

Décision N° 15/2022 du 13 mai 2022 de la Commission nationale pour la protection des données portant exécution de l'article 15 de la loi du 1er août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données

Vu le règlement (UE) 2016/679 du Parlement européen et du Conseil du 27 avril 2016 relatif à la protection des personnes physiques à l'égard du traitement des données à caractère personnel et à la libre circulation de ces données, et abrogeant la directive 95/46/CE (ci-après : « le RGPD ») ;

Vu la loi du 1^{er} août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données (ci-après : « la Loi ») notamment son article 15 ;

Vu le règlement d'ordre intérieur de la Commission nationale pour la protection des données adopté par décision n°3/2020 en date du 22 janvier 2020, notamment son article 29 ;

Vu l'avis 1/2022 du Comité européen de la protection des données (ci-après : « le CEPD ») relatif au projet de décision de l'autorité de contrôle luxembourgeoise portant sur l'approbation des critères de certification GDPR-CARPA conformément à l'article 42, paragraphe 5, du RGPD, adopté le 1^{er} février 2022 ;

Considérant que l'article 58, paragraphe 3, du RGPD accorde à chaque autorité de contrôle une série de pouvoirs d'autorisation et de pouvoirs consultatifs ;

Considérant que la lettre f) de l'article 58, paragraphe 3, du RGPD prévoit plus précisément que chaque autorité de contrôle dispose du pouvoir d'approuver des critères de certification conformément à l'article 42, paragraphe 5 du RGPD ;

Considérant que l'article 64, paragraphe 1, lettre c) du RGPD prévoit que chaque autorité de contrôle compétente doit communiquer pour avis un projet de décision au CEPD qui vise à approuver des critères de certification en application de l'article 42, paragraphe 5, du RGPD ;

Considérant que l'article 12 de la Loi prévoit que la Commission nationale pour la protection des données (ci-après : « la CNPD ») dispose dans le cadre de ses missions de tous les pouvoirs prévus à l'article 58 du RGPD ;

Considérant qu'en date du 1^{er} février 2022, le CEPD a adopté un avis relatif au projet de décision sur les critères de certification GDPR-CARPA lui soumis par la CNPD. Une mise à jour de son projet de décision, qui a pris en compte toutes les recommandations et tous les encouragements de l'avis précité du CEPD, a été soumis par la CNPD au CEPD le 22 février 2022.



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Compte tenu des développements qui précèdent, la Commission nationale pour la protection des données, réunissant quatre Commissaires et délibérant à l'unanimité des voix,

Décide :

Art. 1^{er}. – Approbation des critères de certification GDPR-CARPA

La CNPD approuve le document annexé à la présente décision portant sur les critères de certification GDPR-CARPA, intitulé « GDPR-CERTIFIED ASSURANCE REPORT-BASED PROCESSING ACTIVITIES CERTIFICATION CRITERIA (GDPR-CARPA) VERSION 1 / 2022 ».

Art. 2. – Applicabilité des critères certification GDPR-CARPA

Les critères de certification GDPR-CARPA, approuvés par la présente décision, peuvent être utilisés par tous les organismes de certification agréés par la CNPD sur base des critères d'agréments d'organisme de certification intitulé « Luxembourg accreditation requirements of certification bodies (art 43(1)(a)) – Set Alpha ».

Ainsi décidé à Belvaux en date du 13 mai 2022.

La Commission nationale pour la protection des données

Tine A. Larsen
Présidente

Thierry Lallemand
Commissaire

Alain Herrmann
Commissaire

Marc Lemmer
Commissaire

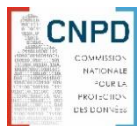


Commission nationale pour la protection des données

Décision N° 15/2022 du 13 mai 2022 portant exécution de l'article 47 de la loi du 1er août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données



Décision N° 15/2022 du 13 mai 2022 de la Commission nationale pour la protection des données portant exécution de l'article 15 de la loi du 1er août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données



GDPR CERTIFIED ASSURANCE REPORT BASED PROCESSING ACTIVITIES CERTIFICATION CRITERIA

(GDPR-CARPA)

VERSION 1 / 2022



Commission nationale pour la protection des données

Décision N° 15/2022 du 13 mai 2022 portant exécution de l'article 47 de la loi du 1er août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données

Décision N° 15/2022 du 13 mai 2022 de la Commission nationale pour la protection des données portant exécution de l'article 15 de la loi du 1er août 2018 portant organisation de la Commission nationale pour la protection des données et du régime général sur la protection des données

1 RELEVANT DEFINITIONS

- **‘Controller’** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;
- **‘Criteria’ or ‘certification criteria’** means the criteria against which a certification (conformity assessment) is performed¹. In the context of the GDPR-CARPA certification mechanism, this term refers to the criteria that are listed in this document.
- **‘Personal data’** means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- **‘Processing’** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- **‘Processor’** means a natural or legal person, public authority, agency or other body, which processes personal data on behalf of the controller.
- **‘Contractual partner’** in the context of this certification scheme is a term used in certification criteria applying to processors. The contractual partner can be:
 - the controller of the processing activities in scope of the certification for which the entity acts as a processor, or
 - a (sub-)processor for which the entity acts as a sub-processor.
- **‘Management’** means the entity’s management that is responsible and accountable for the processing activity in scope (target of evaluation).

¹ See Article 42.5.

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2 GDPR-CARPA CERTIFICATION CRITERIA

Overview of Section I: Accountability criteria / Governance criteria

Subject	Criteria for controllers			Criteria for processors		
	Ref.	Page	Title	Ref.	Page	Title
<u>Target of Evaluation</u>	<u>I-0</u>	9	Definition of the target of evaluation	<u>I-0</u>	9	Definition of the target of evaluation
<u>Policies and procedures</u>	<u>I-1</u>	9	Accountability	<u>I-1</u>	9	Accountability
	<u>I-2</u>	10	Policies and procedures	<u>I-2</u>	10	Policies and procedures
	<u>I-3</u>	10	Review and update of policies and procedures	<u>I-3</u>	10	Review and update of policies and procedures
<u>Record of processing activities</u>	<u>I-4</u>	11	Record of processing activities	<u>I-5</u>	11	Record of processing activities
	<u>I-6</u>	12	Management of the record of processing activities	<u>I-7</u>	12	Management of the record of processing activities
<u>Data Subjects' Rights</u>	<u>I-8</u>	13	Facilitate the exercise of data subjects' rights	<u>I-9</u>	14	Facilitate the exercise of data subjects' rights
<u>DPO</u>	<u>I-10</u>	14	Designation	<u>I-10</u>	14	Designation
	<u>I-11</u>	15	Competencies	<u>I-11</u>	15	Competencies
	<u>I-12</u>	15	Position	<u>I-12</u>	15	Position
	<u>I-13</u>	17	Tasks	<u>I-13</u>	17	Tasks
<u>Data breaches</u>	<u>I-14</u>	17	Data breaches	<u>I-15</u>	19	Notification of data breaches towards the controller
<u>Data Protection Awareness & Competencies</u>	<u>I-16</u>	20	Awareness trainings & competencies of staff	<u>I-17</u>	20	Awareness trainings & competencies of staff

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Overview of Section II: Principles relating to processing of personal data (controller)				
Subsection	Subject	Ref	Page	Title
Subsection II – a: Lawfulness and transparency of processing activities	<u>Lawfulness</u>	<u>II-a-1</u>	22	Identification of a valid legal basis
		<u>II-a-2</u>	22	Review of the conformity of the identified legal basis
		<u>II-a-3</u>	23	Processing based on consent
		<u>II-a-4</u>	24	Processing based on a contract
		<u>II-a-5</u>	24	Processing based on a legal obligation
		<u>II-a-6</u>	24	Processing based on vital interest
		<u>II-a-7</u>	24	Processing based on public interest
		<u>II-a-8</u>	24	Processing based on legitimate interest
		<u>II-a-9</u>	25	Processing of special categories of personal data
		<u>II-a-10</u>	27	Right to object
		<u>II-a-11</u>	28	Right to restriction of processing
		<u>II-a-12</u>	30	Automated individual decision-making, including profiling
	<u>Transparency</u>	<u>II-a-13</u>	31	Availability of information (direct collection)
		<u>II-a-14</u>	32	Availability of information (indirect collection)
		<u>II-a-15</u>	34	Information obligation - up to date information
		<u>II-a-16</u>	34	Right of access by the data subjects
		<u>II-a-17</u>	36	Right to data portability
	<u>Transfer of personal data to third countries (when applicable)</u>	<u>II-a-18</u>	37	Third country transfers
Subsection II – b: Purpose limitation		<u>II-b-1</u>	39	Quality of purpose definition
		<u>II-b-2</u>	39	Purpose compatibility

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<u>Subsection II – c: Data minimisation</u>	<u>II-c-1</u>	40	Process to ensure data minimisation
	<u>II-c-2</u>	41	Alternative means
<u>Subsection II – d: Accuracy</u>	<u>II-d-1</u>	42	Reliability of the data source
	<u>II-d-2</u>	42	Accuracy of data
	<u>II-d-3</u>	42	Right to rectification
<u>Subsection II – e: Storage limitation</u>	<u>II-e-1</u>	44	Defined retention period
	<u>II-e-2</u>	44	Deletion or anonymization of data
	<u>II-e-3</u>	44	Right to erasure ('right to be forgotten')
<u>Subsection II – f: Integrity, availability and confidentiality</u> <u>Security</u> <u>Data protection impact assessment (DPIA)</u> <u>Outsourcing</u>	<u>II-f-1</u>	47	Risk analysis
	<u>II-f-2</u>	48	Risk treatment
	<u>II-f-3</u>	50	Documented implementation of organisational and technical measures
	<u>II-f-4</u>	50	Audit
	<u>II-f-5</u>	50	Follow-up on audits
	<u>II-f-6</u>	50	DPIA
	<u>II-f-7</u>	51	DPIA - Prior consultation
	<u>II-f-8</u>	52	Assessment of sufficiency
	<u>II-f-9</u>	52	Contract / legal act under Union or Member State law
	<u>II-f-10</u>	53	Policies and procedures (outsourcing relationship)
	<u>II-f-11</u>	53	Monitoring

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Overview of Section III: Principles relating to processing of personal data (processor)			
Subject	Ref.	Page	Title
<u>Contracts between processor and controller / between sub-processor and processor</u>	<u>III-1</u>	55	Contract / legal act under Union or Member State law
	<u>III-2</u>	56	Policies and procedures (outsourcing relationship)
	<u>III-3</u>	56	Limitation of processing to documented instructions
	<u>III-4</u>	57	Processing without instructions
<u>Security</u>	<u>III-5</u>	57	Risk analysis
	<u>III-6</u>	58	Risk treatment
	<u>III-7</u>	60	Documented implementation of organisational and technical measures
	<u>III-8</u>	60	Audit
	<u>III-9</u>	61	Follow-up on audits
<u>Subcontracting</u>	<u>III-10</u>	61	Assessment of sufficiency
	<u>III-11</u>	61	Subcontracting
<u>Transfer of personal data to third countries (when applicable)</u>	<u>III-12</u>	62	Third countries
<u>End of the provision of services relating to processing</u>	<u>III-13</u>	63	Return / deletion of data

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SECTION I: ACCOUNTABILITY CRITERIA / GOVERNANCE CRITERIA

C = applies to controller / P = applies to processor

Ref.	Label	Description	C	P
Target of Evaluation				
I-0	Definition of the target of evaluation	<p>The entity shall define the target of evaluation including all processing activities in scope of this certification.</p> <p>For each processing activity in scope and in addition to the record of processing activities (I-4), the entity has formally established a complete inventory of all systems, interfaces (internal and external, if applicable) and filing systems (electronic and / or physical) used to carry out this processing activity.</p> <p>In addition, the entity has an up-to-date, detailed and clearly structured data flow diagram containing all steps necessary to carry out this processing activity, including any manual steps, transformation(s) and manipulation(s) of data, physical printouts, location(s) of the task performed, and the position(s) / function(s), department(s) of the people involved.</p> <p>The entity has taken into account the formal opinion of its DPO and the entity's management has formally validated this inventory and data flow diagram.</p> <p>The entity reviews them on a regular basis and at least annually or when significant changes impacting the processing activity occur. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence this inventory and data flow diagram. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p>	X	X
Policies and procedures				
I-1	Accountability (GDPR Article 24) (Recitals 74, 75, 76, 77, 84)	<p>The entity has implemented organisational measures that ensure management is informed of, involved in and accountable of personal data processing activities.</p> <p>Measures include at least:</p> <ul style="list-style-type: none"> the design of data protection policies and procedures as required by the criteria of this certification mechanism; the formal allocation of roles and responsibilities regarding data protection topics; the implementation of formal reporting lines to the entity's management; a mechanism to formally report any incidents related to data protection and any infringement of the GDPR. <p>The entity's management has formally validated those measures.</p>	X	X

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I-2	Policies and procedures (GDPR Article 24) (Recitals 74, 75, 76, 77, 84)	<p>The entity has designed policies and procedures that shall cover at least the following topics:</p> <ul style="list-style-type: none"> the record of processing activities (I-4 to I-7); data subject's rights (I-8, I-9, section II); data protection principles (sections II & III); the DPO's roles and responsibilities (I-10 to I-13, among others); data protection by design and by default; data protection impact assessment, if applicable (II-f-6, II-f-7); data transfers, if applicable (II-a-18, III-12); use and management of processors, if applicable (II-f-8 to II-f-11); relationships with controllers, if applicable (e.g. communication with the controller/contractual partner, common procedures, etc.) (section III); internal and external reporting and handling of incidents related to data protection, including data breaches (i.a. I-14 & I-15). <p>The entity has taken into account the formal opinion of its DPO on those policies and procedures.</p> <p>The entity's management has formally validated those policies and procedures and communicated them to its personnel.</p> <p>In case the entity chooses not to follow the opinion of its DPO it documents this decision as well as all the reasons for doing so and the entity's management formally validate this decision.</p>	X	X
I-3	Review and update of policies and procedures (GDPR Article 24) (Recitals 74, 75, 76, 77, 84)	<p>The entity reviews on a regular basis and at least annually or when significant changes in the data privacy landscape of the entity occur, the operating effectiveness of its data protection governance policies and procedures. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the content of its policies and procedures. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>The review is documented. The reviewer:</p> <ul style="list-style-type: none"> checks whether the policies and procedures include all necessary information (cf. individual subsequent criteria); identifies all changes; checks whether the policies and procedures need to be updated with regard to any potential changes (see above). <p>Based on this, the reviewer formulates a formal conclusion containing propositions for changes as well as the reason for those changes.</p> <p>The entity's management formally validates the review and its conclusions.</p> <p>Based on the conclusions reached during the review phase, the entity adapts its policies and procedures if deemed necessary and documents all changes.</p> <p>At the end of the review process, the entity's management formally validates all policies and procedures (indicating their role / title, signature and signature date). This includes policies and procedures that were not affected by any</p>	X	X

