

Decision of the National Commission sitting in restricted formation

on the outcome of inquiry no. 2798 conducted with the Ministry of

Justice

Deliberation No. 6FR/2022 of March 4, 2022

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;

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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I. Facts and procedure

1. On June 29, 2018 and September 14, 2018, the National Commission for data protection (hereinafter: the "CNPD") received two complaints reporting to the CNPD potential breaches of the provisions of Regulation (EU) 2016/679 of the 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 to the free movement of such data, and repealing Directive 95/46/EC (hereinafter: "GDPR") by using the online service of the Trade and Companies Register (hereafter: "RCS") of the site "www.lbr.lu" whose manager is the interest group economic "LUXEMBOURG BUSINESS REGISTER" (hereinafter: "LBR"), located at 14, Rue Erasme, L - 1468 Luxembourg and registered with the RCS under number C24.

2. During its deliberation session of February 22, 2019, the National Commission for data protection sitting in plenary session (hereafter: "Formation Plenary") therefore decided to open an investigation with the LBR on the basis of article 37 of the law of 1 August 2018 on the organization of the National Commission for the data protection and the general data protection regime (hereinafter: "Law of August 1, 2018") and to appoint Mr. Christophe Buschmann as Chief of investigation.

3. According to the decision of the Plenary Formation, the investigation conducted by the CNPD was intended to verify the compliance of the public availability of the data personal information accessible via the RCS online service of the "www.lbr.lu" site, with the section 2 of Chapter 4 of the GDPR entitled "Security of personal data" and this for the period from 2004 to 2019.

4. On May 24, 2019, the LBR responded to the preliminary questionnaire sent by the CNPD by letter dated April 18, 2019.

5. On June 20, 2019, CNPD officials participated in a meeting in LBR premises. The said meeting was the subject of a report, for which the LBR

shared its remarks and comments dated July 19, 2019.

6. On July 25, 2019, a second meeting took place at the premises of the LBR. On July 26, 2019, the LBR sent additional documents to the CNPD and

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dated August 9, 2019, he provided his remarks and comments relating to the account report from the aforementioned meeting.

7. By email of August 9, 2019, the CNPD asked questions additional information to the LBR, to which the latter replied on September 6, 2019.

8. By letter dated March 6, 2020, the head of investigation informed the Ministry of Justice that during its deliberation session of January 14, 2020, the Plenary Formation decided to include the said ministry, in its capacity as controller for the updating public availability of personal data accessible via the RCS Online Service of the website www.lbr.lu, within the scope of the investigation opened on February 22, 2019. Indeed, the head of investigation considered that in consideration of the investigative measures carried out by him between April 16, 2019 and September 9, 2019, it appears that the LBR acts as a subcontractor in the context of the processing covered by the survey mentioned above and acts only in execution of the decisions taken by the Ministry of Justice, the latter assuming the role of responsible for said treatments.

A copy of the aforementioned letter of March 6, 2020 was sent to the LBR.

9. Following the change in the scope of the survey, i.e. the inclusion of the Ministry of Justice (hereinafter: "the Ministry") as controller, while it turned out that the LBR only assumed the function of subcontractor, a meeting with the Ministry and CNPD officials took place on July 7, 2020.

The said meeting was the subject of a report, for which the ministry expressed its remarks and comments dated August 17, 2020.

10. The CNPD agents in charge of the investigation had, in the meantime, more precisely dated July 17, 2020, sent to the ministry all the elements relevant previously exchanged with the LBR.

11. At the end of his investigation, the head of investigation notified the Ministry on May 27, 2021 a statement of objections detailing the shortcomings he considered constituted in this case, and more specifically a non-compliance with the requirements prescribed by Article 32 of the GDPR.

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In the statement of objections, the head of investigation proposes to the National Commission for data protection sitting in restricted formation on the outcome of the investigation (hereinafter: "Restricted Training") to adopt four corrective measures.

12. On June 29, 2021, the Department filed written submissions on the statement of objections.

13. The president of the Restricted Formation informed the ministry by letter of the August 10, 2021 that his case would be registered for the Restricted Panel session of 6 October 2021. The Ministry has confirmed its presence at the said meeting on August 26 2021.

14. Following the departure of Mr. Christophe Buschmann, the Plenary Formation decided during its deliberation session of September 3, 2021 that Mr. Marc Lemmer would occupy from September 3, 2021 the function of chief of investigation for the investigation in question.

