



Litigation Chamber

Decision 67/2026 of 23 March 2026

File number: DOS-2022-00519

Subject: Termination without further action on the basis of Article 60.8 GDPR of a complaint relating to the refusal to grant a request for erasure of data

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

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 Law of 3 December 2017 *establishing the Data Protection Authority*, hereinafter 'the LDPA';

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

Having regard to the Rules of Procedure of the DPA, as approved by the House of Representatives on 20 December 2018 and published in the *Moniteur belge* on 15 January 2019 ('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] with registered office at [REDACTED] Netherlands, registered under company number [REDACTED] hereinafter "the Defendant".

I. Facts and procedure

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

1. The complaint concerns the defendant's refusal to grant the request for erasure of the complainant's data.
2. On 28 January 2022, the complainant lodged an application for mediation with the Data Protection Authority ('the DPA') against [REDACTED] ('the defendant').
3. On 14 February 2022, the DPA informed the defendant of the complainant's request for mediation with a view to obtaining the erasure of his personal data related to the latter's seller account on the defendant's auction platform.
4. On 21 February 2022, the defendant replied to the DPA, explaining that its refusal to delete the complainant's personal data was justified by the blocking of his seller account. That blocking was carried out on 26 January 2022 because of repeated infringements by the complainant of the terms of use of the defendant's platform. The defendant adds that the retention of the data at issue is based on the need, first, to ensure that the complainant, having breached the terms of use of the platform, cannot create a new account and, second, to be able to demonstrate the reasons justifying the blocking of the complainant's account.
5. On the same day, the DPA requests clarification from the defendant as to the reasons for the blocking of the complainant's account, as well as the period of retention of the complainant's data.
6. On 22 February 2022, the defendant informed the authority that the blocking of the complainant's account for breach of the conditions of use of the defendant's platform resulted, inter alia, from the non-delivery of items sold, repeated cancellations of a transaction and 'shill bidding' (artificial increase in the price of an item). The defendant adds that it retains the complainant's account data, namely his user ID, name, address, contact details and transaction history. The defendant also states that those data are retained for a period of 2 years, but that it intends to review its data retention policy.
7. On 7 March 2022, the DPA communicates the defendant's reply to the complainant.
8. On 14 March 2022, the complainant considers that the defendant's reply does not satisfy his request to exercise his right to erasure of his data, and transforms the request for mediation into a complaint in accordance with Article 62(2)(1) of the LDPA.
9. On 15 March 2022, the complaint was declared admissible by the Service de Première Ligne ('SPL') on the basis of Articles 58 and 60 of the LDPA. The complainant shall be informed in accordance with Article 61 of the LDPA.
10. On 6 April 2022, the Litigation Chamber was seised under Article 92(1) of the LDPA.
11. On 13 June 2022, the DPA initiated a procedure pursuant to Article 56 GDPR to determine the lead authority (LSA) for the handling of the complaint and the other authorities

concerned, as the Defendant is an international company with its principal place of business in the Netherlands.

12. On 16 September 2022, the Swedish, Austrian, Norwegian, French, Hungarian, Italian and German authorities declared themselves to be concerned.
13. On 10 February 2026, in accordance with Article 60.3 of the GDPR, the Dutch lead authority communicated to the DPA and the other authorities concerned its draft decision rejecting the complaint.
14. The Dutch authority considers that the defendant correctly based the data processing in question on its legitimate interest in preventing fraud, for which it was necessary to keep the complainant's data, in order to prevent it from creating a second seller account on the defendant's platform, and to enable it to justify blocking the complainant's seller account. In addition, it considers that a retention period of the data at issue of 2 years is reasonable and appropriate for the purpose of the defendant. Lastly, the Netherlands authority considers that, in accordance with Articles 17 and 21 of the GDPR, the objective of combating the risk of fraud and the risk of damage to third parties correctly enabled the defendant not to grant the request for erasure of the complainant's data.

II. Motivation

15. 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 under Article 95(1) of the LDPA the Litigation Chamber decides on the action to be taken on the file; *in the present case*, the Litigation Chamber decides to dismiss the case, in accordance with Article 95(1)(3) of the LDPA, for the reasons set out below.
16. In the case of dismissal, the Litigation Chamber is required to give reasons for its decision in stages² and to:
 - 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 grounds 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 policy³.

² Cour des marchés (Court of Appeal, Brussels), 2 September 2020, judgment 2020/AR/329, p. 18.

