

Decision of the National Commission sitting in restricted formation

on the outcome of investigation No. [...] conducted with [the public body].

Deliberation No. 34FR/2021 of September 29, 2021

The National Commission for Data Protection sitting in restricted formation

composed of Ms. Tine A. Larsen, President, and Messrs. Thierry Lallemand and Alain

Herrmann, commissioners;

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

on the protection of individuals with regard to the processing of personal data

personal character and on the free movement of such data, and repealing Directive

95/46/EC;

Having regard to Directive (EU) 2016/680 of the European Parliament and of the Council of April 27, 2016

on the protection of individuals with regard to the processing of personal data

personal character by the competent authorities for the purposes of prevention and detection

criminal offences, investigation and prosecution thereof or the execution of

criminal penalties, and on the free movement of such data, and repealing the framework decision

2008/977/JHA of the Council;

Considering the law of August 1, 2018 on the organization of the National Commission for the

data protection and the general data protection regime, in particular

its article 41;

Having regard to the law of 1 August 2018 relating to the protection of natural persons with regard to

processing of personal data in criminal matters as well as in matters of

national security;

Having regard to the internal regulations of the National Commission for the Protection of

data adopted by decision no. 3AD/2020 dated January 22, 2020, in particular its

article 10 point 2;

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Having regard to the regulations of the National Commission for Data Protection relating to the

inquiry procedure adopted by decision No. 4AD/2020 dated January 22, 2020,

in particular its article 9;

Considering the following:

I. Facts and procedure

1. As of April 17, 2019, the National Data Protection Commission

(hereafter: the "CNPD") received a complaint from [...] (hereafter: "the complainant")

brought against [the public body] (hereinafter: "[the public body]"). The complaint has

was introduced through its agent, Master [...], lawyer at the Court.

2. [...]

3. On September 26, 2018, the Claimant exercised his right of access to his

personal data to [the public body] on the basis of Article 13 of

the law of 1 August 2018 on the protection of individuals with regard to the

processing of personal data in criminal matters as well as in matters of

national security (hereinafter: "Law of 1 August 2018 on the processing of personal data

personal character in criminal matters and national security"). It appears from the letter of

response from [the public body] of 5 October 2018 that the personal data

of the complainant were dealt with in the context of five [cases]: [...]

4. By letter dated October 30, 2018, the complainant exercised his right to erasure

with [the public body] relating to the personal data contained in the

[files] (1) to (4) on the basis of article 15 of the law of August 1, 2018 relating to the processing

personal data in criminal matters and national security.

5. By letter dated December 19, 2018, [the public body] confirmed the deletion

personal data relating to [records] (1) and (3), but refused

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deletion relating to [folders] (2) and (4). In addition, it also refused the erasure  
[of file] (5).<sup>1</sup>

6. By letter dated January 30, 2019, the Claimant reiterated his request  
erasure relating to [files] (2) and (4), as well as requested the erasure of its  
personal data relating to [the file (5) [...]].

7. In a letter dated February 15, 2019, [the public body] maintained its position  
expressed in the aforementioned letter of December 19, 2018.

8. During its deliberation session of September 26, 2019, the Commission  
Data Protection Authority sitting in plenary session (hereafter:  
“Plenary Formation”) therefore decided to open an investigation with [the organization  
public] on the basis of article 37 of the law of 1 August 2018 on the organization of the  
National Commission for Data Protection and the General Data Protection Regime  
data protection and to appoint Mr. Marc Lemmer as head of investigation.

9. According to the decision of the Plenary Formation, the investigation conducted by the CNPD  
had the purpose of monitoring the application and compliance with the GDPR, the said law of the 1st  
August 2018 and the law of 1 August 2018 relating to the processing of personal data  
criminal and national security personnel in connection with the complaint  
introduced on April 17, 2019 as mentioned in point 1 of this decision.

