**Judgment
COURT OF AMSTERDAM**

**Authority**

Amsterdam District Court

**Date of judgment**

11-03-2021

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**Case number**

C / 13/687315 / HA RK 20-207

**Jurisdictions**

Civil law

**Summary** Access requests from Uber drivers on the basis of the GDPR . No abuse of rights, despite other underlying (trade union) interests. Procedure instituted too early? Too general request. Application of the GDPR to different categories of data mentioned by Uber in its Guidance Notes. Is there a prohibited form of automated decision-making? Data used for profiling. Data portability. No right to disclosure in a specific format desired by the applicants. Uber has yet to provide, anonymously, the individual ratings given by passengers.

Case number / application number: C / 13/687315 / HA RK 20-207

**Order of March 11, 2021**

in the case of

1. **[applicant 1]**, residing in [residence] (United Kingdom)

2. **[applicant 2]**, residing in [residence] (United Kingdom),

3. **[applicant 3]**, residing in [residence] (United Kingdom),

4. **[applicant 4]**, residing in [residence] (United Kingdom),

5. **[ applicant 5]**, residing in [residence] (United Kingdom),

6. **[applicant 6]**, residing in [residence] (United Kingdom),

7. **[applicant 7]**, residing in [residence] (United Kingdom),

8. **[applicant 8]**, residing in [residence] (United Kingdom),

9. **[applicant 9]**, residing in [residence] (United Kingdom),

10. **[applicant 10]**, residing in [residence] (United Kingdom),

applicants, lawyer mr. AH Ekker in Amsterdam,

against

the private company with limited liability **UBER BV**, established in Amsterdam,

defendant, lawyer mr. GH Potjewijd in Amsterdam.

The applicants will hereafter jointly also [applicants] and each for themselves [applicant 1], [applicant 2], [applicant 3], [applicant 4], [applicant 5], [applicant 6], [applicant 7], [applicant 8 ], [applicant 9] and [applicant 10] are mentioned. The defendant will hereinafter also be referred to as Uber.

**1 The procedure**1.1 The course of the procedure is evidenced by:

* the petition, with appendices, received at the registry on 20 July 2020,
* the interim decision of 24 September 2020, in which an oral hearing was stipulated,
* the revised / additional petition, with appendices, received at registry on 21 August 2020,

- the statement of defense, with annexes, received at the registry on 4 December 2020,

- the minutes of the oral hearing of 16 December 2020 and the documents and documents referred to therein.

1.2. Subsequently, after arrest, a decision was taken today. With the consent of the parties, this case was handled jointly with the case with application number C / 13/692003 / HA RK 20-302 to which partly the same applicants and Uber are parties. In that case, an order is also given today.

**2 The facts**2.1. Uber is an internationally operating concern that offers online services in the transport sector through its platform. Uber is a subsidiary of Uber Technologies, Inc., based in San Francisco (United States of America).

2.2. The Applicants work or have worked as 'private hire drivers' (hereinafter: drivers) in the United Kingdom, using ma (a) k (t) and the services of Uber.

2.3. Uber matches passengers with drivers. Passengers use the general Uber App (hereinafter: App), drivers use the Uber Driver App (hereinafter: Driver App).

2.4. Applicants are affiliated with the App Drivers & Couriers Union (hereinafter: ADCU). ADCU is a union that defends the interests of private hire drivers and couriers in the United Kingdom. ADCU is affiliated with the International Alliance of App Transport Workers (hereinafter: IAATW). Both organizations are committed to the digital rights of platform workers. [applicant 4], [applicant 1] and [applicant 7] are respectively chairman, secretary-general and chairman of a local branch of ADCU.

2.5. ADCU is supported by Worker Info Exchange (hereinafter: WHO). WHO is a non-profit organization whose goal is to give employees and self-employed persons in the information economy access to personal data collected about them during their work. [applicant 1] is founder and director of WIE.

2.6. ADCU and IAATW intend to establish a database, which will be maintained by WHO. Personal data of drivers will be included in this database.

2.7. In several countries, including the United Kingdom and France, proceedings are pending between drivers and Uber about whether there is an employment relationship.

2.8. Applicants individually made requests for access to their personal data processed by Uber by email or via the App and / or the Driver App at different times. In response to these requests, Uber provided digital files to a number of applicants.

2.9. Uber has drawn up a 'Privacy Statement' (hereinafter: privacy statement) in which it has included general information about data processing. When providing personal data to drivers, Uber will provide an explanation, called “Guidance Notes”, which lists the categories of personal data that Uber processes.

**3. The dispute**3.1. After reviewing and supplementing the request, the petitioners request the court to order Uber to:

1. provide applicants access, in a commonly used electronic form, within one month of service of the decision, to:

(i) all personal data relating to them that it processes, including the personal data as mentioned in the Guidance Notes, the 'Driver's Profile', including the notes of Uber employees, 'Tags' and 'Reports',
(ii) the purposes of the processing, the categories of personal data concerned, the recipients or categories of recipients to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organizations and the retention period for these data,
(iii) if applicable transfer to a third country or an international organization, the appropriate safeguards in accordance with Article 46 GDPR that Uber regarding this transfer,
(iv) the existence of automated decision-making, including the profiling referred to in Article 22 (1) and (4) GDPR, and at least in those cases, useful information about the underlying logic, the importance and the expected consequences of that processing for applicants,

II. within one month of service of the decision to provide the personal data in a structured, commonly used and machine-readable form, namely as a CSV file, or by means of an Application Programming Interface (hereinafter: API), in such a way that these data are sent directly to a other controller may be forwarded,

III. the foregoing subject to a penalty of € 10,000 for each day or part of the day that Uber fails to comply fully with one or more of the orders referred to under I and II,

IV. to pay the costs of the proceedings.

3.2. The requests under I (i), (ii) and (iii) are based on Article 15 paragraph 1 GDPR[1](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_5f7eb9cc-6fef-4776-9680-74942fb926ab) (the right of access). According to the applicants, Uber has not responded fully and consistently to their access requests. The digital files provided by Uber do not contain the complete information to which applicants are entitled. The Guidance Notes shows that Uber processes 26 different categories of personal data, but the applicants have not obtained access to most of these categories. In addition, the data provided was limited to a few months.

