

# **Rules of Procedure of the National Data Protection Commission**

Adopted by Decision No 28AD/2025 of 10 October 2025, pursuant to Articles 32(1) and 33 of the Law of 1 August 2018 on the organisation of the National Commission for Data Protection and the General Data Protection Regime.

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### **Chapter 1<sup>o</sup> Operating conditions of the National Commission**

#### **Section I<sup>o</sup> - Composition of the National Commission**

##### **Article 1. Composition**

The National Commission for Data Protection ('the National Commission') is a collegial body composed of four Commissioners, including a President. Four alternate members are called upon to replace the absence or inability to sit of members of the National Commission.

For the purposes of these Rules, Commissioners and alternate members shall be jointly referred to as "members" in the plural if all or more of the Commissioners and alternate members are referred to, or "member" in the singular if one of the Commissioners or alternate members is referred to.

##### **Article 2. Independence, incompatibilities and impartiality of the members of the National Commission**

The members of the National Commission shall exercise their mandate in complete independence without being exposed to pressure or influence of any kind.

Under Article 27 of the Law of 1 August 2018 on the organisation of the National Commission for Data Protection and the General Data Protection Regime ('the Law of 1 August 2018'), members of the National Commission may not be members of the Government, the Chamber of Deputies, the Council of State or the European Parliament, or pursue a professional activity or directly or indirectly hold interests in an undertaking or any other body operating in the field of data processing.

Any change during the term of office in the situation of a member of the National Commission which may give rise to the application of the aforementioned Article 27 must be brought to the attention of the National Commission by that member within one month.

The National Commission does not examine whether the exercise of those functions or the holding of those shares is compatible with the status of member of the National Commission, but communicates the information obtained to the Minister having relations with the National Commission for Data Protection in his powers with a view to ruling on a possible incompatibility on the part of a member of the National Commission.

Members may not sit, deliberate or decide in any matter in which they have a direct or indirect interest.

If a member of the National Commission considers himself to have a direct or indirect interest in a case, he must first notify the Commissioners of the National Commission. He refrains from attending the deliberations on this case and indicates his intention not to participate as soon as he receives the summons.

The President shall then convene an alternate member to sit and deliberate in place of the member who is unable to attend on the matter.

In the case referred to in paragraph 6 of this Article, the National Commission shall accept and respect the choice of the member without conducting a separate deliberation on the personal assessment issued by the member.

In other cases, the National Commission shall establish, prior to each decision, the cases of conflicts of interest which may be invoked against its members and shall take that decision by a majority of votes, the

member concerned not being excluded from the debates relating thereto or from the vote relating thereto, and this shall be noted in the minutes.

### **Article 3. Replacement of the President**

In the event of the absence or conflict of interest of the President, his duties shall be assumed by the Commissioner with the greatest seniority and, in the event of equal seniority, by the oldest member. The reason for the replacement shall be mentioned in the minutes. This replacement shall be carried out without the need for specific delegation. An alternate member shall sit in this case in place of the Commissioner presiding over the deliberation session.

## **Section II - Functioning of the National Commission**

### **Article 4. Headquarters of the National Commission**

The offices of the National Commission are established at its headquarters as determined by Grand Ducal Regulation pursuant to Article 3 of the Law of 1 August 2018.

### **Article 5. Current affairs and outward representation**

The day-to-day business and day-to-day management of the National Commission is the responsibility of the President. The President liaises externally and represents the National Commission at public events. The President regularly refers his activities to the Commissioners during deliberation sessions.

A member of the National Commission, asked directly or indirectly to represent it in a body or an event, must ask the President to designate him for this purpose.

### **Article 6. Financial management**

The financial management of the National Commission is the responsibility of the President, who has the power of commitment and signature in the name and on behalf of the public institution constituted by the National Commission in the context of day-to-day management.

Above a threshold to be determined by the National Commission, a second Commissioner countersigns the financial commitments made by the President.

Financial commitments exceeding a threshold to be determined by the National Commission require the joint signature of all Commissioners.