15. During the Restricted Training session of October 6, 2021, the leader of investigation and the Ministry presented their oral observations in support of their written observations and answered the questions posed by the Restricted Panel. the department spoke last.

II. Reasons for decision

II. 1. As to the procedure

1. On the role of controller and processor

16. During its deliberation session of February 22, 2019, the Plenary Formation had decided to open an investigation with the LBR with the aim of verifying the compliance of the public availability of the personal data accessible via the service in RCS line of the "www.lbr.lu" site whose manager is precisely the LBR, with the section 2 of chapter 4 of the GDPR entitled "Security of personal data" and this for the period from 2004 to 2019.

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17. However, in view of the investigative measures carried out by him between on April 16, 2019 and September 9, 2019, the Chief Investigator found that the LBR would intervene only as a subcontractor of the ministry which assumes the role of responsible for the processing covered by the investigation in question and has requested the extension of the inquiry to the Plenary Formation.

18. The Restricted Committee notes that under Article 2 of the amended law of 19 December 2002 concerning the Trade and Companies Register (RCS) as well as accounting and annual accounts of companies and amending certain other legal provisions, the RCS operates under the authority of the Minister of Justice, while

the management of the RCS is entrusted to “an economic interest group, bringing together the State, the Chamber of Commerce and the Chamber of Trades, constituted for this purpose. »

19. Article 1 of the amended Grand-Ducal regulation of 23 January 2003 on execution of the law of 19 December 2002 concerning the register of commerce and companies as well as the accounting and annual accounts of companies (hereinafter: "modified grand-ducal regulation of 23 January 2003") provides in this context that the management of the RCS is entrusted to the “RCSL economic interest group”.

It should be noted that by filing of March 29, 2018, the name of the grouping of economic interest “RCSL” has been changed to “LUXEMBOURG BUSINESS REGISTERS (abbreviated “LBR”).¹

20. It also emerges from the minutes of the meeting of CNPD officials that June 20, 2019 with the LBR that the “Ministry of Justice considers that the law as well as the implementing regulations are specific to such an extent that the LBR is to be considered as a mere subcontractor and does not enter into a relationship of joint responsibility with the Ministry of Justice. »

1 It should be noted that Article 1 of the draft Grand-Ducal regulation amending 1° the amended Grand-Ducal regulation of January 23, 2003 implementing the law of December 19, 2002 concerning the register of commerce and companies as well as the accounting and annual accounts of companies, approved by the Board of government in its meeting of January 14, 2022, plans to replace the acronym "RCSL" with "Luxembourg Business Registers”.

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2. On the scope of the investigation

21. In the Statement of Objections, the Head of Investigation “takes note of the fact that the

scope of the investigation concerns the compliance of a single processing operation, namely the updating public access to personal data accessible via the rcs.lu website. To lead this investigation, the head of investigation focused his attention on article 32 of the GDPR, only article relevant to the processing under investigation. Thus, the provisions of Articles 33 and 34, relating to the data breach notification procedure and to informing the persons concerned in the event of a violation, have not been the subject of measures special checks. »

Restricted Training supports the approach of the head of investigation to limit the scope of the investigation to the verification of the compliance of the public availability of the data personal data accessible via the RCS online service of the "www.lbr.lu" site (former site being www.rcs.lu) with article 32.1 and 2 of the GDPR entitled "Security of processing".

22. It also agrees with the opinion of the head of investigation (see communication of the objections, points 21 to 24), that as regards the principle, the making available to the public of the data of a personal nature on the www.lbr.lu website, as part of the RCS online service, is not not questioned. Indeed, the amended Grand-Ducal regulation of 23 January 2003 provides such provision, as well as the terms of said provision. Thereby, as mentioned above, the Restricted Training will only analyze whether the security measures put in place by the ministry as part of making available to the public the personal data in question complied with Article 32 of the GDPR.

23. Furthermore, in this decision it will only analyze the provision to the public of the personal data accessible via the service in RCS line of the site www.lbr.lu and not data accessible via the same site and concerning the Electronic Compendium of Companies and Associations (RESA), as well as the Register of Beneficial Owners (RBE).

