Deliberation 2021-124 of November 4, 2021 National Commission for Computing and Liberties Nature of the deliberation: Opinion Legal status: In force Date of publication on Légifrance: Friday December 17, 2021 Deliberation No. 2021-124 of November 4, 2021 providing an opinion on a draft decree relating to the experimentation of the teleservice called "Mon FranceConnect", created by the interministerial digital department (request for opinion no. 21015175)

The National Commission for Computing and Liberties, Seizure by the interministerial digital directorate of a request for an opinion concerning a draft decree relating to the experimentation of the teleservice called Mon FranceConnect; 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 (Regulation general on data protection); Having regard to law n° 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular its article 8-I-4°-a); On the proposal of Mr. Claude CASTELLUCCIA, commissioner, and after having heard the observations of Mr. Benjamin TOUZANNE, government commissioner, Issues the following opinion: The Commission was seized, on August 20, 2021, on the basis of article 8-I -4° a) of the amended law of 6 January 1978, of a draft decree relating to the experimentation of the teleservice called Mon FranceConnect, created by the interministerial digital department (hereinafter DINUM). It notes that the Mon FranceConnect teleservice, access to which will be by means of the teleservice FranceConnect, is an optional teleservice for users and that it is implemented on an experimental basis, for a period of twelve months and intended for 25,000 experimental users. This teleservice will make it possible to make available to the user, via a consolidated access, a set of information, including personal data concerning him and held by the administrations, so that the user can consult, share and reuse them on the initiative and under the control of the user. As a preliminary point, the Commission underlines that the creation of this teleservice is part of the policies of transparency of data held by administrations vis-à-vis users and administrative simplification. inistrative, all in line with the Tell us once (DLNUF) program on which the Commission has ruled on numerous occasions. of a framework by the code of relations between the public and the administration (CRPA), participate in the simplification of administrative formalities for users when their purpose is to exempt users, natural or legal persons, from providing the same supporting documents several times. In general, the Commission recalls that, while the simplification of administrative procedures and the improvement of relations between the public and the administrations constitute legitimate objectives, the implementation of exchanges of personal data in this context must be limited to strictly necessary data and guarantee respect for the rights of individuals as

well as the security and confidentiality of their data personal cter. In this respect, transparency on the data exchangeable between administrations constitutes a desirable guarantee within the framework of the implementation of the DLNUF. Steps. In this respect, the Commission considers that this experiment will have to be rigorously assessed before considering whether or not to maintain such a system.While it observes that Article 7 of the draft decree expressly provides that a will be drawn up no later than six months after the end of the experiment, it requests that it be sent to it at the end of this period. The Commission considers that this report should mention at least: figures on the number of consultations, sharing and re-use by users of their data exchanged by the administrations; figures on the impact relating to administrative delays; a description the conditions for the technical and operational implementation of the tested device; general conclusions relating to the operation of the tested device and any difficulties encountered, both legal and technical. On the purpose of the processing Article 4 of the draft decree provides that the purpose of the processing implemented as part of the Mon FranceConnect teleservice is to provide the user with an online space placed under the control of the user, open and closed at his request. The Commission notes that this space in line would allow the user to: obtain access to information and data likely to be subject to exchange between administrations when this exchange takes place via standardized programming interfaces (API); to obtain access to useful information in the context of its exchanges with the administrative authorities; to benefit, on the basis of his data, useful advice for the exercise of his rights and duties; to generate, from his data exchanged between the administrations, supporting documents likely to be requested from him during the accomplishment of his steps. the Commission is in favor of setting up a mechanism allowing users to access the data exchanged by API between administrations and useful information in the context of their exchanges with the administrations. More generally, the Commission recommends the use of APIs to exchange data between administrations in order to guarantee the necessary minimization of the data exchanged and the traceability of these exchanges.Secondly, with regard to the option offered the user to benefit, on the basis of his data, from useful advice for the exercise of his rights and duties, it was specified that it was a question of anticipating, by this draft decree, the changes envisaged by bill relating to differentiation, decentralization, deconcentration and various measures to simplify local public action (hereinafter 3DS bill) which has not yet been adopted and which is, for the hour, pending before Parliament. It was also specified that the version of the Mon FranceConnect teleservice which will be put online at the start of the experiment will not include this functionality. administrations for the benefit of the user and to fight against the phenomenon of non-use of rights, particularly in terms of social benefits. However, it emphasizes that this is an evolution of the essential characteristics of the

