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Answers by the Luxembourg Ministry of Justice

The following national laws and regulation are applicable in Luxembourg with respect to the protection of personal and electronic data, especially as concerns the context of data retention:

- Amended law of 30 May 2005 laying down specific provisions for the protection of persons with regard to the processing of personal data in the electronic communications sector and amending Articles 88-2 and 88-4 of the Code of Criminal Procedure (*« loi modifiée du 30 mai 2005 relative aux dispositions spécifiques de protection de la personne à l'égard du traitement des données à caractère personnel dans le secteur des communications électroniques et portant modification des articles 88-2 et 88-4 du Code d'instruction criminelle »*);
- Grand-ducal regulation of 24 July 2010 determining the categories of personal data generated or processed in connection with the provision of electronic communications services or public communication networks (*« règlement grand-ducal du 24 juillet 2010 déterminant les catégories de données à caractère personnel générées ou traitées dans le cadre de la fourniture de services de communications électroniques ou de réseaux de communications publics »*);
- Amended law of 05 July 2016 governing the reorganisation of the State Intelligence Service (*« loi modifiée du 05 juillet 2016 portant réorganisation du Service de renseignement de l'Etat »*).

Data retention, and particularly the storage of traffic and location data, is of essential **importance** for national law enforcement, intelligence and judicial authorities in Luxembourg and it is considered a highly valuable tool in combatting and/or preventing serious crime.

As regards, more specifically, the Commission's question on the **policy approaches**, the Luxembourgish government would like to express a preference for the Commission's proposal on **policy approach 3** referring to a regulatory initiative on data retention.

In fact, it is the Luxembourgish government's intention to conform to the ECJ rulings and to adopt national legislation in line with its jurisprudence.

However, since exclusively national solutions may diverge widely among Member States, the first and second policy approaches proposed by the Commission regarding a non-regulatory initiative on data retention may not prove effective or sufficient.

Considering the above and given the impact of the ECJ rulings, the Luxembourgish government therefore supports and is in favour of a **comprehensive legislative solution at the European level**, allowing a new model of retention of traffic and location data for the purposes of combating crime and threats to public and national security.