The Dispute Resolution Review

Ninth Edition

Editor
Damian Taylor

Law Business Research

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THE LAW REVIEWS

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THE PRIVATE COMPETITION ENFORCEMENT REVIEW

THE DISPUTE RESOLUTION REVIEW

THE EMPLOYMENT LAW REVIEW

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EDITOR'S PREFACE

The Dispute Resolution Review provides an indispensable overview of the civil court systems of 40 jurisdictions. I am delighted to take over as editor of this work from Jonathan Cotton of Slaughter and May, and would like to thank him for his valuable contribution to its development over his tenure as editor.

The Dispute Resolution Review offers a guide to those who are faced with disputes that frequently cross international boundaries. As is often the way in law, difficult and complex problems can be solved in a number of ways, and this edition demonstrates that there are many different ways to organise and operate a legal system successfully. At the same time, common problems often submit to common solutions, and the curious practitioner is likely to discover that many of the solutions adopted abroad are not so different to those closer to home.

This ninth edition follows the pattern of previous editions where leading practitioners in each jurisdiction set out an easily accessible guide to the key aspects of each jurisdiction's dispute resolution rules and practice, and developments over the past 12 months. *The Dispute Resolution Review* is also forward-looking, and the contributors offer their views on the likely future developments in each jurisdiction. Collectively, the chapters illustrate the continually evolving legal landscape, responsive to both global and local developments.

I first began working on this publication in 2008 as a contributor during the early stages of the global financial crisis. At that point, there was much uncertainty about how the then financial world order would change and what that meant for disputes practices. Many predicted a surge in disputes as companies tightened their belts and fought more keenly over diminishing assets. Certainly, in my home jurisdiction – England and Wales – the commercial courts have been extremely busy. Since then we have seen green shoots of recovery followed by new crises both within the eurozone and globally, such as the more recent sharp fall in oil prices and consequential increase in disputes in the energy sector.

2016 may be seen as yet another benchmark year. Two major events have shaken investor confidence and are likely to have an impact on the legal profession for years to come. The UK's vote to leave the EU has created considerable uncertainty in the region, and Donald Trump's election as the US president is likely to affect the global international community. The special Brexit chapter in this edition explores some of the key issues that will form part of the UK–EU negotiations likely to commence this year. A top priority for disputes lawyers

in the region will be whether there will continue to be mutual recognition of judgments across Europe. How will this affect London as a popular global centre for dispute resolution? No one knows the answer to these issues, but what is certain is that clients and practitioners across the globe are likely to continue to face novel and challenging problems. *The Dispute Resolution Review* aims to shine a light on where to find the answer.

Finally, I would like to express my gratitude to all of the contributors from all of the jurisdictions represented in *The Dispute Resolution Review*. Their biographies start at page 629 and highlight the wealth of experience and learning from which we are fortunate enough to benefit. I would also like to thank the whole team at Law Business Research who have excelled in managing a project of this size and scope, in getting it delivered on time and in adding a professional look and finish to the contributions.

Damian Taylor
Slaughter and May
London
January 2017

Chapter 26

LUXEMBOURG

Michel Molitor[1]

I INTRODUCTION TO THE DISPUTE RESOLUTION FRAMEWORK

i Structure of the law

Luxembourg's legal system is based on the civil law tradition.

The sources of law are international treaties, European Union law, the Constitution, national statutes and regulations, and general principles of law.

Case law

National case law

Theoretically, judges are not bound by precedent; each decision must be confined to the particular case. In practice, however, earlier court decisions in comparable cases will be seriously considered. This is particularly the case where a statute is unclear or lacunar, which gives judges the opportunity to make law through interpretation.

European case law

The case law of the Court of Justice of the European Union affects the case law of Member States. Luxembourg is a Member State and, by virtue of Article 267 of the Treaty on the Functioning of the European Union, Luxembourg courts may request a preliminary ruling from the Court of Justice of the European Union in cases where the interpretation of EU treaties, or the validity and interpretation of acts of EU institutions, bodies, offices or agencies is raised.

1 Michel Molitor is the managing partner at MOLITOR Avocats à la Cour.

ii Structure of the courts

Civil law proceedings in Luxembourg are conducted, at the first level, in the district courts (there are two districts courts, one in Luxembourg-Ville and the other in Diekirch), which have jurisdiction in all civil and commercial matters for which the law does not confer jurisdiction on a specific specialised court.