DLNUF system since the a priori intervention of the user would no longer be required to initiate the exchange of data between administrations. It is important to ensure that the system is enshrined in law and is precisely limited to the aforementioned uses, namely the acceleration of the exchange of data and the fight against the non-use of rights, to the exclusion of any other. It emphasizes that it should not allow, for example, the detection of possible cases of fraud by cross-referencing information. This is why the Commission recommends not implementing such an option for the user before that the 3DS bill is passed. In this regard, Article 4-3° of this draft decree should specify this explicitly. Thirdly, the Commission wonders about the reasons that led to choosing security through symmetric encryption rather than 'by means of certificates.On the data processed and the recipients and accessors of the dataThe draft decree does not indicate the personal data processed yet described in the impact analysis relating to data protection (AIPD) transmitted. The Commission would like the list of personal data processed within the framework of the Mon FranceConnect teleservice, as well as the recipients and accessors to this data, to appear expressly in the draft decree. In the event that the list of personal data processed would be difficult to determine given the different use cases of the teleservice, the draft decree could generally indicate that My FranceConnect processes the civil status data of users as well as the data provided by the various APIs. The data controller must inform each experimenter more precisely, on a case-by-case basis, of the data processed by means of information notices in accordance with the data protection regulations. Finally, the Commission emphasizes the importance for users of respecting their use name. In view of the different choices made by the operators on this subject, the Commission encourages the Ministry to integrate this issue, if not in the experimentation, at least in its conclusions and its reflections for the continuation of this project. retention period Article 5 of the draft decree provides that the personal data made accessible to the user by the Mon FranceConnect teleservice will be kept within the teleservice for fifteen minutes. Beyond this period, this data will be destroyed without delay. The Commission welcomes the approach adopted, which aims to provide detailed information to users without setting up a centralized register, and encourages DINUM to develop this type of model for interministerial projects. This same article also provides that the data allowing the teleservice to query the APIs not based on the FranceConnect device will be kept for the duration of the experiment but that the user can, at any time, request the deletion of their data. The Commission takes note of the clarifications provided according to which a user request for withdrawal from the experimentation also implies the deletion of all data related to the user. Finally, the Commission takes note of the fact that information guaranteeing the authenticity of the certificates generated is kept for three months. It emphasizes the care taken to minimize data in order to ensure a high

level of authentication of certificates while limiting the risk of re-identification of stored data. The Commission thus considers that the stored data is pseudonymised data. However, pseudonymised data, as personal data, should be mentioned in the draft decree. Thus, the Commission would like the draft decree to be supplemented in this sense. On the security of the processing As a preliminary point, the Commission observes that the risk analysis provided by the Ministry was in the process of being drafted and was incomplete. The Commission recalls that this must be completed and duly completed before the launch of the experiment. The Commission notes that the device will be subject to a safety audit as part of its RGS certification including, among others, a verification of the main security flaws described in the Top 10 of the OWASP (Open Web Application Security Project). Since these audits are an important component of the security assurance of this processing, they must be carried out and any corrective measures implemented, before the start of production. The Commission notes that the data controller has considered that the he impact on FranceConnect processing would not be sufficient to require an update of its risk analysis. It recommends that it be updated if the experiment were to be extended.Finally, the Commission points out that a retention period for logs of three months for security reasons is not in line with the six months to a year that she recommends. The Commission therefore recommends extending this period. The President Marie-Laure DENIS