3.3. The request under I (iv) is based on Article 15 paragraph 1 opening lines and under h and Article 22 GDPR (automated decision-making and profiling). According to the Applicants, it appears from the privacy statement and the Driver App that Uber carries out automated decision-making and profiling. When applying profiling, recital 71 of the GDPR requires Uber to have appropriate procedures and measures in place to ensure fair and transparent processing for the data subject. Discriminatory consequences of profiling must also be avoided. In order to be able to assess whether Uber complies with the requirements of Article 22 paragraph 3 GDPR when using it, the applicants have an interest in access to automated decision-making and profiling, information about the underlying logic and the expected consequences of that processing.

3.4. The applicants base the request under II on the following basis. Pursuant to Article 20 (1) of the GDPR, they have the right to make the data available in a structured, commonly used and machine-readable format (data portability or data portability). Uber must offer applicants the option to directly download the personal data and transmit it to another controller. In order to achieve this, Uber must provide the personal data to applicants in a CSV file. Uber has provided only a small portion of the data in this file "format" (the quotation marks will be omitted below, in particular under 4.76 ff.).

3.5. The applicants based the request for a penalty payment on the basis that this is necessary because Uber fails to inspect and transfer the personal data. According to the Applicants, the amount of the requested penalty payment is justified on the grounds of the Applicants' interest and Uber's financial strength.

3.6. The applicants state that they have the following interests in their requests:

* Various foreign proceedings concern the question of whether an employment relationship exists between the drivers and Uber. What is important here is the degree to which Uber has management control, which it exercises, among other things, by means of algorithms and automated decision-making.
* the British court has ruled that drivers are entitled to a minimum wage and holiday allowance. In order to calculate their wages, applicants need access to their data.
* The UK court has ruled that drivers are entitled to protection against discrimination. In order to determine whether there is discrimination, applicants need access to the calculation of their 'rating' in the Driver App.
* the requested data is needed for collective bargaining and advocacy.
* When deciding on their license as a driver, drivers are assessed on their suitability. Therefore, the applicants have an interest in unrestricted access to their data.
* the requested data will be made available to WHO.

3.7. Uber had put forward a defense. Uber primarily requests that the applicants be declared inadmissible and, alternatively, that the applications be rejected, ordering the applicants to pay the costs of the proceedings, including subsequent costs, plus statutory interest.

3.8. The arguments of the parties are discussed in more detail below, insofar as they are relevant.

**4 The assessment
*Jurisdiction and applicable law***4.1. The court must investigate whether the Dutch court has jurisdiction and, if so, whether this court has relatively jurisdiction to hear the requests. This is the case because Uber is located in the Amsterdam district (Article 4 Brussels I bis Regulation[2](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_39662d81-b0b9-4a5f-8578-f9bac949e5cc) and Article 262 opening lines and under a Rv[3](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_1af034de-7d30-474f-b2ee-a57eb6bf8484)).

4.2. Insofar as the requests are based on the GDPR, it is directly applicable as a European regulation. From the fact that the parties also base themselves (additionally) on Dutch law, the court infers that the parties implicitly made a choice of law for the application of Dutch law as referred to in Article 3 paragraph 1 of the Rome I Regulation.[4](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_8c4c0198-6ff2-4823-9eca-a900e363db36)

4.3. It is not disputed between the parties that Uber is to be regarded as the controller within the meaning of Article 4 under 7 GDPR.

*Applicants inadmissible?*4.4. First of all, the question must be answered whether the applicants are admissible.

4.5. According to Uber, that is not the case. [applicant 7] refused to identify himself, as a result of which Uber was unable to verify his identity and to respond to his request. The other applicants ([applicant 1], [applicant 2], [applicant 3], [applicant 4], [applicant 5], [applicant 6], [applicant 8], [applicant 9] and [applicant 10]) have according to Uber, submitted the petition before Uber has responded (in full) to their request. According to Uber, this is contrary to the requirements of Article 35 paragraph 2 of the UAVG[5,](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_95664b3b-3de9-4661-8083-f1570d8eb821) which prescribes that a data subject can only start a petition procedure after the response to the request or after the expiry of the period within which a response must be given.

4.6. To this end, Uber argues that it uses a phased approach in answering access requests. It first provides a selection of the processed personal data in the last 30 days with a request to specify the access request. After receiving the specification of the access request, it provides the full set of personal data that the data subject has requested. Uber states that it replied in full to the petitioners' access requests on various dates in July, September and October 2020 and that the petitions were submitted too early on the basis of these dates. In doing so, it takes as a starting point that the date of the original petition of 20 July 2020, in view of the national procedural regulations on petition procedures for the courts, divisions / teams for commercial matters, also applies to the applicants who submitted the revised / additional petition of 21 August. 2020 have been added as a party to this procedure.

4.7. The applicants dispute that they filed the petitions before Uber responded to their request. According to the applicants, in assessing admissibility, a distinction should be made between the applicants in the original application of 20 July 2020, being [applicant 1], [applicant 7], [applicant 8] and [applicant 10] and and the applicants revised / additional petition of 21 August 2020, being [applicant 2], [applicant 3], [applicant 4], [applicant 5], [applicant 6] and [applicant 9]. The latter applicants each made a request for access in the period from June 20, 2020 to July 15, 2020, to which Uber responded between July 20, 2020 and August 7, 2020. Given the date of the revised / additional petition of 21 August 2020, these applicants are admissible. After the petition was filed, Uber sent messages to petitioners on its own initiative in response to the petition. These messages cannot be regarded as a response to the preceding request, according to the applicants.

4.8. The following points of departure apply to the assessment of the applicants' admissibility. Prior to this procedure, the Applicants requested Uber to inspect personal data as referred to in Article 15 of the GDPR and to transfer those data as referred to in Article 20 of the GDPR (see 2.8). Pursuant to Article 12 (3) of the GDPR, Uber must inform applicants within one month of receiving these requests about the action taken on these requests. If necessary, this period can be extended. In that case, Uber should have notified the Applicants within one month of receiving the requests. Article 35 UAVG gives applicants the right to request the court to order Uber to grant the requests. This article provides that the petition is to be filed within six weeks of receipt of the response from the controller; if the controller does not reply on time, no time limit applies. This system is based on the idea that the parties first try to provide the requested information themselves or have it provided and that in the event of a negative response under penalty of inadmissibility, the interested party has only limited time to submit his objections to the court. The system also serves to prevent the controller from being summoned barely or long after he has rejected the request (cf. Amsterdam Court of Appeal, 5 November 2019, ECLI: NL: GHAMS: 2019: 3966).