10. On February 18, 2020, the Chief of Investigation informed [the public body] of  
the opening of the aforementioned investigation and the initial findings made on the basis of the documents  
collected in connection with the complaint in question. In addition, the chief investigator

clarified that a meeting on the premises of [the public body] in order to carry out on-site observations and to obtain access to personal data relating to the person concerned will be required.

1 See Part II.2. As for the reasons for the decision under “1. On the failure to respect the right to erasure of the data subject” for detailed explanations.

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11. On March 3, 2020, CNPD agents thus carried out a visit on the premises of [the public body].<sup>2</sup>

12. On April 4, 2020, [the public body] commented on the minutes drawn up by CNPD officials and responded to additional questions posed by email from the CNPD of March 13, 2020. A final version of the minutes was sent to [the public body] on April 21, 2020.

13. At the end of his investigation, the head of investigation notified the [public body] in dated September 3, 2020 a statement of objections detailing the shortcomings that it believed constituted in this case, and more specifically a non-compliance with the requirements prescribed by Articles 7.2, 12.2. b) and 15.23 of the law of 1 August 2018 relating to processing of personal data in criminal matters and national security.

In this letter, the head of investigation proposed to the Restricted Panel to adopt three different corrective measures, which should be implemented within one year from the decision of the Restricted Panel, under penalty of a penalty payment of up to one hundred (100) euros per day of delay.

14. On September 30, 2020, [the public body] filed written submissions on the statement of objections.

15. The president of the Restricted Panel informed [the public body] by letter of April 12, 2021 that his case would be registered for the Training session Restricted on May 31, 2021. [The public body] did not respond to this invitation.

2 See report of the visit carried out on March 3, 2020 to the premises of [the public body].

3 Art. 7.2: “The processing ensures the proportionality of the retention period of personal data personnel, taking into account the purpose of the file and the nature or seriousness of the offenses and facts concerned. » ; Art.12.2: “In addition to the information referred to in paragraph 1, the controller provides the data subject, in particular cases, the following additional information in order to enable him to exercise their rights: [...] b) the retention period of the personal data or, where this is not not possible, the criteria used to determine this duration [...]”; Art. 15.2: “The controller erase the personal data of the data subject as soon as possible when the processing of such data constitutes a breach of the provisions of Articles 3, 7 or 9, or where the personal data must be erased to comply with a legal obligation to which it is submitted to the controller. »

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16. During the Restricted Training session of May 31, 2021, the head of investigation presented his oral observations in support of his written observations and he replied to the questions asked by the Restricted Panel. [The public body] was not present during the session.

17. By letter dated July 7, 2021, the Restricted Panel requested clarification on a specific point concerning the starting point of retention periods, to which [the public body] responded on July 14, 2021.

II. Place

II. 1. On the material competence of the National Commission

18. First of all, it should be specified that the law of 1 August 2018 on the processing of personal data in criminal matters and national security transposes in Luxembourg Directive 2016/680 (EU) of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data by the competent authorities for the purposes of prevention and detection of, investigation and prosecution of criminal offences, matter or execution of criminal penalties, and to the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (hereinafter: "Directive 2016/680 (EU)"). The said law applies "to the processing of personal data implemented works for the purposes of prevention and detection of criminal offences, investigations and prosecution in this regard or the execution of criminal penalties, including the protection against threats to public security and the prevention of such threats, by any competent public authority or any other body or entity to which has been entrusted, for these same purposes, the exercise of public authority and the prerogatives of public power. »<sup>4</sup>

19. [The public body] specifies in its letter of October 5, 2018 to the complainant that the processing of personal data implemented by [the organization public] and affected by this Decision pursue the aforementioned purposes. Thereby, given that [the public body] is to be considered as the "competent authority" in

<sup>4</sup> Article 1 of the law of 1 August 2018 relating to the processing of personal data in the field of criminal justice and national security.

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personal nature in criminal matters and national security, the processing concerned by this decision fall within the scope of that law.