The National Commission may confer signing powers within the limits and for the areas it determines on one or more of the Commissioners and/or members of its staff without, however, granting the latter a power of sub-delegation.

## **Section III - Deliberation sessions of the National Commission**

### **Article 7. Convening and agenda**

The President shall convene the Commissioners for the deliberations on the date and at the time fixed by the President. They shall draw up its agenda.

A member who wishes to have an item on the agenda for the next session shall make a request to the President.

An item on the agenda may be referred to a future meeting. To ensure the proper functioning of the National Commission, it shall meet whenever the need so requires, at the invitation of the President or at the request of two Commissioners.

The President shall state, as far as possible, at the end of each deliberation session, the day of the following session. In principle, they convene an ordinary meeting every week.

The convening of an extraordinary deliberation session has to occur at the request of two Commissioners. This request shall be made either in writing to the President or at a deliberation session of the National Commission and shall specify the purpose of the meeting to be convened. The National Commission shall meet within 15 days of the request.

Except in urgent cases, as assessed by the President, summonses, accompanied by the agenda and, as far as possible, the supporting documents relating thereto or a link to the supporting documents relating thereto, shall be sent by electronic means or any other means to all Commissioners at least two working days before the date of the deliberation session.

Where the supporting documents on the agenda have not been communicated in conjunction with the invitations to attend, they may exceptionally be communicated at a later stage to enable them to familiarise themselves with them.

The Commissioner who is absent or unable to attend a deliberation session for reasons referred to in Article 2 shall notify the President as soon as possible. If necessary or depending on the agenda, they shall be replaced immediately.

### **Article 8. Place of deliberations**

Deliberations shall be held at the headquarters of the National Commission or at any other place in the national territory if it so decides. Members may, if technically possible, participate in remote deliberation sessions by teleconference or other technical means approved by the National Commission.

### **Article 9. Quorum at deliberations**

The National Commission sits in plenary or restricted formation ('the restricted panel'). It may sit or deliberate only if it has at least three members. Only Commissioners and alternate members replacing a Commissioner shall have a deliberative vote.

The following subjects require the vote of the four members of the National Commission:

- 1° the adoption and subsequent amendments of the internal regulations provided for in Article 32 of the Law of 1 August 2018;
- 2° the adoption and subsequent amendments of the regulation on the investigation procedure before the National Commission provided for in Article 40 of the Law of 1 August 2018;
- 3° the determination of the thresholds applicable to the financial management of the National Commission;
- 4° the powers of commitment and signature in the name and on behalf of the public body constituted by the National Commission;
- 5° the distribution of divisions among the Commissioners pursuant to Article 23 of these Rules of Procedure;
- 6° working procedures adopted pursuant to the provisions of Chapter 3 of this Rules.

The restricted panel shall be composed of three members, with the exception of the Commissioner appointed as Head of Investigation in a file on the agenda. The restricted panel is competent, in accordance with Article 41 of the Law of 1 August 2018, to decide on the outcome of an investigation.

### **Article 10. Conduct of deliberations**

#### *1° Common provisions*

The chairman of the session shall open and close the sessions for which they shall direct the debates.

Participants in the deliberation sessions sign the attendance register.

The National Commission shall adopt the agenda at the beginning of each session. Any matter not on the agenda may be discussed only if at least a majority of the members present agree to discuss it. In the event that new documents are communicated at the current meeting, the unanimous agreement of the members sitting shall be required in order to take them into account.

Decisions of the National Commission shall be taken by a majority vote. In the event of a tie, the President shall have the deciding vote. Abstentions are not admissible.

Proxy voting is not allowed. Voting shall be by show of hands, unless the President or two members of the National Commission request a secret ballot.

In urgent cases, as assessed by the President, postal voting is allowed.

Deliberation sessions are not public, and debates are confidential.

