its conclusions, the defendant emphasizes that no personal data would have been

transferred to third parties other than the "co-responsible for processing", "without prejudice to the

administrative and accounting providers and Google services related to cookies". The

Litigation Division notes from the outset that the parties designated as co-responsible for processing

by the defendant are not parties to the proceedings. It also notes that the defendant has

indicated, during the hearing of March 28, 2022, to assume that these indications are repeated for

possible invoicing, but that there has never been any transfer of personal data. The

defendant also explained during the hearing that the hosting of this site is in Ghent (SA..)

and that the data is not transferred outside of Belgium.

88. Following the examination of the various mentions above of the privacy policy document

amended, the Litigation Chamber finds a breach of Articles 13 and 14 GDPR,

in particular at the level of the identification of the data controller, the indication of the

purpose of processing, or the retention period of personal data.

89. The Litigation Chamber also notes that the defendant indicates in its submissions

"The operation of the site is accompanied by a privacy policy which has been adapted as well

than a cookie policy. These updated elements were immediately forwarded to

all the persons concerned (…)". This element, read together with the absence of

challenge by the defendant of its breach of Articles 13, 14 GDPR and the former

article 129 LCE may imply that the defendant acknowledges that it had not

communicated the information required by said articles.

90. In view of the preceding developments, the Litigation Chamber concludes that in the absence of a privacy policy document until the modification of the website, the defendant violated in any case its information obligations, and therefore Articles 13, 14 GDPR as well as the former article 129 LCE.

91. The Litigation Division adds that the amendments made during the proceedings by the defendant (adaptation of the privacy document) are not sufficient to satisfy the articles 13 and 14 GDPR, for the reasons set out. It therefore finds that the failure to articles 13 and 14 GDPR remain.

92. With regard to the privacy policy document on the sos-avocats.be website (name of domain which has since been transferred to the complainant), the Litigation Chamber notes that at any the least, the same shortcomings as those noted for the life policy document information on the sos-services.be website apply. It is apparent from the documents filed by the complainant that there is no mention of the identity of the data controller, nor of the duration of retention of the personal data processed, nor of the recipients (or categories of recipients) of the data. The purposes are moreover incomplete, in that nothing is indicated regarding the lawyers listed. Mention of the possibility of filing a complaint with ODA is also lacking. The Litigation Chamber therefore finds a breach of the

articles 13 and 14 RGPD within the framework of the website avocats.be on the part of the defendant (until the transfer of the domain name to the complainant).

V.3. As for the obligation of loyalty and transparency (article 5.1.a GDPR)

93. The principle of transparency requires that personal data be processed “in a manner lawful, fair and transparent with regard to the person concerned

(legality,

loyalty,

transparency)".

94. The Litigation Chamber emphasizes the importance of respecting the obligations of transparency

on the part of a data controller given the impact this has on the exercise of the rights of

data subjects set out in Articles 15 to 22 of the GDPR, as illustrated by case law

of the Court of Justice12.

95. As the complainant points out, the disputed processing operations are not based on any basis of lawfulness,

without informing the persons concerned (the lawyers listed), without indicating the

purposes pursued, and relate to data of which the persons concerned do not know

where or how they were collected. It is therefore unfair treatment, in

violation of Article 5.1.a GDPR.

V.4. As for the obligation of purpose limitation (article 5.1.b GDPR) and information

(articles 13 and 14 GDPR)

96. The Litigation Division notes that the privacy policy document does not indicate anything about the

purposes of processing personal data concerning the lawyers listed, or even

other service providers otherwise, in violation of Article 5.1.b, as well as 13 and 14 of the

GDPR.

V.5. Regarding the obligation of accuracy (article 5.1.d GDPR)

97. Article 5.1.d GDPR states that the personal data processed must be "accurate and, if

necessary, kept up to date; all reasonable steps must be taken to ensure that

personal data which are inaccurate, having regard to the purposes for which they are

are processed, erased or rectified without delay (accuracy).

98. The complainant indicates that many personal data concerning lawyers

listed are inaccurate, not updated, or simply invented (the written testimonials

in the first person singular imply that they were written by the lawyers

12 Court of Justice of the European Union, 1 October 2015, Bara, C-201/1, §30 e.s.

informed, while the complainant indicates that they were not even informed of the fact that they

are listed on the sos-services.be website (or were for the sos-avocats.com website).

99. The Litigation Chamber concludes that the data processed by the defendant are inaccurate

and that it has not taken all reasonable measures to ensure the accuracy of the data

lawyers listed, and therefore finds a violation of Article 5.1.d

GDPR.

