



File number: DOS-2025-02143

Subject: Dismissal in accordance with article 60.7 GDPR of a complaint concerning unsolicited marketing communications and a failure to reply to an erasure request.

The Litigation Chamber of the Data Protection Authority ("DPA");

- Having regard to Regulation (EU) No 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 Law of 3 December 2017 *establishing the Data Protection Authority* (Hereinafter, "the LDPA");
- Having regard to the Law of 30 July 2018 *regarding the protection of natural persons with regard to the processing of personal data* (Hereinafter, "the LPD");
- Having regard to the Rules of Internal Procedure, as approved by the Chamber of Representatives on 20 December 2018 and published in the *Belgian Official Journal* on 15 January 2019 (Hereinafter, "the ROI");
- Having regard to the dismissal policy;¹
- Having regard to the documents in the file;

Has taken the following decision concerning:

The complainant:

[REDACTED]
hereinafter 'the **complainant**';

The defendant:

[REDACTED]
[REDACTED], hereinafter "the **Defendant**".

¹ DPA, 'Dismissal policy of the Litigation Chamber', 18 June 2021, available online on the DPA's website: <https://www.autoriteprotectiondonnees.be/publications/policy-of-classification-without-suite-de-la-chambre-contentieuse.pdf> (hereinafter the "Policy").

I. Relevant facts and procedure

1. On 21 mai 2025 the complainant lodged a complaint with the French Data Protection Authority ('the DPA') according to the procedure of article 56 of the GDPR. On 31st of July 2025, the APD accepts its role as Lead Supervisory Authority (LSA) due to the sole establishment of the defendant being in Belgium.
2. The subject of the complaint concerns the sending of unsolicited marketing communications and an inappropriate response to a request for erasure.
3. On March 22, 2024, the complainant received a marketing communication from the defendant, to which he responded on March 25, 2024, formally exercising his right to erasure.
4. On March 25, 2024, the defendant confirmed the deletion of the complainant's data.
5. From March 31, 2025, to July 15, 2025, the complainant received unsolicited marketing communications from the defendant.
6. On December 17, 2025, in accordance with Article 95, § 2 of the LCA, the Litigation Chamber informs the parties that the present case is pending, of the content of the complaint, and of the possibility of consulting and copying the file at the registry of the Litigation Chamber. The parties are invited to submit any comments they may have in this regard to the Litigation Chamber by December 31, 2025, at the latest.
7. On December 24, 2025, the Litigation Chamber received comments from the defendant stating that the inappropriate follow-up to the request for deletion was the result of an internal human error and a marketing tool operating independently of the latter. It confirmed the deletion of the complainant's data and his removal from marketing lists. In addition, the defendant confirmed that it had formalized and centralized its internal procedures to improve the follow-up of opt-outs by ensuring the immediate withdrawal of consent and the permanent exclusion of the person concerned from all of its marketing tools. Finally, it states that it has implemented regular checks to ensure complete consistency and synchronization between internal systems and its external marketing platforms, as well as mandatory training to raise awareness among its employees.
8. In accordance with Article 60.3 of the GDPR, a draft of this decision was uploaded to the IMI platform on XXXX.

Motivation

9. **In the light of the elements contained in the complaint file and pursuant to Article 95, §1, 3° of the LDPA, the Litigation Chamber decides to dismiss the present case.²**
10. In the case of dismissal, the Litigation Chamber is required to give sufficient motivation for its decision.³ Depending on the nature of the evidence in the file, it may:
- dismiss the case on technical grounds where the file does not contain, or does not contain sufficiently, elements capable of justifying the adoption of a measure, or where there is a technical obstacle preventing a decision on the merits;
 - dismiss the case on policy grounds⁴ where, despite the presence of evidence capable of justifying a measure, it does not consider it appropriate to continue to examine the case in the light of the DPA's priorities as specified and illustrated in the dismissal policy.
11. Where the dismissal is based on multiple grounds (technical and/or policy), each of those grounds must be set out and substantiated independently.⁵
12. In the present case, the Litigation Chamber has decided to dismiss the complaint on one ground. The Litigation Chamber's decision is based on a ground on which it considers that it is not desirable to pursue the case and has therefore decided, among other things, not to proceed with the merits of the case.
13. The Litigation Chamber notes that the subject matter of your complaint has disappeared as a result of the measures taken by the data controller, and decides to dismiss the complaint on grounds of expediency (criterion B.6).
14. The Litigation Chamber may decide to dismiss a complaint if the data controller has adequately remedied or adapted its procedures between the time the complaint was lodged and the time it is dealt with. In this case, the Litigation Chamber notes that the defendant has deleted the complainant's personal data and removed him from its marketing lists, as explained in point 7 of this decision. In addition, the Litigation Chamber notes that the defendant has implemented technical and organizational measures, detailed in point 7 of this decision, with the aim of preventing a situation such as the one in this case from recurring.