## *2° Specific provisions for the deliberation sessions of the restricted panel*

### *a) Deliberation on a proposal to close the case by the Head of Investigation*

After having read the investigation file sent to it by the head of investigation together with a proposal for closure, and, where appropriate, after having heard the head of investigation, the restricted panel deliberates on the outcome of the investigation. Neither the head of investigation nor the inspector take part in the deliberations. The restricted panel shall issue a final decision closing the case or, where it considers that it has insufficient information, shall request the head of investigation to carry out a further investigation.

### *Deliberation following a Statement of Objections*

Following the transmission of the investigation file by the Head of Investigation, the President shall inform the inspected person of the date of the session at which the case concerning them is handled and of the opportunity offered to their representative to be heard there, by registered letter with acknowledgement of receipt or by any means capable of attesting the date of notification. This information must be received at least one month before the date of the session at which the case is being considered. In the event of a re-examination or postponement of the case to a subsequent session, that minimum period may be reduced to seven days.

At the session, the Head of investigation shall be heard to make oral observations on the case. Then, if they attend the session, the inspected person is invited to submit oral observations. If it deems it necessary, the restricted panel may hear any person whose observations it considers useful, including authorised officials who have contributed to the investigation. In any case, the auditee must be able to speak last. Where the restricted panel considers that it lacks sufficient information, it may, where appropriate, ask the Head of investigation to carry out a further investigation.

Following the hearing of the Head of investigation and the person under investigation, the restricted panel deliberates on the case. Neither the Head of investigation nor the inspector take part in the deliberations.

### **Article 11. Attendance at sessions**

The President shall invite to attend all or part of the meeting any person belonging or not to the staff of the National Commission, whose presence appears useful for the debates. These persons shall participate in the sessions only in an advisory capacity. They are subject to the provisions of Article 42 of the Law of 1 August 2018 on professional secrecy.

### **Art. 12. Decisions**

The decisions of the National Commission shall be reasoned and signed by the Commissioners or alternate members who participated in the deliberations. They shall be numbered with an indication of the current year and shall bear the date of the day on which they are signed. They shall also include a reference to the remedies and time limits applicable to appeals.

### **Art. 13. Communication and publicity of decisions**

The President shall notify decisions on the outcome of an investigation to the auditees by registered letter with acknowledgement of receipt.

Other decisions shall be communicated to the persons concerned by any appropriate means.

Without prejudice to the provisions of Article 52 of the Law of 1 August 2018, the National Commission may decide, where it considers it appropriate, to make public its decisions other than decisions on the outcome of an investigation.

#### **Art. 14. Minutes of Deliberations**

The deliberation sessions shall be the subject of minutes which shall include a list of the members present, a summary record of the debates, the decisions taken by the National Commission and, where appropriate, an indication of the distribution of votes for each vote taken.

Opinions expressed and votes cast during a sitting shall not be documented by name, except where a member of the National Commission so requests.

The draft minutes shall be sent for approval to the deliberating members. Only members who have attended the deliberations recorded in the draft minutes submitted for approval may require an amendment.

The approved minutes shall be signed by the Commissioners, the alternate members and the deliberation session secretary concerned.

#### **Article 15. Deliberation session secretary**

The National Commission shall appoint one or more secretaries from among the members of its staff.

The secretary assists the president in the preparation of the deliberations, attends the deliberations and draws up the minutes of the deliberations. They shall send it to the members of the National Commission.

They shall ensure, under the authority of the President, compliance with the time limits and the correct application of the procedures and rules applicable to the proper functioning of the National Commission.

The secretary shall also keep a record of attendance which, at the beginning of the sessions, shall be signed by the members present. It ensures the preservation and archiving of documents and minutes of the deliberation sessions of the National Commission.

If the secretary-designate is unable to attend, the Commissioner or alternate member with the shortest seniority and, in the event of a competition, the youngest, shall draw up the minutes of the session.

### **Chapter 2 - Organisation of the National Commission**

#### **Article 16. General structure of the National Commission**

The National Commission shall set up divisions, which shall be subdivided into departments according to an organisational chart and the provisions of this Chapter.