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		changes. Then the management communicates the updated policies and procedures to its personnel including a mention of what has changed.		
Record of processing activities				
I-4	Record of processing activities (GDPR Article 30) (Recitals 13, 82)	<p>The entity has implemented a written record (in electronic form) of processing activities under its responsibility that contains for each processing activity in scope at least the following information:</p> <ul style="list-style-type: none"> the name and contact details of the controller and, where applicable, the joint controller, the controller's representative and the data protection officer; the purposes of the processing; the legal basis for the processing; a description of the categories of data subjects and of the categories of personal data; the categories of recipients to whom the personal data have been or will be disclosed including recipients in third countries or international organisations; where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, in absence of an EU Commission adequacy decision, the documentation of safeguards; the envisaged time limits for erasure of the different categories of data; a general description of the technical and organisational security measures to ensure a level of security the entity deems appropriate to the risk of the processing, including the reasoning why the entity thinks those measures appropriate. <p>The entity has taken into account the formal opinion of its DPO on the content of this record of processing activities and the entity's management has formally validated this record of processing activities.</p>	X	
I-5	Record of processing activities (GDPR Article 30) (Recitals 13, 82)	<p>The entity has implemented a written record (in electronic form) of all categories of processing activities in scope carried out on behalf of a controller / contractual partner that contains at least the following information:</p> <ul style="list-style-type: none"> the name and contact details of the processor(s) and of each controller on behalf of which the processor is acting, and, where applicable, of the controller's or the processor's representative, and the data protection officer; the categories of processing carried out on behalf of each controller; where possible, a general description of the technical and organisational security measures to ensure a level of security the entity deems appropriate to the risk of the processing, including the reasoning why the entity thinks those measures appropriate; where applicable, transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, in the case of transfers of personal data to a third country or an international organisation, including the identification of that third country or international organisation and, in absence of an EU Commission adequacy decision, the documentation of safeguards. 		X

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		The entity has taken into account the formal opinion of its DPO on the content of this record of processing activities and the entity's management has formally validated this record of processing activities.		
I-6	Management of the record of processing activities (GDPR Article 30) (Recitals 13, 82)	<p>The entity's management reviews and approves on a regular basis and at least annually, or when changes occur, the record of the personal data processing activities under its responsibility to ensure completeness and accuracy of the record. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the content of its record of processing activities. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>The review is documented and the reviewer checks for each processing activity in scope whether all required information (please refer to I-4) is correct, up-to-date and complete.</p> <p>Based on this assessment, the reviewer formulates a formal conclusion containing, if applicable, the information to be updated as well as the reason for those changes.</p> <p>The entity's management formally validates the review and its conclusions.</p> <p>Based on the conclusions reached during the review phase, the entity adapts its record of processing activities if deemed necessary and documents all changes.</p> <p>At the end of the review process, the entity's management formally validates the record of processing activities (indicating their role / title, signature and signature date).</p>	X	
I-7	Management of the record of processing activities (GDPR Article 30) (Recitals 13, 82)	<p>The entity's management reviews and approves on a regular basis and at least annually, or when changes occur, the record of all categories of processing activities carried out on behalf of a controller to ensure completeness and accuracy of the record. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the content of its record of processing activities. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>The review is documented and the reviewer checks for each processing activity in scope whether all required information (please refer to I-5) is correct, up-to-date and complete.</p> <p>Based on this assessment, the reviewer formulates a formal conclusion containing, if applicable, the information to be updated as well as the reason for those changes.</p> <p>The entity's management shall formally validate the review and its conclusions.</p> <p>Based on the conclusions reached during the review phase, the entity adapts its record of processing activities if deemed necessary and documents all changes.</p>		X

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		At the end of the review process, the entity's management formally validates the record of processing activities (indicating their role / title, signature and signature date).		
Data Subjects' Rights				
I-8	Facilitate the exercise of data subjects' rights (GDPR Article 12) (Recitals 58, 59)	<p>The entity has implemented measures to ensure that a contact point has been appointed that is easily accessible by the data subjects and that is responsible for receiving data subjects' request for exercising their rights referred to in Articles 15 to 22 of the GDPR. The entity's staff is informed of this contact point and its role so that it can redirect any requests from data subjects to it if necessary.</p> <p>The entity has defined and implemented a procedure regarding the handling of data subjects' requests. This procedure is communicated to the data subjects according to the rules set out in <u>II-a-13</u> / <u>II-a-14</u> as well as <u>II-a-15</u> and contains at least the following:</p> <ul style="list-style-type: none"> The entity formally assesses the request and attributes one or more categories to the request depending on the right(s) of which the data subject makes use (please refer to articles 15 to 22 and to section II). The entity records all requests and documents each step of their conducted execution in compliance with the requirements of the GDPR as well as the requirements set out in certification criteria (please refer to articles 15 to 22 and to section II). The entity has formally established the responsibilities for the processing of such requests. The entity formally assesses the received requests. During this assessment, the entity: <ul style="list-style-type: none"> analyses if it can clearly identify the data subject: <ul style="list-style-type: none"> The entity assesses whether the data subject needs to provide additional information because of reasonable doubts concerning the identity of the data subject (this does not apply to the cases referred to in article 22 / II-a-12). If the entity decides to request additional information from the data subject, it complies with the principle of data minimisation (please refer to subsection II-c). With regard to articles 11 and 15 to 20 of the GDPR, in case the entity can demonstrate that it is not in a position to identify the data subject it shall inform the data subject accordingly, if possible, except where the data subject provides additional information enabling his / her identification. defines cases where a request can be considered appropriate or not (e.g. "is the request about personal data?", "is the request excessive or manifestly unfounded?", "is there a restriction by national legislation?"); estimates the complexity of the request as well as the expected time necessary to answer the request. If the entity concludes that it cannot comply with the request within one month of receipt of the request, it documents in detail the reasons for this and informs the data subject of any extension within one month of receipt of the request, together with the reasons for the delay. In this case, the 	X	

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		entity shall ensure that it complies with the request as soon as possible and at the very latest within 3 months after initial receipt of the request. For rejected or partly rejected requests, the entity documents the justification for not taking action and communicates this to the data subject without delay and at the latest within one month of receipt of the request. At the same time, the entity informs the data subject about the possibility of lodging a complaint with the supervisory authority and seeking a judicial remedy.		
I-9	Facilitate the exercise of data subjects' rights (GDPR Article 28) (Recitals 81)	<p>The entity has defined and implemented a procedure regarding the handling of data subjects requests, including at least the following:</p> <p>The entity has implemented measures to ensure that a contact point has been appointed that is easily accessible by the contractual partner and / or the controller and that is responsible for receiving and answering the data subjects' request for exercising their rights forwarded by the controller.</p> <ul style="list-style-type: none"> The entity records all received requests and documents each step of their conducted execution. The entity and the contractual partner have established a clear division of roles and tasks to be performed taking into account the different types of requests likely to occur. In case a request does not correspond to an established procedure, the entity shall contact the contractual partner in order to receive clear instructions. If deemed necessary by the contractual partner and / or the controller, the formal procedure shall be adapted accordingly. The procedure includes information on when and how to communicate with the parties involved. This communication includes among others regular status updates to the contractual partner and / or controller. The entity formally analyses the information regarding the request provided by the controller to determine its nature, the estimated complexity and the expected time necessary to answer the request. It then communicates this information without undue delay to the contractual partner and / or the controller so that the controller can comply with the requirements set out in I-8. If the entity concludes that it cannot comply with the request within the deadline set by the controller, it documents in detail the reasons for this as well as the estimated time to comply with the request and informs the contractual partner and / or the controller accordingly without undue delay. If the entity concludes that it cannot comply with the request at all, it documents in detail the reasons for this and informs the contractual partner and / or the controller accordingly without undue delay. <p>Those procedures and all subsequent changes are subject to the opinion of the DPO and are validated by the contractual partner as well as the controller in case the contractual partner is not the controller.</p>		X
DPO				
I-10	Designation (GDPR Article 37) (Recital 97)	<p>The entity has formally appointed a DPO, published the contact details of the DPO and communicated his or her contact details to the supervisory authority.</p> <p>In case the position of the DPO is held by a person who is not an internal staff member of the entity, the DPO is easily accessible from the entity. Similarly, if</p>	X	X

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		the position of the DPO is centralized for several entities, the DPO is easily accessible from each entity.		
I-11	Competencies (GDPR Article 37) (Recital 97)	<p>The entity has assessed the DPO's professional qualifications and in particular:</p> <ul style="list-style-type: none"> His / her expert knowledge of as well as experience in applying data protection legislation and practices including the following: <ul style="list-style-type: none"> The DPO has a minimum of 3 years of recent professional experience in the data protection field. In case the DPO does not have at least 3 years of professional experience in data protection, one of the following conditions shall be respected: <ul style="list-style-type: none"> The DPO has two years of legal expertise and has followed comprehensive trainings on data protection. The DPO has 2 years of data protection / data security-related experience (e.g. IT security, etc.) and has followed comprehensive trainings on data protection. <p>In any case, the DPO shall have free and easy access to legal assistance internally, or via a non-limiting service contract with an external firm covering all GDPR subjects when deemed necessary by the DPO.</p> <ul style="list-style-type: none"> The DPO has a good understanding of the processing activities carried out by the entity, as well as the corresponding information systems through: <ul style="list-style-type: none"> a former professional experience of at least 2 years in the same sector as the entity (optional); the regular attendance to trainings on business operations and IT / data security (mandatory); free access to and formal communication with the persons responsible for the processing activities as well as the person(s) responsible for information / IT security (e.g. CISO) (mandatory). In case the DPO function is exercised within a team and the person designated as DPO has not all required competencies and experience, collegial skills can be taken into account provided that the team and its composition are formally defined (job descriptions defining tasks and responsibilities, inclusion in the organizational chart) and that the work is effectively carried out by the team (joint participation in discussions impacting data protection, communication and regular exchanges, etc.). <p>The DPO shall maintain his / her knowledge in technical and legal skills through continuous professional development by attending data protection training sessions on at least a yearly basis.</p> <ul style="list-style-type: none"> His / her ability to fulfil the tasks mentioned in I-13. These abilities are regularly reviewed together with the entity's management to whom the DPO reports and at least on an annual basis. This review shall also cover the appropriateness of the resources at the disposal of the DPO (e.g. availability, competencies, experiences, etc. of the internal / external support team, training opportunities, collaboration with other teams, etc.). The documentation of this review as well as the conclusions will be formally validated by the DPO as well as the entity's management. 	X	X
I-12	Position (GDPR Article 38) (Recital 97)	<p>The entity has implemented measures that:</p> <ul style="list-style-type: none"> ensure that the DPO is involved in a timely manner, in all topics which relate to the protection of personal data: 	X	X

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- The entity has formally identified the topics that require the involvement of the DPO (e.g. data breaches, DPIA, register of processing activities, outsourcing of processing activities, changes in processing activities, etc.).
- The DPO's consultation and / or involvement is formalized via procedures that are communicated to all concerned personnel. The DPO's job description contains a reference to these procedures and also includes information regarding the participation of the DPO in meetings such as management committees, project coordination committees, new products committees, safety committees or any other committee deemed useful in the data protection framework.
- The DPO's involvement (based on the procedures cited above as well as other involvements) is documented (e.g. date of involvement, issued opinions, meeting minutes, participation in audits, etc.).
- ensure that the DPO is supported by the entity's management in performing his / her tasks. The entity shall provide the DPO with time and resources necessary to carry out those tasks as well as to maintain his / her expert knowledge. The entity shall also provide access to personal data and to processing activities;
- ensure that the DPO does not receive any instructions regarding the exercise of his / her tasks. He or she shall not be dismissed or penalised for performing his / her tasks and be employed based on a long-term contract. The DPO shall directly report to the highest management level of the entity. This is among others formalized in the entity's organisational chart.
- ensure that data subjects can contact the DPO with regard to all issues related to the processing of their personal data and to the exercise of their rights under the GDPR. The entity communicates the name and contact details to all employees and makes his or her contact details easily accessible on its website or via any other communication channel usually used to communicate with its data subjects.
- ensure that the DPO is bound by secrecy or confidentiality concerning the performance of his / her tasks, in accordance with Union or Luxembourgish law;
- ensure that the DPO is not involved in tasks and duties that could result in a conflict of interests:
 - The entity has formally identified functions that are incompatible with that of DPO and situations that might cause a conflict of interest for the DPO (internal or external). The entity has formally established internal rules to avoid any conflicts of interest for the DPO.
 - In case the DPO (and / or one of his / her team members if applicable) was involved in the design / execution / implementation of a data processing activity at the entity, he / she cannot act as DPO / data protection team member for this processing activity during a transition period of 2 years. This period starts running when the involvement of this person in the processing activity ends.
 - In case the DPO identifies a situation that might constitute a conflict of interest, he / she reports this to the entity's management. In those cases, this conflict of interest is documented. Furthermore, the entity has formally established a procedure on how to resolve a conflict of interest.

Note: Even if the DPO has a significant role for the compliance monitoring of the entity's processing activities according to Article 39 of the GDPR, he / she

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		is not the one <u>responsible</u> to assess the implementation of the measures designed to ensure such compliance. The entity remains responsible for the measures it implements and the way those measures are implemented.		
I-13	Tasks (GDPR Article 39)	<p>The entity has mandated the DPO to execute at least the following tasks:</p> <ul style="list-style-type: none"> To inform and advise the entity and its employees who carry out processing activities, of their obligations pursuant to the GDPR and to other provisions in Union or Luxembourgish data protection law (e.g. through information sessions, awareness campaigns, opinions on data protection topics, data protection trainings etc.). To monitor and formally report towards management on compliance with the GDPR, with other Union or Luxembourgish data protection provisions and with the policies of the entity in relation to the protection of personal data, including the assignment of responsibilities, awareness-raising and training of staff involved in processing operations, and the related audits. In order to do this, the DPO shall be involved in the drawing up and implementation of an audit plan covering 3 years. <p>The audit plan shall be based on a documented method which shall include elements such as a detailed information about planning requirements, responsibilities and reporting lines, sampling methods used, testing frequency over the year, reporting, audit scope definition, the definition of audit criteria, documentation and audit report as well as the follow-up on nonconformities. The results of these audits shall be communicated in the form of a report to the highest level of management.</p> <ul style="list-style-type: none"> To provide advice where requested as regards the data protection impact assessment and monitor its performance. The entity (controller) receives formal advice from the DPO among others on: <ul style="list-style-type: none"> the necessity to carry out a data protection impact assessment (DPIA); the method to be followed when carrying out a DPIA; the decision to perform the DPIA internally or to subcontract it; the measures (including technical and organizational measures) to be implemented to mitigate any risks to the rights and interests of the data subjects; whether the DPIA has been correctly carried out in compliance with the GDPR and the present certification criteria. <p>If the controller does not follow the opinion provided by the DPO, the written documentation of the DPIA should explicitly justify the reason why the opinion was not taken into consideration.</p> To cooperate with the supervisory authority; To act as the contact point for the supervisory authority on issues relating to processing, including the prior consultation for DPIAs, and to consult, where appropriate, with regard to any other matter. 	X	X
Data breaches				
I-14	Data breaches (GDPR Articles 12, 33, 34) (Recitals 85, 86, 87, 88)	<p>The entity has implemented technical and organisational measures to identify, manage and if applicable notify personal data breaches to the competent supervisory data protection authority and the data subjects within the timeframes defined by the GDPR. Those measures cover at least:</p> <ul style="list-style-type: none"> the formal nomination of one or multiple contact point(s) in charge of collecting and assessing potential data breach events; 	X	