20. Then, according to article 4 point 3) of the law of 1 August 2018 on the organization of the National Commission for Data Protection and the general regime on the data protection and article 39 of the law of 1 August 2018 relating to the processing of personal data in criminal matters and national security, the Commission National Authority is responsible for monitoring and verifying whether the data subject to processing are processed in accordance with the provisions of the said law of 1 August 2018 relating to the processing of personal data in criminal matters and national security.

21. Therefore, the Restricted Panel considers itself competent to analyze and verify the compliance of the personal data processing operations in question carried out by [the public body] with the law of 1 August 2018 on the processing of personal data in criminal matters and national security.

22. [...] Moreover, like the decision of the Plenary Formation of 26 September 2019 to open an investigation is based specifically on the complaint lodged on of April 17, 2019, in which the complainant complains that [the public body] did not respected his right to erasure, on the one hand, and as the statement of objections expressly states that the purpose of the investigation was to verify compliance with the right to the deletion of the claimant provided for in article 15 of the law of 1 August 2018 relating to the processing of personal data in criminal matters and national security, on the other hand, this decision will be limited to verifying compliance with the right to erasure of the claimant by [the public body].

## II.2. As to the reasons for the decision

1. On the failure to respect the right to erasure of the person concerned

### 1.1 On the principles

23. According to the provisions of article 15.2 of the law of 1 August 2018 relating to processing of personal data in criminal matters and national security, the

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controller is obliged to delete "as soon as possible the data to be personal character of the person concerned when the processing of these data constitutes a violation of the provisions of Articles 3, 7 or 9, or when the personal data must be erased to comply with a legal obligation to which the controller is subject. »

24. Paragraph (4) of the aforementioned Article 15 provides that the controller must notify the data subject in writing of any refusal to erase personal data personal character, as well as the reasons for the refusal. It may also "limit, in whole or in part, the provision of this information, since such a limitation constitutes a necessary and proportionate measure in a democratic society, having regard to the purpose of the processing concerned, and taking due account of the fundamental rights and legitimate interests of the natural person concerned for:

(a) avoid interfering with official inquiries, research or proceedings, or judicial;

(b) avoid prejudicing the prevention or detection of criminal offences, investigations or prosecutions in the matter or the execution of penal sanctions;

c) protect public safety;

(d) protect national security and national defence; Where

e) protect the rights and freedoms of others. »

1.2. In this case



25. By letter dated October 30, 2018, the complainant exercised his right to erasure with [the public body] relating to the personal data contained in the four [first files] on the basis of article 15 of the law of August 1, 2018 relating to the processing of personal data in criminal matters and national security.

26. [...]

27. By letter dated December 19, 2018, [the public body] confirmed the deletion personal data relating to [the file] (3) [...] explaining that “[...],

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the personal data collected by [the public body] in the context of these [folders] will be erased”. With regard to [the file] (1) [...] [the organization public] will also erase your data. On the other hand, she refused the erasure of personal data relating to [files] (2) and (4), [...] in explaining that the retention periods had not yet expired for these two [folders] [...].

28. By this same letter of December 19, 2018, [the public body] also refused the deletion [of the file] (5) [...].

29. By letter dated January 30, 2019, the complainant reiterated his request for erasure for the [folders] (2) and (4), as well as requested the erasure [of the folder] (5). By mail of February 15, 2019, [the public body] maintained its position arising from the letter cited above on December 19, 2018.

30. During the on-site visit by CNPD officials on March 3, 2020, [the public body] [...] also presented to the CNPD the file [of their database data] concerning the claimant in which [files (2), (4) and (5) were located].

31. [...]

32. The [files] (1) and (3) were therefore no longer in the file concerning the claiming. However, even if [said records] (1) and (3) had been deleted, the CNPD officials noted that the files [...] were found in a file

"trash", a kind of buffer folder allowing temporary storage in theory

in order to recover a folder deleted by mistake. However, they found that the

"content of this "trash" folder is never erased in practice, so that

many documents are there for a very long period of time [...]"