² Each supervisory authority shall act, in accordance with Article 52 of the GDPR, independently in the performance of the tasks and the exercise of the powers conferred on it under that Regulation. In accordance with article 95, § 1, 3° of the LDPA, the Litigation Chamber is authorized to dismiss complaints. This power to dismiss is also set out in Article 57(1)(f) of the GDPR, which provides that the supervisory authority "shall deal with complaints lodged (...) to the extent necessary". The assessment of the extent to which the content of the complaint should be made known is a discretionary power, which the authority exercises freely and at its discretion, as confirmed by the Cour des Marchés (Court of Appeal, Brussels), 15 October 2025, judgment 2025/AR/692, p. 8).

³ Cour des marchés (Court of Appeal, Brussels), 2 September 2020, judgment 2020/AR/329, p. 18. ; Cour des marchés (Court of Appeal, Brussels), 15 October 2025, judgment 2025/AR/692, pp. 9 and 10.

⁴ Cour des marchés (Court of Appeal, Brussels), 15 October 2025, judgment 2025/AR/692, pp. 9 and 10, recalling that the control exercised is marginal: the Court verifies the accuracy of the facts and their correct assessment, without being able to take the place of the administrative authority in the assessment of appropriateness.

⁵ Policy, Title 3, pp. 5 - 15.

15. If a high degree of priority were to be given to the complaint, the Litigation Chamber could assess whether it would be appropriate to deal with the complaint or request an investigation by the Inspection Service, even if the treatment in question had since ceased, which is not the case here.
16. Consequently, the Litigation Chamber decides to dismiss your complaint on grounds of expediency.

II. Publication and communication of the decision

17. Given the importance of transparency with regard to the decision-making process and decisions of the Litigation Chamber, this decision will be published on the DPA's website. However, it is not necessary for this purpose to disclose the parties' identifying data directly.
18. In accordance with its dismissal policy, the Litigation Chamber will communicate the decision to the defendant.⁶ The Litigation Chamber decided to communicate the dismissal decisions to the defendants by default. However, the Litigation Chamber refrains from such communication where the complainant has requested anonymity vis-à-vis the defendant where communicating the decision to the Defendant, even in pseudonymised form, would nevertheless risk enabling re-identification.⁷ This is not the case here.

⁶ Policy, Title 5, p.17.

⁷ Ibid., 5, p.17.

FOR THESE REASONS,

the Litigation Chamber of the Data Protection Authority decides, after deliberation, to dismiss this complaint pursuant to **Article 60.8 of the GDPR** and **Article 95, §1, 3° of the LDPA**.

In accordance with Article 108, §1 of the LDPA, an appeal against this decision may be lodged, within 30 days of its notification, with the Cour des Marchés (Court of Appeal, Brussels), with the Data Protection Authority as defendant.

Such an appeal may be brought by way of an interlocutory petition, which must contain the information listed in Article 1034^{ter} of the Judicial Code.⁸ The interlocutory petition must be lodged at the Registry of the Cour des Marchés in accordance with Article 1034^{quinquies} of the Judicial Code⁹, or via the Ministry of Justice's e-Deposit information system (Article 32^{ter} of the Judicial Code)

In order to enable her to consider any other possible course of action, the Litigation Chamber refers the complainant to the explanations provided in its dismissal policy.¹⁰

The Litigation Chamber emphasizes that dismissals may be taken into account by the DPA in setting its future priorities and/or may inform future *ex officio* investigations by the DPA's Inspection Service.

Hielke HIJMANS

Director of the Litigation Chamber

⁸ The petition shall contain, under penalty of nullity:

1° the day, month and year;

2° the surname, forename, domicile of the applicant and, where applicable, his capacity and his national register number or company number;

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

4° the subject matter and summary of the grounds of the application;

5° an indication of the judge seised of the application;

6° the signature of the applicant or his lawyer.

⁹ The petition, together with its annex, must be sent, in as many copies as there are parties to the proceedings, by registered letter to the clerk of the court, or filed with the court registry.

¹⁰ Policy, Title 4, pp. 16-17.