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- the degree of involvement of the DPO. The DPO shall always be informed of each data breach, its assessment and handling including the communication to the supervisory data protection authority and / or the data subjects, if applicable. A formal procedure validated by the DPO shall define at what point in time the DPO needs to be informed and what this information shall include;
 - the awareness raising of all internal and external stakeholders regarding their responsibility to know the procedure and to report data breach events as quickly as possible to the designated point of contact;
 - the implementation of a documented method to assess whether an event qualifies as a personal data breach as well as to systematically assess the potential risks to the rights and freedoms of data subjects caused by a data breach. This assessment shall take into account at least the following factors:
 - the context, nature, scope and purposes of the processing activity, including also elements such as the type / nature of data breached, the volume of data (potentially) concerned by the breach, etc.;
 - the context and nature of the entity (e.g. sector, market, etc.);
 - the ease of identification of any concerned or potentially concerned data subject as well as any potential impact of the data breach to the rights and freedoms of any concerned or potentially concerned person;
 - the circumstances of the breach (e.g. malicious / non-malicious intent, concerns about confidentiality / integrity / availability / resilience of data, etc.);
 - the setup and management of a record of all personal data breaches. The record of personal data breaches must contain for each data breach at least a description of the event, the impact of the event including the risk analysis for data subjects, the root cause, the remediation action taken and the evidence of notification, if applicable;
 - the communication with the supervisory data protection authority using the competent supervisory authority's notification form or service. Where, and in so far as, it is not possible to provide the information at the same time, the information may be provided in phases without undue further delay;
 - the ability to communicate with data subjects, if required or decided upon on a voluntary basis. This communication is given to the data subjects free of charge and in an easily accessible way and is written in a clear and plain language adapted to the target audience. It shall include at least the following information:
 - a description of the nature of the personal data breach;
 - the name and contact details of the data protection officer or other contact point where more information can be obtained;
 - a description of the likely consequences of the personal data breach; and
 - a description of the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.
- This message shall be individual and dedicated only to this breach. Where, and in so far as, it is not possible to provide the information at the same

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		<p>time, the information may be provided in phases without undue further delay.</p> <p>Furthermore, the entity shall perform a formal assessment, which is reviewed by the DPO. This assessment shall take into account among other things the nature, circumstances, scope and context of the data breach that occurred as well as the target audience and the type of personal data concerned. Furthermore, it shall include:</p> <ul style="list-style-type: none"> ○ an analysis evaluating the best approach / format to communicate with the data subjects; ○ an analysis to determine the best structure of such information; ○ an analysis of the language used ensuring it is easily understood by the data subject. 		
I-15	<p>Notification of data breaches towards the controller</p> <p>(GDPR Article 33)</p> <p>(Recitals 85, 86, 87, 88)</p>	<p>The entity has implemented technical and organisational measures to detect, manage and notify personal data breaches towards the contractual partner(s) and / or controller(s) within a timeframe allowing the controller to notify the supervisory authority within 72 hours and without undue delay after becoming aware of a personal data breach, should the controller identify a risk to the rights and freedoms of data subjects caused by the data breach. Those measures must cover at least:</p> <ul style="list-style-type: none"> • the formal nomination of one or multiple contact point(s) in charge of collecting and assessing potential data breach events; • the degree of involvement of the DPO. The DPO shall always be informed of each data breach, its assessment and handling including the communication to the supervisory data protection authority and / or the data subjects, if applicable. A formal procedure validated by the DPO shall define at what point in time the DPO needs to be informed and what this information shall include; • the awareness raising of all internal and external stakeholders regarding their responsibility to know the procedure and to report data breach events as quickly as possible to the designated point of contact; • the implementation of a documented method (validated by the contractual partner/controller) to assess whether an event qualifies as a personal data breach. This assessment shall take into account at least the following factors (in so far as the entity disposes of this information as per its contract with the contractual partner / controller): <ul style="list-style-type: none"> ○ the context, nature, scope and purposes of the processing activity, including also elements such as the type / nature of data breached, the volume of data (potentially) concerned by the breach, etc.; ○ the context and nature of the controller as well as the entity (e.g. sector, market, etc.); ○ the ease of identification of any concerned or potentially concerned data subject as well as any potential impact of the data breach to the rights and freedoms of any concerned or potentially concerned person; ○ the circumstances of the breach (e.g. malicious / non-malicious intent, concerns about confidentiality / integrity / availability / resilience of data, etc.); • the setup and management of a record of all personal data breaches. The record of personal data breaches must contain for each data breach at least a description of the event, the impact of the event including the risk 		X

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		<p>analysis for data subjects if possible, the root cause, the remediation action taken and the evidence of notification;</p> <p>The notification to the contractual partner / controller shall at least:</p> <ul style="list-style-type: none"> describe the nature of the personal data breach including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned; communicate the name and contact details of the data protection officer or other contact point where more information can be obtained; describe the likely consequences of the personal data breach, if possible; describe the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects. <p>Where, and in so far as, it is not possible to provide the information at the same time, the information may be provided in phases without undue further delay.</p>		
Data Protection Awareness & Competencies				
I-16	<p>Awareness trainings & competencies of staff</p> <p>(GDPR Articles 5, 32)</p> <p>(Recitals 29, 39, 75 – 79, 83, 116, 123)</p>	<p>For each processing activity in scope, the entity shall define and document the competencies and experience required of personnel to be able to carry out this processing activity in a secure manner. This includes the competencies and experience of all persons involved directly or indirectly in this processing activity who potentially have an impact on the confidentiality, integrity, availability and resilience of the personal data processed. For this assessment, the entity takes into account among others the record of processing activities (I-4), the data flow diagram (I-0), the risk analysis (II-f-1) as well as the risk treatment plan (II-f-2) as well as defined policies and procedures.</p> <p>Based on this assessment, the entity establishes together with its DPO a security and data protection training and awareness programme which is validated by management and which corresponds to the competency requirements defined for each role / position. New employees and external staff shall participate in those sessions at the beginning of their work with the entity. The entity ensures that each employee and external staff follows these sessions at least once a year and documents their participation accordingly.</p> <p>The entity shall assess the competencies and experience of the above-mentioned persons to ensure that they meet the requirements for their specific role. This assessment shall be carried out on an annual basis and shall be documented.</p> <p>Furthermore, the entity shall inform its internal / external personnel of any change in its data protection governance, including among others data protection relevant changes in policies and procedures, changes in roles / responsibilities (DPO, CISO, etc.) and reporting lines, etc. as soon as possible. The entity has formally established in what situations such a communication is necessary and when, how and to whom it will communicate should those situations arise.</p> <p>Finally, the entity has a written agreement with its internal / external personnel according to which personnel commits itself to respect data protection obligations.</p>	X	
I-17	Awareness trainings &	For each processing activity in scope, the entity shall define and document the competencies and experience required of personnel to be able to carry out this		X

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<p>competencies of staff</p> <p>(GDPR Articles 5, 32)</p> <p>(Recitals 29, 39, 75 – 79, 83, 116, 123)</p>	<p>processing activity in a secure manner. This includes the competencies and experience of all persons involved directly or indirectly in this processing activity who potentially have an impact on the confidentiality, integrity, availability and resilience of the personal data processed. For this assessment, the entity takes into account among others the record of processing activities (I-5), the data flow diagram (I-0), the risk analysis (III-5) as well as the risk treatment plan (III-6) as well as defined policies and procedures.</p> <p>Based on this assessment, the entity establishes together with its DPO a security and data protection training and awareness programme which is validated by management as well as the contractual partner and which corresponds to the competency requirements defined for each role / position. New employees and external staff shall participate in those sessions at the beginning of their work at the entity. The entity ensures that each employee and external staff follows these sessions at least once a year and documents their participation accordingly.</p> <p>The entity shall assess the competencies and experience of the above-mentioned persons to ensure that they meet the requirements for their specific role. This assessment shall be carried out on an annual basis and shall be documented.</p> <p>Furthermore, the entity shall inform its internal / external personnel of any change in its data protection governance, including among others data protection relevant changes in policies and procedures, changes in roles / responsibilities (DPO, CISO, etc.) and reporting lines, etc. as soon as possible. The entity has formally established in what situations such a communication is necessary and when, how and to whom it will communicate should those situations arise.</p> <p>Finally, the entity has a written agreement with its internal / external personnel according to which personnel commits itself to respect data protection obligations.</p>
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SECTION II: PRINCIPLES RELATING TO PROCESSING OF PERSONAL DATA (CONTROLLER)

SUBSECTION II – A: LAWFULNESS AND TRANSPARENCY OF PROCESSING ACTIVITIES

Ref.	Label	Description
Lawfulness		
II-a-1	Identification of a valid legal basis (GDPR Article 6) (Recitals 39 - 50, 171)	<p>The entity has implemented measures to ensure that a valid legal basis has been identified and formally validated for each processing activity in scope.</p> <p>The entity has assessed the validity of the identified legal basis in detail. This assessment shall be documented and shall take into account:</p> <ul style="list-style-type: none"> the necessity of the processing activity in relation to the purpose(s) pursued according to articles 6.1(b) to (f) of the GDPR; the nature, context, scope and purposes of the processing activity. <p>The assessment of the applicable legal basis shall also include:</p> <ul style="list-style-type: none"> an analysis of any processing limitations defined by law and their applicability to the processing activity in scope; an analysis of any conditions defined by law, under which the processing activity can be performed and their applicability to the processing activity in scope (this can include specific safeguards, certain types of personal data, specific circumstances, etc.); an analysis of any additional organisational and / or technical measures required by law to be implemented by the entity (e.g. measures indicated in articles 85 to 89 of the GDPR). <p>In case the law requires the implementation of such additional measures and / or processing limitations, the entity shall define, implement and control them according to the requirements set out in the criteria on <u>Security (Subsection II – f: Integrity, availability and confidentiality)</u>.</p> <p>The entity has taken into account the formal opinion of its DPO. The entity's management has formally validated this assessment.</p> <p>In case the entity chooses not to follow the opinion of its DPO, it shall document this decision as well as all the reasons for doing so. The entity's management shall formally validate this decision.</p>
II-a-2	Review of the conformity of the identified legal basis (GDPR Article 6) (Recitals 39 - 50, 171)	<p>The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, the identified legal bases of the processing activities in scope. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the legal basis of the processing activities in scope. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>Applying the above-mentioned method the reviewer checks whether the chosen legal bases for the processing activities in scope are still valid.</p>

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		This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.
II-a-3	Processing based on consent (GDPR Article 4, 7, 8) (Recitals 32, 38, 40, 42, 43)	<p>For each processing activity in scope, where processing is based on the data subject's consent, the entity has implemented measures to ensure that all of the following conditions for a valid consent are respected.</p> <p>Valid consent is :</p> <ul style="list-style-type: none"> freely given: The data subject needs to have a genuine choice and be able to refuse or withdraw consent without detriment. It is very unlikely that a consent be freely given <ul style="list-style-type: none"> in case of an imbalance of power (public authorities, employers, etc.); in the context of the provision of a contract or service for which these personal data are not necessary. <p>In case the entity choses nevertheless to use consent as a legal basis in this kind of situation, it shall be able to prove that data subjects have a genuine choice with regard to accepting or declining the terms offered or declining them without detriment.</p> given for a specific purpose: In case of multiple processing purposes, the entity has implemented measures ensuring that the data subject can chose which one to consent to. The entity ensures that consent is presented in a manner that is clearly distinguishable from other matters. Informed: the entity shall provide the data subject at least with the following information: <ul style="list-style-type: none"> the identity of the controller; the purpose of each of the processing activities for which consent is sought; the (type of) data that will be collected and used; the existence of the right to withdraw consent; information about the use of the data for automated decision-making in accordance with article 22.2(c) where relevant; information on the possible risks of data transfers due to an absence of an adequacy decision and of appropriate safeguards as described in article 46. an unambiguous indication of wishes: Consent requires a statement from the data subject or a clear affirmative act (i.e. an active motion or declaration). The entity shall collect explicit consent (i.e. an express statement of consent): <ul style="list-style-type: none"> when processing special categories of data; in the context of data transfers to third countries or international organisations in the absence of adequate safeguards in Article 49; in the context of automated individual decision-making, including profiling (article 22). <p>The entity has implemented measures ensuring:</p> <ul style="list-style-type: none"> consent is obtained before the entity starts processing personal data for which consent is needed; it keeps a record of consent to demonstrate consent for a defined processing activity exists;

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		<ul style="list-style-type: none"> it stored this record of consent in an unaltered manner; in the context of information society services offered directly to a child below the age of 16 years, the entity has implemented a mechanism to collect consent / authorization from the holder of parental responsibility over the child. <p>The entity has implemented measures ensuring data subjects can withdraw their consent as easily as they gave it and at any given time without detriment.</p> <p>The entity implemented measures to stop the processing activity for which consent is needed in case data subjects withdraw their consent.</p>
II-a-4	Processing based on a contract (GDPR Article 6) (Recital 44)	<p>For each processing activity in scope, where processing is necessary:</p> <ul style="list-style-type: none"> for the performance of a contract to which the data subject is party, or in order to take steps at the request of the data subject prior to entering into a contract, <p>the entity has implemented measures to ensure that personal data and / or contracts are collected and stored in an unaltered manner.</p>
II-a-5	Processing based on a legal obligation (GDPR Article 6) (Recital 45)	<p>For each processing activity in scope, where processing is necessary for compliance with a legal obligation with which the entity is required by law to comply, the entity has for this processing formally:</p> <ul style="list-style-type: none"> identified the applicable legal obligation; assessed the applicability of this legal obligation with regard to the processing activity in scope.
II-a-6	Processing based on vital interest (GDPR Article 6) (Recital 46)	<p>For each processing activity in scope, where processing is necessary in order to protect the vital interests of the data subject or of another natural person, the entity has assessed the presence of the vital interest at the moment the processing takes place and formally documented this assessment.</p> <p><i>Note: This lawfulness basis is only relevant in situations where processing is vital to an individual's survival and where the processing cannot be based on another legal basis.</i></p>
II-a-7	Processing based on public interest (GDPR Article 6) (Recital 50)	<p>For each processing activity in scope, where processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority vested in the entity, the entity has:</p> <ul style="list-style-type: none"> identified and formally assessed the applicability of the Union law or Luxembourgish law laying down the basis for this processing activity; if applicable, obtained from the relevant authority a formal document stating that it has vested an official authority in the entity for this processing activity; implemented measures to be able to suspend the processing activity in case data subjects exercise their right to object (article 21 GDPR).
II-a-8	Processing based on legitimate interest (GDPR Article 6) (Recitals 47, 48)	<p>For each processing activity in scope, where processing is necessary for the purposes of the legitimate interests pursued by the entity or by a third party, the entity has implemented the following measures:</p> <ul style="list-style-type: none"> The entity has formally identified and described its legitimate interest in this processing activity. The entity implemented a documented method to formally and objectively assess that the entity's interests are not overridden by the interests or

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		<p>fundamental rights and freedoms of the data subject, in particular where the data subject is a child;</p> <ul style="list-style-type: none"> • The entity implemented measures to ensure that data subject's interests have been expressed and taken into consideration during the assessment; • The entity implemented measures to be able to suspend the processing in case a data subject has executed his right of opposition (article 21 GDPR). <p><i>Note: The legislator provides by law for the legal basis for public authorities to process personal data. Consequently, this legal basis shall not apply to the processing by public authorities in the performance of their tasks.</i></p>
II-a-9	<p>Processing of special categories of personal data</p> <p>(GDPR Article 9)</p> <p>(Recitals 33, 35, 46, 51, 52, 53, 54, 55, 56, 75)</p>	<p>For each processing activity in scope, the entity has implemented measures to ensure that processing of special categories of data is strictly prohibited unless a valid legal basis as required by the GDPR is identified and applies (criteria <u>II-a-1</u> and <u>II-a-2</u>) and additional measures to safeguard the rights and freedoms of data subjects stipulated by law have been assessed and implemented (criteria <u>II-a-1</u> and criteria on <u>Security</u> in <u>Subsection II – f: Integrity, availability and confidentiality</u>), in particular regarding article 9.4 of the GDPR regarding further conditions / limitations defined by law regarding the processing of genetic data, biometric data or data concerning health.</p> <p>Depending on the legal basis chosen, the entity has namely addressed the following in addition to the requirements stated in <u>II-a-1</u> as well as the criteria linked to article 6 GDPR:</p> <ul style="list-style-type: none"> • Data subject's explicit consent (Article 9(2)(a)): In addition to the conditions stated in <u>II-a-3</u>: <ul style="list-style-type: none"> ○ The entity has assessed whether data subjects are authorised by law to lift the prohibition to process sensitive data by giving their explicit consent for this processing activity. The entity has identified the applicable legal obligation and formally assessed the applicability of this legal obligation with regard to the processing activity in scope. ○ The entity has implemented measures allowing data subjects to give their explicit consent. • Controller's obligations / specific rights in the field of employment, social security, social protection law (Article 9(2)(b)): The entity has identified the applicable legal basis and formally assessed its applicability with regard to this processing activity. Based on the identified Union or Luxembourgish law or collective agreement pursuant to Luxembourgish law, the entity has ensured that safeguards are in place in order to respect the fundamental rights and interests of data subjects as also required by criterion <u>II-a-1</u>. • Vital interest when data subject is physically or legally incapable of giving consent (Article 9(2)(c)): The entity has assessed the presence of the vital interest at the moment the processing takes place and formally documented this assessment. <p><i>Note: This lawfulness basis is only relevant in situations where processing is vital to an individual's survival and where the processing cannot be based on another legal basis.</i></p> • Legitimate activities by a foundation, association or any other not-for-profit body with a political, philosophical, religious or trade union aim (Article 9(2)(d)): <ul style="list-style-type: none"> ○ The entity has included in its formal assessment whether it fulfils the conditions with regard to its legal form and aim as required in Article 9(2)