The organisational chart comprises the following divisions:

- an Administration Division;
- a Communication and Knowledge Division;
- a Guidance Division;
- a Compliance Division;
- an Artificial Intelligence, Innovation and Technology division;
- a Complaints Division;
- an Investigations Division.

The following functions are directly attached to the board of the National Commission:

- general councillors;
- the Secretary of the Board;
- the Data Protection Officer and their deputy;
- the person(s) responsible for European and international relations and their deputy.

The Legal Department is also under the direct supervision of the board. They are responsible for preparing files for the restricted panel, drafting decisions on the outcome of an investigation, monitoring legal actions against decisions of the National Commission and drafting legal opinions on draft national legal texts. This list is not exhaustive.

## **Art. 17. Functions directly attached to the board of the National Commission**

### *1° The General Councillors*

The General Councillors advise the College of the National Commission on matters related to the functioning, tasks and powers of the National Commission. On instructions from the President, they may represent the National Commission externally, both at national and international level for ad hoc missions.

### *2° The Secretary of the board*

The Secretary of the board shall assist the President of the National Commission by performing the following tasks:

- Management and monitoring of the agenda of the National Commission;
- Organisation, management and follow-up of meetings and files of the National Commission;
- Participate in the management of relations with other public and private bodies, including the organisation of meetings and events;
- Processing, management, follow-up and archiving of mail and other documents of the National Commission.

### *3° The Data Protection Officer and their deputy*

The Data Protection Officer and their deputy shall carry out the tasks provided for in Article 39 of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereafter 'the GDPR').

### *4° The person(s) in charge of European and international relations and their deputy*

The European and international relations officer(s) and their deputy represent the National Commission on instructions from the board to European and international organisations in the field of data protection.

They shall assist the President in the preparation of the plenary sessions of the European Data Protection Board.

They shall also supervise, under the authority of the President, the work of the National Commission in the various sub-groups of the above-mentioned Committee, as well as in other European and international organisations.

## **Article 18. Administration Division**

The Administration Division is responsible for the administrative, budgetary and technical management of the National Commission, including the reception and execution of day-to-day secretarial work, as well as the management of the facilities.

This division is also responsible for the management of human resources and the preparation and implementation of the budget and finances of the National Commission.

In addition, it oversees IT, internal logistics and the Business and Process Management Office, which is responsible in particular for managing and implementing the National Commission's organisational, technical and process digitalisation projects, as well as supporting the teams carrying out these projects.

## **Art. 19. Communication and Knowledge Division**

The Communication and Knowledge Division develops and implements an external communication strategy of the National Commission taking into account all means and channels of communication. It is the contact point for press representatives.

This division also operates the "Knowledge Management" in charge of the management of the legal, regulatory and technological watch of the National Commission and its implementation, development and day-to-day operation. In general, this service optimises the identification, creation, analysis and dissemination of knowledge within the National Commission.

The division also provides training and awareness-raising projects for all stakeholders, in particular in view of the obligations imposed by the GDPR and any other applicable legal texts.

#### **Art. 20. Guidance Division**

The Guidance Division handles requests for information addressed to the National Commission, drafts thematic guidelines and analyses requests for prior opinions under Article L. 261-1 of the Labour Code.

#### **Article 21. Compliance Division**

The Compliance Division is responsible for the development, promotion and application of tools to facilitate the demonstration of compliance of controllers and processors, such as codes of conduct, certifications or other support and innovation tools.

It also drafts opinions on data protection impact assessments and carries out mandatory audits in relation to large-scale national and European IT files and systems.

It shall further prepare authorisations of contractual clauses and administrative arrangements, as well as approvals of binding corporate rules, which shall be submitted to the National Commission, in accordance with the procedures referred to in Articles 32 and 33 of these rules.

#### **Article 22. Artificial Intelligence, Innovation and Technology Division**

The Artificial Intelligence, Innovation and Technology Division is responsible for coordinating the implementation of Regulation (EU) 2024/1689 of 13 June 2024 laying down harmonised rules on artificial intelligence and, more specifically, the tasks assigned to the National Commission in relation to that Regulation.