Examples of such courts are:

a magistrates' courts (there are three of them, one in Luxembourg-Ville, one in Diekirch, and one in Esch-sur-Alzette) hear claims under €10,000, and cases concerning employment and lease contracts; and

b the Insurance Arbitration Council hears all disputes relating to the national insurance system (problems of affiliation, qualification to receive pensions, contributions, administrative fines, etc.).

There are no dedicated courts for commercial matters; these are dealt with by specialised divisions of the district courts.

Appeals are generally brought before the Court of Appeal. By way of exception, appeals against decisions rendered by magistrates are heard before the district courts, except for cases related to employment that remain within the scope of the Court of Appeal.

After appeal, if a party still wishes to challenge a legal point, other than on the facts, the case can be brought before the Court of Cassation in the last instance.

iii Structure of alternative dispute resolution procedures

Alternative dispute resolution such as arbitration and mediation have been generating interest in Luxembourg for some years. In particular the Centre for Civil and Commercial Mediation[2] has been very active in promoting mediation in Luxembourg. Specific legislation concerning civil and commercial mediation was introduced in Luxembourg in February 2012.

The Luxembourg New Civil Procedure Code (NCPC) provides for rules on arbitration. Luxembourg has also ratified international agreements regarding arbitration, and in particular the United Nations Convention (the New York Convention).

II THE YEAR IN REVIEW

The 'LuxLeaks' trial has captured much attention this year. The proceedings were held between 26 April and 4 May 2016 before the Twelfth Chamber of the District Court of Luxembourg sitting in criminal matters. As a result of these days of trial, the court, in a judgement of 29 June 2016, ruled against the two main defendants, namely Mr Antoine Deltour and Mr Raphaël Halet, two former employees of a major Luxembourg-based audit firm. The defendants were prosecuted for having disclosed and distributed confidential documents to the press related to preferential tax treatment afforded to multinational companies in Luxembourg. The judgement issued on 29 June 2016 found the two defendants guilty of theft, computer fraud, breach of professional secrecy, breach of trade secrets and laundering. While the defendants were expecting that disclosure of bad or dubious practices would have allowed them to avoid conviction, the court considered that several provisions of the Criminal

2 www.cmcc.lu/node/1.

Code were clearly violated. However, the court acknowledged that the employees had acted in the general interest by disclosing morally questionable fiscal optimisation practices (the 'tax rulings'), which has led to greater transparency in EU tax matters. Accordingly, the defendants only received a €1,000–€1,500 fine and a 9–12 months conditional sentence. Notwithstanding the rather symbolic nature of the penalty, the defendants appealed against this decision. Appeal proceedings were opened on 12 December 2016. If some hope that the Court of Appeal will override the judgement of 29 June 2016 and fill the gap of the lack of protection granted to whistle-blowers under Luxembourg law, there has been no indication to date that this decision will not be upheld.

Some interesting legislative developments should also be stressed. On 17 February 2016, the legislator enacted a new law to promote out-of-court settlement of consumer disputes. This law applies to disputes arising from sales or service contracts between a trader established in Luxembourg and a consumer residing in the EU (including Luxembourg), and transposes Directive 2013/11/EU obliging EU Member States to create alternative dispute resolution (ADR) entities for consumer disputes. It creates a new body, the Consumer Ombudsman, which will serve as a point of information on the ADR procedure for consumer disputes and receive all consumer ADR complaints.

In addition, the Law of 10 August 2016 amending the Law of 15 August 1915 on commercial companies has changed certain minority shareholders' rights. Minority shareholders representing at least 10 per cent of the share capital (or holding 10 per cent of voting rights) have the right to ask questions to the board of directors, in written form, in relation to the company's management operations. In the absence of an answer from the board of directors within one month, such minority shareholders may request the president of the district court (sitting in commercial matters) in the form of interlocutory proceedings to appoint one or several experts who will be asked to prepare a report on the operations subject to the minority shareholders' question. In addition, minority shareholders may bring proceedings on behalf of the company against those directors (or the board of directors and the supervisory board) who have acted negligently. The threshold for starting this action is 10 per cent of the voting rights in the annual general meeting resolving on the discharge of the directors. Finally, a new regime governing the annulment of the resolutions adopted at the general meeting of the shareholders has been introduced by the Law of 10 August 2016. From now on, any action for the annulment of such resolutions must be introduced within six months of the date of the adoption of the resolutions concerned.