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	<p>point d. Furthermore, the entity has assessed whether the processing takes place in the course of its legitimate activities.</p> <ul style="list-style-type: none"> ○ The entity has formally assessed whether the processing of special categories of data relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes. ○ The entity has established and implemented a procedure to prevent that personal data are disclosed outside that body without the explicit consent of the data subjects. ○ The entity has ensured that safeguards are in place in order to respect the fundamental rights and interests of data subjects as also required by criterion <u>II-a-1</u>. <ul style="list-style-type: none"> • Public data (Article 9(2)(e)): The entity has formally defined and implemented a procedure to check whether the sensitive data to be processed has already been manifestly made public by the data subject. For the processing activity in scope, the entity has documented all steps of this procedure. • Establishment, exercise or defence of legal claims (Article 9(2)(f)): The entity has established that there is a substantial connection between the processing of the sensitive data and the purpose. • Substantial public interest (Article 9(2)(g)): The entity has identified the Union or Luxembourgish law(s), which constitute(s) the basis for the processing of sensitive data. Furthermore, the entity has ensured that safeguards are in place in order to respect the fundamental rights and interests of data subjects as also required by criterion <u>II-a-1</u>. • Preventive or occupational medicine, assessment of the working capacity of the employee, medical diagnosis, the provision of health or social care or treatment or the management of health or social care systems and services (Article 9(2)(h)): <ul style="list-style-type: none"> ○ The entity has formally assessed whether it fulfils the conditions with regard to the purpose as required in Article 9(2)(h). ○ If the processing is based on Union or Luxembourgish law, the entity has formally identified the law(s) in question. ○ If the processing is based on a contract with a health professional, the entity has formally documented this. ○ Furthermore, the entity has ensured that the person that will be processing the sensitive data is either subject to the obligation of professional secrecy (under Union or Luxembourgish law or rules established by national competent bodies) or subject to an obligation of secrecy (under Union or Luxembourgish law or rules established by national competent bodies). The entity has included the relevant law(s) or rule(s) in its documentation and has ensured that safeguards are in place in order to respect the fundamental rights and interests of data subjects as also required by criterion <u>II-a-1</u>. • Public interest in the area of public health, such as protecting against serious cross-border threats to health or ensuring high standards of quality and safety of health care and of medicinal products or medical devices (Article 9(2)(i)): The entity has identified the Union or Luxembourgish law(s), which constitute(s) the legal basis for the processing of sensitive data in scope. Based on the identified law(s), the entity has ensured that safeguards are in place in order to respect the fundamental rights and interests of data subjects, in particular professional secrecy, as also required by criterion <u>II-a-1</u>.
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		<ul style="list-style-type: none"> Archiving purposes in the public interest, scientific or historical research purposes or statistical purposes (Article 9(2)(j)): The entity has identified the Union or Luxembourgish law(s), which constitute(s) the legal basis for the processing of sensitive data in scope. Furthermore and pursuant to article 89 of the GDPR, the entity has analysed the applicability of any derogations and has ensured that safeguards are in place in order to respect the fundamental rights and interests of data subjects as also required by criterion <u>II-a-1</u>.
II-a-10	Right to object (GDPR Articles 12, 21) (Recitals 65, 69, 70, 73)	<p>For each processing activity in scope, the entity has implemented measures to ensure that the “right to object” of a data subject is effectively implemented.</p> <p>The entity has established a procedure explaining how data subjects can exercise their right to object and has communicated it to the data subjects (see below). In particular, the right to object to processing shall be explicitly brought to the data subject’s attention at the latest at the time of first communication with the data subject and is presented clearly and separately from any other information.</p> <p>The entity has assessed whether the data subject has a right to object for the processing activity in scope. The data subject shall have a right to object:</p> <ul style="list-style-type: none"> at any time when the processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, including profiling based on this provision; at any time when processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, including profiling based on this provision; at any time when personal data are processed for direct marketing purposes, including profiling to the extent that it is related to such direct marketing; when personal data are processed for scientific or historical research purposes or statistical purposes (unless the processing is necessary for the performance of a task carried out for reasons of public interest). <p>The entity has established and formally implemented a procedure for the assessment of claims of data subjects making use of their right to object, including the following elements:</p> <ul style="list-style-type: none"> For processing necessary for the performance of a task carried out in the public interest / in the exercise of official authority vested in the controller or for the purposes of the legitimate interests pursued by the controller / by a third party, the entity shall analyse whether it can demonstrate compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject or for the establishment, exercise or defence of legal claims. For personal data processed for scientific or historical research purposes or statistical purposes, the entity shall verify whether the processing is necessary for the performance of a task carried out or reasons of public interest. <p>This assessment includes a formal opinion of the DPO and has been validated by the entity’s management. If the entity concludes in its assessment that processing is still necessary, it will inform the data subject of this and will provide the reasons for doing so.</p> <p>Should the entity’s analyses conclude that none of the two above-mentioned points is applicable the entity shall no longer process the personal data of the data subject in question. In this case, the entity has established and implemented a procedure to stop the processing of this data.</p>

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		<p>Regarding the communication with the data subject, the entity has implemented measures to ensure that:</p> <ul style="list-style-type: none"> • clear and written plain language is used; • information is given to the data subjects in an easily accessible way before the processing takes place; • where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand. <p>These measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:</p> <ul style="list-style-type: none"> • an analysis evaluating the best approach / format to communicate with / provide information to the data subject; • an analysis to determine the best structure of such information; • an analysis of the language used ensuring it is easily understood by the data subject. <p>The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment.</p> <p>The entity shall provide the information free of charge. In case the entity charges a fee for providing the requested information, it shall have documented evidence regarding the manifestly unfounded or excessive character of the request. Furthermore, the entity shall document how it justifies the amount of the charged fees with regard to the administrative cost of providing the communication or taking the action requested by the data subject.</p>
II-a-11	<p>Right to restriction of processing</p> <p>(GDPR Articles 12, 18, 19)</p> <p>(Recitals 67, 156)</p>	<p>For each processing activity in scope, the entity has implemented measures to ensure that the right to restriction of processing of a data subject is effectively implemented.</p> <p>The entity has established and formally implemented a procedure for the assessment of claims of data subjects making use of their right to restriction of processing. This procedure shall require that the entity assess whether the right to restriction of the processing activity is applicable in a specific situation. The data subject has a right to restriction of processing when:</p> <ul style="list-style-type: none"> • the accuracy of the personal data is contested by the data subject, for a period enabling the controller to verify the accuracy of the personal data; • the processing is unlawful and the data subject opposes the erasure of the personal data and requests the restriction of their use instead; • the controller no longer needs the personal data for the purposes of the processing but they are required by the data subject for the establishment, exercise or defence of legal claims; • the data subject has objected to processing pursuant to GDPR Article 21(1) pending the verification whether the legitimate grounds of the controller override those of the data subject. <p>Furthermore, the procedure includes also the following:</p> <ul style="list-style-type: none"> • The entity has defined and implemented technical and organisational measures to restrict the processing of data when the conditions are met (see above). Restriction of processing does not include storage of said data.

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- The entity has defined and implemented technical and organisational controls to ensure that personal data whose processing is restricted can only be processed:
 - with the data subject's consent;
 - for the establishment, exercise or defence of legal claims;
 - for the protection of the rights of another natural or legal person;
 - for reasons of important public interest of the Union or of a Member State (Luxembourg).
- In such cases, the entity has formally assessed the reasons to process the data. This assessment includes a formal opinion of the DPO.
- The entity shall inform the data subject before lifting the restriction of processing and document this notification.

The entity has established a complete inventory of recipients to whom the personal data have been disclosed. The entity has taken into account the formal opinion of its DPO regarding the completeness and accuracy of this inventory and the entity's management has formally validated this inventory. A formal review of the completeness and accuracy of this inventory is performed at least on an annual basis or when significant changes in the data privacy landscape of the entity occur. The entity takes into account the formal opinion of its DPO the review outcome is validated by the entity's management. The entity shall communicate any restriction of processing to each recipient to whom the personal data have been disclosed. For this, the entity shall have defined and implemented measures to effectively communicate this restriction of processing to all relevant recipients. The controller shall inform the data subject about those recipients if the data subject requests it.

Regarding the communication with the data subject, the entity has implemented measures to ensure that:

- clear and written plain language is used;
- information is given to the data subjects in an easily accessible way before the processing takes place;
- where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand.

These measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:

- an analysis evaluating the best approach / format to communicate with / provide information to the data subject;
- an analysis to determine the best structure of such information;
- an analysis of the language used ensuring it is easily understood by the data subject.

The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment.

The entity shall provide the information free of charge. In case the entity charges a fee for providing the requested information, it shall have documented evidence regarding the manifestly unfounded or excessive character of the request. Furthermore, the entity shall document how it justifies the amount of the charged fees with regard to the administrative cost of providing the communication or taking the action requested by the data subject.

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<p>II-a-12</p>	<p>Automated individual decision-making, including profiling (GDPR Articles 12, 22) (Recitals 71, 72, 91)</p>	<p>For each processing activity in scope, the entity has implemented measures to ensure that data subjects can contest a decision based solely on automated processing, including profiling, which produces legal effect concerning him/her or similarly significantly affects him / her.</p> <p>The entity performs a formal assessment regarding such a processing activity and reviews this assessment on a regular basis, but at least annually. This assessment includes the following:</p> <ul style="list-style-type: none"> • The entity has formally assessed the necessity to use automated decision-making, including profiling with regard to this processing activity. • The entity has assessed and formally documented whether the decision solely based on automated decision-making / profiling is authorised by law (article 22(2)(b)), is necessary for entering into / performance of a contract between the data subject and the entity, and / or is based on the data subject's explicit consent. • The entity has formally assessed whether this processing activity processes special categories of data and whether article 9(2)(a) & (g) apply (please refer to article 22(4)). <p>The entity has taken into account the formal opinion of its DPO on the content of this record of processing activities and the entity's management has formally validated this assessment.</p> <p>Based on this assessment the entity implements measures to safeguard the data subject's rights and freedoms and legitimate interests which shall include at least the implementation of measures that allow data subjects to make use of their right not to be subject solely to automated decision-making, including profiling, which produces legal effects concerning them or significantly affects them.</p> <p>In case the automated decision-making, including profiling, is authorised by law (article 22(2)(b)), is necessary for entering into / performance of a contract between the data subject and the entity, and / or is based on the data subject's explicit consent, the entity shall implement measures to safeguard the data subject's rights and freedoms and legitimate interests, at least the right to obtain qualified human intervention on the part of the entity, to express his or her point of view and to contest the decision.</p> <p>Measures mentioned in this criteria shall include at least the provision of information to the data subjects regarding the nature of the processing (please refer to II-a-13, II-a-14, II-a-15) and the implementation of a procedure to follow when data subjects make use of their right (including the requirement to document such cases).</p> <p>Regarding the communication with the data subject, the entity has implemented measures to ensure that:</p> <ul style="list-style-type: none"> • clear and written plain language is used; • information is given to the data subjects in an easily accessible way before the processing takes place; • where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand. <p>These measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:</p>
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		<ul style="list-style-type: none"> an analysis evaluating the best approach / format to communicate with / provide information to the data subject; an analysis to determine the best structure of such information; an analysis of the language used ensuring it is easily understood by the data subject. <p>The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment.</p> <p>The entity shall provide the information free of charge. In case the entity charges a fee for providing the requested information, it shall have documented evidence regarding the manifestly unfounded or excessive character of the request. Furthermore, the entity shall document how it justifies the amount of the charged fees with regard to the administrative cost of providing the communication or taking the action requested by the data subject.</p>
Transparency		
II-a-13	<p>Availability of information (direct collection)</p> <p>(GDPR Articles 12, 13)</p> <p>(Recitals 39, 58, 59, 60, 61, 62, 63)</p>	<p>For each processing activity in scope, where personal data are collected from the data subject, the entity has implemented measures to ensure that the data subject is provided with the following information at the time when personal data are obtained / collected and free of charge:</p> <ul style="list-style-type: none"> the identity and the contact details of the entity and, where applicable, of the entity's representative; the contact details of the DPO, if a DPO has been designated; the purposes of the processing for which the personal data are intended as well as the legal basis for the processing; where the processing is based on the legitimate interest of the entity, the legitimate interests pursued by the entity or by a third party; the recipients or categories of recipients of the personal data, if any; where applicable, the fact that the entity intends to transfer personal data to a third country or international organisation and the existence or absence of an adequacy decision by the Commission, or in the case of transfers referred to in Article 46 or 47, or the second subparagraph of Article 49(1), reference to the appropriate or suitable safeguards and the means by which to obtain a copy of them or where they have been made available; the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period; the existence of the right to request from the entity access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability; where the processing is based on point data subjects consent, the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal; the right to lodge a complaint with a supervisory authority; whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and of the possible consequences of failure to provide such data; the existence of automated decision-making, including profiling, and, at least in those cases, meaningful information about the logic involved, as well as the

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		<p>significance and the envisaged consequences of such processing for the data subject.</p> <p>The entity has defined and implemented a procedure outlining the process of the provision / publication of such an information to the data subject. The entity has implemented for each processing activity in scope measures to ensure that:</p> <ul style="list-style-type: none"> • clear and written plain language is used; • information is given to the data subjects in an easily accessible way before the processing takes place; • where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand. <p>To ensure transparency, completeness and accuracy, these measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:</p> <ul style="list-style-type: none"> • an analysis evaluating the best approach / format to communicate with / provide information to the data subject; • an analysis to determine the best structure of such information; • an analysis of the language used ensuring it is easily understood by the data subject. <p>The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment before providing the information to the data subjects.</p> <p>Furthermore, the entity shall document the date and time of the information provision / publication as well as the content of the information.</p>
II-a-14	<p>Availability of information (indirect collection)</p> <p>(GDPR Articles 12, 14)</p> <p>(Recital 57, 60, 61, 62)</p>	<p>For each processing activity in scope, where personal data have not been obtained from the data subject, the entity has implemented measures to ensure that the data subject is provided with the following information and free of charge:</p> <ul style="list-style-type: none"> • the identity and the contact details of the entity and, where applicable, of the entity's representative; • the contact details of the DPO, if a DPO has been designated; • the purposes of the processing for which the personal data are intended as well as the legal basis for the processing; • the categories of personal data concerned; • the recipients or categories of recipients of the personal data, if any; • where applicable, that the controller intends to transfer personal data to a recipient in a third country or international organisation and the existence or absence of an adequacy decision by the Commission, or in the case of transfers referred to in Article 46 or 47, or the second subparagraph of Article 49.1, reference to the appropriate or suitable safeguards and the means to obtain a copy of them or where they have been made available; • the period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period; • where the processing is based on legitimate interest, the legitimate interests pursued by the entity or by a third party; • the existence of the right to request from the entity access to and rectification or erasure of personal data or restriction of processing concerning the data subject and to object to processing as well as the right to data portability;

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- where processing is based on data subjects consent, the existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal;
- the right to lodge a complaint with a supervisory authority;
- from which source the personal data originate, and if applicable, whether it came from publicly accessible sources;
- the existence of automated decision-making, including profiling, and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject.