4.9. The court finds that Uber has always responded to the requests with two emails to the applicants (with the exception of [applicant 7] and [applicant 10]): one email with an encrypted digital file containing data and one email with instructions and the password to open the file. The email where Uber sent the digital file includes the following standard text:

*“(…) If you feel this response does not meet your request, we kindly ask you to provide more details about the data you want and a period to which it relates. (…) ”*

4.10. This text cannot be regarded as an announcement that Uber would provide a second set of data at a later date or that it would like further explanation of the Applicants' request for access. Applicants were therefore entitled to regard Uber's response as the response to their requests within the meaning of Article 12 (3) GDPR. This means that the time limit for submitting the petition has started after receipt of this response.

4.11. Contrary to what Uber argues, the revised / additional petition of August 21, 2020 cannot bind the applicants by the date of the original petition of July 20, 2020. Although the petition procedure has been pending since the filing of the petition on 20 July 2020, these petitioners were not yet able to assess whether Uber had properly responded to their request. After all, they had not yet received a response from Uber. It was only after receipt that the applicants were able to form an opinion on the personal data provided and whether they wished to submit their objections to it to the court.

4.12. The court will discuss the admissibility of each individual petitioner below. On the basis of the arguments of the parties, the overviews submitted by them and the copies of the e-mail correspondence between the applicants and Uber submitted by the applicants, the court finds the following.

*[applicant 1] and [applicant 8]*
4.13. It has been established between the parties that on 19 July 2020 both [applicant 1] and [applicant 8] received the e-mails referred to under 4.9 with digital files, instructions and the password to open the files in response to their 20 requests. June 2020. The petition of 20 July 2020 was therefore not submitted too early. The fact that Uber sent further information on 20 July 2020, with regard to [applicant 8] as announced, is not sufficient to be inadmissible in these proceedings.

*[applicant 2], [applicant 3], [applicant 4], [applicant 5], [applicant 6] and [applicant 9]*4.14. Uber argues that [applicant 2] received a reply to his request of 15 July 2020 on 4 September 2020. However, it appears from the exhibits submitted by the applicants regarding [applicant 2] that on 7 August 2020, Uber sent emails containing the digital file, instructions and password to [applicant 2] in response to his request.

4.15. Uber argues that [applicant 3] received a reply to his request of 23 June 2020 on 30 October 2020. However, it follows from the exhibits submitted by the applicants with regard to [applicant 3] that on 22 July 2020 Uber received the e- mails in response to his request.

4.16. It is not disputed between the parties that Uber sent the e-mails referred to under 4.9 above on July 30, 2020 in response to the request of [applicant 4] of June 22, 2020.

4.17. There is also no dispute between the parties that Uber sent the e-mails referred to above under 4.9 to [applicant 5] on 20 July 2020 in response to his request of 20 June 2020.

4.18. Uber argues that [the applicant 6] on October 30, 2020 received a reply to his request of 10 July 2020. The applicants regarding [the applicant 6] submitted productions shows that Uber on August 7, 2020 under the above-mentioned 4.9 e- mails in response to his request.

4.19. Uber argues that [applicant 9] received a reply to his request of 23 June 2020 on 9 October 2020. However, it appears from the exhibits submitted by the applicants with regard to [applicant 9] that on 21 July 2020, Uber received the e- sent mails to [applicant 9] in response to his request.

4.20. The aforementioned dates on which [applicant 2], [applicant 3], [applicant 4], [applicant 5], [applicant 6] and [applicant 9] received a reply to their request are prior to the date of 21 August 2020 on which the revised / additional petition has been filed. This means that they are admissible in their request.

*[applicant 7] and [applicant 10]*4.21. Uber argues that it received a request for access from [applicant 7] by email dated 21 June 2020, but that [applicant 7] did not respond to the request to verify his identity. Recital 64 of the GDPR states that the controller must take all reasonable steps to verify the identity of a data subject requesting access. If there is reason to doubt the identity, additional information may be requested, as follows from Article 12 (6) GDPR. Because [applicant 7] did not respond to Uber's request and therefore did not submit any documents with which Uber could establish its identity, Uber was able to take the position that it had insufficient data to process its access request. The argument that [applicant 7] would have identified himself when submitting the access request by logging into his Uber account cannot be of any benefit to him, because it follows from the documents that he sent the access request by e-mail of 21 June 2020 to the 'Uber Data Protection Officer'. In addition, it will be shown below that the request for access that [applicant 7] made by logging into his Uber account related to other data.

4.22. Both [applicant 7] and [applicant 10] made a request for access via the 'download your data' function in their Uber account. In response to this, [applicant 7] received a standard email from Uber on 21 June 2020 and [applicant 10] on 5 July 2020 with a link with which they can download 'Uber data' for seven days. At the session, Uber explained that a *passenger* can download their personal data using the 'download your data' function in the App, but that to *drivers* other functions / processes are available. The Applicants have not disputed this. At this point, it cannot be established that the request for access by [applicant 7] and [applicant 10] and the subsequent reply from Uber related to the data at issue in these proceedings, namely the data processed by Uber in the Driver App. This leads to the conclusion that [Applicant 7] and [Applicant 10] did not receive a response from Uber prior to this procedure as referred to in Article 12 (3) GDPR. On the date of submission of the petition (20 July 2020), they did not yet have the opportunity to submit their application to the court on the basis of Article 35 UAVG (see above under 4.8) and are therefore inadmissible in their submission. request.

*Conclusion*4.23. The foregoing means that [applicant 7] and [applicant 10] are inadmissible in their application. The requests of [applicant 1], [applicant 8], [applicant 2], [applicant 3], [applicant 4], [applicant 5], [applicant 6] and [applicant 9] will be examined below. They will continue to be referred to as applicants.
 *Abuse of law? Interest in request?*4.24. In the alternative, Uber puts forward in its defense that with their request for access the applicants are abusing rights within the meaning of Section 3:13 of the Dutch Civil Code[6](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_787fc73e-fe46-426c-bb0a-24bc99b9eb5a). Uber points out that it follows from the explanation to the request that the applicants are using the right of access for a purpose other than that for which it was given, namely, to strengthen their evidence position in proceedings against Uber and their collective bargaining power by setting up a database with data from drivers. According to Uber, this is also apparent from the fact that [applicant 1] and [applicant 4] hold policy-setting positions at ADCU and have repeatedly made access requests, while they have not used the services of Uber and the Driver App since 2017 and 2015 respectively. . The petition serves the interests of ADCU, WIE and IAATW. These goals do not correspond to the rationale of the right of access: to provide transparency about the processing of the personal data concerned and to check their lawfulness, according to Uber.