III COURT PROCEDURE

i Overview of court procedure

The main rules governing court procedure are laid down by the NCPC. First instance civil proceedings and proceedings before the Court of Appeal differ from first instance commercial proceedings and proceedings before magistrates.

ii Procedures and time frames

The main stages in court proceedings are as follows.

Before the district court (in civil matters) and the Court of Appeal:

a issue of a writ served on the defendant by a bailiff;

b exchange of written statements between lawyers and disclosure of documents, exchange of witness and expert evidence in some cases;
c closing of the investigation;
d trial; and
e handing down of the judgment.

Before the district court (in commercial matters) and magistrates:
a issue of a summons to the defendant by a bailiff or by the clerk of the court, depending on the type of case;
b court hearing of the parties or of their representatives; and
c handing down of the judgment.

As a principle, judges strive to provide strict guidance on the time frames for the exchange of written statements, documents and expert evidence. This is done by issuing written notices or by calling parties before case management hearings where the progress of the case is assessed.

It is difficult to estimate the average duration of civil proceedings as it varies depending on the number of parties involved, the complexity of the matter and whether it is pending in front of first instance courts or on appeal.

iii Class actions

Class actions are not allowed under Luxembourg law.

However, professional groups or associations representing a particular interest are entitled to take legal action before the courts for collective damage. The admissibility of claims brought by these groups and associations will be subject to evidence that the legal action is motivated by a specific corporate interest and benefits all the members of the group. But if the claimed interest corresponds to the general interest, the legal action is in principle declared inadmissible.

iv Representation in proceedings

Representation by a lawyer who is a member of the Luxembourg Bar is compulsory before the district court (with some exceptions, such as in commercial proceedings) and before the Court of Appeal, whereas parties can appear before the magistrates either in person or through a representative, who might be a lawyer, spouse, parent, etc.

v Service out of the jurisdiction

The following rules apply to service out of the jurisdiction regardless of whether the recipient is an individual or a corporate entity.

If a document (a writ of summons or a judgment) related to a civil or commercial matter needs to be served in another EU Member State, the applicable rules are those in EU Regulation No. 1393/2007 of the European Parliament and of the Council of 13 November 2007 on the service in the Member States of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Service of Documents), and repealing Council Regulation (EC) No. 1348/2000.

This Regulation provides for different ways of transmitting and serving documents: transmission through transmitting and receiving agencies, transmission by consular or diplomatic channels, service by postal services and direct service. Transmitting agencies, determined by each Member State (the bailiff and the court clerk in Luxembourg), effect

the transmission of judicial or extrajudicial documents to be served in another Member State. Receiving agencies, determined by each Member State (the bailiff in Luxembourg), are competent to receive judicial or extrajudicial documents from another Member State.

Luxembourg is also party to the Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. This Convention provides that each party must designate a central authority (the Public Prosecutor of the Superior Court of Justice in Luxembourg) responsible for receiving requests for service arising from a foreign authority or judicial officer (with respect to civil or commercial matters) and dealing with them, as well as supplying information to the transmitting agencies and seeking solutions to any difficulties that may arise during transmission of documents for service.

In the absence of any applicable international provision (EU regulation, international treaty or bilateral convention), the NCPC applies to service abroad. The bailiff sends a copy of the judicial document to the domicile of the recipient by registered letter with acknowledgment of receipt unless the foreign state does not accept this kind of service, in which case the bailiff will require the Ministry of Foreign Affairs to serve it by diplomatic means.

vi Enforcement of foreign judgments

The enforcement in Luxembourg of foreign judgments rendered in a country outside the EU is possible once such judgments are given an enforcement title by the Luxembourg District Court.

As for judgments originating in an EU Member State, Council Regulation (EU) No. 1215/2012 of the European Parliament and the Council of 12 December 2012 on the Jurisdiction, Recognition and Enforcement of Judgments in Civil and Commercial Matters, which came into force on 10 January 2015 and replaces Regulation No. 44/2001, provides for the direct enforcement of judgments throughout the EU by means of a simplified procedure whereby the district court will only check if the required set of documents is complete, without any review of the merits of the case.

vii Assistance to foreign courts

Assistance in the taking of evidence

Council Regulation (EC) No. 1206/2001 of 28 May 2001 is designed to improve, simplify and accelerate cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters .

Under this regulation, any EU court (other than in Denmark) may request the competent court of another Member State to take evidence, or to be allowed to take evidence directly itself. The execution of such a request may be refused if:

a the request does not fall within the scope of Regulation No. 1206/2001 (if, for instance, it concerns criminal and not civil or commercial proceedings);

b the execution of the request does not fall within the functions of the judiciary;

c the request is incomplete;

d a person of whom a hearing has been requested invokes a right to refuse, or a prohibition, from giving evidence; or

e a deposit or advance relating to the costs of consulting an expert has not been made.

Luxembourg is furthermore party to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters. Under this convention, a judicial authority from another contracting state may, in civil or commercial matters, ask the Public Prosecutor of the Luxembourg Superior Court of Justice to obtain evidence.

Assistance in relation to foreign law

Luxembourg is party to the European Convention on Information on Foreign Law of 7 June 1968. This convention obliges the parties to undertake to supply information concerning their law and procedure in civil and commercial fields as well as on their judicial system.

Each contracting state must set up or appoint two bodies: a 'receiving agency', to receive requests for information from another contracting state and to take action on its request (the Ministry of Justice in Luxembourg), and a 'transmitting agency', to receive requests for information from its judicial authorities and to transmit them to the competent foreign receiving agency (again, the Ministry of Justice in Luxembourg).

The requested state may not refuse to take action on the request for information unless its interests are affected by the case that gave rise to the request or if it considers that the reply might prejudice its sovereignty or security.

viii Access to court files

Court hearings are public, meaning that everybody may attend and listen to the trial.

However, third parties are not supposed to have access to the documents on file (i.e., submissions, pleadings and supporting documents).

Judgments dealing with interesting legal issues or particular matters are published in legal journals. Furthermore, in specific areas (for instance, a judgment declaring a company bankrupt), the judgment is published in a local newspaper and made available to the Trade and Companies Register.

ix Litigation funding

It is possible for a third party to finance litigation proceedings in which it is not involved. Depending on the circumstances, this funding could be regarded as a loan or a donation.

When the litigation involves a corporate entity that is part of a group of companies, in practice the entity's fees will be funded by the mother company or by the beneficial owner.

IV LEGAL PRACTICE

i Conflicts of interest and Chinese walls

The law governing the profession of attorney expressly forbids an attorney from assisting or representing parties with conflicting interests.

In addition, the Luxembourg Bar guidelines on conflicts of interest recommend the following:

a refusing multiple mandates if there is a real risk of conflict at a later stage;

b if an attorney has advised several parties at a preliminary stage, he or she should refuse to represent one of them in litigation cases; and

c refusing cases against parties who are regular clients of the attorney.

Rules governing conflicts of interest apply to all attorneys working in the same law firm.

Although not regulated by law and professional regulations, Chinese walls are in practice set up subject to the interested clients' prior approval.

ii Money laundering, proceeds of crime and funds related to terrorism

The Luxembourg law of 12 November 2004 as amended on the Fight Against Money Laundering and Terrorist Financing provides for specific obligations, particularly for lawyers assisting their clients in the context of (1) transactions in respect of buying or selling of real estate or business entities, (2) management of money, securities or other assets, (3) opening or management of a bank or securities account, (4) organisation of contributions necessary for the creation, operation or management of companies, or (5) creation, domiciliation, operation or management of trusts, companies or similar structures.

These obligations are:

a the establishment of adequate and appropriate internal proceedings;

b the identification of the client and the beneficial owner and of the purpose of the business relationship as well as the origin of the funds; and

c cooperation with the Luxembourg authorities in charge of the fight against money laundering and financing of terrorism (mainly, the Bar and the Public Prosecutor), including reporting suspicions. The attorney's professional duty of confidentiality does not apply in this respect.

iii Data protection

Any operation or set of operations whereby personal data is, for example, collected, recorded, organised, stored, retrieved, consulted, used or disclosed by transmission, dissemination or otherwise being made available, including operations performed by lawyers in the normal course of business, are considered as processing of personal data and therefore fall within the scope of the Law of 2 August 2002 on the Protection of Individuals with Regard to the Processing of Personal Data, as amended, and of the Law of 30 May 2005 concerning specific provisions for protection of the individual in respect of the processing of personal data in the electronic communications sector (the Data Protection Law).