24. The head of investigation further specified in the statement of objections "that the scope of the survey concerns compliance with a set of provisions of the GDPR

over the period 2014 to 2019, whereas these provisions did not come into force until from May 25, 2018. [...]"

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Once again, the Restricted Panel approves the choice made by the head of investigation and does not will take into account in this decision only the facts found by the head of the investigation for the period after May 25, 2018.

II. 2. As to substance

1. On the breach of the obligation to guarantee the security of the processing of personal data

1.1. On the principles

25. According to Article 5.1.f) of the GDPR, personal data must be

“processed in a way that ensures appropriate security of personal data, including protection against unauthorized or unlawful processing and against the loss, accidental destruction or damage, using technical measures or appropriate organizational (integrity and confidentiality). »

26. Considering the state of knowledge, the costs of implementation and the nature, scope, context and purposes of the processing as well as the risks, including the degree of likelihood and severity varies, for the rights and freedoms of individuals physical, the controller is bound under paragraph (1) of Article 32 of the GDPR to “implement the technical and organizational measures appropriate in order to guarantee a level of security appropriate to the risk [...].

According to Article 32.2 of the GDPR, when “assessing the appropriate level of security, account is taken in particular of the risks presented by the processing, resulting

including the destruction, loss, alteration, unauthorized disclosure of
personal data transmitted, stored or otherwise processed,
or unauthorized access to such data, accidentally or unlawfully. »

27. Furthermore, the opinion of the Article 29 Working Party on the reuse of
public sector information and open data clarifies in this context that the
“reuse of publicly available personal data is and should be
limited by:

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the general provisions of the applicable legislation with regard to the protection of
data,

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(if applicable) specific additional legal restrictions, and

☐ technical and organizational safeguards put in place to protect the
personal data. »2

28. With respect to such specific additional legal restrictions,

Article 22 of the amended Grand-Ducal regulation of 23 January 2003 provides that, among the
procedures for accessing data from the RCS, the "search for data can only be done
from the name of the natural person trader, the name or company name
of the legal person or through the registration number in the Register of
commerce and societies. Searching for data based on other search criteria
research for the benefit of public administrations and public establishments is subject to
the prior authorization of the Minister of Justice who specifically determines for each

public administration and for each public institution concerned the criteria from which research can be carried out and the reasons for granting this authorization.

Public administrations and public establishments may not make such research only within the framework of the exercise of their legal attributions. »

29. With regard to the technical and organizational safeguards put in place to protect personal data, the opinion of the Article 29 Working Party on the aspects of data protection related to search engines indicates that "the website owners can choose a priori not to appear in the search engine search or cache, using robots.txt file or tags

Noindex/NoArchive". The opinion further clarifies that it "can be more than a solution optional. Publishers of personal data should consider whether their database legal authorizing the publication includes the indexing of this information by the engines

2 Opinion 6/2013 of the Article 29 Working Party on the re-use of public sector information (PSI) and Open Data, WP207, adopted June 5, 2013, page 9.

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research and create the necessary corresponding guarantees, in particular the use robots.txt file and/or Noindex/NoArchive tags." 3

1.2. In this case

30. It appears first from the report of the on-site visit of 20 June 2019 that "given that the Ministry of Justice and the LBR consider that their mission is to make the data in the RCS public, no specific measures have been put in place to prevent access to them – this would even have constituted a inconsistent with their mission. » 4

By email of September 6, 2019, the LBR confirmed that no “specific measures preventing the consultation or reuse of public information has been put specifically in place. »

31. Secondly, with regard to risk analysis from the point of view business, it is specified in the report of June 20, 2019 “that such an analysis has not been carried out explicitly – the need for such an analysis would not have been identified because registry data is public by definition. »

During the meeting of July 7, 2020, the ministry confirmed “that a risk analysis in as such has not been carried out for the RCS. The analysis exists for the Register of Beneficial Owners and is in progress with regard to the RCS. » 5

Nevertheless, the aforementioned minutes of June 20, 2019 mentions that in the context of the discussions a number of measures were identified on an ad-hoc basis, such as including connection to the LBR site through a user account to consult the documents filed or to order a register extract, as well as the issue extracts by the LBR on secure paper or electronically with a signature qualified.

3 Article 29 Working Party Opinion 1/2008 on data protection aspects related to search engines research, WP207, adopted on April 4, 2008, page 15 and footnote n°19.