(Statement of Objections, point 34).

33. Despite the information that the [files] (1) and (3) would have been the subject

of a deletion dated December 19, 2018,<sup>5</sup> CNPD officials noted

that on the day of the site visit of March 3, 2020, the [files] [...] (1) and (3) were located

5 As indicated by [the public body] to the claimant in its letter of December 19, 2018.

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in the "trash can" file for approximately 13 months (see statement of objections, point 35).

34. The Restricted Committee considers in this context that the analysis of respect for claimant's right to erasure must be divided between the [different records], i.e.

say be done separately for [folders] (1) and (3), [folders] (2) and (4), as well

only for [the file] (5).

1. As to the [files] (1) and (3) concerning the Claimant

35. [...]

36. The CNPD officers, on the other hand, noted that the two [above-mentioned files]

concerning the claimant were after their alleged deletion, at the time of their on-site visit in a so-called "trash" file.

37. The Restricted Committee first notes that a dustbin is a component computer analogous to a wastepaper basket. It makes it possible to offer a second look to the files that the user has decided to delete from the database operational, while preparing for their final disposal. In this context, it is of the opinion that, even if the support of a competent technician is required for the restoration of a folder in the "trash" file, moving a folder in said file "trash" is not sufficient to respect the right to erasure of the person concerned. Thus, the claimant's right to erasure relating to these two [files] has not respected by [the public body]], while the latter claimed to have carried out the permanent deletion of these two [files].

38. In view of the foregoing, it considers that the non-compliance with Article 15.2 of the Law of 1 August 2018 relating to the processing of personal data in the field criminal justice and national security had been acquired on the day of the on-site visit by the agents of the CNPD with regard to [files] (1) and (3).

2. As to the [files] (2) and (4) concerning the Claimant

39. By letter dated December 19, 2018, [the public body] refused to erase the personal data relating to [records] (2) and (4) explaining that the retention periods have not elapsed for these two [files] [...].

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40. The Restricted Panel considers first of all that the retention period of [...] years raised by [the public body] during the site visit of March 3, 2020 is in

contradiction with the period of [...] years mentioned to the claimant in the letter dated 19 December 2018. It will therefore only analyze in this part whether the duration of conservation indicated to the claimant, i.e. [...] years, was respected by [the organization audience].

41. By letter dated July 14, 2021, [the public body] told the Panel

Restricts only the departure dates causing the retention periods of the documents in [their database] are the dates of registration [...] in [the database of data]. She specified that [the file] (2) of the Claimant [...] was registered on 22 May 2013, while [the file] (4) [...] was registered on October 10, 2016.

42. Thus, the Restricted Panel finds that on December 19, 2018, the date of the refusal erasure by the [public body] of the complainant's [files] (2) and (4), the time limit for retention applicable at that time by [the public body], i.e. [...] years, was not not yet elapsed. Therefore, it considers that [the public body] was entitled to refuse on this date the deletion of the [files] (2) and (4) concerning the complainant.

3. As to [the file] (5) concerning the Claimant

43. By letter dated December 19, 2018, [the public body] refused the erasure [of the file] (5) [...].

44. By letter dated January 30, 2019, the complainant reiterated his request for erasure [of the file] (5) [...].

45. By letter dated February 15, 2019, [the public body] maintained its position arising from the aforementioned letter of December 19, 2018.

46. The Restricted Committee notes in this context that according to Article 15.4 of the law of 1 August 2018 relating to the processing of personal data in criminal matters and national security, the controller may limit the provision information on a refusal to erase the data, since such a limitation constitutes a necessary and proportionate measure in a democratic society,

regard to the purpose of the processing concerned, and taking due account of the rights

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fundamental and legitimate interests of the natural person concerned for, between  
others, avoid interfering with investigations or interfering with the prevention or detection  
of criminal offenses, in the investigation or prosecution thereof or in the execution of  
penals sanctions.