The entity has defined and implemented a procedure outlining the process of the provision of such an information to the data subject. The entity has implemented for each processing activity in scope measures to ensure that:

- clear and written plain language is used;
- information is given to the data subjects in an easily accessible way before the processing takes place;
- where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand.

To ensure transparency, completeness and accuracy, these measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:

- an analysis evaluating the best approach / format to provide information to the data subject;
- an analysis to determine the best structure of such information;
- an analysis of the language used ensuring it is easily understood by the data subject.

The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment before providing the information to the data subjects.

Furthermore, the entity shall document the date and time of the information provision as well as the content of the information.

The entity has formally assessed at what point in time it provides the data subject with the above-cited information and has documented the reasons for their choice. The data subject shall be informed as soon as possible after the entity has obtained the data, but at the latest within one month.

If the personal data are to be used for communication with the data subject, the entity has implemented measures to ensure the data subject be informed at the latest at the time of the first communication.

Furthermore, if a disclosure to another recipient is envisaged, the entity has implemented measures to ensure the data subject be informed at the latest when the personal data are first disclosed.

In case the entity does not provide the data subject with the above-mentioned information, it has performed a detailed formal assessment of the applicable exception, including evidence supporting the decision not to inform the data subject.

The entity does not need to inform the data subject in the following cases:

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		<ul style="list-style-type: none"> The provision of such information: <ul style="list-style-type: none"> proves impossible: This is the case when it is not possible for the entity to contact the concerned data subjects because it has no access to contact details of those data subjects (e.g. due to contractual agreements, etc.). In this case, the entity needs to be able to prove that it does not have access to those contact details. The entity has implemented measures ensuring that the information is provided to data subjects as soon as the factors rendering such information impossible no longer exist. would involve a disproportionate effort: The entity has carried out a balancing exercise in its documentation to assess the effort involved for the data controller to provide the information to the data subject against the impact and effects on the data subject if he or she was not provided with the information. The assessment in this situation shall take into account financial, human resource and other material factors as well as elements as the minimum time necessary to identify concerned data subjects, the means to contact concerned data subjects, etc. in so far as the obligation referred to in paragraph 1 of Article 14 is likely to render impossible or seriously impair the achievement of the objectives of that processing. <p>In such cases the entity shall take measures to protect the data subject's rights and freedoms and legitimate interests, including making the information publicly available.</p> <ul style="list-style-type: none"> Obtainment or disclosure of personal data is expressly laid down by Union or Luxembourgish law to which the entity is subject and which provides measures to protect the data subject's legitimate interests. The entity shall include in its assessment a demonstration on how the law in question applies to them and requires them to either obtain or disclose the personal data in question. The personal data must remain confidential subject to an obligation of professional secrecy regulated by Union or Luxembourgish law, including a statutory obligation of secrecy. The entity shall include in its assessment the law in question as well as a demonstration on how the professional secrecy obligation directly addresses the entity. <p>These assessments have been formally reviewed by the DPO and have been approved by the entity's management.</p>
II-a-15	<p>Information obligation - up to date information</p> <p>(GDPR Articles 12, 13, 14)</p> <p>(Recitals 58, 61, 73)</p>	<p>For each processing activity in scope, the entity has implemented measures to ensure that changes to the processing activity impacting information to be provided as per GDPR Articles 13 and 14 are identified by the entity and communicated in a timely manner to the data subjects.</p> <p>The entity has defined and implemented procedures for identifying and formally assessing such changes including an analysis of its impact on the data subjects and a documented method for determining the timing and the modalities of the communication of this change as well as the identification of the data subjects to be notified.</p> <p>In this context, the entity shall perform a review of the processing activities in scope at least on an annual basis. This review as well as its results shall be documented and shall include a formal opinion of the DPO.</p>
II-a-16	<p>Right of access by the data subjects</p>	<p>For each processing activity in scope, the entity has implemented measures to ensure that it can implement the "right of access" by the data subjects.</p>

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<p>(GDPR Articles 12, 15) (Recitals 63, 64, 73)</p>	<p>In addition to the measures outlined in <u>I-8</u> the entity has defined and implemented a structured process:</p> <ul style="list-style-type: none"> to clearly identify the requested information and the location where it can be found; for collecting the requested data by involving the relevant systems, services and entities; and for clearly structuring the data. <p>The entity shall provide confirmation as to whether or not personal data concerning the data subject are being processed, and, where that is the case, access to the personal data and the following information:</p> <ul style="list-style-type: none"> the purposes of the processing; the categories of personal data concerned; the recipients or categories of recipient to whom the personal data have been or will be disclosed, in particular recipients in third countries or international organisations; where possible, the envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period; the existence of the right to request from the entity rectification or erasure of personal data or restriction of processing of personal data concerning the data subject or to object to such processing; the right to lodge a complaint with a supervisory authority; where the personal data are not collected from the data subject, any available information as to their source; the existence of automated decision-making, including profiling, referred to in Article 22(1) and (4) and, at least in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject. <p>Furthermore, the entity shall perform a completeness, accuracy and format review prior to sending the information to the data subject. This review shall take into account the formal opinion of the DPO.</p> <p>Regarding the communication with the data subject, the entity has implemented measures to ensure that:</p> <ul style="list-style-type: none"> clear and written plain language is used; information is given to the data subjects in an easily accessible way before the processing takes place; where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand. <p>The entity has implemented measures to ensure that when the data subject makes the request by electronic means, and unless otherwise requested, the information be provided in a commonly used electronic form.</p> <p>These measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:</p> <ul style="list-style-type: none"> an analysis evaluating the best approach / format to communicate with / provide information to the data subject;
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		<ul style="list-style-type: none"> an analysis to determine the best structure of such information; an analysis of the language used ensuring it is easily understood by the data subject. <p>The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment.</p> <p>The entity shall provide the information free of charge upon the first request for access by the data subject. In case the entity charges a fee for providing the requested information anew after a first access request by the data subject, it shall have documented evidence regarding the manifestly unfounded or excessive character of the request. Furthermore, the entity shall document how it justifies the amount of the charged fees with regard to the administrative cost of providing the communication or taking the action requested by the data subject.</p>
II-a-17	Right to data portability (GDPR Articles 12, 20) (Recitals 68)	<p>For each processing activity in scope where processing is carried out by automated means and is either based on consent or on a contract, the entity has implemented measures to ensure that it can effectively implement the "right to data portability" of a data subject.</p> <p>The entity has formally assessed whether the requesting data subject's right does not adversely affect the rights and freedoms of others (e.g. the inclusion of personal data of other data subjects in the data to be provided might prevent other data subjects from exercising their rights, etc.). The assessment shall take into account at least the context and the purpose of the processing activity, the nature of the data and the intended recipient of the data (the requesting data subject or another controller) as well as the possible uses the recipient can make of the data. This assessment shall also establish if and how the entity can avoid adversely affecting the rights and freedoms of others (e.g. anonymising / deletion only of the data of other data subjects) when complying with the request of the data subject. In case the entity arrives to the conclusion that the effort involved to safeguard the rights and freedoms of others is disproportionate to the compliance with the request of the data subject, it shall communicate the reasons for not complying to the data subject's request according to the procedure outlined in criterion I-8. The assessment in this situation shall take into account at least financial, human resource and other material factors as well as the number of other data subjects (potentially) concerned.</p> <p>In addition to the measures outlined in I-8 the entity has formally assessed:</p> <ul style="list-style-type: none"> which structured, commonly used and machine-readable format corresponds best to the needs of the data subjects; how to transmit the data to the data subjects in case they want to receive it themselves; the technical feasibility of transmitting the data to another controller in case the data subjects request this. <p>Furthermore, the entity shall perform a completeness, accuracy and format review prior to sending the information to the data subject or to another controller. This review shall take into account the formal opinion of the DPO.</p> <p>Regarding the communication with the data subject, the entity has implemented measures to ensure that:</p> <ul style="list-style-type: none"> clear and written plain language is used; information is given to the data subjects in an easily accessible way before the processing takes place;

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		<ul style="list-style-type: none"> where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand. <p>These measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:</p> <ul style="list-style-type: none"> an analysis evaluating the best approach / format to communicate with / provide information to the data subject; an analysis to determine the best structure of such information; an analysis of the language used ensuring it is easily understood by the data subject. <p>The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment.</p> <p>The entity shall provide the information free of charge. In case the entity charges a fee for providing the requested information, it shall have documented evidence regarding the manifestly unfounded or excessive character of the request. Furthermore, the entity shall document how it justifies the amount of the charged fees with regard to the administrative cost of providing the communication or taking the action requested by the data subject.</p>
Transfer of personal data to third countries (when applicable)		
II-a-18	<p>Third country transfers</p> <p>(GDPR Article 44 to 46)</p> <p>(Recitals 101 to 110, 114)</p>	<p>For each processing activity in scope that involves a transfer of personal data to third countries, the entity has formally assessed whether mechanisms are in place or need to be implemented to ensure compliance with the GDPR (see mechanisms below).</p> <p>The assessment shall include an analysis of all possible available transfer mechanisms and their suitability with regard to the processing activity in scope respecting the provisions of chapter V of the GDPR. During this assessment, at least the following factors need to be considered:</p> <ul style="list-style-type: none"> Taking into account the nature, scope, context and purpose of the processing activity in scope, the entity shall assess which of those mechanisms is best suited to protect the rights and freedoms of the data subjects whose data is concerned by a transfer (e.g. specific safeguards, level of protection of personal data, ease of the exercise of data subjects' rights, etc.); The entity shall assess what the risks of using each of those mechanisms are and how they can be avoided / mitigated (e.g. mitigation of risks in case there are any provisions in the law of the country of the data importer that might reduce the effectiveness of the organisational / technical measures to protect personal data transferred, etc.); The entity shall take into account CJEU judgments regarding the topic of transfers and mechanisms as well as EDPB guidelines when analysing those mechanisms. <p>The entity has taken into account the formal opinion of its DPO on the content of this assessment and the entity's management has formally validated this assessment.</p> <p>In case this assessment concludes that a mechanism needs to be implemented, the entity's management shall supervise this implementation supported by its DPO.</p> <p>Mechanisms not requiring any specific authorisation from a supervisory authority:</p>

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- an adequacy decision from the Commission;
- a legally binding and enforceable instrument between public authorities or bodies;
- binding corporate rules in accordance with Article 47 of the GDPR;
- standard data protection clauses adopted by the Commission in accordance with the examination procedure referred to in Article 93(2) of the GDPR;
- standard data protection clauses adopted by a supervisory authority and approved by the Commission pursuant to the examination procedure referred to in Article 93(2) of the GDPR;
- an approved code of conduct pursuant to Article 40 of the GDPR together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights; or
- an approved certification mechanism pursuant to Article 42 of the GDPR together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights.

Mechanisms subject to the authorisation from a competent supervisory authority:

- contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organisation; or
- provisions to be inserted into administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.

The entity reviews on a regular basis and at least annually or when significant changes in the data privacy landscape of the entity occur, the validity of the mechanism chosen for the data processing activities in scope. The entity takes into account the formal opinion of its DPO.

For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the validity of the chosen mechanism. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.

Applying the above-mentioned method the reviewer checks whether the chosen mechanism is still valid.

This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.

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SUBSECTION II – B: PURPOSE LIMITATION

Ref.	Label	Description
II-b-1	Quality of purpose definition (GDPR Article 5) (Recitals 39, 58)	<p>For each processing activity in scope, the entity has implemented measures to ensure that:</p> <ul style="list-style-type: none"> the purpose for the processing activity in scope is clearly defined and documented; the entity has formally assessed whether this purpose description is specific, detailed, explicit and legitimate and to ensure that it does not process the data in a manner that is incompatible with this purpose as well as the corresponding legal basis; the entity has formally reviewed the design of the processing activity to ensure it processes the data according to the defined purpose. <p>The entity has taken into account the formal opinion of its DPO and the entity's management has formally validated the above assessments.</p> <p>The entity shall ensure that the purpose of the data processing activity is described in a way that allows data subjects to understand and assess the impact on their privacy (please refer to II-a-13, II-a-14, II-a-15).</p> <p>The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, these assessments. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the processing activity in scope and its defined purpose. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>Applying the above-mentioned method the reviewer checks whether the defined purpose of the processing activity in scope is still valid.</p> <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p>
II-b-2	Purpose compatibility (GDPR Articles 5, 6) (Recitals 39, 50, 58)	<p>For each processing activity in scope, and where processing is using data collected for another purpose, the entity has implemented measures to ensure it has formally assessed that the processing activity's purpose is compatible with the initial purpose for which the data has been collected.</p> <p>This assessment shall take into account:</p> <ul style="list-style-type: none"> whether Union or Luxembourgish law determines and specifies the tasks and purposes for which the further processing should be regarded as compatible and lawful (e.g. where processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the entity); whether further processing is performed for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes and whether this can be considered to be a compatible lawful processing activity. <p>Furthermore, in order to ascertain whether a purpose of further processing is compatible with the purpose for which the personal data are initially collected, the entity, after having met all the requirements for the lawfulness of the original processing, shall for this assessment also take into account at least the following:</p> <p>any link between those purposes and the purposes of the intended further processing;</p>

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- the context in which the personal data have been collected, in particular the reasonable expectations of data subjects based on their relationship with the controller as to their further use;
- the nature of the personal data;
- the consequences of the intended further processing for data subjects; and
- the existence of appropriate safeguards in both the original and intended further processing operations (please refer to criteria in the Security part in Subsection II – f: Integrity, availability and confidentiality).

The entity has taken into account the formal opinion of its DPO. The assessment is then formally validated by the management of the entity.

The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, this assessment. The entity takes into account the formal opinion of its DPO.

For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the purpose compatibility. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.

Applying the above-mentioned method the reviewer checks whether the purpose compatibility is still valid.

This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.