4 See also the answer to question 3.1 (page 13) of the LBR's preliminary questionnaire of 24 May 2019.

5 See minutes of the meeting with the Ministry of July 7, 2020.

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With regard specifically to access to RCS data, which was done by a user/password due to the paying nature of the consultation, the ministry explained

during the meeting of July 7, 2020 that in the meantime “access has become free and it is possible to access information anonymously. This anonymous access is technically framed as follows: checking that the connection is made by a natural person (by carrying out a simple mathematical calculation), the acceptance of the general conditions of use of the site and the interruption of the connection in case of inactivity for a certain period of time. » 6

32. Lastly, concerning the potential indexing of available documents at the RCS, it was specified on May 24, 2019 by the LBR that “to avoid delays on the RCS computer application, which could have resulted from external calls and automated to the database, a robots.txt file preventing the indexing of documents filed with the RCS has been set up. » 7

33. By email of September 6, 2019, the LBR confirmed that the “robot.txt file has been put in place above all for reasons of site performance and not for prevent any indexing of documents. Especially since this file only allows to prohibit the indexing of documents by official search engines, which respect this principle, but does not prevent its circumvention by a program or robot. »

34. With regard specifically to the question of indexation, the head of investigation noted in the statement of objections of 27 May 2021 that even if file no robots was set up to avoid overloading the network and not directly to avoid indexing via search engines on the www.lbr.lu site, this measure nevertheless makes it possible to limit the accessibility of information via a path other than that intended. The investigation revealed the absence of anti-indexing configuration on the gd.lu domain (hosting of documents from the www.lbr.lu site) over the period preceding the month of November 2018. This means that the personal data was indexable by search engines and therefore available without connecting to the lbr.lu site. »

6 See minutes of the meeting with the Ministry of July 7, 2020.

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35. The head of investigation thus came to the conclusion that, as the data personal data made available to the public on the lbr.lu site, were only until November 2018, not protected against direct accessibility via search engines, also allowing access to data that does not comply with the provisions of Article 22 of the amended Grand-Ducal regulation of 23 January 2003, and as no analysis making it possible to assess the level of security appropriate to the risks incurred in terms of protection of personal data has not been carried out, the Ministry has failed to its obligations under Article 32 of the GDPR (see statement of objections, point 34).

36. By letter dated June 29, 2021, the Ministry specified that a “risk analysis relating to the provision of personal data to the public via the site LBR internet will be immediately investigated. LBR and the CTIE are already in relationship with a service provider to carry out this analysis and implement on the basis of this last, the particular additional measures which would result therefrom and which would not be not already in place. »

37. The Restricted Committee considers in this context that, as Article 22 of the amended Grand-Ducal regulation of 23 January 2003 provides that the search for data to the RCS can only be done from the name of the trader who is a natural person, the name or business name of the legal entity or through the number registration with the RCS, the ministry was obliged to put in place measures to necessary security, in accordance with Article 32.1 and 2 of the GDPR, in order to avoid any

research not authorized by the aforementioned article of said Grand-Ducal regulation.

In order to know what these adequate security measures would have been, she believes that a risk analysis to assess what would have been the appropriate level of security and appropriate to the risk, should have been implemented by the ministry. However, even if said ministry indicated in its letter of June 29, 2021 that such an analysis relating to the making personal data available to the public via the LBR website will be immediately expedited, the Restricted Panel finds that at the time of the opening of the investigation, such an analysis was not carried out.

38. Furthermore, it notes that between May 25, 2018 and November 2018, the personal data made available to the public on the lbr.lu website were not

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protected against direct accessibility via search engines, allowing from when accessing data that does not comply with the provisions of Article 22 of the Regulation grand-ducal amended on 23 January 2003 and therefore also does not comply with the requirements of Article 32.1 and 2. of the GDPR.

39. The Restricted Panel therefore concurs with the opinion of the head of investigation⁸ and concludes that due to i) the failure to have carried out an analysis making it possible to assess the level of security adapted to the risks incurred in terms of personal data protection personnel by providing the personal data contained in the RCS to the public on the website www.lbr.lu and ii) the lack of protective measures in place until November 2018 in order to avoid the indexing of the documents in question by search engines research, the Department breached its security obligations arising from GDPR article 32.1 and 2.