It monitors developments in artificial intelligence and emerging technologies, assesses their risks and raises awareness among all relevant actors, in particular in light of the obligations imposed by the GDPR and any other applicable legal texts.

#### **Art. 23. Complaints Division**

The Complaints Division is responsible for managing complaints lodged with the National Commission, both at national level and in the context of European cooperation.

That division shall also manage internal and external reports of breaches of Union law, as well as personal data breaches notified to the National Commission in accordance with the procedures laid down in Articles 24 and 25 of these rules.

#### **Art. 24. Investigations Division**

The Investigations Division carries out the investigations of the National Commission in accordance with the instructions of the Head of Investigation or any other field operations aimed at bringing the actors into compliance.

#### **Article 25. Management of divisions and missions of the National Commission**

On a proposal from the President, the National Commission assigns to each of the Commissioners one or more division(s) and/or mission(s) for the exercise of the technical and administrative powers conferred on the National Commission by the Law of 1 August 2018.

## **Chapter 3 - Rules of procedure applicable before the National Commission**

### **Article 26. Notification of a personal data breach**

In accordance with Article 33 of the GDPR, controllers must notify personal data breaches to the National Commission within 72 hours of becoming aware of them if the breach in question is likely to give rise to a risk to the rights and freedoms of data subjects.

In accordance with Article 2 of Regulation (EU) No 611/2013 of the European Commission of 24 June 2013, providers of publicly available electronic communications services must notify personal data breaches to the National Commission within 24 hours of becoming aware of them.

The National Commission makes available on its website notification forms dedicated to this purpose.

### **Article 27. Reporting an infringement of EU law**

In accordance with Articles 6 and 17 of the Law of 16 May 2023 transposing Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, the National Commission establishes internal and external reporting channels and deals with reports received through those channels in accordance with the procedures laid down in Articles 7, 18 et seq. of that Law.

The National Commission makes dedicated reporting channels available on its website.

### **Article 28. Request for prior consultation**

In accordance with Article 36 of the GDPR, a request for prior consultation by a controller may be submitted to the National Commission where it is apparent from a data protection impact assessment carried out pursuant to Article 35 of the GDPR, that the processing would present a high residual risk if the controller did not take measures to mitigate the risk.

To that end, the National Commission shall make publicly available on its website a form dedicated to the submission of such a request for prior consultation.

### **Article 29. Notification of the appointment of the Data Protection Officer**

Where a controller or processor designates a data protection officer pursuant to Article 37(1) of the GDPR, the National Commission shall make available on its website a dedicated form for notifying that designation to the National Commission pursuant to Article 37(7) GDPR.

Within one month of receipt of the notification of a designation of a data protection officer or of an amendment thereto, the National Commission shall verify that it contains all the required elements and shall send an acknowledgement of receipt to the controller or processor, as well as to the designated data protection officer. The time limit shall only run from the moment the notification is complete.

### **Art. 30. Approval of codes of conduct**

Associations and other bodies representing categories of controllers or processors that intend to develop a code of conduct or to amend or extend an existing code of conduct shall submit the draft code, amendment or extension to the National Commission in accordance with Article 40(5) of the GDPR for national codes or Article 40(7) of the GDPR for cross-border codes. The National Commission shall issue an opinion on whether the draft code, amendment or extension complies with the GDPR and shall approve that draft code of conduct, amendment or extension if it considers that it provides sufficient appropriate safeguards.

Applications for approval of draft codes of conduct, amendments or extensions shall be submitted in accordance with a procedure adopted by the National Commission and published on its website.

When the draft code of conduct, amendment or extension is approved, the National Commission shall register and publish the code of conduct.

### **Article 31. Approval of Code of conduct monitoring bodies**

In accordance with Article 41(3) GDPR, the National Commission adopts criteria for the accreditation of approved code of conduct monitoring bodies. Organisations applying for accreditation as a code of conduct monitoring body approved under Article 41(1) of the GDPR must submit their application in accordance with a procedure adopted by the National Commission and published on its website.