SUBSECTION II – C: DATA MINIMISATION

Ref.	Label	Description
II-c-1	Process to ensure data minimisation (GDPR Articles 5 and 25) (Recitals 39, 78)	<p>For each processing activity in scope, the entity has implemented measures to ensure that the collection of personal data is adequate, relevant and strictly limited to what is necessary in relation to the purposes for which they are processed taking into account the amount, type and nature of the data collected and processed.</p> <p>In particular, the entity has formally assessed that it:</p> <ul style="list-style-type: none"> • cannot achieve the purpose of its processing activity with less (privacy invasive) data (e.g. working with less granular data) by considering among others to collect less personal data, avoid the collection of special categories of data if possible, reduce the number of data subjects concerned, shorten retention periods, use a more adapted technology, avoid data transfers to third parties / countries, etc.; • has documented the necessity for each data field (electronic or paper based) in relation to the purpose. <p>The entity has taken into account the formal opinion of its DPO. The assessment is then formally validated by the management of the entity.</p> <p>The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, this assessment. The entity takes into account the formal opinion of its DPO.</p>

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		<p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the purpose compatibility. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p>
II-c-2	<p>Alternative means</p> <p>(GDPR Articles 5 and 25)</p> <p>(Recitals 39, 78)</p>	<p>For each processing activity in scope, the entity has formally assessed the impossibility to reach the purpose(s) in implementing a less intrusive process (i.e. using less intrusive means to collect data) by considering among others to collect less personal data, avoid the collection of special categories of data if possible, reduce the number of data subjects concerned, shorten retention periods, use a more adapted technology, avoid data transfers to third parties / countries, etc.</p> <p>The entity has taken into account the formal opinion of its DPO. The assessment is then formally validated by the management of the entity.</p> <p>The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, this assessment. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the possible means to collect data. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p>

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SUBSECTION II – D: ACCURACY

Ref.	Label	Description
II-d-1	Reliability of the data source (GDPR Article 5) (Recital 39)	<p>For each processing activity in scope, the entity has formally assessed that data sources used to collect personal data are relevant and reliable, taking into account the following:</p> <ul style="list-style-type: none"> The assessment is based on an up-to-date record kept by the entity containing all used sources to collect personal data for the processing activity in scope. The entity assesses those data sources with regard to their relevance and reliability using a documented method defined by the entity. This method shall take into account among others whether data is collected directly or indirectly from the data subjects. In case data subjects did not provide their data directly to the entity, the entity takes into account in its assessment how, when and by whom the data was initially collected and what and how many entities were involved from the time of initial collection until the moment the entity received the data. <p>The entity shall only process personal data coming from sources deemed relevant and reliable based on this assessment.</p> <p>With regard to the method used for this assessment, the entity has taken into account the formal opinion of its DPO.</p> <p>The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, this assessment. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the reliability of the data source. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p>
II-d-2	Accuracy of data (GDPR Article 5) (Recital 39)	<p>For each processing activity in scope, the entity has implemented measures to ensure that personal data is accurate and kept up to date.</p> <p>The entity has defined and implemented a procedure to verify on a regular basis and at least annually the personal data it received / holds, either by directly contacting the data subject, or by contacting the source from which it received the data. The entity documents this verification of data accuracy and has implemented a procedure to update, correct and / or deletes data if necessary.</p>
II-d-3	Right to rectification (GDPR Articles 12, 16 and 19) (Recitals 39, 59, 65, 156)	<p>For each processing activity in scope, the entity has implemented measures to ensure that it can effectively implement the "right to rectification" of a data subject to rectify inaccurate personal data concerning him or her or to complete incomplete personal data.</p> <p>The entity has established a procedure explaining how data subjects can exercise their right to rectification and has communicated it to the data subjects (see also I-8). Furthermore, the entity has established and formally implemented a procedure to ensure personal data is rectified / completed in a timely manner after reception of the request. For the processing activities in scope, the entity has set a maximum delay for the completion of this request taking into account elements such as the type of data, the type of data subjects, the sensitivity of the processing activity etc. in order to avoid any negative consequences for the data subjects if their data is not corrected in time.</p>

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The entity has established a complete inventory of recipients to whom the personal data have been disclosed. The entity has taken into account the formal opinion of its DPO regarding the completeness and accuracy of this inventory and the entity's management has formally validated this inventory. A formal review of the completeness and accuracy of this inventory is performed at least on an annual basis or when significant changes in the data privacy landscape of the entity occur. The entity takes into account the formal opinion of its DPO the review outcome is validated by the entity's management. The entity shall communicate any rectification of personal data to each recipient to whom the personal data have been disclosed. For this, the entity shall have defined and implemented measures to effectively communicate this rectification to all relevant recipients. The controller shall inform the data subject about those recipients if the data subject requests it.

Regarding the communication with the data subject, the entity has implemented measures to ensure that:

- clear and written plain language is used;
- information is given to the data subjects in an easily accessible way before the processing takes place;
- where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand.

These measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:

- an analysis evaluating the best approach / format to communicate with / provide information to the data subject;
- an analysis to determine the best structure of such information;
- an analysis of the language used ensuring it is easily understood by the data subject.

The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment.

The entity shall provide the information free of charge. In case the entity charges a fee for providing the requested information, it shall have documented evidence regarding the manifestly unfounded or excessive character of the request. Furthermore, the entity shall document how it justifies the amount of the charged fees with regard to the administrative cost of providing the communication or taking the action requested by the data subject.

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SUBSECTION II – E: STORAGE LIMITATION

Ref.	Label	Description
II-e-1	Defined retention period (GDPR Article 5) (Recitals 39)	<p>For each processing activity in scope, the entity has implemented measures to ensure that retention periods are defined, communicated and reviewed.</p> <p>To determine retention periods for personal data, the entity has performed a detailed formal assessment which includes an analysis of the applicable legal requirements regarding data retention for each defined processing purpose. Based on this, the entity determines and documents the data retention periods for the personal data processed, including backups and logs. In case the entity could not identify an applicable legal requirement governing data retention periods, the entity shall define maximum retention periods for the concerned data after having performed an assessment that shall take into account at least factors such as the nature, context, scope and purpose of the processing activity, the maximum time period the data is needed to perform the processing activity, sector-specific best practices, etc.</p> <p>The entity has taken into account the formal opinion of its DPO on the assessment and the entity's management has formally validated this record of processing activities.</p> <p>The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, this assessment. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the retention periods. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p>
II-e-2	Deletion or anonymization of data (GDPR Article 5) (Recitals 39)	<p>For each processing activity in scope, the entity has implemented measures to ensure that data is effectively deleted or anonymised:</p> <ul style="list-style-type: none"> at the end of the retention period defined in II-e-1; where personal data is not, or no longer necessary for the purpose of the processing; when the conditions for the right to erasure are met (please refer to II-e-3); or when article 58.2(g) applies. <p>The entity has defined and implemented a procedure that includes the following:</p> <ul style="list-style-type: none"> Based on the record of processing activities as well as the inventory referred to in I-0, the entity has performed a detailed formal assessment to determine the effectiveness of the mechanism used to identify and delete / anonymise personal data, including backups and logs, to ensure anonymised data cannot be re-identified and deleted data cannot be restored. This assessment includes a formal opinion of the DPO. The entity performs tests on a regular basis, and at least once a year to determine whether the mechanism used to anonymise or delete personal data, including backups and logs, is working as defined. Any deviations are documented and corrected in a timely fashion according to a procedure defined by the entity. The DPO is informed of any exception identified.
II-e-3	Right to erasure ('right to be forgotten')	<p>For each processing activity in scope, the entity has implemented measures to ensure that it can effectively implement the right to erasure of a data subject.</p>

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Ref.	Label	Description
	to be forgotten') (GDPR Articles 12, 17 and 19) (Recitals 65, 66, 156)	<p>The entity has established a procedure explaining how data subjects can exercise their right to erasure and has communicated it to the data subjects (see also <u>1-8</u>).</p> <p>The entity has established and formally implemented a procedure for the assessment of data subjects' claims making use of their right to erasure of personal data.</p> <p>This procedure shall require that the entity assess whether the right to erasure is applicable in a specific situation. The data subject shall have a right to erasure in the following cases:</p> <ul style="list-style-type: none"> the personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed; the data subject withdraws consent on which the processing is based and where there is no other legal ground for the processing; the data subject objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2); the personal data have been unlawfully processed; the personal data have to be erased for compliance with a legal obligation in Union or Luxembourgish law to which the controller is subject; the personal data have been collected in relation to the offer of information society services referred to in Article 8(1). <p>Furthermore, the procedure also includes the following:</p> <ul style="list-style-type: none"> The entity performs a formal and detailed assessment of data subjects' requests for erasure and analyses if processing is still necessary: <ul style="list-style-type: none"> for exercising the right of freedom of expression and information; for compliance with a legal obligation which requires processing by Union or Luxembourgish law to which the entity is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the entity; for reasons of public interest in the area of public health in accordance with points (h) and (i) of Article 9(2) as well as Article 9(3); for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or for the establishment, exercise or defence of legal claims. <p>This assessment includes a formal opinion of the DPO and has been validated by the entity's management.</p> <p>If the entity concludes in its assessment that processing is still necessary and data cannot be erased, it will inform the data subject accordingly and will provide the reasons for doing so.</p> <ul style="list-style-type: none"> The entity has defined and implemented technical and organisational measures to effectively erase the personal data in a timely manner after reception of the request when the conditions are met (see above). <p>The entity has established a complete inventory of recipients to whom the personal data have been disclosed. The entity has taken into account the formal opinion of its DPO regarding the completeness and accuracy of this inventory and the entity's management has formally validated this inventory. A formal review of the completeness and accuracy of this inventory is performed at least on an annual basis or when significant changes in the data privacy landscape of the entity occur. The entity takes into account the formal opinion of its</p>

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Ref.	Label	Description
		<p>DPO the review outcome is validated by the entity's management. The entity shall communicate any erasure of personal data to each recipient to whom the personal data have been disclosed. For this, the entity shall have defined and implemented measures to effectively communicate this erasure of personal data to all relevant recipients. The entity formally assesses how it informs these controllers, taking account of available technology and the cost of implementation.</p> <p>Regarding the communication with the data subject, the entity has implemented measures to ensure that:</p> <ul style="list-style-type: none"> • clear and written plain language is used; • information is given to the data subjects in an easily accessible way before the processing takes place; • where the entity communicates with children, such information is addressed in a clear and plain language that the child can easily understand. <p>These measures shall include a formal assessment that shall at least take into account the nature, circumstances, scope and context of the processing activity as well as the target audience and the type of personal data concerned. Furthermore, this assessment shall include:</p> <ul style="list-style-type: none"> • an analysis evaluating the best approach / format to communicate with / provide information to the data subject; • an analysis to determine the best structure of such information; • an analysis of the language used ensuring it is easily understood by the data subject. <p>The entity has taken into account the formal opinion of its DPO regarding this assessment and the entity's management has formally validated this assessment.</p> <p>The entity shall provide the information free of charge. In case the entity charges a fee for providing the requested information, it shall have documented evidence regarding the manifestly unfounded or excessive character of the request. Furthermore, the entity shall document how it justifies the amount of the charged fees with regard to the administrative cost of providing the communication or taking the action requested by the data subject.</p>

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SUBSECTION II – F: INTEGRITY, AVAILABILITY AND CONFIDENTIALITY

Ref.	Label	Description
Security		
II-f-1	<p>Risk analysis</p> <p>(GDPR Articles 5, 32)</p> <p>(Recitals 29, 39, 75 – 79, 83, 116, 123)</p>	<p>For each processing activity in scope, the entity has defined and implemented measures to identify, to analyse and to categorise risks to confidentiality, integrity, availability and resilience of personal data (e.g. accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed). The entity pays particular attention to special categories of data when performing its risk analysis.</p> <p>This formal assessment includes an analysis of the potential impact(s) and probability of each identified risk to the rights and freedoms of the data subjects (e.g. physical, material, or non-material damage, loss of control over their personal data, limitation of their rights, discrimination, identity theft or fraud, financial loss, unauthorised reversal of pseudonymisation, damage to reputation, and loss of confidentiality of personal data protected by professional secrecy, significant economic or social disadvantage to concerned data subjects, etc.) and is based on a method chosen or established by the entity to ensure consistent and meaningful results. The entity has documented this method and the procedure to be followed when performing the risk analysis.</p> <p>For this assessment, the entity shall take into account among others the record of processing activities (I-4), the inventory and the data flow diagram (Error! Reference source not found.) of the processing activities in scope.</p> <p>Furthermore, the entity considers at least the following elements when performing this risk analysis:</p> <ul style="list-style-type: none"> Organizational security elements: <ul style="list-style-type: none"> Security management: security policies and procedures for the protection of personal data, roles and responsibilities, access control policy, resource / asset management, change management, data processors Incident response and business continuity: handling of incidents / personal data breaches, business continuity / disaster recovery Human resources: confidentiality of personnel, training Technical security elements: <ul style="list-style-type: none"> access control and authentication Logging and monitoring Security of data at rest: server / database security, workstation security Network / communication security Back-ups Mobile / portable devices Application lifecycle security Data deletion / disposal Physical security <p>Furthermore, the entity takes also into account any additional requirements defined by law such as any processing limitations / conditions and specific organisational / technical measures to be implemented by the entity (please also refer to criterion II-a-1).</p>

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		<p>The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, this assessment. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the risk analysis. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p>
II-f-2	<p>Risk treatment</p> <p>(GDPR Articles 5, 32)</p> <p>(Recitals 29, 39, 75 – 79, 83, 116, 123)</p>	<p>For each processing activity in scope, the entity has defined and implemented policies and procedures to establish and put in place a risk treatment plan for each identified risk to personal data as well as for each identified risk to the rights and freedoms of the data subjects (II-f-1).</p> <p>This risk treatment plan shall be documented in detail and shall be established and carried out according to a documented method. This method shall include risk treatment strategies allowing to mitigate, to reduce or to avoid the identified risks. In case the entity choses to accept a risk or a residual risk, it clearly documents this in the risk treatment plan and includes the reasons for doing so.</p> <p>The entity shall describe in detail what technical and organisational measures it implemented to address the identified risk(s) including elements such as frequency of controls, person / function carrying out / overseeing controls, target / threshold for the control to be successful, required documentation of the control, etc. The entity shall evaluate the effectiveness of the design of those measures.</p> <p>The entity considers at least the following technical and organisational measures:</p> <ul style="list-style-type: none"> • Organizational security elements: <ul style="list-style-type: none"> ○ Security management: <ul style="list-style-type: none"> ▪ Security policies and procedures for the protection of personal data (e.g. revision, communication, validation, etc.) ▪ Roles and responsibilities (e.g. definition and allocation, avoidance of conflicts of interest, etc.) ▪ Access control policy (e.g. role-based access, need to know principle, four-eyes-principle, etc.) – Furthermore, the entity shall ensure that any natural or legal person acting under its authority, who has access to personal data, does not process them except on instructions from the entity, unless he or she is required to do so under Union or Luxembourgish law. ▪ Resource / asset management (e.g. inventory of software / hardware / networks, revision of these inventories, access, etc.) ▪ Change management (e.g. monitoring of changes, separate testing environment, use of dummy data while testing, change policy, etc.) ▪ Data processors (see also sections regarding the use of data processors) ○ Incident response and business continuity: <ul style="list-style-type: none"> ▪ Handling of incidents / personal data breaches (e.g. incident response plan, reporting of personal data breaches, documentation, etc.) ▪ Business continuity / disaster recovery (e.g. detailed documentation, testing, roles & responsibilities, etc.) ○ Human resources:

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- Confidentiality of personnel (e.g. confidentiality / non-disclosure agreements, etc.)
- Training (e.g. training programmes / plans, etc.)
- Technical security elements:
 - Access control and authentication (e.g. user access management, password management, management of privileged users, review of user access rights, avoidance of generic users, etc.)
 - Logging and monitoring (e.g. logging of view / modification / deletion, protection of log files, timestamps, logging of system administrator actions, logging of access to log files, etc.)
 - Security of data at rest:
 - Server / database security (e.g. encryption, pseudonomization, etc.)
 - Workstation security (e.g. anti-virus, session time-outs, installation of security updates, external storage devices, encryption, etc.)
 - Network / communication security (e.g. encryption, remote access management, traffic monitoring, firewalls / Intrusion Detection Systems, etc.)
 - Back-ups (e.g. back-up strategy, monitoring, location of and access to back-up media, back-up media, back-up recovery testing, encryption, etc.)
 - Mobile / portable devices (e.g. access control procedures, encryption, secure software containers to separate private and business use, remote erasure, etc.)
 - Application lifecycle security (e.g. use of secure coding standards, vulnerability assessment / periodic penetration testing, software patching, etc.)
 - Data deletion / disposal (e.g. physical destruction, use of a data processor, etc.)
 - Physical security (e.g. IT system infrastructure, access controls, UPS, fire / water protection, etc.)

