

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

of survey no. [...] conducted with Mr. X, dentist

Deliberation No. 1FR/2023 of January 18, 2023

The National Commission for Data Protection sitting in restricted formation

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

Lemmer, 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;

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 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;

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:

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As of April 17, 2019, the National Commission for the Protection of

(hereinafter: "CNPD") received a complaint informing the CNPD of

potential violations of the provisions of Regulation (EU) 2016/679 of the Parliament

European Parliament and of the Council of 27 April 2016 relating to the protection of natural persons

with regard to the processing of personal data and the free movement of such

data, and repealing Directive 95/46/EC (hereinafter: "GDPR") by Mr. X,

dentist, through a video surveillance system installed in his

medical office located at L-[...], [...].

During its deliberation session on September 13, 2019, the Commission

Data Protection Authority sitting in plenary session (hereafter:

"Plenary Training") therefore decided to open an investigation with Mr. X, who

exercises a liberal activity as a dentist, on the basis of article 37 of the law

of August 1, 2018 on the organization of the National Commission for the Protection of

data and the general data protection regime (hereinafter: "Law of 1 August

2018") and to appoint Mr. Thierry Lallemand as head of investigation.

The said decision specified that the purpose of the investigation conducted by the CNPD was to

monitor the application and compliance with the GDPR and the law of August 1, 2018, and more

precisely by setting up video surveillance systems where necessary

installed in the medical office of Mr. X, located at L-[...], [...], and if necessary, by any

other entity concerned by the processing carried out on its behalf.

During its deliberation of September 3, 2021, the Plenary Formation appointed

Alain Herrmann, commissioner, as head of investigation replacing

Mr Thierry Lallemand.

By email of December 20, 2022, the head of investigation sent the file

of inquiry to the National Commission for Data Protection sitting in

restricted formation (hereinafter: the "Restricted Formation"), together with a

closure proposal pursuant to Article 10.2.a) of the Rules of Procedure of the

CNPD, while the natural person against whom the investigation had been opened

died so that the inquest became moot.

The Restricted Panel examined the case during the deliberation session of the January 18, 2023.

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It appears from the investigation file that the CNPD agents presented themselves in dated November 15, 2019 and November 9, 2022 at the medical office of Mr. X, located at L-[...], [...], but that neither Mr. X nor a representative of the medical practice could be met on site. In addition, a letter sent by CNPD officials to Doctor X dated December 1, 2022 remained unanswered. It turned out by following that Mr. X, dentist, had died on [...] 2022, as evidenced by a funeral announcement of [...] 2022 informing the public of the death of the deceased, attached to the investigation file.

Therefore, as the natural person against whom the investigation had been opened has died, the Restricted Formation agrees with the proposal of the chief of investigation and considers that the investigation should be closed in accordance with Article 10.2.a) of the above-mentioned rules of procedure.

In view of the foregoing developments, the National Commission sitting in restricted formation, after having deliberated, decides:

- to close the investigation opened during the meeting of September 13, 2019 of the National Commission for Data Protection to the late Mr. X, dentist, located at L-[...], [...].

Belvaux, January 18, 2023.

For the National Data Protection Commission sitting in formation

restraint

Tine A. Larsen Thierry Lallemand

President

Commissioner

Marc Lemmer

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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