VI. Regarding corrective measures and sanctions

100. The Litigation Chamber found a breach of Articles 5. 1. a), b), d) and 6.1, 13 and 14

GDPR as well as former Article 129 LCE read in combination with Articles 13 and 14 of the GDPR (for

processing prior to the entry into force of the law of 21 December 2021).

101. The corrective measures and sanctions that the Litigation Chamber has the power to impose

are included in articles 83 of the GDPR and articles 100, 13° and 101 LCA.

102. It is important to contextualize the breach of these articles in order to identify the measures

most suitable correctives.

103. In this context, the Litigation Chamber takes into account all the circumstances of

the case, including - within the limits that it specifies below - the reaction communicated

by the defendant to the amount of the proposed fine communicated to it as is

recalled in the retroacts of the procedure. In this respect, the Litigation Chamber specifies that

said form expressly mentions that it does not imply a reopening of the proceedings. He

pursues the sole purpose of obtaining the reaction of the defendant on the amount of the fine

considered.

104. The Litigation Chamber notes that the plaintiff requests in particular from the Chamber

Litigation:

a- to record that the defendant does not dispute the violations alleged in the complaint;

b- to note that the processing of lawyers' personal data

national of the Order of the complainant made from the websites https://sos-

services.be and https://sos-avocats.com/ has violated Articles 5.1, a), b), c), d) and e) and 6.1, 13 and

14 GDPR juncto article 129 of the LCE and that some of these violations persist;

c- to definitively prohibit any present and future processing of personal data

staff of lawyers belonging to the O.B.F.G. on the website https://sos-services.be;

d- to order (i) the permanent destruction of all personal data

concerning the lawyers belonging to the O.B.F.G and (ii) the sending to the O.B.F.G. confirmation

writing of this destruction;

Decision on the merits 84/2022 - 20/25

e- to order the transmission of the list of recipients (including subcontractors)

to which personal data of lawyers coming under the O.B.F.G have been

communicated, or to confirm in writing that there has been no such transfer;

f- to note that the domain name so-services.be is being used to commit a

breach of fundamental privacy principles and ask DNS

Belgium - in accordance with the Cooperation Protocol of 26 November 2020 - from

delete the website linked to this domain name.

g- to impose an administrative fine

105. The Litigation Chamber specifies that it is sovereignly incumbent upon it as authority

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

determine the appropriate corrective action(s) and sanction(s).

106. Thus, it is not for a plaintiff to ask the Litigation Chamber to

orders such or such corrective measure or sanction. If, notwithstanding the foregoing, the

plaintiff should nevertheless ask the Litigation Chamber to pronounce one or more

the other measure and/or sanction, it is therefore not for the latter to justify why

she wouldn't hold back

any request made by the complainant. These

considerations leave intact the obligation for the Litigation Chamber to justify the choice

of the measures and sanctions it deems - from the list of measures and sanctions made available

its provision by Articles 58 of the GDPR and 100 of the ACL - appropriate to condemn the party

questioned.

107. The Litigation Chamber notes that the plaintiff also requests the imposition of a fine

administration, and emphasizes that it is responsible for ensuring the effective application of the rules of the

GDPR. Other measures, such as a compliance order or a prohibition to prosecute

certain treatments, for example, make it possible to put an end to a breach

found. As can be seen from recital 148 of the GDPR, sanctions, including

administrative fines, are imposed in the event of serious violations, in addition to or in

take the necessary appropriate measures. Therefore, the administrative fine may

certainly come to sanction a serious breach which would have been remedied during

procedure or who is about to be. The fact remains that the Chamber

Litigation will take into account the measures taken following the incident in setting the amount

of the fine.

108. The Litigation Division also takes note of the fact that the defendant has, during the

present procedure, made modifications to the sos-services.be site (adaptation of the

privacy policy document and addition of a cookies charter). She also takes note of the fact that

the defendant indicated during the hearing of March 28, 2022 that it had tried to be represented

Decision on the merits 84/2022 - 21/25

by a lawyer in these proceedings, without success, insofar as the lawyers

contacted raised a risk of conflict of interest due to their affiliation with the OBFG.

109. The Litigation Division further notes that the defendant noted during the hearing

have been assisted by a lawyer in drafting the privacy policy document, as well as

than the cookies charter, at least for the sos-services.be site. The defendant has

otherwise submitted the evidence by sending an email to the Litigation Division following the hearing, without copying of the complainant in order to safeguard the request for anonymity of the lawyer consulted, with the explicit consent of the plaintiff's counsel. Upon analysis of the documents, the Chamber Litigation finds that the defendant seems to have submitted a model document of privacy policy and cookies charter from a commercial site with the approval of the lawyer consulted. The latter told him that the submitted models seem to be compliant, while suggesting certain modifications, which the defendant partly followed.