III. On corrective measures

1. Principles

40. In accordance with article 12 of the law of 1 August 2018, the CNPD has the power to adopt all the corrective measures provided for in Article 58.2 of the GDPR:

"(a) notify a controller or processor of the fact that the operations of the envisaged processing are likely to violate the provisions of this regulation;

(b) call a controller or processor to order when the processing operations have resulted in a breach of the provisions of this Regulation;

(c) order the controller or processor to comply with requests submitted by the data subject with a view to exercising their rights under this these regulations;

8 See statement of objections, point 34.

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d) order the controller or the processor to put the operations of processing in accordance with the provisions of this Regulation, where applicable, of specific manner and within a specified time;

(e) order the controller to communicate to the data subject a personal data breach;

f) impose a temporary or permanent restriction, including prohibition, of processing;

g) order the rectification or erasure of personal data or the limitation of processing pursuant to Articles 16, 17 and 18 and the notification of these measures to the recipients to whom the personal data have been disclosed pursuant to Article 17, paragraph 2, and Article 19;

- (h) withdraw a certification or order the certification body to withdraw a certification issued pursuant to Articles 42 and 43, or order the body to certification not to issue certification if the requirements applicable to the certification are not or no longer satisfied;
- (i) impose an administrative penalty under section 83, in addition to or in addition to instead of the measures referred to in this paragraph, depending on the characteristics specific to each case;
- j) order the suspension of data flows addressed to a recipient located in a third country or an international organisation. »

41. In accordance with article 48 of the law of 1 August 2018, the CNPD may impose administrative fines as provided for in Article 83 of the GDPR, except against the state or municipalities.

42. The Restricted Committee wishes to specify that the facts taken into account in the context of this decision are those found at the start of the investigation. The possible changes relating to the data processing under investigation

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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.

43. Nevertheless, the steps taken by the Ministry to put itself in compliance with the GDPR during the investigation process or to remedy the shortcomings noted by the head of investigation in the statement of objections, are taken taken into account by the Restricted Training in the context of any corrective measures to pronounce.

2. In this case

44. The adoption of the following corrective measures was proposed by Chief inquiry to the Restricted Panel in its statement of objections of May 27, 2021:

"- Order the performance of a risk analysis relating to the updating of

public access to personal data via the lbr.lu website

in accordance with Article 32 paragraphs 1 and 2 of the GDPR;

- Order the implementation of the measures resulting from this analysis;

- To order

the establishment of a process to assess

regularly the effectiveness of the measures taken to prevent the reuse

data by third parties for different purposes, in accordance with

Article 32 paragraph 1 (d) of the GDPR.

45. In that Statement of Objections, the Head of Investigation also proposed to

the Restricted Committee "to issue a call to order against the Ministry of

justice according to which the provision of public data must comply with the legislation

applicable in terms of data protection, if the latter contain

personal data. »

46. In its response to the Statement of Objections of 29 June 2021, the Ministry

taken a position on the various grievances raised by the head of the investigation.

47. As for the corrective measures proposed by the head of investigation and by

reference to point 44 of this decision, the Restricted Formation takes into account

the steps taken by the ministry, following the opening of the investigation, in order to

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comply with the provisions of Article 32.1 and 2 of the GDPR, as detailed in the minutes of the meetings of June 20, 2019, July 25, 2019 and July 7, 2020, as well as only in his letters of July 26, 2019, September 6, 2019, and June 29, 2021.

More specifically, it takes note of the following facts:

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As to the corrective measure proposed by the head of investigation under the first indent of point 45 of this Decision concerning the performance of an analysis of risk relating to the public availability of personal data via the lbr.lu site in accordance with article 32.1 and 2 of the GDPR, the ministry specified by letter of June 29, 2021 that a “risk analysis relating to the updating public availability of personal data via the LBR website will be immediately processed. LBR and the CTIE are already in contact with a service provider to carry out this analysis and implement on the basis of this last, the particular additional measures which would result therefrom and which would not already be in place. »

During the Restricted Training session of October 6, 2021, the ministry reiterated that a risk analysis is underway including a legislative part, as well as a more technical part.