4.25. The court first of all states that a data subject does not, in principle, have to motivate or substantiate why he is making a request for access under the GDPR. In exercising his right of access, the data subject does not have to show any particular interest or state the goal that he wants to achieve with the access. The mere fact that data about him is being processed is sufficient. This does not mean that a request for access can never constitute a misuse of powers within the meaning of Article 3:13 of the Dutch Civil Code (cf. Amsterdam Court of Appeal, 10 November 2005, ECLI: NL: GHAMS: 2005: AU8223 and AG Drijber's conclusion before the Supreme Court, 21 December 2018. , November 9, 2018, ECLI: NL: PHR: 2018: 1273). This may be the case if the right of access is only used for a purpose other than checking whether personal data is processed correctly and lawfully. It is up to the controller to demonstrate misuse of powers.

4.26. In this case, the applicants have submitted that they wish to check the correctness and lawfulness of their own data, among other things in order to exercise other privacy rights. That is enough. The fact that the applicants and the trade union to which they are affiliated also have another interest in obtaining personal data, namely to use it to obtain clarity about their employment law position or to gather evidence in legal proceedings against Uber, does not mean that the applicants abuse their rights. The appeal to abuse of rights is therefore rejected.

*The access request*4.27. The access request is based on Article 15 (1) GDPR. Based on this article, the person whose personal data is being processed has the right to obtain from the controller whether or not personal data are processed and, if so, when this is the case. , obtain access to those personal data and (among other things) the processing purposes, the categories of personal data concerned, the recipients or categories of recipients to whom the personal data have been or will be disclosed, and the period during which the personal data are expected to be stored , or the criteria for determining that term.

4.28. The purpose of Article 15 of the GDPR is to enable the data subject to be informed of the personal data that has been collected about him and to verify that that data is correct and has been processed lawfully (see recital 63 GDPR). The GDPR is the successor to the Personal Data Directive[7](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_3dc04534-0040-4bda-a894-cb4ea9ae08cd), as implemented in the Wbp[8](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_dd42923e-150d-458f-b9bc-ce9fd291aa1f). The right of access was previously laid down in Article 12 of the Personal Data Directive. There are no indications that under the GDPR the objective and scope of this right of access has changed compared to the Personal Data Directive. For the interpretation of the right of access regulated in Article 15 of the GDPR, the court will therefore seek alignment with the rulings of the Court of Justice of the European Union (CJEU) and the Supreme Court on the right of access under the Personal Data Directive and the Wbp.

4.29. The right of access is limited to personal data. The explanation of the term 'personal data' is therefore decisive for the scope of the right of access. Pursuant to Article 4 under 1 GDPR, personal data is 'all information about an identified or identifiable natural person'. The CJEU gives a broad explanation of the term 'personal data'. The CJEU has considered that the concept of personal data is not limited to sensitive or personal information but potentially extends to any type of information, both objective and subjective information in the form of opinions or assessments, provided that this information concerns the data subject. The latter condition is fulfilled when the information is linked to a specific person because of its content, purpose or effect and with which that person is reasonably identifiable to another person (CJEU 20 December 2017, ECLI: EU: C: 2017: 994, [party ]).

4.30. Furthermore, the judgment of the CJEU of 17 July 2014 (ECLI: EU: C: 2014: 2081, IND) is relevant to the assessment of the request. In this case, the CJEU - in brief - considered that a legal analysis may contain personal data, but the legal analysis itself cannot be qualified as personal data within the meaning of Article 2 (a) of the Personal Data Directive. Unlike the data that can form the factual basis for the legal analysis, the analysis itself cannot be checked for accuracy by the data subject and corrected. In its judgment of 16 March 2018 (ECLI: NL: HR: 2018: 365), the Supreme Court - with reference to the considerations of the CJEU in this judgment - considered that the Personal Data Directive implemented by the Wbp, the data subject in to check whether his personal data are correct and have been processed lawfully, in order to protect the right of the data subject to respect for his privacy. This check can then lead to rectification, erasure or blocking of the data. In addition, the right of access does not extend to (parts of) internal notes that contain the personal thoughts and / or opinions of employees of the controller or third parties and that are exclusively intended for internal consultation and deliberation (three judgments of HR 29 June 2007: ECLI : NL: HR: 2007: AZ4663, AZ4664 and BA3529).

4.31. The controller (in this case Uber) can refuse access if this is necessary for the protection of the rights and freedoms of others (Article 15 paragraph 4 GDPR and Article 41 paragraph 1 under i UAVG). Uit de wetsgeschiedenis volgt dat ook de verwerkingsverantwoordelijke zelf wordt begrepen onder 'anderen' in dit verband. Deze bepaling bevat een uitzondering op toegekende rechten en moet daarom restrictief worden uitgelegd. Of in een concreet geval een dergelijke grond bestaat die tot beperking of afwijzing van het verzoek moet leiden, moet door de rechter na afweging van alle betrokken belangen worden beslist. Bij een beroep op deze uitzonderingsbepaling rust de stelplicht in beginsel op de verwerkingsverantwoordelijke (in dit geval Uber).

4.32. In principle, the right of access under the GDPR is unconditional. Under certain circumstances, further requirements may be imposed on a request for access (cf. AG Wuisman's conclusion before Supreme Court 25 March 2016, 15 January 2016, ECLI: NL: PHR: 2016: 1 and Supreme Court 25 March 2016, ECLI: NL: HR : 2016: 508). Where a controller processes a large amount of data concerning the data subject, he should be able to request the data subject, prior to the provision of the information, to specify which information or which processing activities the request relates to (recital 63 of the GDPR).

4.33. Applying the aforementioned principles, the court assesses the petitioners' request for access

as follows.

*The general request*4.34. The categories of personal data referred to in the request for access are based on the Guidance Notes that Uber has provided with the previously provided personal data. However, the access request is not limited to these categories. The applicants take the position that they do not need to substantiate their request for access further, because Uber must process personal data in a manner that is fully transparent on the basis of Article 5 (1) (a) of the GDPR. This article provides that personal data must be processed in a manner that is transparent with regard to the data subject. Recital 39 of the GDPR states that the principle of transparency concerns in particular informing data subjects about the identity of the controller and the purposes of the processing, as well as further information to ensure fair and transparent processing in relation to natural persons concerned and their right to receive confirmation and notification of their personal data being processed.