110. Although it takes note of these efforts, the Litigation Division is of the opinion that they are not sufficient insofar as many shortcomings persist, particularly in the privacy policy document, and that other measures must be taken by the defendant to comply with its obligations under the GDPR. Therefore, the Litigation Chamber imposes an order of compliance with the principles of legality, information, fairness and transparency, and accuracy.

111. In addition to the corrective measure aimed at bringing the processing operations into compliance with Articles 5.1, a), b), d) and 6.1, 13 and 14 GDPR the Litigation Chamber also decides to impose a fine administration. As is clear from recital 148, the GDPR indeed provides that sanctions, including administrative fines, be imposed for any violation serious - therefore including the first observation of a violation -, in addition to or place appropriate measures which are imposed.13 The Litigation Chamber demonstrates below after violations of Articles 5.1, a), b), d) and 6.1, 13 and 14 of the GDPR committed by the defendant are in no way minor violations and that the fine would not constitute not a disproportionate burden on a natural person within the meaning of recital 148 of the GDPR, two cases that would allow a fine to be waived. The fact that it is a

13 Recital 148 provides the following: "In order to strengthen the application of the rules of this Regulation, penalties including administrative fines should be imposed for any violation of this Regulation, in addition or in lieu of appropriate measures imposed by the Supervisory Authority under this Regulation. In case of violation

minor or if the fine likely to be imposed constitutes a disproportionate burden for a natural person, a

a call to order may be issued rather than a fine. However, due consideration should be given to the nature,

seriousness and duration of the violation, the intentional nature of the violation and the measures taken to mitigate the

damage suffered, the degree of liability or any relevant violation previously committed, the manner in which

the supervisory authority became aware of the violation, compliance with the measures ordered against the person responsible

treatment or the processor, the application of a code of conduct, and any other aggravating or

mitigating. The application of sanctions, including administrative fines, should be subject to procedural safeguards

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

effective jurisdiction and due process. (The Litigation Chamber underlines)

Decision on the merits 84/2022 - 22/25

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

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

112. The Litigation Chamber imposes an administrative fine pursuant to Article 58.2 i)

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

violations, but to effectively enforce the rules of the GDPR. To this end, the GDPR

and the LCA provide for several corrective measures, including the orders cited in Article 100, § 1, 8°

and 9° of the ACL.

113. In view of Article 83 of the GDPR and the case law14 of the Court of Markets, the Litigation Chamber

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

-

The seriousness of the offence:

This is a violation of several fundamental principles of the GDPR, being the principle of

legality, loyalty, transparency, the obligation of information, and accuracy. These principles

are at the heart of the GDPR and fundamental rights, giving breaches the

corresponding serious character. The defendant is also a company which

processes personal data as a core business.

- The duration of the violation:

The disputed processing operations have continued, at least for the sos-services.be site since 2016,

as indicated by the defendant during the hearing. The complainant also contacted the

defendant on September 27, 2019, drawing its attention to the breaches and

ordering it to comply with the GDPR, without response from the defendant.

- The deliberate nature of the offence:

As to whether the breaches were committed deliberately or not (e.g.

negligence) (Art. 83.2.b) GDPR),

the Litigation Chamber recalls that "no

deliberately" means that there was no intention to commit the violation, although the

responsible for the processing has not complied with the obligation of care incumbent on him in

under the law. In this case, the Litigation Division considers that the absence of

respondent's response to the complainant's letter of September 27, 2019 informing him of

its breaches of the GDPR and ordering it to comply, together with

the absence of modification of the sos-services.be site until those made during the present

procedure, reflect a deliberate intention to violate the GDPR on the part of the

defendant.

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

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

contains.

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

115. The Litigation Chamber notes that the other criteria of Article 83.2 of the GDPR are neither

relevant or likely to influence its decision on the imposition of a fine

administrative and its amount.

116. Pursuant to Article 83.5.a) GDPR, violations of the provisions referred to in this article

may amount to up to 20,000,000 euros or in the case of a company, up to 4% of the
total worldwide annual revenue for the previous financial year. Maximum fine amounts
that may be applied in the event of a violation of these provisions are higher than those provided for
for other types of breaches listed in Article 83.4 of the GDPR. Is about
breaches of a fundamental right, enshrined in section 8 of the Charter of Rights
fundamentals of the European Union, the assessment of their seriousness is made, as the Chamber
Litigation has already had the opportunity to point this out, in support of Article 83.2.a) of the GDPR,
autonomous way.