The Data Protection Law would therefore apply to a law firm if:

a the data controller is established on Luxembourg territory; or

b the data controller, although not established on Luxembourg territory or in any other Member State of the European Community, uses a means of processing located on Luxembourg territory, with the exception of processing used only for the purposes of transit, regardless of the method used to collect the user data.

In this respect, the data processing of information, which is defined as 'any information of any type regardless of the type of medium, including sound and image, relating to an identified or identifiable natural person' (data subject), must comply with the provisions set out under the Data Protection Law.

The collection of personal data must be performed in a fair and lawful manner in particular for specified, explicit and legitimate purposes and not further processed in a way that is incompatible with those purposes.[3]

3 Articles 4 and 5 of the Data Protection Law.

For a law firm, personal data may be processed in particular if:

a it is necessary for compliance with a legal obligation to which the controller is subject; or

b it is necessary 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.

As a rule, any processing of personal data must be either authorised or notified to the Data Protection Authority (CNPD) beforehand. Some cases are, however, exempted from this obligation, in particular processing operations carried out by lawyers, notaries and process-servers that are necessary to acknowledge, exercise or defend a legal right.[4]

As regards the access and analysis of data, such processing will need to comply with the provisions set out in the Data Protection Law, but will be exempted from the notification obligation to the CNPD (see above).

It is also standard, prior to establishing a client relationship, to:

a inform them about the collection of their data and that they have a right to access it and may ask for a correction if it is inaccurate or incomplete;[5] and

b request their consent via the lawyer's terms and conditions.

As a rule, the transfer of personal data is not restricted within the EU, provided that data subjects are duly informed of such transfer. However, the data controller may not transfer personal data outside the EU to a state that does not offer a sufficient level of protection of individuals' privacy, liberty and fundamental rights with regard to the actual or possible processing of personal data.

By exception to the above, the data controller may transfer personal data to a non-safe country if the data subject has expressly consented to the transfer or if the transfer is necessary for, *inter alia*:

a complying with obligations ensuring the establishment, exercise, or defence of legal claims;

b the performance of a contract between the data controller and the data subject, or of pre-contractual measures taken in response to the data subject's request; or

c the conclusion or performance of a contract, either concluded or to be concluded in the interests of the data subject between the data controller and a third party.

The data controller may also transfer personal data to a non-safe country if duly authorised by the CNPD.

Additional rules on confidentiality may also apply. For example, the Code of Conduct of the Council of Bars and Law Societies of Europe (CCBE) requires that lawyers pay particular attention to their communications with lawyers in another Member State to ensure the confidentiality of the data they intend to transfer.[6]

4 Article 12.2(c) of the Data Protection Law.

5 Articles 26 and 28 of the Data Protection Law.

6 Article 5.3 of the CCBE Code of Conduct.

V DOCUMENTS AND THE PROTECTION OF PRIVILEGE

i Privilege

Unlike in-house lawyers, attorneys and law firms are subject to rules of privilege provided for by Luxembourg law relating to the profession of attorney. As a matter of principle, communications between attorneys and their clients are confidential.

Communications between one Luxembourg attorney and another are also confidential unless otherwise specified or if the communication is by nature non-confidential. Relationships between Luxembourg and non-Luxembourg attorneys are governed by the Code of Conduct for European Lawyers. According to the Code, communications between attorneys are in principle non-confidential unless otherwise expressly specified in a covering letter or at the head of the communication.

ii Production of documents

Any party must evidence the facts on which it bases its claim or its defence. Supporting documents must be communicated to all the parties involved in the litigation as well as to the court.

Depending on the type of case (civil or commercial), the proof must consist of written documents or may also be brought through a witness statement or hearing. Legal presumptions may also apply. In each case, the court itself assesses the credibility of supporting evidence.

If relevant, a court may, either by itself or at the request of one of the parties, appoint an expert responsible for examining documents stored electronically or other technical issues. In relation to documents stored overseas, courts may use mechanisms applicable for assistance in evidence (see above).

A court may also, either by itself or at the request of one of the parties, order a party to the proceedings or a third party to deliver documents considered as relevant.

VI ALTERNATIVES TO LITIGATION

i Arbitration

Arbitration is commonly used in Luxembourg to settle contract and commercial disputes. Owing to the geographical and economic position of the Grand-Duchy, Luxembourg-Ville is more and more often chosen as a seat of arbitration, especially for cross-border disputes arising between parties from neighbouring countries such as France and Germany.