4.35. In the given circumstances, however, it is not enough for the applicants to rely on the principle of transparency. Uber may, in accordance with recital 63 of the GDPR, ask for a specification of the personal data that applicants wish to receive because it processes a large amount of data. Furthermore, the applicants have already received a (very) large number of personal data from Uber. A number of applicants have made several requests for access in the past. For example, [applicant 1] made six requests for access, [applicant 4] five requests for access and [applicant 7] four requests for access. Although a data subject should be able to exercise the right of access freely and at reasonable intervals (see recital 63 of the GDPR) and the request for access under Article 15 GDPR can be made at any time and repeatedly (subject to abuse of rights), in view of the amount of personal data already provided by Uber, it is up to applicants to further specify in the petition to which information or processing activities of Uber the request currently relates. As a result, the request for access to all personal data that Uber processes of the applicants is too general and so not specific that it is rejected as insufficiently determined.

4.36. After this, the request for access will be assessed in specifically mentioned categories of personal data. The following applies here. On the basis of the information submitted by Uber, which has not been contradicted by the applicants, the court finds that at present only [applicant 5] uses the services of Uber as a driver. [applicant 1] and [applicant 4] have not been active as drivers for Uber since December 2016 and June 2015 respectively. The other applicants are no longer active since June 2018 ([applicant 9] and [applicant 3]), November 2019 ([applicant 2]), March 2020 ([applicant 8]) and April 2020 ([applicant 6]). As a result, the right of access is limited to the period in which these applicants used the services of Uber via the Uber Driver App.

4.37. For some categories, it will be assessed whether Uber rightly refuses to provide access to the requested data, because this is necessary for the protection of the rights and freedoms of passengers or Uber itself (Article 15 paragraph 4 GDPR and Article 41 paragraph 1 under i UAVG ). Contrary to what the applicants claim, it cannot be said that they generally have the right to access passenger data because of the contractual relationship between the driver and the passenger. Apart from the fact that a passenger's potential contractual obligation to a driver cannot be invoked to Uber, Uber must also respect the passenger's privacy rights when providing information to applicants.

*Guidance Notes*4.38. Uber's Guidance Notes include 26 categories of personal data that Uber processes. According to the applicants, they have not obtained access to most of these data categories, but they have not explained which specific categories are involved. As a result, the request to order Uber to provide the Applicants' personal data referred to in the Guidance Notes is insufficiently specified. This request is therefore rejected.

*Driver's Profile*4.39. According to the Applicants, Uber did not provide full access to the Applicants' Driver's Profile. The applicants have deduced that Uber keeps a profile of drivers from internal notes of Uber that are included in Zendesk, Uber's customer service system. Referring to the aforementioned [party] judgment of the CJEU, the applicants argue that the notes made in the profile by employees of Uber can be qualified as personal data. The Applicants are of the opinion that Uber cannot invoke the exception with regard to personal thoughts of employees that are exclusively intended for internal consultation and deliberation. Uber uses the notes to assess the drivers and to handle reports by customer service, according to the applicants.

4.40. Uber argues that the Driver's Profile is not really a profile within the meaning of Article 4 under 4 GDPR (see below under 4.61). According to Uber, with the internal notes, customer service representatives refer driver requests to other employees to be handled. The internal notes cannot be qualified as personal data, because they do not in themselves contain information about applicants. Also, the notes cannot be checked for accuracy or corrected. Insofar as the internal notes must be regarded as personal data, the right of access does not, according to Uber, extend to the notes that contain the personal thoughts of employees and that are exclusively intended for internal consultation and deliberation.

4.41. It follows from the documents submitted by the applicants that Uber issued a number of internal notes to [applicant 1]. The court infers from these internal notes that these are internal referrals or reports to Uber customer service employees. Like the legal analysis in the aforementioned [party] judgment of the CJEU, these notes from Uber's customer service representatives do not contain any information about the data subject that can be verified by the data subject themselves. This means that Uber is only obliged to provide the data about applicants that form the factual basis of the notes and not the internal notes as such. After all, the applicants' right of access only relates to the personal data concerning them and does not extend to other information included in the relevant notes.

However, the Applicants did not sufficiently specifically explain to what extent they wish to check the correctness and lawfulness of personal data included in the relevant notes as the factual basis thereof. This part of the request will therefore be rejected.

*Tags*4.42. According to the applicants, Uber uses labels ('tags') in the customer service system that assess the driver's behavior, such as 'inappropriate behavior' or 'police tag'. The Applicants point out that these tags can contain very negative qualifications and can therefore have major consequences for drivers.

4.43. Uber argues that a tag is an addition to a notification in the customer service system that categorizes notifications so that employees with the appropriate experience can then handle them. According to Uber, tags also do not constitute personal data, but an internal note that contains the personal thoughts of the employee in question and is only intended for internal consultation and deliberation.

4.44. It follows from Uber's explanation that a tag is an indication of a report or the stage at which that report is at. This also corresponds to the literal meaning of the word tag. According to the Oxford Dictionary of English, a tag is 'a name or phrase that is used to describe a person or thing in some way'. Here too - as considered under 4.41 above - such an indication cannot be checked by the data subject for its correctness. The Tags as such are therefore not subject to the right of inspection. This part of the request for access will therefore be rejected.

*Reports*4.45. The parties agree that 'reports' are based on feedback reports that passengers have given about the driver concerned about, among other things, '*navigation*' and '*professionalism*'. Feedback about a driver is personal data within the meaning of Article 4 under 1 GDPR, because this is information that is linked to a specific person because of its content, and that person is thereby reasonably identifiable to another. That is also not in dispute between the parties. In response to the Applicants' requests for access, Uber provided Excel overviews in which passenger feedback about drivers was anonymised. According to the Applicants, Uber has thus not provided full access to the reports: the Excel overviews only contain general comments from passengers that cannot be traced back to individual journeys. The Applicants argue that Uber must also provide that information, because the driver is entitled to it on the basis of the contractual relationship between the driver and the passenger. Data on reports, ratings and the start and end location of passengers are the direct result of the service provided by the driver, according to the applicants.