Given that the said analysis was not yet closed on the date of the session aforementioned and as the Restricted Training does not have documentation to demonstrate that the risk analysis has meanwhile been finalized, it therefore considers that it is appropriate to pronounce the corrective measure proposed by the head of investigation in this regard as set out in the first indent of point 45. However, because of the scope of the survey⁹, it wishes to limit the obligation to carry out an analysis of the risks to the public availability of the data personal data accessible via the RCS online service of the www.lbr.lu website and not

data accessible via the same site and concerning the Electronic Compendium of companies and associations (RESA), as well as the Register of beneficiaries headcount (RBE).

9 See point 24 of this decision on the scope of the investigation.

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As for the corrective measure proposed by the head of investigation under the second indent of point 45 of this Decision concerning the implementation of the measures that would result from this analysis, the Restricted Panel takes into account that in its letter of June 29, 2021, the ministry indicated that the measures particular additional factors that would result from the risk analysis relating to the implementation public access to personal data via the website of LBR, and which are not already in place, would be implemented. However, as the Restricted Training does not have documentation to demonstrate that the risk analysis has meanwhile been finalized, it therefore considers that it is appropriate to pronounce the corrective measure proposed by the head of investigation in this regard as set out in point 45, second indent of the this decision.

As for the corrective measure proposed by the head of investigation under the third indent of point 45 of this Decision concerning the setting up of a process to regularly assess the effectiveness of the measures taken to prevent the reuse of data by third parties for different purposes, in accordance with Article 32.1 (d) of the GDPR, the Restricted Panel considers that it

there is a need to pronounce it.

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As for the corrective measure proposed by the head of investigation under point 46 of this decision concerning a call to order against the ministry according to which the provision of public data must comply with the legislation applicable in terms of data protection, if the latter contain personal data, the Restricted Panel can only agree with this proposition.

It takes the view that, as Article 22 of the amended Grand-Ducal Regulation of January 23, 2003 provides that the search for data at the RCS can only be done at from the name of the natural person trader, the denomination or reason company of the legal person or through the registration number at the RCS, the ministry was obliged to put in place the necessary security measures, in accordance with Article 32.1 and 2 of the GDPR, in order to avoid any research not authorized by the aforementioned article of said Grand-Ducal regulation.

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However, between May 25, 2018 and November 2018, personal data made available to the public on the lbr.lu website were not protected against direct accessibility via search engines, thus allowing access to data that does not comply with the provisions of Article 22 of the Grand-aforesaid ducal and therefore also does not comply with the requirements of article 32.1 and 2. of the GDPR.

The Restricted Panel therefore considers that it is necessary to pronounce the measure

corrective action proposed by the head of investigation in this regard as set out in point

46.

Finally, under the terms of article 52 of the law of 1 August 2018 on organization of the National Commission for Data Protection and the general data protection regime, “[t]he CNPD may order, at the expense of the sanctioned person, the publication in full or in extracts of his decisions with the exception of decisions relating to the issuance of periodic penalty payments, and under provided that:

1° the means of appeal against the decision have been exhausted; and

2° the publication is not likely to cause disproportionate harm to the parties in question. »

The Restricted Committee considers that the publication of this decision does not not likely to cause disproportionate harm to the department, but that it is justified with regard to the public interest in knowing the results of the investigation of the CNPD on the compliance of the public availability of data personal data accessible via the RCS online service of the “www.lbr.lu” site with GDPR Article 32. Indeed, the personal data of a number large number of natural persons are concerned by this provision.

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In view of the foregoing developments, the National Commission sitting in restricted formation and deliberating unanimously decides:

- to retain the breaches of Article 32.1 and 2 of the GDPR;

- to pronounce against the Ministry of Justice a call to order for having violated

GDPR Article 32.1 and 2;

- issue an injunction against the Ministry of Justice to enforce

compliance of the processing with article 32.1 and 2 of the GDPR within a period of six months following

notification of the decision of the Restricted Committee, namely:

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carry out a risk analysis relating to the provision to the public of

personal data accessible via the RCS online service of the site

www.lbr.lu;

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implement mitigation measures following the completion of

the aforementioned risk analysis;

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put in place a process to regularly assess the effectiveness of

measures taken in accordance with Article 32.1. (d) GDPR.

- to publish the decision on the website of the National Commission as soon as the ways

remedies have been exhausted.

Thus decided in Belvaux on March 4, 2022.

For the National Data Protection Commission sitting in formation

restraint

Tine A. Larsen

Thierry Lallemand

Alain Hermann

President

Commissioner

Commissioner

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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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