



Litigation Chamber

Decision ###/2025 of 25 February 2025

File number: DOS-2022-00218

Subject: Dismissal of the complaint pursuant to Article 60.8 GDPR

The Litigation Chamber of the Data Protection Authority, composed of Mr Hielke HIJMANS, President, sole chairman;

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 repealing Directive 95/46/EC* (General Data Protection Regulation), hereinafter "GDPR";

Having regard to the Act of 3 December 2017 *establishing the Data Protection Authority*, hereinafter 'the DP Act';

Having regard to the *Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data*, hereinafter 'LTD';

Having regard to the Rules of Procedure of the Data Protection Authority as approved by the Chamber of Representatives on 20 December 2018, and published in the Belgian Official Gazette (*Moniteur belge*) on 15 January 2019;

Having regard to the documents in the file;

Has taken the following decision concerning:

The complainant: [REDACTED]
hereinafter 'the complainant'

Defendant: [REDACTED]
[REDACTED]
[REDACTED] hereinafter 'the defendant'

I. Facts and procedure

1. On 4 January 2022, the complainant lodged a complaint with the Data Protection Authority ('DPA') against the defendant.
2. The complaint concerns the alleged incomplete reply by the defendant to the complainant's request for access to his personal data. The complainant purchased plain tickets for himself and his family on a website operated by the defendant, and submitted a request for access to his personal data on 6 November 2021 to the defendant. On 2 December 2021, the complainant received a reply to that request. The complainant states that the reply and the extract of information he received were incomplete, as they did not contain all the flight passenger data (PNR) that are supposed to be kept by the defendant. In addition, the complainant states that he did not receive access to the personal data he had shared through email and other systems.
3. On 13 January 2022, the Front Office of the DPA declared the complaint admissible on the basis of Articles 58 and 60 of the DP Act, and forwarded it to the Litigation Chamber in accordance with Article 62, §1 of the DP Act.
4. On 15 February 2022, the DPA initiated a procedure in accordance with Article 56 GDPR to determine the Lead Supervisory Authority (LSA) and the Concerned Supervisory Authorities (CSA's). On 24 February 2022, the Swedish Supervisory Authority (IMY) confirmed its role as LSA.
5. As part of their investigation of the complaint, IMY contacted the defendant on 13 February 2022 with several questions regarding the aforementioned access request. The defendant sent its reply to these questions on 22 February 2024 to IMY, which was forwarded by the DPA to the complainant on 15 May 2024. The complainant was given the opportunity to respond to the defendant's answers, but failed to do so. IMY therefore resolved the case on the basis of the documents available at that time.
6. In accordance with Article 60.3 GDPR, the draft decision was placed on the IMI platform on 28 June 2024 by the Swedish Supervisory Authority. Neither the DPA nor the other CSA's objected to the draft decision submitted by the LSA within 4 weeks, which means that they are considered to agree with the draft decision and will be bound by it.
7. Finally, this final decision constitutes an action within the meaning of Article 60.8 GDPR. As the complaint is dismissed, the supervisory authority that initially received the complaint shall adopt the decision and notify it to the complainant and inform the controller thereof.

II. Motivation

8. On the basis of the facts described in the complaint file as summarised above, and on the basis of the powers conferred on it by the legislature pursuant to Article 95, §1 of the DP Act, the Litigation Chamber shall decide on the action to be taken on the file; *in the present case*, the Litigation Chamber decides dismiss the complaint in accordance with Article 95, §1, 3° of the DP Act, for the reasons set out below.
9. When dismissing a complaint, the Litigation Chamber is ought to motivate its decision step-by-step ¹ and to:
 - Issue a technical dismissal if the file contains no or insufficient elements that could lead to a conviction, or if there is insufficient prospect of a conviction due to a technical obstacle, preventing the Litigation Chamber for making a decision;
 - Or issue a policy dismissal if, despite the presence of elements that could lead to a sanction, continuing the investigation of the case does not seem appropriate in light of the priorities of the DPA, as specified and explained in the dismissal policy of the Litigation Chamber.²
10. In the case of dismissal on more than one ground, the grounds for dismissal (respectively technical dismissal and policy dismissal) must be addressed in order of importance.³
11. In the present case, the Chamber decides to issue a technical dismissal of the complaint. The decision of the Litigation Chamber is based more specifically on the findings of the Swedish supervisory authority as set out in its draft decision of 28 June 2024.
12. More specifically, the Swedish supervisory authority states that it is apparent from the defendant's reply that the defendant disclosed all the information it had in its possession concerning the complainant at the time of the request. IMY therefore concludes that the investigation

¹ Court of Appeal Brussels, Section Markets Court, 19th Chamber A, Chamber for market affairs, court ruling 2020/AR/329, 2

September 2020, p. 18

² In this regard, the Litigation Chamber refers to its dismissal policy as developed and published on the website of the DPA:: <https://www.autoriteprotectiondonnees.be/publications/policy-de-classement-sans-suite-de-la-chamber-contentieuse.pdf>.