The entity:

- defines this risk treatment plan before implementing new processing activities;
- reviews the effectiveness of this plan at least on an annual basis or when changes impacting the risk evaluation occur and adapts the risk treatment plan if necessary. The entity shall define and implement procedures to assess the effectiveness of the risk treatment plan. This assessment shall take into account at least the following factors:
 - the results / conclusions of controls performed referenced in criteria II-f-3 to II-f-5;
 - lead indicators allowing the entity to measure the plan's effectiveness (e.g. including data on data breaches identified related to the processing activities in scope, on incidents detected during the controls performed, incidents handled vs. open incidents, etc.);

Furthermore, the entity shall take into account any changes of the following factors when assessing the effectiveness of its risk treatment plan:

- risk and risk level changes (II-f-1);
- changes in the nature scope, context and purposes of the processing activity;
- changes in the applicable regulatory framework;
- changes in the entity's structure (internal as well as external in case of outsourcing etc.);
- changes in the technology(ies) used for the processing activity;
- changes concerning persons (e.g. responsibilities, functions, etc.) involved in the processing activity.
- takes into account the formal opinion of the DPO.

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		The entity's management formally validates the risk treatment plan.
II-f-3	Documented implementation of organisational and technical measures (GDPR Articles 5, 32) (Recitals 29, 39, 75 – 79, 83, 116, 123)	<p>For each processing activity in scope, the entity has implemented the operational and technical measures documented in the validated risk treatment plan (II-f-2).</p> <p>The entity ensures that the performance of the implemented measures is documented in detail.</p> <p>On a daily basis, reports on controls performed and security incidents related to the processing activities in scope are provided to the persons within the entity that are involved in the processing activity and to the DPO and the entity's management.</p>
II-f-4	Audit (GDPR Articles 5, 32) (Recitals 29, 39, 75 – 79, 83, 116, 123)	<p>For each processing activity in scope, the entity ensures that an independent audit of the effectiveness of the design and implementation of the technical and organisational measures ensuring secure processing of personal data take place.</p> <p>The DPO shall be involved in all stages of the audit planning and execution. These audits are performed by independent internal or external auditors, at least on an annual basis or when changes occur. The entity, together with the DPO has established rules to define the type of changes triggering an audit.</p> <p>The auditors shall establish together with the DPO an audit plan covering 3 years and based among others on the record of processing activities, the inventory and the data flow diagram of processing activities, the risk analysis and the validated risk treatment plan as well as the precedent audits performed (including all discovered nonconformities).</p> <p>The audit plan shall be based on a documented method which shall include elements such as a detailed information about planning requirements, responsibilities and reporting lines, sampling methods used, testing frequency over the year, reporting, audit scope definition, the definition of audit criteria, documentation and audit report as well as the follow-up on nonconformities.</p> <p>The results of these audits shall be communicated in the form of a report to the highest level of management.</p>
II-f-5	Follow-up on audits (GDPR Articles 5, 32) (Recitals 29, 39, 75 – 79, 83, 116, 123)	<p>The entity shall perform an evaluation of the nonconformities discovered during the audit in order to identify their cause(s) and to assess their impact on the processing activities in scope (as well as the personal data concerned). The entity shall then correct those nonconformities in a timely manner and review the effectiveness of the corrective action taken.</p> <p>This process is documented in detail and the entity takes into account the formal opinion of its DPO. The entity's management shall validate the corrective actions taken.</p>
Data protection impact assessment (DPIA)		
II-f-6	DPIA (GDPR Article 35) (Recitals 72, 75, 84, 89, 90, 91, 92, 93, 94, 95)	<p>For each processing activity in scope, the entity has assessed and documented the decision to perform a DPIA prior to the processing based on the requirements set out in article 35 of the GDPR.</p> <p>In case the entity decides not to perform a DPIA, the decision together with the detailed assessment that leads to the decision is approved by the entity's management based on the opinion of the DPO.</p>

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	<p>In case the entity decides to perform a DPIA, the DPIA is documented in detail and covers at least the following elements:</p> <ul style="list-style-type: none"> • a systematic description of the envisaged processing operations and the purposes of the processing, including, where applicable, the legitimate interest pursued by the entity; • an assessment of the necessity and proportionality of the processing operation in relation to the purposes (including elements such as data minimisation and minimisation of stored data, purpose compatibility, alternative means, etc.); • an assessment of the identified risks to the rights and freedoms of data subjects; • the measures envisaged to address these risks, including safeguards, security measures and mechanisms to ensure the protection of personal data and to demonstrate compliance with GDPR taking into account the rights and legitimate interests of data subjects and other persons concerned. <p>The entity shall consider the opportunity to seek the views of data subjects or their representatives without prejudice to the protection of commercial or public interests or the security of processing operations (article 35.9 of the GDPR). Where the entity does not do so, it shall document the reasons for this in detail.</p> <p>The DPIA as well as all related assessments include a formal opinion of the DPO and have been validated by the entity's management.</p> <p>The entity reviews the DPIA on a regular basis and at least annually or when significant changes impacting the DPIA occur. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the DPIA. Such factors can be external or internal and include among others changes of the risk represented by the processing activity, changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>During this review, the entity:</p> <ul style="list-style-type: none"> • shall reassess its decision not to perform a DPIA, in case it has decided not to perform one; • shall carry out a review to assess if processing is performed in accordance with the DPIA. <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p>
<p>II-f-7</p> <p>DPIA - Prior consultation</p> <p>(GDPR Article 36)</p> <p>(Recitals 37, 84, 94, 95, 96)</p>	<p>For each processing activity in scope, where the DPIA indicates that the processing would result in a high risk for the rights and freedoms of the data subjects after measures have been taken by the entity to mitigate the risk, the entity has consulted the CNPD, the national the supervisory authority, prior to the implementation of the processing activity.</p> <p>In case the CNPD is of the opinion that the intended processing would infringe the GDPR, in particular where the entity has insufficiently identified or mitigated the risk, the entity documents how the written advice that has been provided by the CNPD has been fully addressed – prior to implementing the processing activity.</p>
<p>Outsourcing</p>	

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II-f-8	<p>Assessment of sufficiency</p> <p>(GDPR Article 28)</p> <p>(Recital 81)</p>	<p>For each processing activity in scope where the entity uses a processor, the entity shall perform the following prior and during the engagement of that processor:</p> <ul style="list-style-type: none"> • define and document the competencies and experience of personnel in contact with the processor according to <u>I-16</u>; • assess whether the processor provides sufficient guarantees, in particular in terms of expert knowledge, reliability and resources, to implement technical and organisational measures allowing the entity to meet these certification criteria. • identify and analyse the risks related to the use of the processor according to <u>II-f-1</u> and perform a DPIA according to <u>II-f-6</u> and <u>II-f-7</u>, if applicable; • establish and put in place a risk treatment plan for each identified risk according to <u>II-f-2</u>; • ensure that the organisational and technical measures defined in the validated risk treatment plan are correctly implemented and documented according to <u>II-f-3</u>; • perform audits of the processor's activities in the context of the processing activities in scope as well as the follow-up on those audits according to <u>II-f-4</u> and <u>II-f-5</u>.
II-f-9	<p>Contract / legal act under Union or Member State law</p> <p>(GDPR Article 28)</p> <p>(Recital 81)</p>	<p>For each processing activity in scope, where the entity uses a processor, it has a written (including in electronic form) contract / legal act under Union or Luxembourgish law in place that fulfils at least the following requirements for the processor:</p> <ul style="list-style-type: none"> • The contract shall set out the subject matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects and the obligations and rights of the entity. • The processor processes the personal data only on documented instructions from the entity, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by Union or Luxembourgish law to which the processor is subject. In such a case, the processor shall inform the entity of that legal requirement before starting the processing, unless that law prohibits such information on important grounds of public interest. • The processor ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality. • The processor takes all measures required to ensure secure processing. Those measures shall at least ensure the same level of security that is required of the entity itself (please refer to the security requirements in subsection II-e). • The processor does not engage another processor without prior specific or general written authorisation of the entity. In case of general written authorisation, the processor shall inform the entity of any intended changes concerning the addition or replacement of other processors, thereby giving the entity the opportunity to object to such changes. Where a processor engages another processor for carrying out specific processing activities on behalf of the entity, the same data protection obligations as set out in the contract or other legal act between the entity and the processor shall be imposed on that other processor by way of a contract or other legal act under Union or Luxembourgish law, in particular providing guarantees to implement technical and organisational measures in such a manner that the processing will meet the requirements of GDPR. • The processor, taking into account the nature of the processing, assists the entity by technical and organisational measures, insofar as this is possible, for the fulfilment of the entity's obligation to respond to requests for exercising the data subject's rights.

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		<ul style="list-style-type: none"> The processor assists the entity in ensuring compliance with his obligations pursuant to articles 32 to 36 of the GDPR taking into account the nature of processing and the information available to the processor. At the choice of the entity the processor deletes or returns all the personal data to the entity after the end of the provision of services relating to processing, and deletes existing copies unless Union or Luxembourgish law requires storage of the personal data. The processor makes available to the entity all information necessary to demonstrate compliance with the obligations and allows for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller.
II-f-10	<p>Policies and procedures (outsourcing relationship)</p> <p>(GDPR Article 28)</p> <p>(Recital 81)</p>	<p>The contractual provisions mentioned in <u>II-f-9</u> are supported by shared policies and procedures validated by both parties that establish in more detail how the contractual elements are implemented, executed and monitored in practice.</p> <p>In addition to the contractual points mentioned above, those policies and procedures shall also include at least the following elements in detail:</p> <ul style="list-style-type: none"> Distribution of roles and responsibilities on both sides, including contact information for specific situations; Data subjects' rights request management; Data breach management; Data protection awareness training programmes; Data retention periods. <p>The entity has performed a detailed and documented assessment to ensure that those policies and procedures allow the entity to be compliant with these certification criteria. The entity has taken into account the formal opinion of its DPO on the content of these policies and procedures and the entity's management as well as the management of the processor has formally validated them.</p> <p>The review procedure follows the rules set out in <u>I-3</u> with the addition that the policies and procedures are validated by both parties of the contract.</p>
II-f-11	<p>Monitoring</p> <p>(GDPR Article 28)</p> <p>(Recital 81)</p>	<p>For each processing activity in scope, where the entity uses a processor, it has defined audit / monitoring procedures that ensure at least annually that contractual arrangements regarding data protection are satisfied.</p> <p>For each processing activity in scope, the entity ensures that an independent audit of the correct implementation of the contractual obligations take place.</p> <p>These audits are performed by independent internal or external auditors, at least on an annual basis or when changes occur. The entity, together with the processor and the DPO, has established rules to define the type of changes triggering an audit.</p> <p>The auditors shall establish an audit plan covering 3 years. The method used shall be documented and shall include detailed information about planning requirements, responsibilities and reporting lines, sampling methods used, reporting, audit scope definition, the definition of audit criteria, documentation and audit report.</p> <p>The resulting audit report shall be communicated to the entities management as well as the DPO.</p> <p>The entity shall perform an evaluation of the nonconformities discovered during the audit in order to identify their cause(s) and to assess their impact on the processing activities in scope (as well as the personal data concerned) as well as on the contractual agreement. The entity shall then ensure that those nonconformities are corrected in a timely manner by the processor and review the effectiveness of the corrective action taken.</p>



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This process is documented in detail and the entity takes into account the formal opinion of its DPO. The entity's management shall validate the corrective actions taken.



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SECTION III: PRINCIPLES RELATING TO PROCESSING OF PERSONAL DATA (PROCESSOR)

Ref.	Label	Description
Contracts between processor and controller / between sub-processor and processor		
III-1	Contract / legal act under Union or Member State law (GDPR Articles 28, 29) (Recital 81)	<p>The entity has a written (including in electronic form) contract or legal act under Union or Luxembourgish law with each contractual partner (i.e. controller or processor) that is binding on the entity with regard to the contractual partner and that sets out:</p> <ul style="list-style-type: none"> the subject-matter and duration of the processing in scope, the nature and purpose of this processing, the type of personal data and categories of data subjects, and the obligations and rights of the contractual partner as well as the controller. <p>It stipulates that the entity:</p> <ul style="list-style-type: none"> processes the personal data only on documented instructions from the contractual partner (formally validated and authorised by the controller in case the contractual partner is not the controller), including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by Union or Luxembourgish law to which the entity is subject. In such a case, the entity shall inform the contractual partner of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest; ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality; takes all measures required to ensure secure processing; does not engage another processor without prior specific or general written authorisation of the contractual partner and the controller. In the case of general written authorisation, the entity shall inform the contractual partner of any intended changes concerning the addition or replacement of other processors, thereby giving the contractual partner and the controller the opportunity to object to such changes. Where the entity engages another processor for carrying out specific processing activities on behalf of the contractual partner, the same data protection obligations as set out in the contract or other legal act between the contractual partner and the entity shall be imposed on that other processor by way of a contract or other legal act under Union or Luxembourgish law, in particular providing guarantees to implement technical and organisational measures in such a manner that the processing will meet the requirements of GDPR; taking into account the nature of the processing, assists the contractual partner by technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights; assists the contractual partner and the controller in ensuring compliance with his obligations pursuant to articles 32 to 36 of the GDPR taking into account the nature of processing and the information available to the entity;

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			<ul style="list-style-type: none"> at the choice of the controller, deletes or returns all the personal data to the contractual partner or the controller after the end of the provision of services relating to processing, and deletes existing copies unless Union or Luxembourgish law requires storage of the personal data; makes available to the contractual partner all information necessary to demonstrate compliance with the obligations and allows for and contribute to audits, including inspections, conducted by the contractual partner or the controller or another auditor mandated by either of them.
III-2	Policies and procedures (outsourcing relationship)	and	<p>The contractual provisions mentioned in <u>III-1</u> are supported by shared policies and procedures validated by both parties that establish in more detail how the contractual elements are implemented, executed and monitored in practice.</p> <p>In addition to the contractual points mentioned above, those policies and procedures shall also include at least the following elements in detail:</p> <ul style="list-style-type: none"> Distribution of roles and responsibilities on both sides, including contact information for specific situations; Data subjects' rights request management; Data breach management; Data protection awareness training programmes; Data retention periods. <p>The entity has performed a detailed and documented assessment to ensure that those policies and procedures allow the entity to be compliant with these certification criteria. The entity has taken into account the formal opinion of its DPO on the content of these policies and procedures and the entity's management as well as the management of the processor has formally validated them.</p> <p>The review procedure follows the rules set out in requirement <u>I-3</u> with the addition that the policies and procedures are validated by both parties of the contract.</p>
III-3	Limitation of processing documented instructions (GDPR Articles 28, 29) (Recital 81)	of to	<p>For each processing activity in scope, the entity has documented and implemented measures to ensure that processing of personal data for its contractual partner is limited to the processing activity defined in the documented instructions from the latter, including with regard to transfers of personal data to a third country or an international organisation, unless required to do otherwise by Union or Luxembourgish law to which the entity is subject. In the latter case, the entity has documented this legal obligation and has informed the contractual partner of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.</p> <p>The entity shall perform a review at least on an annual basis or when changes impacting the processing activity occur (e.g. changes in the documented instructions, changes in technology, changes in the legal framework, etc.). During this review, the entity shall formally assess whether the processing performed corresponds to the documented instruction received by the controller or the contractual partner (authorised and validated by the controller).</p> <p>In case the processing performed by the entity does not match the documented instructions, the entity documents the reasons for this in detail (e.g. applicable law(s), etc.).</p> <p>In case the entity did not follow the documented instructions without a valid reason such as a legal requirement, the entity shall identify the cause of the infringement and correct it in a timely manner.</p>