³ In this regard, the Litigation Chamber refers to its dismissal policy on dismissal, as developed and published on the DPA's website : <https://www.autoriteprotectiondonnees.be/publications/politique-de-classement-sans-suite-de-la-chambre-contentieuse.pdf>.

17. Where the dismissal is based on multiple grounds (technical and/or policy), each of those grounds must be set out and reasoned independently.⁴
18. In the present case, the Litigation Chamber decides to dismiss the complaint without further action on the basis of a technical ground, namely A.2, set out below.
19. The Litigation Chamber finds that the complaint is manifestly unfounded within the meaning of Article 57(4) of the GDPR; and decides to dismiss the complaint for technical reasons (criterion A.2).⁵
20. The facts described in the complaint, as set out in §§4-6, do not identify a breach of the GDPR or data protection laws. Even if these facts are admitted as presented, they clearly fall within the scope of GDPR-compliant processing.
21. Like the Netherlands lead authority, the Litigation Chamber considers that the retention of the complainant's seller account data, namely his user ID, name, address, contact details and transaction history, constitutes lawful processing by the defendant on the basis of its legitimate interest in preventing the risk of fraud and the resulting damage to third parties. This retention allows the Defendant both to avoid that the complainant, who breached its terms of use, cannot create another user account on the defendant's platform, and to demonstrate the reasons justifying the blocking of the complainant's account in a clear and precise manner.
22. In addition, the Litigation Chamber agrees with the assessment of the Netherlands authority as to the retention period of the complainant's data. It considers that the defendant can reasonably retain this data for 2 years on the basis of its legitimate interest in preventing fraud.
23. Therefore, taking into account the analysis of the Dutch lead authority rejecting the complaint, and the fact that there is nothing in the file to identify a failure, the Litigation Chamber considers the complaint to be manifestly unfounded and dismisses it on the basis of criterion A.2.
24. Consequently, without minimising the importance of the incident complained of, the Litigation Chamber decided to dismiss the complaint, pursuant to Article 95(1)(3) of the LDPA, on the basis of criterion A.2 (technical grounds).⁶ In the light of the material in the file and the criteria used, it considers it inappropriate to continue the examination of the file and therefore decides not to hear the case on the merits.

⁴ *Policy*, Title 3, pp. 5 - 15.

⁵ *Policy*, subtitle 3.1 (crit. A.2), pp.5 & 6.

⁶ A dismissal on policy grounds does not constitute a finding that no infringement has taken place; it only means that the resources to be mobilised to substantiate the complaint and thus continue the investigation are potentially excessive. It is an assessment of expediency and efficiency, without prejudging the substance.

25. For information purposes, and without this constituting a corrective measure or a penalty within the meaning of Article 95(1) of the LDPA, the Litigation Chamber recalls that any controller must be able to demonstrate the compliance of its processing operations with the GDPR, throughout them, pursuant to Article 5.2 of the GDPR.

III. Publication and communication of the decision

26. 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 website of the Data Protection Authority. For that purpose, however, it is not necessary for the identification data of the parties to be communicated directly.
27. In accordance with its dismissal policy, the Litigation Chamber will communicate the decision to the defendant.⁷ Indeed, 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 and where the communication of the decision to the defendant, even if pseudonymised, nevertheless risks allowing it to be re-identified.⁸ This is not the case here.

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 that 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 action may be brought by means of an interlocutory petition which must contain the information listed in Article 1034 *ter* of the Judicial Code⁹. The interlocutory application must be lodged at the Registry of the Cour des Marchés in accordance with Article 1034 *quinquies* of the

⁷ See Title 5 – *Will the dismissal be published? Will the opposing party be informed of this?* of the disqualification policy of the Litigation Chamber.

⁸ *Ibid.*

⁹ 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.

Judicial Code¹⁰, or via the e-Deposit information system of the Ministry of Justice (Article 32b of the Judicial Code).

In order to enable it to consider any other possible course of action, the Litigation Chamber refers the complainant to the explanations provided in its dismissal policy¹¹.

The Litigation Chamber points out that the dismissals may be taken into account by the DPA in order to set its future priorities and/or could inspire future *ex officio* investigations by the DPA's Inspection Service.

Hielke HIJMANS

Director of the Litigation Chamber

¹⁰ ¹⁰ 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.

¹¹ *Policy*, Title 4, pp. 16-17.