It will initiate the accreditation procedure of the applicant organisation on the basis of the accreditation criteria adopted in force at the time of the application.

### **Article 32. Approval of certification criteria**

In accordance with Article 42 of the GDPR, the National Commission approves certification criteria intended to demonstrate the compliance of data processing operations, implemented by controllers and processors, with the GDPR.

The National Commission is also competent to have the European Seal approved on the basis of certification criteria by the European Data Protection Board in accordance with the consistency mechanism provided for in Article 63 of the GDPR.

Applications for approval shall be submitted to the National Commission in accordance with a procedure adopted and published on its website.

### **Art. 33. Accreditation of certification bodies**

In accordance with Article 15 of the Law of 1 August 2018, the certification bodies referred to in Article 43(1) of the GDPR are approved by the National Commission.

Applications for authorisation shall be submitted in accordance with a procedure adopted by the National Commission and published on its website.

### **Article 34. Authorisations of contractual clauses and administrative arrangements**

Subject to the application of the consistency mechanism referred to in Article 63 of the GDPR, the National Commission may authorise, in accordance with Article 46(3) of the GDPR:

- 1° contractual clauses between the controller or processor and the controller, processor or recipient of personal data in the third country or international organisation; or
- 2° provisions to be incorporated into administrative arrangements between public authorities or public bodies which provide for enforceable and effective rights for data subjects.

Applications for authorisation are submitted to the National Commission in free form and must follow the procedures described in the working documents issued by the European Data Protection Board in accordance with the GDPR.

### **Article 35. Approval of binding corporate rules**

Pursuant to Article 47 of the GDPR, the National Commission may approve binding corporate rules in accordance with the consistency mechanism provided for in Article 63 of the GDPR.

Requests for approval are submitted to the National Commission in free form and must follow the procedures described in the working documents issued by the European Data Protection Board in accordance with the GDPR.

### **Art. 36. Handling a complaint**

Complaints are processed according to a procedure adopted by the National Commission and published on its website.

The National Commission makes a complaint form available to the public on its website.

### **Art. 37. Requests for prior opinion on the basis of Article L. 261-1 of the Labour Code**

Where the National Commission receives a request for an opinion referred to in Article L. 261-1(4) of the Labour Code, it shall deliver its opinion within one month of the referral. The time limit starts to run from the moment the request for an opinion file is complete.

### **Article 38. Investigation procedure**

The investigation procedure of the National Commission is described in a regulation on the investigation procedure pursuant to Article 40 of the Law of 1 August 2018.

### **Article 39. Remedies**

Subject to the provisions of the GDPR and the Law of 1 August 2018, the rules laid down by the Grand-Ducal Regulation of 8 June 1978 on the procedure to be followed by State and municipal administrations apply to all individual administrative decisions issued by the National Commission for which a particular text does not organise a special procedure offering at least equivalent guarantees for the person administered in accordance with Article 4 of the Law of 1 December 1978 regulating the non-contentious administrative procedure.

## **Chapter 4 - Final provisions**

### **Art. 40. Amendment of the Rules of Procedure**

Amendments to these Rules of Procedure may be proposed by the President or a Commissioner. Any amendment to the Rules of Procedure must be adopted unanimously.

### **Article 41. Entry into force and publication**

These Rules of Procedure shall enter into force on the day on which they are signed.

The Rules of Procedure and subsequent amendments thereto shall be published in the Official Journal of the Grand Duchy of Luxembourg and on the website of the National Commission.

### **Art. 42. Repeal**

The Rules of Procedure approved by the National Commission by Decision No 07AD/2024 of 23 February 2024 are hereby repealed.

Thus decided in Belvaux on 10 October 2025.

The National Commission for Data Protection,

Tine A. Larsen  
President

Thierry Lallemand  
Commissioner

Alain Herrmann  
Commissioner

Florent Kling  
Commissioner