4.46. This argument is not followed. When providing information containing the personal data of applicants, Uber must respect the rights and freedoms of others on the basis of Article 15 (4) of the GDPR. Uber may anonymize the reports in the sense that, in order to protect those rights of third parties, it ensures that the statements about the drivers cannot be traced back to the person who made the statements. After all, who made the statement is not relevant to the assessment of the lawfulness of the data processing, while information about the person who made the statement may infringe the (privacy) rights of this person. The conclusion is therefore that Uber does not have to provide further access to the reports. The argument that applicants are entitled to information about the passenger in question on the basis of their contractual relationship with the passenger is unsuccessful (see above under 4.37).

*Start and end location of a trip*4.47. Applicants request access to the start and end location per individual passenger. They argue that Uber is wrong to take the view that providing this information would pose too great a risk of identifying the passenger. They dispute that this would be the case, as they do not have directly identifying passenger information such as name, email address and telephone number. The location data can therefore be linked to a trip, but not to an individually traceable person, according to the applicants.

4.48. On the basis of the documents submitted by the applicants, the court establishes that Uber has provided overviews containing information about the journeys driven by drivers, namely the time at which the journey was requested, the time at which the journey was started, the time at which the journey started. trip has been completed and the coordinates of the start and end location of the trip. That is enough. Here too, it is irrelevant for the assessment of the lawfulness of the data processing which passenger was transported, while information about the passenger may infringe the (privacy) rights of this person. Uber does not have to provide access to passenger data to prevent this data from being traceable to the passenger.

*Individual ratings*4.49. The Applicants also state that they have an interest in accessing the 'ratings' data provided by individual passengers. Only an average of the ratings is given in the Driver App. Applicants wish to check whether the accounts of drivers who receive a low rating are deactivated. In addition, many drivers face discrimination and insight into the ratings could help to understand the existence of discrimination and unequal treatment.

4.50. Uber argues that it cannot provide individual passenger rating data to protect passengers' privacy rights.

4.51. It has become apparent to the court from the documents submitted by the applicants that Uber, under the name of 'User feedback', granted access to individual ratings and the feedback that a passenger gave to a driver to (part of) the applicants. Uber has granted this access by means of an overview in which the number of stars that a passenger has given to a driver is included with the comment that the passenger has made. The data provided by Uber is anonymized, there is no date, time or location of the ride. The extent to which access to individual ratings has been granted differs per applicant.

4.52. As with the previously discussed categories, Uber must also observe the (privacy) rights of passengers when providing the requested data. Uber can do this (and has done so via User feedback) by providing this data in an anonymous form, in the sense that Uber ensures that the data cannot be traced back to the passenger who gave the stars and / or the comment (and) has made. After all, who gave the assessment and / or made the comment (s) is irrelevant, while information about the person who made the statement may infringe the (privacy) rights of this person. Uber is obliged to all applicants to provide access to the individual ratings of applicants subject to the conditions described above.

*Driving behavior, use of telephone during the journey and the percentage of accepted journeys*4.53. The Applicants argue that presentations by Uber software engineers and the privacy statement show that Uber processes large amounts of data about driving behavior, including GPS data and information about acceleration and braking behavior. Uber uses this data to determine, among other things, after a safety incident whether sanctions should be applied against drivers. Uber has not fully provided this information to the Applicants.

4.54. Uber argues that in the past it has collected data on driving behavior and the use of a telephone during the journey. Uber has provided the underlying data under the heading of *'*detailed device data' and *'*safety reminder'. In addition, Uber has provided the underlying data with which the total of the rides accepted and rejected by the driver is calculated, called the confirmation report. The personal data that form the input for the calculation of the confirmation report have been provided to the applicants, according to Uber. With this information, applicants can easily calculate the confirmation report themselves, according to Uber.

4.55. The applicants dispute that they have received this information from Uber and argue that insofar as they have received this information, it is completely incomprehensible due to lack of explanation.

4.56. Now that Uber has already complied to some extent with the request for access, it would have been for the applicants to clarify which personal data they still wish to inspect. The mere remark that the information provided is incomprehensible is not enough (see 4.35 above). This part of the request is too general and vague and will therefore be rejected.

*upfront pricing* system
4.57. Finally, the applicants request access to the new *upfront pricing* system that Uber introduced in the summer of 2020. Applicants need an explanation of how the system works and wish to see how the algorithm calculates the price.

4.58. Uber argues that information aabout the *upfront pricing s*ystem can be found on Uber's website. It follows that the price is calculated on the basis of factors that are not related to the driver.

4.59.

In general, it can be assumed that when applying a rate determination system, personal data is processed if the purpose is to make decisions with regard to one person, namely determining a rate. Only [applicant 5] currently uses the services of Uber as a driver (see above under 4.36). In view of the time that has passed since the other applicants were active for Uber, their personal data cannot have been processed by the *upfront pricing* system. Furthermore, it has not become plausible that the Applicants wish to inspect the personal data processed by Uber in order to check the correctness and lawfulness of the processing thereof. Also, with the explanation at the hearing, this part of the request for the court is no more than a wish on the part of the applicants to gain insight into how and with which algorithm Uber arrives at pricing. This is a different goal from the one envisaged by Article 15 GDPR. This part of the request will therefore be rejected.

*Information about automated decision-making and profiling*4.60. Applicants request access to the existence of automated decision-making and profiling on the basis of Article 15 paragraph 1 h GDPR. This article provides that the data subject has the right to obtain from the controller an information about the existence of automated decision-making, including profiling, and, at least in those cases, useful information about the underlying logic, as well as the importance and expected consequences. of that processing for the data subject.

4.61. In Article 4 under 4 GDPR, profiling is defined as any form of automated processing of personal data in which certain personal aspects of a natural person are evaluated on the basis of personal data, in particular with the aim of his professional performance, economic situation, health, personal preferences, interests. analyze or predict, reliability, behavior, location or movements.

4.62. A data subject must be informed of the existence of profiling and its consequences (recital 60 of the GDPR). Article 15 GDPR gives the data subject the right to obtain information about any personal data used for profiling, including the categories of data used to create a profile.

4.63. Pursuant to Article 22 GDPR, applicants have the right, subject to a number of exceptions, not to be subject to a decision based solely on automated processing or profiling, which has legal consequences for them or which otherwise significantly affects them. A decision based solely on automated processing exists if there is no meaningful human intervention in the decision-making process.