47. As [the public body] informed the claimant that his [case] (5) cannot  
not yet be erased, because [...], the Restricted Panel considers that [the public body] has  
legitimately used its powers provided for in paragraph 4 of the aforementioned article 15. So she  
considers that [the public body] was entitled to refuse the erasure [of the file] (5)  
regarding the claimant.

## II. 3. On corrective measures and fines

### 1.1. The principles

48. Pursuant to Article 57 of Directive 2016/680 (EU), a directive transposed into  
Luxembourg by the law of 1 August 2018 relating to the processing of personal data  
personnel in criminal matters and national security, the sanctions provided for by the States  
members in the event of violations of the provisions adopted "must be effective,  
proportionate and dissuasive".

49. In accordance with article 14 of the law of 1 August 2018 organizing the  
National Commission for Data Protection and the General Data Protection Regime  
data protection, the CNPD has the following powers under the law of  
August 1, 2018 on the processing of personal data in criminal matters  
and national security:

“1° obtain from the controller or the processor access to all the data of a personal nature that are processed and to all the information necessary for the exercise of its missions;

2° notify a data controller or a processor of the fact that the data processing operations envisaged treatment are likely to violate the provisions adopted under the Law of 1 August 2018 on the protection of individuals with regard to the processing of personal data in criminal matters as well as in matters of national security;

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3° order the controller or the processor to put the operations of processing in accordance with the provisions adopted under the law of 1 August 2018 on the protection of natural persons with regard to the processing of personal data personal character in criminal matters as well as in matters of national security, the case where appropriate, in a specific manner and within a determined period, in particular by ordering the rectification or erasure of personal data or restriction of processing pursuant to article 15 of the law of 1 August 2018 on the protection natural persons with regard to the processing of personal data in criminal matters and matters of national security;

4° temporarily or permanently restrict, including prohibiting, processing;

5° to advise the data controller in accordance with the consultation procedure prior procedure referred to in article 27 of the law of 1 August 2018 on the protection of natural persons with regard to the processing of personal data in criminal matters and matters of national security;

6° issue, on its own initiative or on request, opinions for the attention of the Chamber Members of Parliament and its Government or other institutions and bodies as well as the public, on any question relating to the protection of personal data. »

50. Article 47 of the law of 1 August 2018 on the processing of personal data personal character in criminal matters and national security provides that:

(1) Violation of sections 3 to 15, 18 to 30, and 34 to 38 of this law shall be punishable an administrative fine of 500 to 250,000 euros which is imposed, by way of decision, by the supervisory authority. An appeal against this decision is open to the Administrative tribunal which rules as a judge on the merits.

(2) The competent supervisory authority may, by decision, impose a penalty payment of 100 euros per day of delay in order to force the controller to comply with injunctions issued by the National Commission for the Protection of data pursuant to article 14, points 1°, 3° and 4° of the law of 1 August 2018 on organization of the National Commission for Data Protection and the regime general on data protection, or issued by the judicial control authority in application of article 43, letters b) and c).

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The penalty runs from the date fixed in the decision pronouncing the penalty. This date cannot be earlier than the date of notification of the decision. An appeal against this decision is opened before the Administrative Court which decides as judge on the merits. [...]"

51. The Restricted Committee wishes to specify that the facts taken into account in the of this Decision are those found during the investigation. The possible

changes relating to the data processing under investigation

subsequently, even if they make it possible to establish in whole or in part the conformity, do not make it possible to retroactively cancel a breach noted.

52. Nevertheless, the steps taken by the controller to put themselves in compliance with the law of 1 August 2018 relating to the processing of personal data criminal and national security personnel during the investigative process or to remedy the shortcomings noted by the head of investigation in the communication grievances, are taken into account by the Restricted Panel within the framework of the any corrective measures and/or setting the amount of any fine administrative to pronounce.