117. The Litigation Chamber also recalls the provisions of Article 83.4 GDPR, which lists the
infringements for which the fine may amount to EUR 10,000,000 or, in the case of
company, up to 2% of the total worldwide annual turnover of the preceding financial year, the
the higher amount of the two being applicable.

118. In the present case, as indicated above, the Litigation Chamber notes both a breach of
principle of lawfulness, loyalty and transparency (art 5.1.a and 6 GDPR), than the obligation
of information (art 13 and 14 GDPR), limitation of purposes (art 5.1.b GDPR) and accuracy (art
5.1.d GDPR). The maximum amount of the fine in the specific case, as provided for by
Article 83.5 is therefore EUR 20,000,000.

119. The Litigation Division also informs the defendant that the same provisions
are potentially violated with regard to personal data concerning other professions
listed (see for example, doctors, self-employed natural persons, etc.).

120. In conclusion, in view of the elements developed specific to this case, the Chamber
Litigation considers that the aforementioned breaches justify that as a sanction
effective, proportionate and dissuasive as provided for in Article 83 of the GDPR and taking into account
assessment factors listed in Article 83.2 GDPR as well as in view of the lack of reaction
of the defendant to the proposed fine form, a compliance order accompanied by
an administrative fine of 5000 euros (article 100.1, 13° and 101 LCA)

pronounced against the defendant.

121. The amount of 5,000 euros remains, in view of these elements, proportionate to the

breaches reported. This amount also remains well below the amount

maximum provided for by article 83.5 GDPR, of 20,000,000 euros.

122. This amount is justified for the reasons set out above, including the fact that the complainant

already contacted the defendant on September 27, 2019, drawing its attention to the

Decision on the merits 84/2022 - 24/25

breaches identified and ordering it to comply with the GDPR, as well as the period

extent during which processing took place (since 2016). As indicated above, the

modifications made by the defendant during these proceedings do not meet

GDPR requirements.

123. The Litigation Chamber also took into account the small size of the company

defendant, which justifies the limited amount of the fine, despite the nature and seriousness of the

shortcomings noted.

124. The Litigation Chamber is of the opinion that a lower amount of fine would not meet,

in

the species,

the criteria required by

section 83.1. GDPR according to

which

the fine

administrative procedure must not only be proportionate, but also effective and dissuasive.

These elements constitute a specification of the general obligation of Member States under the

European Union law, based on the principle of sincere cooperation (article 4.3 of the Treaty on

the European Union).

VII. Publication of the decision

125. Given the importance of transparency regarding the decision-making process of the Chamber
Litigation, this decision is published on the APD website. However, it is not
necessary for this purpose that the identification data of the defendant be directly
communicated. Those of the complainant are indicated without anonymization, at his request.
Decision on the merits 84/2022 - 25/25
FOR THESE REASONS,
the Litigation Chamber of the Data Protection Authority decides, after deliberation:
- Pursuant to Article 100, § 1, 8° of the LCA to order the defendant to suspend
immediately any processing of lawyers' personal data falling within the scope of
the Order of the complainant on the website https://sos-services.be;
- Pursuant to Article 100, § 1, 5° of the LCA, to notify the defendant that for possible
future processing of personal data of the lawyers of the Bar Association of the complainant it
will agree that the defendant complies with articles 5.1, a), b), d) and 6.1, 13 and 14 GDPR;
- Pursuant to Article 100, § 1, 9° of the LCA, to transmit the list of recipients (in this
including subcontractors) to whom personal data of Bar Association lawyers
of the complainant have been communicated, or to confirm in writing that no such transfer has taken place;
- Pursuant to Article 100, § 1, 9° of the LCA, to order the defendant to submit to the
Litigation Chamber within 3 months of notification of this decision a draft
full review of the privacy policy of the so-services.be site in accordance with the
provisions above;
- Pursuant to Article 100, § 1, 10° of the LCA to order (i) the definitive destruction of all
personal data concerning the lawyers of the Bar Association of the complainant processed in
violation of the aforementioned provisions of the GDPR and (ii) the sending to the Litigation Chamber of the
written confirmation of this destruction;
- Pursuant to Article 83 of the GDPR and Articles 100, 13° and 101 of the LCA, to impose on the defendant
an administrative fine of 5000 euros for violation of the aforementioned articles.

Pursuant to Article 108, § 1 of the LCA, this decision may be appealed to the

Court of Markets within thirty days of its notification, with the Authority of

data protection as defendant.

(Sé). Hielke Hijmans

President of the Litigation Chamber