4.64. The Guidelines on automated individual decision-making and profiling[9](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_4884e49c-65c9-4b0b-8358-a52d5a9801a6) state that the threshold for “significant extent” should be comparable to the extent to which the data subject is affected by a decision that has legal consequences. According to the guidelines, data processing affects someone significantly when the effects of the processing are large or significant enough to merit attention. The decision must have the potential to significantly affect the circumstances, behavior or choice of the persons concerned; have a long-term or permanent effect on the data subject; or, in extreme cases, lead to the exclusion or discrimination of persons. Recital 71 of the GDPR mentions as examples of automated decision-making: automatic refusal of a credit application submitted online or processing of applications via the Internet without human intervention.

4.65. The applicants state that, as a result of the request for access, they have not received any information about the existence of automated decision-making and / or profiling. According to the Applicants, the information that Uber provides in its privacy statement about automated decision-making and on its website is incomplete and in a number of cases incorrect. They point out the following in this regard:

* The Driver App provides information about driving behavior, the use of the telephone during the journey and the percentage of accepted journeys. This information is the result of an analysis of professional performance, reliability, behavior, location and travel and should be classified as profiling;
* the Driver's Profile that Uber maintains is a profile within the meaning of Article 4 under 4 GDPR, because Uber uses this to evaluate personal aspects of applicants that can lead to very negative qualifications, such as 'inappropriate behavior';
* It follows from various sources that when linking drivers to passengers, Uber uses categories of personal data other than those mentioned in its privacy statement, such as the driver's cancellation history and facial recognition.

4.66. Uber argues that it does not use automated decision-making within the meaning of Article 22 GDPR and that in any case it is not a prohibited form thereof. Uber uses automated data processing to allocate available rides through the *'batched matching'* system. This system groups the closest drivers and passengers in a *batch* (a group) and determines the optimalwithin that group *match* (link) between a driver and a passenger. According to Uber, it uses location, direction of travel, traffic volume, geographic factors, the expected arrival time at the passenger's pick-up point and personal preferences specified by drivers via the Driver App. The system no longer matches a passenger with a driver if that passenger has rated the driver with one of the five available stars in the past. The driver will then be matched with another passenger in the *batch*. According to Uber, the automated allocation of available rides has no legal consequences and the data subject is not significantly affected by this, so that no automated decision-making within the meaning of Article 22 GDPR takes place. Nor does it use a profile within the meaning of Article 4 under 4 GDPR. The Driver's profile is just a name used in the customer service system. Furthermore, its anti-fraud processes do not involve automated decision-making because of human intervention.

4.67. It has been established between the parties that Uber uses personal data to make automated decisions. This also follows from section 9 'Automated decision-making' included in its privacy statement. However, this does not mean that there is an automated decision-making process as referred to in Article 22 GDPR. After all, this requires that there are also legal consequences or that the data subject is otherwise significantly affected. The request is only briefly explained on this point. The Applicants argue that Uber has not provided sufficient concrete information about its anti-fraud processes and has failed to demonstrate any meaningful human intervention. Contrary to the case with petition number C / 13/692003 / HA RK 20/302, in which order is also issued today, the applicants have not explained that Uber concluded that they were guilty of fraud. The extent to which Uber has taken decisions about them based on automated decision-making is therefore insufficiently explained. While it is obvious that the *batched matching* system and the *upfront pricing* system will have some impact on the performance of the agreement between Uber and the driver, there has been no evidence of any legal consequence or significant effect, as referred to in the Guidelines. Since Article 15 paragraph 1 under h GDPR only applies to such decisions, the request under I (iv) is rejected.

4.68. Insofar as the applicants wish to view their personal data that Uber has used to compile a profile within the meaning of Article 4, section 4, of the GDPR, they have not sufficiently specified this request. This part of the request should therefore be rejected.

*The request for additional information*4.69. The applicants also request access to the processing purposes of the personal data, the relevant categories of personal data, the recipients to whom the personal data have been provided, the retention period for the personal data and, if personal data is transferred to recipients in third countries, what appropriate safeguards Uber in accordance with Article 46 of the GDPR (see Article 15, paragraph 1, opening words and under a, b, c and d and paragraph 2 of the GDPR).

4.70. Uber provided further information on these issues in its defense. Uber also refers to the information contained in the relevant chapters of its Privacy Statement. The applicants no longer responded to this explanation from Uber. In this state of affairs, the court assumes that this part of the request for access has been adequately answered. The requests under I (ii) and (iii) will therefore be rejected.

*The request to transfer data in a CSV file*
4.71. Finally, applicants request that Uber be ordered to provide the data concerning them, insofar as it falls within the scope of Article 20 GDPR, to them in the form of a CSV file or by means of an API, so that the data can be sent directly to them. another controller can be transferred.

4.72. Pursuant to Article 20 (1) GDPR, the data subject has the right to obtain the personal data that he has provided to a controller in a structured, commonly used and machine-readable form from that controller in order to transfer them to another controller without hindrance. .

4.73. The Guidelines on the right to data portability[10](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_a729c438-2096-4631-822a-9e2185f7f47e) stipulate that this right aims to strengthen the position of the data subject and to give the data subject greater control over his data. The right aims to make the data subject resilient by preventing 'lock-in' with the original controller and to enrich the services provided to the data subject.

4.74. Data processing that falls under the right to data portability must be based on the consent of the data subject or on an agreement to which the data subject is a party and must be automated. The personal data that must be included are (i) personal data about the data subject and (ii) data provided by the data subject to a controller. The right to data portability should be without prejudice to the rights and freedoms of others.

4.75. Information provided by the data subject includes, for example, account information (email address, username, age, etc.). According to the Guidelines, this provided information should also include information available to the controller by observing the activities of the data subject, for example through the use of a service or device, such as search history and location data (data analysis). However, a letter from the European Commissioner [name] to the chairman of the European Data Protection Board (EDPB) shows that this view of the EDPB is controversial. In this letter she explained that the EDPB goes beyond what has been agreed by the Commission, Council and Parliament in the legislative process.[11](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_5de97656-eccd-4099-96c3-033ba6bae2b7) In this state of affairs, the court assumes that the data that the controller has derived from the data provided by the data subject through data analysis do not fall under the data within the meaning of Article 20 GDPR. The obligation set out in Article 20 of the GDPR to provide data to the data subject in a certain way, therefore, goes less far than the obligation set out in Article 15 of the GDPR.