The rules governing arbitration proceedings are mainly provided for by the NCPC. Luxembourg has also ratified international agreements regarding arbitration (including the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, signed in New York on 10 June 1958). In addition, the Luxembourg Chamber of Commerce has its own Arbitration Centre, created in 1987, and has put its Secretariat at the service of parties interested in using arbitration to settle their dispute.

Arbitration can only take place if both parties have agreed. The agreement to arbitrate is made through an arbitration clause included in the contract or, after the performance of the contract, through the conclusion of a written agreement to arbitrate.

According to Article 1224 of the NCPC, a dispute may be submitted to arbitration provided that the issue at stake relates to rights of which parties have free disposal. Therefore, disputes involving family law, criminal law or, more broadly, involving public policy, cannot be subject to arbitration.

There are two kinds of arbitration proceedings in Luxembourg:

a *Ad hoc* arbitration: the parties use arbitration without submitting the proceedings to the rules of any arbitration institution. In this case, the parties and the arbitrators must use time limits and forms required before local courts.[7]

b Institutional arbitration: most often, the parties will agree to use the rules of an established organisation such as the Arbitration Centre at the Luxembourg Chamber of Commerce or the International Court of Arbitration of Paris.

Arbitral awards under Luxembourg law have the same legal effect as a court judgment. However, in order to be enforceable, an arbitral award requires an enforcement order issued by the president of the district court of Luxembourg.

The only possibility to challenge an arbitral award is to take an opposition procedure against the order of the president of the district court to have it declared null and void.

ii Mediation

Specific legislation concerning civil and commercial mediation was introduced in Luxembourg by the Law of 24 February 2012 on the Introduction of Mediation in Civil and Commercial Matters. The Mediation Centre of the Luxembourg Bar (CMBL) was set up on 13 March 2003.

The CMBL can be contacted by any legal entity or individual within the context of their civil, commercial or labour dispute resolution. The mediator is then chosen from a list approved by the CMBL, taking into consideration the nature of the dispute and the wishes of the parties.

At the beginning of the process, the mediator must ensure that the parties sign a mediation agreement in which they undertake to settle their dispute through mediation. The mediation procedure is entirely confidential. The mediator's mission is to help the parties negotiate a solution.

iii Other forms of alternative dispute resolution

Ombudsman

Claims against a public administration body may be submitted to an ombudsman. The ombudsman analyses the claim and issues a recommendation to the public administration body as to whether he or she finds the claim founded.

Settlement agreement

In practice, especially when the outcome of a dispute is not obvious, parties tend to negotiate and enter into out-of-court settlement agreements. These kinds of arrangements are usually confidential. They are very common in labour law cases.

Settlement agreements have the authority of *res judicata*.

7 Article 1230 of the NCPC.

VII OUTLOOK AND CONCLUSIONS

Major developments are expected for data controllers and data processors following the adoption, on April 2016, of the long-awaited European Data Protection Reform, which consists of two legal instruments:

a Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016, as regards the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data; and

b Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation (GDPR)), which reforms and repeals Directive 95/46/EC on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

To facilitate the transition to the GDPR regime, a draft law was recently presented to the Luxembourg parliament. The main aim of the proposal is to simplify the formalities of prior authorisation regarding processing activities for supervision purposes and transfers of personal data to third countries. The draft law is expected to pass quickly.

In view of the new procedures and rights granted to minority shareholders by the recent reform of the Law of 15 August 1915 as modified, there is no doubt that legal practitioners will keep a close eye on the Luxembourg courts' interpretation of these new provisions.

Appendix 1

ABOUT THE AUTHORS

MICHEL MOLITOR

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Michel Molitor, Avocat à la Cour, is the managing partner of MOLITOR Avocats à la Cour and has been a member of the Luxembourg Bar since 1985. His practice areas include dispute resolution and litigation, banking and finance, and employment.

Michel has a law degree from the University of Strasbourg and a PhD in political sciences from the University of Vienna.

He is an active member of the International Bar Association, the Luxembourg Banking Lawyers Association and the Luxembourg Investment Fund Industry Association.

Michel has been listed in *Chambers Europe* where he 'is commended for his expertise, efficiency, reliability and client-focused service'. *The Legal 500* continues to list the firm MOLITOR as a top-tier dispute resolution firm and identifies Michel as a leading individual in this practice area. He is further ranked as a top insurance lawyer in *Who's Who Legal*.

Michel is fluent in English, French, German and Luxembourgish.

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