1.2. In this case

2.1. Regarding the imposition of an administrative fine

53. In his Statement of Objections of 3 September 2020, the Head of Investigation proposed to the Restricted Panel not to impose an administrative fine on [the public body] (see statement of objections, paragraphs 55 and 56).

54. While Article 48.1 of the law of 1 August 2018 on the organization of the National Commission for Data Protection and the General Data Protection Regime data protection does not allow the CNPD to impose administrative fines against the State and the municipalities, the Restricted Committee finds that under article 47.1 of the law of 1 August 2018 relating to the processing of personal data personnel in criminal matters and national security, the CNPD can however impose administrative fines of 500 to 250,000 euros to the competent authorities falling

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within the scope of the said law for violation of its articles 3 to 15, 18 to 30, and 34 to 38.

55. In order to decide whether to impose an administrative fine for breach of article 15.2 of the law of 1 August 2018 relating to data processing of a personal nature in criminal matters and national security, the Restricted Training considering that the said article has not been complied with by [the public body], and to decide, where applicable, the amount of this fine, the Restricted Panel takes into account the following elements :

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It considers that the nature of the violation is particularly serious, whereas the law of 1 August 2018 relating to the processing of personal data in criminal matters and national security conferring on the persons concerned rights relating to the processing of their personal data, in order to allow the latter to keep control over them, has not been respected. This is all the more important in the case of highly sensitive data processing. sensitive in the specific field of activities [...] of the competent authorities within the meaning of that law. [...] it is essential to respect these rights, including the right to erasure, as they are part of the essence of the aforementioned law. A protection of personal data [...] throughout the Union requires particularly to “strengthen the rights of data subjects and the obligations of those who process personal data. »6

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The Restricted Committee also notes that in general, the more the number of people involved, the greater the potential consequences of a violations are numerous. However, it considers that in the present case the violation may also have serious consequences even for a single

person, i.e. the complainant, the categories of personal data

personnel concerned by the violation, which by their nature, as well as by the quality of the data controller, a character that is particularly sensitive to the regard to his private life.

6 Recital (7) of Directive (EU) 2016/680.

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It is also of the opinion that the facts and the breach found do not reflect a deliberate intention to violate the law of 1 August 2018 relating to the processing of personal data in criminal matters and national security in the head of [public body]. On the other hand, given that the deleted documents by [the public body] [from their database] are systematically found in a "trash" folder, for a temporary period in order to be able to recover in case of deletion error, but that in practice the content of said file is never erased and that the [files] (1) and (3) of the claimant are found for at least 13 months, negligence is to be noted.

56. Consequently, the Restricted Committee considers that in the present case, the delivery of a administrative fine in the amount of one thousand (1,000) euros is justified for breach to article 15.2 of the law of 1 August 2018 relating to the processing of personal data personnel in criminal matters and national security and that such an amount is both effective, proportionate and dissuasive.

2.2. Regarding the taking of corrective measures accompanied by a penalty payment

57. The adoption of the following corrective measures, which should be implemented

within one year, under penalty of a penalty payment of 100 euros per day of delay,  
been proposed by the head of investigation to the Restricted Training in his communication of the  
grievances:

" has. As regards respect for the data subject's right to erasure:

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Warn the auditee that the latter does not comply with its obligations arising from the  
articles 7, paragraph 2, and 15, paragraph 2, of the law of 1 August 2018 relating  
to the processing of data in criminal matters with regard to the existence of a  
"bin" file in the controller's computer system  
in which are listed all the deleted documents [from their database] and  
whose content is not subject to control or deletion.

