

Deliberation 2020-060 of June 11, 2020 National Commission for Computing and Liberties Nature of the deliberation:

Authorization Legal status: In force Date of publication on Légifrance: Wednesday August 25, 2021 Deliberation n° 2020-060 of June 11, 2020 authorizing the company PREMIÈRES LIGNES TÉLÉVISION to implement automated processing of personal data for the purpose of a study on geographical variations and by center of the modes of care for dialysis patients in France, entitled "VarGeoDialyse"

(Request for authorization n° 920147)

The National Commission for Computing and Liberties, Seizure by the company PREMIÈRES LIGNES TÉLÉVISION of a request for authorization concerning the automated processing of personal data for the purpose of a study relating to the geographical variations and by center of the modes of care of dialysis patients in France, entitled VarGeoDialyse; Having regard to Convention No. 108 of the Council of Europe for the protection of individuals with regard to automatic processing of personal data; Having regard to Regulation (EU) 2016 /679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC; Law No. 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular Articles 66, 72 and following; Considering Decree No. 2019-536 of May 29, 2019 taken for the application cation of Law No. 78-17 of 6 January 1978 relating to data processing, files and freedoms; Having regard to the opinions of the Expert Committee for research, studies and evaluations in the field of health of 17 February 2020 and April 2, 2020; Considering the file and its supplements; On the proposal of Mrs Valérie PEUGEOT, Commissioner, and after having heard the observations of Mrs Nacima BELKACEM, Government Commissioner, Formulates the following observations: On the controller The Première Lignes Télévision specializes in the production of television programs, and more specifically investigative documentaries. In this capacity, she notably produces the program Cash Investigation for the television channel France 2. For the purposes of a program which will be broadcast during the year 2020, she wishes to access data from the REIN register (Epidemiology and nephrology information) managed by the Biomedicine Agency. On the legality of the processing The processing implemented by the company Première Lignes Télévision is part of its activity of producing investigative documentaries. It is necessary for purposes of the legitimate interests pursued by the controller. As such, the very indirectly identifying nature of the data and the guarantees, particularly in terms of the rights of persons, provided for in the application file are taken into consideration. This processing is, as such, lawful under Article 6 -1-f of the General Data Protection Regulation (hereinafter GDPR). On the

purpose and public interest of the processing The purpose of the processing is to carry out a study on the time limits for access to the kidney transplant waiting list in dialysis establishments in France according to patient profiles and main comorbidities over the period 2012 – 2017. The Committee considers that the purpose of the treatment is determined, explicit and legitimate, in accordance with the Article 5-1-b of the GDPR. It also considers that this processing serves a purpose of public interest, in accordance with Article 66-I of the Data Protection Act. On the nature of the data processed The register data REIN (request for aut 903188) of the Biomedicine Agency will be used in the context of this study. The Commission notes that, according to the 2017 REIN annual report of the Biomedicine Agency, this register aims to describe the incidence and prevalence of replacement therapy for chronic renal failure, the characteristics of the population treated, the methods of management and the quality of dialysis treatment, access to the waiting list and to transplantation as well as that the survival of patients. This register is fed, on the one hand, by the CRISTAL application containing information on kidney transplant patients and, on the other hand, by the DIADEM application which constitutes the tool for collecting information data relating to patients with chronic renal failure treated by dialysis. not benefited from a pre-emptive transplant will be processed using the data collected in the DIADEM application. It notes that the median time for access to the waiting list as well as the average time for access to the waiting list of these patients will be calculated at departmental level and at that of the managing entity (corresponding to an aggregate of centres); each of these delays will be calculated according to the profile of the patients (age – divided into three sections; body mass index – equally divided into three sections; presence or not of diabetes) and the associated comorbidities (cardiovascular diseases, cancers , or progressive hemopathies and their associations). of the GDPR. On information and the rights of individuals Pursuant to Article 69 of the amended Data Protection Act and Article 14-5-b of the GDPR, the obligation to provide individual information to the person concerned may be subject to exceptions where the provision of such information would require disproportionate effort. In such cases, in accordance with the GDPR, the controller takes appropriate measures to protect the rights and freedoms, as well as the legitimate interests of the data subject, including by making the information publicly available. In this case, the Commission takes note that an exception will be made to the principle of individual information for persons and that appropriate measures will be implemented, in particular by the dissemination on the France Télévisions group website of information relating to the research project which must include the all of the information provided for in Article 14 of the GDPR. It notes that this information will be put online as soon as the data has been made available to the data controller by the Biomedicine Agency. The persons concerned will also be informed when distribution of the

documentary. On security measures and traceability of actions The Commission notes that the provision of data cannot can only be made according to one of the following two methods. The provision of data via the Secure Data Access Center (CASD) The data may be made available to the data controller through the Center d secure access to data. The Commission stresses that the transmission of data to the CASD must be carried out by secure means. identification, direct or indirect, of persons is impossible. three criteria defined by Opinion No. 05/2014 on anonymization techniques adopted by the Article 29 group (G29) on April 10, 2014. Failing that, if these three criteria cannot be met, a study of the re-identification risks must be carried out. In this respect, the Commission notes that the analysis of the data will be carried out at different levels: on the one hand, at the departmental level and, on the other hand, at the level of the managing entity. corresponding to an aggregate t healthcare establishments whose number of patients will systematically exceed ten. However, it draws the attention of the data controller to the fact that the deletion of results containing small numbers may not be sufficient to meet the three criteria defined by Opinion No. 05/2014 mentioned above and that a complete analysis of its anonymization processes must be carried out, accompanied by a regular reassessment of the risks of re-identification. The provision of aggregated indicators by the biomedicine In the absence of provision via the CASD, the Commission notes that the Biomedicine Agency may transmit to the data controller the results processed and aggregated according to the methodology appearing in the application file. In this case, the Commission recalls that only data verifying the criteria of the aforementioned G29 opinion may be made available, and this by secure means, adapted in particular to the level of The risks of re-identification. On the categories of recipients Whatever the mode of provision, only the data controller and the persons authorized by him have access to personal data within the framework of this authorization. The data controller keeps up-to-date documents indicating the competent person(s) within it to issue the authorization to access the data, the list of persons authorized to access this data, their respective access profiles and the procedures for allocation, management and control of authorizations. These categories of persons are subject to professional secrecy under the conditions defined by Articles 226-13 and 226-14 of the Criminal Code. The qualification of authorized persons and their access rights must be regularly reassessed, in accordance with the methods described in the authorization procedure established by the data controller. On the duration of data retention The duration of access to personal data must be limited to the duration necessary for the implementation of the processing , which cannot be longer than six months, from the effective access to the data. This duration does not exceed that necessary for the purposes for the which the data is collected and processed, in accordance with the provisions of Article 5-1-e of the GDPR. On the transparency of the

processing and the publication of the results, the Commission notes that the data controller plans to disseminate all the results in a documentary. These results will be made available in particular in the form of maps (regarding the description of care practices according to location and patient comorbidities) as well as in the form of graphs and tables (regarding the evolutions and modalities of management according to patient profiles). In addition to making the documentary available in replay, the Commission takes note of the data controller's commitment to publish on the France Télévisions group's website a precise description of the methodology followed as well as all the results obtained. The Commission recalls that, when the result of the data processing is made public, the direct or indirect identification of the persons concerned must be impossible, in accordance with Article 68 of the Data Protection Act .Authorizes, in accordance with this deliberation, the company PREMIÈRES LIGNES TÉLÉVISION to implement the aforementioned processing.The President Marie-Laure DENIS