4.76. It follows from recital 68 of the GDPR that the format in which the data is provided must allow the interoperability of the data, that is, that this data can be exchanged in different ICT systems.

According to the Guidelines, the format must be interpretable and provide the data subject with the greatest possible degree of data portability. If no specific formats are common within a particular industry, common public formats, such as XML, JSON, CSV, can be assumed. Machine-readable in recital 21 of Directive 2013/37 / EU (on the re-use of public sector information)[12 means](https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBAMS:2021:1020&showbutton=true&keyword=Uber#_7f69683b-8d2c-4593-94d4-3872d9e748f9) a file format structured in such a way that software applications can easily identify, recognize and extract specific data, including individual factual statements.

4.77. Applying the aforementioned principles, the court assesses the request to transfer data in a CSV file as follows.

4.78. According to the applicants, they received only a small part of the data concerning them in this file format, while the majority of the data was provided in seven different formats (PDF, Docx, JPEG, PNG, MP3, WAV). The files provided in PDF format are not machine-readable, according to the Applicants, because data cannot be easily extracted from such a file.

4.79. Uber argues that it provided the information that falls under the scope of Article 20 GDPR to applicants, simultaneously with the response to the access requests. According to Uber, the CSV, XLS and PDF format in which it provides personal data meet the requirement 'structured, commonly used and machine-readable' within the meaning of Article 20 GDPR and it is not obliged to keep all personal data in the CSV file requested by the applicants. or through an API.

4.80. Pursuant to Article 20 of the GDPR, there is no automatic obligation to provide the data in a CSV file or by means of an API. With the exception of the data provided in PDF*-*format follows from the applicants' claims not Uber has provided the personal data in a format that is not possible the data to another controller to transmit.

4.81. From the overview provided by Uber, it follows that the personal data provided by Uber in PDF format relates to 'zendesk tickets', 'invoices', 'driver safety complaints' and 'driver documents'. Furthermore, it follows from Uber's explanation that 'driver documents' are the documents supplied by the driver himself. Uber provides these documents in the same format in which it received them, Uber said. It has been noted in the Guidelines about the PDF format that it is unlikely that this format will be structured or descriptive enough to allow easy reuse of the data. The question is therefore whether a PDF format can be regarded as a structured format within the meaning of Article 20 GDPR. In the opinion of the court, there is no reason to order Uber to provide the applicants with the categories of personal data provided in PDF format in a CSV format (or comparable format). The categories 'zendesk tickets', 'driver complaints' and 'invoices' do not fall within the scope of Article 20 GDPR, because this data has not been provided to Uber by the applicants themselves (see above under 4.72).

With regard to the driver documents, the court sees no reason to order Uber to transfer these documents in a format other than the PDF format. It follows from the applicants 'explanation that the request to transfer personal data in a CSV file arises from the applicants' wish to include the personal data directly in a database for analysis in order to improve the negotiating position of platform workers. The background and purpose of the right to data portability is mainly to prevent a 'lock-in'. In the case of applicants, this will not easily be the case, because they want to process the data for their own use and analysis. The request under II will therefore be rejected.

*Conclusion*
4.82. The foregoing means that Uber must provide access to the (personal) data referred to above under 4.52. In order to give Uber sufficient time for this, the period within which Uber must provide this information will be set at two months after notification of this decision. For the rest, the requests will be rejected.

*Penalty sum*4.83. The requested penalty will be rejected. For the time being, the trust is justified that Uber will voluntarily comply with the order to provide access and will endeavor to provide the relevant personal data. After all, Uber has previously provided partial access to personal data.

*Enforceability*

4.84. Uber has requested that the decision be declared non-enforceable because, if it were to comply with the applicants' requests, there is a risk that Uber's trade secrets and the privacy rights of third parties will be seriously harmed and this will have irreversible consequences. Since the court will grant a number of concrete parts of the request and Uber has not further explained how providing access would conflict with its trade secrets and privacy rights of third parties, the court sees no reason not to reject the decision in what Uber has argued. declare executable from stock.

*Litigation costs*4.85. Each of the parties has been granted several claims. Therefore, the litigation costs will be compensated.

**5 The decision**The court:

5.1. declares [applicant 7] and [applicant 10] inadmissible in their application,

5.2. Orders Uber to provide [applicant 1], [applicant 2], [applicant 3], [applicant 4], [applicant 5], [applicant 6], [applicant 8] and [applicant 9] - with due observance of what has been considered under 4.36 above – with access to the personal data referred to above under 4.52 in the manner stated therein, within two months of notification of this decision,

5.3 declares this decision provisionally enforceable so far,

5.4 compensates the legal costs between the parties, in the sense that each party bears its own costs;

5.5. rejects the other requests.

This decision was issued by mr. OJ van Leeuwen, mr. MCH Broesterhuizen and mr. MLS Kalff, judges, assisted by mr. ZS Lintvelt, registrar, and pronounced in public on 11 March 2021.

*1 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 (hereinafter: GDPR).*

*2 Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast), OJ 2012, L 351/1 (Brussels I bis Regulation).*

*3 Code of Civil Procedure (Rv).*

*4 Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I (https://www.navigator.nl/document/openCitation/ id5aba9745150ee0c2ddda46a806a77ad5)), PbEG 2008, L 177/6.*

*5 General Data Protection Regulation Implementation Act.*

*6 Civil Code (BW).*

*7 Directive 95/46 / EC of the European Parliament and of the Council of 24 October 1995 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, also known as the Privacy Directive.*

*8 Personal Data Protection Act (Wbp).*

*9 Guidelines on automated individual decision-making and profiling for the purposes of Regulation (EU) 2016/679 of the Article 29 Working Party on Data Protection (now European Data Protection Board), 3 October 2017, last amended on 6 February 2018 (hereinafter: Guidelines). The European Data Protection Board is made up of representatives of the national data protection regulators.*

*10 Guidelines on the right to data portability of the Data Protection Working Party Article 29, April 5, 2017, WP 242 rev. 01 (hereinafter: Guidelines).*

*11 Letter of April 4, 2017 from [name] to I. Falque-Pierrotin, chaitman of the Art. 29 Working Party (now European Data Protection Board), ref. Ares (2017) 1790040Directive*

*122013/37 / EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98 / EC on the re-use of public sector information.*