

Commission Regulation No. 7/2020 of April 3, 2020

National Data Protection Authority setting the amount

and the terms and conditions for the payment of royalties within the framework

its powers of authorization and consultation.

Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 relating

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

personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereafter

after: "the GDPR");

Having regard to the law of August 1, 2018 on the organization of the National Commission for the protection

data and the general data protection regime (hereinafter: "the Law");

Considering that Article 58(3) of the GDPR grants each supervisory authority

a series of authorizing powers and advisory powers;

Considering that letters e), f), h) and j) of Article 58, paragraph 3, of the GDPR provide more

specifically that each supervisory authority has the power to approve supervisory bodies.

certification pursuant to Article 43 of the GDPR, to issue certifications and to approve

certification criteria in accordance with Article 42(5) of the GDPR, to authorize

the contractual clauses referred to in article 46, paragraph 3, letter a) of the GDPR, as well as

to approve binding corporate rules pursuant to Article 47 of the GDPR;

Considering that Article 47 of the Law provides that the National Commission for the Protection

(hereinafter: "the CNPD") may impose fees as part of its

powers of authorization and consultation available to it under said Article 58,

paragraph 3, letters e), f), h) and j) of the GDPR and that a regulation of the CNPD determines the

amount and terms of payment of royalties;

Considering Articles 29, 30, 31 and 32 of the Commission's Rules of Procedure

National Data Protection Authority adopted by Decision No. 3AD/2020 dated 22

January 2020;

The National Commission for Data Protection, comprising four Commissioners and deliberating unanimously:

Stopped :

Art. 1st. - Royalties

The fees to be paid under this Regulation are collected within the framework of the powers of authorization and consultation of the CNPD under Article 58, paragraph 3, letters e), f), h) and j) of the GDPR and article 47 of the Law.

The fees determined by these regulations are due without prejudice to the outcome of the authorization procedure or the advisory procedure before the CNPD.

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Art. 2. – Persons subject to the payment of royalties

Certification bodies, owners of certification schemes, controllers and processors, as well as groups of companies having recourse to the powers of authorization and the advisory powers of the CNPD in accordance with article 58, paragraph 3, letters e), f), h) and j) of the GDPR, are subject to the payment of royalties as determined by these regulations.

Art. 3. – Approval of certification bodies

For any certification body established on Luxembourg territory wishing to be approved by the CNPD in application of article 43 of the GDPR and on the basis of the approval criteria published by the CNPD, the amount of the fee to be paid to the CNPD depends on the stage of the accreditation procedure. It is fixed:

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€1,000 for the analysis of the request for prior approval resulting in an opinion prior to the CNPD;

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€4,000 for the full audit related to the application for approval or the application for additional criteria resulting in an initial audit report or an audit report for additional CNPD criteria;

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€500 for issuing the CNPD approval certificate and the right to use the certificate ;

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€500 for annual surveillance audits resulting in an audit report of CNPD monitoring;

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€3,000 for renewal audits, required every 5 years and resulting in a CNPD renewal audit report.

Art. 4. – Approval of certification criteria

For any owner of a certification system who submits for approval to the CNPD certification criteria in accordance with Article 42(5) of the GDPR, the amount of the fee to be paid to the CNPD depends on the stage of the approval procedure. She is fixed:

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€1,000 for the analysis of the application for preliminary adoption submitted through a form made available on the CNPD website and resulting in an opinion prerequisite of CNPD admissibility;

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€1,000 per analysis cycle lasting 30 days for the analysis of the request final adoption of the certification criteria resulting in an evaluation report CNPD criteria;

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€1,000 for monitoring by the CNPD of the procedure for the formal adoption of the criteria certification at the national level resulting in an adoption certificate from the CNPD;

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€3,000 for monitoring by the CNPD of the procedure at European level resulting in a European data protection label.

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Art. 5. – Authorization of contractual clauses

For any data controller or subcontractor, established on Luxembourg territory, who submits contractual clauses to the CNPD for authorization in accordance with Article 46, paragraph 3, letter a) of the GDPR, the amount of the fee to be paid to the CNPD is fixed at €1,500.

Art. 6. – Approval of Binding Corporate Rules

For any group of companies established on Luxembourg territory, which submits for approval of the corporate rules binding on the CNPD pursuant to Article 47 of the GDPR, the amount of the fee to be paid to the CNPD is set at €1,500.

Art. 7. – Methods of payment

(a) All royalties are due and payable as of right on the day of receipt of the notice of payment of the CNPD by the subject person.

(b) The fee due must be paid into one of the accounts indicated for this purpose by the CNPD.

The CNPD only processes the file in question after receiving a copy of the proof of payment.

(c) Depending on the consumer price index, the CNPD reserves the right to adapt

the amounts of the royalties by an amendment to this regulation.

Thus adopted in Esch-sur-Alzette on April 3, 2020.

The National Data Protection Commission

Tine A. Larsen

President

Thierry Lallemand

Commissioner

Christopher Buschman

Commissioner

Marc Lemmer

Commissioner

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