

Additional opinion of the National Commission for Data Protection relating to the parliamentary amendment to the draft law n° 7643 on open data and the reuse of public sector information and relating to the draft Grand Ducal regulation laying down objective, transparent and verifiable criteria for calculating the amount total royalties for the supply and authorizations for the reuse of documents held by public sector bodies and public enterprises.

Deliberation n° 28/AV23/2021 of August 6, 2021

In accordance with article 57, paragraph 1, letter (c) of regulation n° 2016/679 of April 27, 2016 on the protection of individuals with regard to the processing of personal data personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereinafter the “General Data Protection Regulation” or the “GDPR”), to which Article 7 refers 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, the National Commission for the data protection (hereinafter referred to as the “National Commission” or the “CNPD”) “advises, in accordance with the law of the Member State, the national parliament, the government and other institutions and bodies on legislative and administrative measures relating to the protection of the rights and freedoms of natural persons with regard to the processing”.

By letter dated July 1, 2021, Minister of Communications and Media invited the National Commission to decide on the parliamentary amendment to the bill No. 7643 on Open Data and the Reuse of Public Sector Information (hereafter the “draft law”), adopted by the Commission for Digitization, Media and Communications from the Chamber of Deputies during its meeting of June 18, 2021.

The single amendment aims to introduce a paragraph 5 in article 4 of the draft law providing for the implementation of a single portal bringing together all the documents made available to for the purpose of reuse in order to respond to a formal opposition from the Council of State. the commentary to the amendment further explains that in addition to the "documents available for

reuse", must also appear on the portal "the possible conditions whose standard licenses as well as any remuneration for this reuse".

The commentary to the amendment goes on to state that "[i]n respect to other formal objections issued by the Council of State in its opinion of June 1, 2020 regarding articles 4, 7 and 12, the Commission for Digitization, Media and Communications has decided to follow the proposals of the High Corporation.

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The Council of State further considered that Article 13, paragraph 2, of the bill does not require of transposition insofar as it relates specifically to implementing acts which fall under the competence of the European Commission.

The Commission for Digitalisation, Media and Communications has decided to follow the opinion Council of State on this point and has therefore deleted paragraph 2 in question.

After analyzing the amended Article 13, the Commission nevertheless noted that following this modification, it is also necessary to adapt the reference to paragraphs "2, 3 and 4" provided for in Article 13, paragraph 1, point 1°, to reflect the new numbering of the paragraphs subsequent ones, namely "2 and 3". »

The National Commission recalls that in any event, the rules applicable to data protection, and in particular the principles provided for in Article 5 of the GDPR, must be respected in the context of the operation of the single portal.

The parliamentary amendment does not raise any other particular issue from the point of view of the

data protection, and refers for the remainder to its opinion of January 20, 2021.

Thus decided in Belvaux on August 6, 2021.

The National Data Protection Commission

Tine A. Larsen

President

Thierry Lallemand

Commissioner

Marc Lemmer

Commissioner

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