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		<p>The entity shall take into account the opinion of the DPO. The review has been formally validated by the entity's management.</p> <p>The entity shall provide the contractual partner with a report of this review (excluding exceptions mentioned in <u>III-4</u>, if applicable).</p>
III-4	<p>Processing without instructions</p> <p>(GDPR Articles 28, 29)</p> <p>(Recital 81)</p>	<p>For each processing activity in scope, the entity informs the contractual partner in case of a legal obligation to process, without prior instructions from the controller or the contractual partner, the controller's data (unless prohibited by law on important grounds of public interest).</p> <p>This information is provided to the contractual partner:</p> <ul style="list-style-type: none"> • prior to the implementation of the processing activity; • at least on an annual basis; • prior to a change in the applicable legal framework. <p>In case the entity does not inform the contractual partner, it has identified and assessed the applicable law on important grounds of public interest.</p> <p>The entity has taken into account the formal opinion of its DPO. The assessment has been formally validated by the management of the entity.</p>
Security		
III-5	<p>Risk analysis</p> <p>(GDPR Article 32)</p> <p>(Recitals 39, 75 – 79, 83)</p>	<p>For each processing activity in scope, the entity has defined and implemented measures to identify, to analyse and to categorise risks to confidentiality, integrity, availability and resilience of personal data (e.g. accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed). The entity pays particular attention to special categories of data when performing its risk analysis.</p> <p>This formal assessment includes an analysis of the potential impact and probability of each identified risk to the rights and freedoms of the data subjects (e.g. physical, material, or non-material damage, loss of control over their personal data, limitation of their rights, discrimination, identity theft or fraud, financial loss, unauthorised reversal of pseudonymisation, damage to reputation, and loss of confidentiality of personal data protected by professional secrecy, significant economic or social disadvantage to concerned data subjects, etc.) and is based on a method chosen or established by the entity and validated by the contractual partner / controller to ensure consistent and meaningful results. The entity has documented this method and the procedure to be followed when performing the risk analysis.</p> <p>For this assessment, the entity shall take into account among others the input of the contractual partner / controller, the record of processing activities (<u>I-5</u>), the inventory and the data flow diagram (<u>I-0</u>) of the processing activities in scope.</p> <p>Furthermore, the entity considers at least the following elements when performing this risk analysis:</p> <ul style="list-style-type: none"> • Organizational security elements: <ul style="list-style-type: none"> ○ Security management: security policies and procedures for the protection of personal data, roles and responsibilities, access control policy, resource / asset management, change management, data processors ○ Incident response and business continuity: handling of incidents / personal data breaches, business continuity / disaster recovery ○ Human resources: confidentiality of personnel, training

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		<ul style="list-style-type: none"> Technical security elements: <ul style="list-style-type: none"> access control and authentication Logging and monitoring Security of data at rest: server / database security, workstation security Network / communication security Back-ups Mobile / portable devices Application lifecycle security Data deletion / disposal Physical security <p>The entity reviews on a regular basis and at least annually or when significant changes impacting the processing activity occur, this assessment. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the risk analysis. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>This review is documented and its outcome is validated by the entity's management. In case the entity chooses not to follow the opinion of its DPO it shall include its decision as well as the reasons for doing so in the documentation of the review.</p> <p>The entity will provide the contractual partner with this assessment at least on an annual basis.</p>
III-6	<p>Risk treatment</p> <p>(GDPR Article 32)</p> <p>(Recitals 39, 75 – 79, 83)</p>	<p>For each processing activity in scope, the entity has defined and implemented policies and procedures to establish and put in place a risk treatment plan for each identified risk to personal data as well as for each identified risk to the rights and freedoms of the data subjects (please refer to III-5).</p> <p>This risk treatment plan shall be documented in detail and shall be established and carried out according to a documented method. This method shall include risk treatment strategies allowing to mitigate, to reduce or to avoid the identified risks. In case the entity chooses to accept a risk or a residual risk, it clearly documents this in the risk treatment plan and includes the reasons for doing so. This must be explicitly validated by the contractual partner.</p> <p>The entity shall describe in detail what technical and organisational measures it implemented to address the identified risk(s) including elements such as frequency of controls, person / function carrying out / overseeing controls, target / threshold for the control to be successful, required documentation of the control, etc. The entity shall evaluate the effectiveness of the design of those measures.</p> <p>The entity considers at least the following technical and organisational measures:</p> <ul style="list-style-type: none"> Organizational security elements: <ul style="list-style-type: none"> Security management: <ul style="list-style-type: none"> Security policies and procedures for the protection of personal data (e.g. revision, communication, validation, etc.) Roles and responsibilities (e.g. definition and allocation, avoidance of conflicts of interest, etc.) Access control policy (e.g. role-based access, need to know principle, four-eyes-principle, etc.) – Furthermore, the entity shall ensure that any

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- natural or legal person acting under its authority, who has access to personal data, does not process them except on instructions from the entity, unless he or she is required to do so under Union or Luxembourgish law.
- Resource / asset management (e.g. inventory of software / hardware / networks, revision of these inventories, access, etc.)
 - Change management (e.g. monitoring of changes, separate testing environment, use of dummy data while testing, change policy, etc.)
 - Data processors (see also sections regarding the use of data processors)
 - Incident response and business continuity:
 - Handling of incidents / personal data breaches (e.g. incident response plan, reporting of personal data breaches, documentation, etc.)
 - Business continuity / disaster recovery (e.g. detailed documentation, testing, roles & responsibilities, etc.)
 - Human resources:
 - Confidentiality of personnel (e.g. confidentiality / non-disclosure agreements, etc.)
 - Training (e.g. training programmes / plans, etc.)
 - Technical security elements:
 - Access control and authentication (e.g. user access management, password management, management of privileged users, review of user access rights, avoidance of generic users, etc.)
 - Logging and monitoring (e.g. logging of view / modification / deletion, protection of log files, timestamps, logging of system administrator actions, logging of access to log files, etc.)
 - Security of data at rest:
 - Server / database security (e.g. encryption, pseudonomization, etc.)
 - Workstation security (e.g. anti-virus, session time-outs, installation of security updates, external storage devices, encryption, etc.)
 - Network / communication security (e.g. encryption, remote access management, traffic monitoring, firewalls / Intrusion Detection Systems, etc.)
 - Back-ups (e.g. back-up strategy, monitoring, location of and access to back-up media, back-up media, back-up recovery testing, encryption, etc.)
 - Mobile / portable devices (e.g. access control procedures, encryption, secure software containers to separate private and business use, remote erasure, etc.)
 - Application lifecycle security (e.g. use of secure coding standards, vulnerability assessment / periodic penetration testing, software patching, etc.)
 - Data deletion / disposal (e.g. physical destruction, use of a data processor, etc.)
 - Physical security (e.g. IT system infrastructure, access controls, UPS, fire / water protection, etc.)
- The entity:
- defines this risk treatment plan before implementing new processing activities;
 - reviews the effectiveness of this plan at least on an annual basis or when changes impacting the risk evaluation occur and adapts the risk treatment plan if necessary. The entity shall define and implement procedures to assess the

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		<p>effectiveness of the risk treatment plan. This assessment shall take into account at least the following factors:</p> <ul style="list-style-type: none"> the results / conclusions of controls performed referenced in criteria III-7 to III-9; lead indicators allowing the entity to measure the plan's effectiveness (e.g. including data on data breaches identified related to the processing activities in scope, on incidents detected during the controls performed, incidents handled vs. open incidents, etc.); <p>Furthermore, the entity shall take into account any changes of the following factors when assessing the effectiveness of its risk treatment plan:</p> <ul style="list-style-type: none"> risk and risk level changes (III-5); changes in the nature scope, context and purposes of the processing activity; changes in the applicable regulatory framework; changes in the entity's structure (internal as well as external in case of outsourcing etc.); changes in the technology(ies) used for the processing activity; changes concerning persons (e.g. responsibilities, functions, etc.) involved in the processing activity. <ul style="list-style-type: none"> takes into account the formal opinion of the DPO. <p>The entity's management as well as the contractual partner formally validate the risk treatment plan.</p>
III-7	<p>Documented implementation of organisational and technical measures (GDPR Article 32)</p> <p>(Recitals 39, 75 – 79, 83)</p>	<p>For each processing activity in scope, the entity has implemented the operational and technical measures documented in the validated risk treatment plan (please refer to III-6).</p> <p>The entity ensures that the performance of the implemented measures is documented in detail.</p> <p>On a daily basis, reports on controls performed and security incidents related to the processing activities in scope are provided to the persons within the entity that are involved in the processing activity and to the DPO and the entity's management. The entity also provides the contractual partner with a report on a regular basis (as defined by the contract but at least on a weekly basis).</p>
III-8	<p>Audit (GDPR Article 32)</p> <p>(Recitals 39, 75 – 79, 83)</p>	<p>For each processing activity in scope, the entity ensures that an independent audit of the effectiveness of the design and implementation of the technical and organizational measures ensuring secure processing of personal data take place.</p> <p>The DPO shall be involved in all stages of the audit planning and execution. The entity decides together with the contractual partner the involvement of the latter in the different stages of this audit. These audits are performed by independent internal or external auditors, at least on an annual basis or when changes occur. The entity, together with the DPO has established rules to define the type of changes triggering an audit.</p> <p>The auditors shall establish together with the DPO an audit plan covering 3 years and based among others on the record of processing activities, the inventory and the data flow diagram of processing activities, the risk analysis and the validated risk treatment plan as well as the precedent audits performed (including all discovered nonconformities).</p> <p>The audit plan shall be based on a documented method which shall include elements such as a detailed information about planning requirements, responsibilities and reporting lines, sampling methods used, testing frequency over the year, reporting,</p>

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		<p>audit scope definition, the definition of audit criteria, documentation and audit report as well as the follow-up on nonconformities.</p> <p>The results of these audits shall be communicated in the form of a report to the highest level of management as well as to the contractual partner.</p>
III-9	Follow-up on audits	<p>The entity shall perform an evaluation of the nonconformities discovered during the audit in order to identify their cause(s) and to assess their impact on the processing activities in scope (as well as the personal data concerned). The entity shall then correct those nonconformities in a timely manner and review the effectiveness of the corrective action taken.</p> <p>This process is documented in detail and the entity takes into account the formal opinion of its DPO. The entity's management shall validate the corrective actions taken and provide a report to the contractual partner.</p>
Subcontracting		
III-10	Assessment of sufficiency (GDPR Article 28) (Recital 81)	<p>For each processing activity in scope where the entity uses a processor, the entity shall perform the following prior and during the engagement of that processor:</p> <ul style="list-style-type: none"> define and document the competencies and experience of personnel in contact with the processor according to <u>I-17</u>; assess whether the processor provides sufficient guarantees, in particular in terms of expert knowledge, reliability and resources, to implement technical and organisational measures allowing the entity to meet these certification criteria. identify and analyse the risks related to the use of the processor according to <u>III-5</u>; establish and put in place a risk treatment plan for each identified risk according to <u>III-6</u>; ensure that the organisational and technical measures defined in the validated risk treatment plan are correctly implemented and documented according to <u>III-7</u>; perform audits of the processor's activities in the context of the processing activities in scope as well as the follow-up on those audits according to <u>III-8</u> and <u>III-9</u>.
III-11	Subcontracting (GDPR Article 28) (Recital 81)	<p>For each processing activity in scope for which the entity intends to subcontract the processing activity, entirely or partially, to another processor, the entity has formally assessed that the subcontracted processor offers the same level of guarantees that the entity provides to its contractual partner. This assessment takes into account the opinion of the DPO. The management has validated this assessment and provided it to the contractual partner of the entity, including information on the location(s) of the processor, the processing activities they will be carrying out and on any safeguards and measures to be implemented. The entity has implemented measures to ensure that:</p> <ul style="list-style-type: none"> it obtains prior written authorisation from the contractual partner as well as the controller if the contractual partner is not the controller; in case a general authorisation is in place, it informs all contractual partners about the new subcontracting and provide them with opportunity to refuse it. <p>The entity has put in place a contract that ensures the same obligations in regards to data protection requirements than with its initiating contractual partner.</p>
Transfer of personal data to third countries (when applicable)		

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<p>III-12 Third countries (GDPR Article 46) (Recitals 105, 108, 109, 110, 114)</p>	<p>For each processing activity in scope that involves a transfer of personal data to third countries, the entity has formally assessed whether mechanisms are in place or need to be implemented to ensure compliance with the GDPR (see mechanisms below).</p> <p>The assessment shall include an analysis of all possible available transfer mechanisms and their suitability with regard to the processing activity in scope respecting the provisions of chapter V of the GDPR. During this assessment, at least the following factors need to be considered:</p> <ul style="list-style-type: none"> • Taking into account the nature, scope, context and purpose of the processing activity in scope, the entity shall assess which of those mechanisms is best suited to protect the rights and freedoms of the data subjects whose data is concerned by a transfer (e.g. specific safeguards, level of protection of personal data, ease of the exercise of data subjects' rights, etc.); • The entity shall assess what the risks of using each of those mechanisms are and how they can be avoided / mitigated (e.g. mitigation of risks in case there are any provisions in the law of the country of the data importer that might reduce the effectiveness of the organisational / technical measures to protect personal data transferred, etc.); • The entity shall take into account CJEU judgments regarding the topic of transfers and mechanisms as well as EDPB guidelines when analysing those mechanisms. <p>The entity has taken into account the formal opinion of its DPO on the content of this assessment and the entity's management has formally validated this assessment.</p> <p>In case this assessment concludes that a mechanism needs to be implemented, the entity's management shall supervise this implementation supported by its DPO.</p> <p>Mechanisms not requiring any specific authorisation from a supervisory authority:</p> <ul style="list-style-type: none"> • an adequacy decision from the Commission; • a legally binding and enforceable instrument between public authorities or bodies; • binding corporate rules in accordance with Article 47 of the GDPR; • standard data protection clauses adopted by the Commission in accordance with the examination procedure referred to in Article 93(2) of the GDPR; • standard data protection clauses adopted by a supervisory authority and approved by the Commission pursuant to the examination procedure referred to in Article 93(2) of the GDPR; • an approved code of conduct pursuant to Article 40 of the GDPR together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights; or • an approved certification mechanism pursuant to Article 42 of the GDPR together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards, including as regards data subjects' rights. <p>Mechanisms subject to the authorisation from a competent supervisory authority:</p> <ul style="list-style-type: none"> • contractual clauses between the controller or processor and the controller, processor or the recipient of the personal data in the third country or international organization; or • provisions to be inserted into administrative arrangements between public authorities or bodies which include enforceable and effective data subject rights.
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		<p>The entity shall inform the data controller of this assessment before starting the processing activity. The choice of a mechanism shall be subject to the opinion of the DPO and shall be validated by the data controller before the processing activity starts.</p> <p>The entity reviews on a regular basis and at least annually or when significant changes in the data privacy landscape of the entity occur, the validity of the mechanism chosen for the data processing activities in scope. The entity takes into account the formal opinion of its DPO.</p> <p>For this review, the entity has implemented a documented method ensuring that it took into account all factors likely to influence the validity of the chosen mechanism. Such factors can be external or internal and include among others changes in the applicable regulatory framework, changes in the entity's structure such as outsourcing, organisational or technical changes, etc.</p> <p>Applying the above-mentioned method the reviewer checks whether the chosen mechanism is still valid.</p> <p>This review is documented and its outcome is validated by the entity's management as well as the controller.</p>
End of the provision of services relating to processing		
III-13	Return / deletion of data (GDPR Article 28) (Recital 81)	<p>The entity, together with the contractual partner, has established and implemented procedures to ensure, at the request of the controller, to delete or to return all the personal data to the controller after the end of the provision of services relating to processing, and to delete existing copies unless Union or Luxembourgish law requires storage of the personal data.</p>