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Order the controlled party to bring its data processing into conformity with  
personal character by implementing a means of permanently deleting its  
data when such deletion is required, so that it is not  
possible to find deleted documents, as is currently the case with

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the "trash" folder. Although several options would achieve this  
objective, a possible solution would be the adoption of a due process of  
control and deletion of this "trash" folder. Such compliance  
must be done within a reasonable time and at the latest within one year from  
from the decision of the Restricted Panel.

b. As for the requirement of transparency vis-à-vis the persons concerned:

Warn the controller that, in the context of a request for information by a data subject in order to enable him to exercise his rights, the controller of the processing must give exact information as to the retention periods applicable to the personal data of the said data subject. »

58. As for the corrective measures proposed by the head of investigation, the Panel Restricted takes note of the following facts:

As regards respect for the data subject's right to erasure, the Training Restricted does not have documentation demonstrating that [the public body] has in the meantime deleted the personal data of the claimant contained in [files] (1) and (3). Thus, she considers it necessary to order the erasure of the aforementioned data within the month following the notification of this decision.

As for [the dossier] (2) of the Claimant [...], the Restricted Panel notes that [it] was recorded on May 22, 2013. As the retention period for data at personal character of [...] years, indicated to the claimant by [the public body] in his letter of December 19, 2018, expired on May 22, 2019, so even before the on-site visit by CNPD agents, the Restricted Training considers that [the public body] must proceed in the same way as for [the file] (1) [...].<sup>7</sup> Thus, it considers it necessary to order the erasure of the personal data of the complainant contained in [the file] (2) within one month of notification of this decision.

<sup>7</sup> As specified by [the public body] in its letter of December 19, 2018.

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The Restricted Panel still believes that it should attach the injunction to carry out  
the definitive erasure of the complainant's personal data contained  
in the [cases] (1), (2) and (3) of a penalty payment of one hundred (100) euros per day of  
delay from a period of one month following the notification of this decision.

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With regard to the corrective measure proposed by the head of investigation and recovery  
under (a) second indent of point 57 and with reference to point 22 of this  
decision, the Restricted Panel considers that there is no need to pronounce the said  
corrective action. Furthermore, it considers that, in view of the shortcomings identified  
in this decision, it is not necessary to warn [the public body] that  
the planned processing operations are likely to violate the provisions  
of the law of 1 August 2018 relating to the processing of personal data  
in criminal matters and national security, while the Restricted Panel finds  
that there is a violation of article 15.2 of the law of 1 August 2018 relating to  
processing of personal data in criminal and security matters  
national.

It therefore considers that there is no need to pronounce the corrective measures  
proposed by the head of investigation under a), first and second indent of point 57 below  
before.

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With regard to the corrective measure proposed by the head of investigation and recovery  
under (b) of point 57 and with reference to point 22 of this Decision, the  
Restricted Formation considers that there is also no need to pronounce the said

corrective action.

In view of the foregoing developments, the National Commission sitting

in restricted formation and deliberating unanimously decides:

- to uphold the breach of Article 15.2 of the law of 1 August 2018 relating to the processing

personal data in criminal matters and national security;

- to pronounce against [the public body] an administrative fine of one

amount of one thousand (1,000) euros with regard to the breach of article 15.2 of the law of the 1st

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Decision of the National Commission sitting in restricted formation on the outcome of

Survey No. [...] conducted with [the public body].

17/18

August 2018 on the processing of personal data in criminal matters and

national security;

- to order [the public body] the permanent erasure of personal data

claimant's personnel contained in the [files] (1), (2) and (3) [...] within a

months following the notification of this Decision;

- to accompany the injunction to proceed with the permanent erasure of personal data

claimant's personnel contained in the [files] (1), (2) and (3) of a penalty payment of

one hundred (100) euros per day of delay from a period of one month following the notification of

this decision.

Thus decided in Belvaux on September 29, 2021.

For the National Data Protection Commission sitting in formation

restraint

Tine A. Larsen

Thierry Lallemand

Alain Hermann

President

Commissioner

Commissioner

Indication of remedies

This administrative decision may be the subject of an appeal for review in the three months following its notification. This appeal is to be brought before the administrative court. and must be introduced through a lawyer at the Court of one of the Orders of lawyers.

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Decision of the National Commission sitting in restricted formation on the outcome of Survey No. [...] conducted with [the public body].