³ Cf. « Titel 3 – Dans quels cas ma plainte est-elle susceptible d’être classée sans suite par la Chambre Contentieuse? » In the dismissal policy of the Litigation Chamber.

does not reveal any indication that the defendant failed to comply with the GDPR in the manner alleged in the complaint.

13. In its reply to IMY, the defendant first explains that PNR (Passenger Name Records) data are personal information provided by passengers and collected and stored by airline companies. According to the defendant, this includes information such as the passenger's name, travel dates, itineraries, seats, luggage, contact details and payment methods. The defendant states in this regard that it provided all the data available in its databases at the time of the complainant's request, including all the aforementioned categories of PNR data.
14. Regarding the complainant's allegation that the defendant withheld information exchanged through e-mails and other systems, the defendant notes that no e-mail correspondence was provided to the complainant, as at the time of receipt of the access request no e-mail communication existed with the complainant. The defendant justifies its answer by referencing an extraction from their system.
15. In view of the above, the Litigation Chamber finds that the complaint is not sufficiently substantiated by evidence to establish the existence of a violation of the GDPR or the legislation on the protection of personal data, and that it is clearly impossible to obtain such evidence. Consequently, it proceeds with the dismissal of the complaint on the basis of criterion A.1. of its dismissal policy.⁴

III. Publication and communication of the decision

16. Given the importance of transparency regarding the decision-making process and the decisions of the Litigation Chamber, this decision will be published on the website of the Data Protection Authority. However, it is not necessary for this purpose for the identification data of the parties to be provided directly.
17. In accordance with its no-action policy, the Litigation Chamber will communicate the decision to the defendant.⁵ Indeed, the Litigation Chamber decided to communicate the dismissal decisions to the defendants by default. The Litigation Chamber shall, however, refrain from such communication where the complainant has requested anonymity vis-à-vis

⁴ Cf. « Titel 3 – Dans quels cas ma plainte est-elle susceptible d'être classée sans suite par la Chambre Contentieuse? » In the dismissal policy of the Litigation Chamber.

⁵ Cf. « Titel 5 – Le classement sans suite sera-t-il publié ? La partie adverse en sera-t-elle informée? » in the dismissal policy of the Litigation Chamber

the defendant and where communication of the decision to the defendant, even if pseudonymised, nevertheless risks allowing it to be re-identified.⁶ This is not the case here.

ON THOSE GROUNDS,

the Litigation Chamber of the Data Protection Authority decides, after deliberation, to dismiss this complaint pursuant to Article 95, §1, 3° of the DP Act.

An appeal can be lodged against this decision in accordance with Article 108, §1 of the DP Act, within 30 days of its notification to the Markets Court (Court of Appeal of Brussels), with the Belgian Data Protection Authority as the defendant.

Such an appeal may be filed through an adversarial petition that must contain the entries listed in Article 1034^{ter} of the Judicial Code.⁷ The adversary petition must be filed with the Registry of the Markets Court in accordance with Article 1034^{quinquies} of the Judicial Code⁸, or through the e-Deposit informatics system of Justice (Article 32^{ter} of the Judicial Code).

To enable the complainant to consider other possible legal remedies, the Litigation Chamber refers the complainant to the explanation in its dismissal policy.⁹

⁶ *Ibid.*

⁷ The petition shall state under penalty of nullity:

1° The day, month and year

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

company number;

3° The name, first name, residence and, where appropriate, capacity of the person to be summoned;

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

5° the court before whom the action is brought;

6° the signature of the applicant or his attorney.

⁸ The petition and its appendix, in as many copies as there are parties involved, shall be sent by registered mail to the clerk of

the court or filed at the registry

⁹ Cf. « Titel 4 – Que puis-je faire si ma plainte est classée sans suite ? » in the dismissal policy of the Litigation Chamber.

Hielke HIJMANS

President of the Litigation Chamber