

Deliberation 2019-145 of December 5, 2019 National Commission for Computing and Liberties Nature of the deliberation:

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December 5, 2019 providing an opinion on a draft decree amending the decree relating to the provision to public persons of data relating to the transport, consumption and production of electricity, natural gas and biogas, petroleum products, heat and cold (request for opinion no. ° 19017981)

The National Commission for Computing and Liberties, Seizure by the Minister for Ecological and Solidarity Transition of a request for an opinion concerning a draft decree amending decree no. 2016-973 of July 18, 2016 relating to the provision to public persons of data relating to the transport, consumption and production of electricity, natural gas and biogas, petroleum products, heat and cold; Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 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; Having regard to Law No. 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular its article 8.I 4° a); Having regard to law no. 2015-992 of August 17, 2015 relating to the energy transition for green growth, in particular its article 179; Considering the decree n° 2018-687 of the 1st August 2018 taken for the application of law n ° 78-17 of January 6, 1978 relating to data processing, files and freedoms, modified by law n ° 2018-493 of June 20, 2018 relating to the protection of personal data; Having regard to deliberation no. 2016-166 of May 26, 2016 providing an opinion on a draft decree and a draft order relating to the provision to public persons of data relating to the transport, consumption and production of electricity, natural gas and biogas, petroleum products, heat and cold. On the proposal of Mr. Eric PERES, commissioner, and after having heard the observations of Mrs. Nacima BELKACEM, government commissioner, Issues the following opinion: The Commission has been asked for an opinion, pursuant to Article 8.I 4° a) of the law of 6 January 1978 as amended, by the Minister for Ecological and Inclusive Transition, of a draft decree amending the decree relating to the provision of public data subjects relating to the transport, consumption and production of electricity, natural gas and biogas, petroleum products, heat and cold. 2015-992 of August 17, 2015 relating to the energy transition for green growth, which provides for the provision of energy-related data to public entities when this data is useful for the performance of the powers exercised by these public entities . These data are transmitted by gas, electricity or heat network operators, as well as by operators putting petroleum products for consumption. After three years of implementation of the system and a report carried out at the end of of the ecological and solidarity transition wished to make adjustments to the

existing system to improve the match between the published data and the needs of the communities for the planning of ecological transition actions. For this, amendments to the decree specifying the terms of application of the system are necessary. The text amended by the draft decree today submitted to the Commission was the subject of a deliberation on May 26, 2016. The main changes planned by this project consist in particular of: a revision of the definition of the residential sector and the professional sector in order to be able to make a distinction between consumption in the residential sector and that of small professionals, to better target actions to control consumption energy; a lowering of the secrecy conditions of residential aggregates by reducing their size from eleven to ten points in order to increase the number of energy data available; the transmission by energy suppliers of SIRETs in addition to their customers' NAF codes in order to facilitate the identification of small professionals; publication of consumption data at the building level broken down by sector of activity in order to make the sectorisation of the data more reliable. These modifications call for the following observations from the Commission:

Consumption data relating to the residential sector their size from eleven to ten points in order to increase the amount of energy data available. letter of December 17, 2015 and in deliberation 2016-166 of May 26, 2016. The Commission takes note of this provision which guarantees that the dissemination of energy data to public persons does not take place to the detriment of the privacy of the persons concerned. On the data of small professionals The Commission notes that the data of small professionals now constitute a category in its own right. It takes note of the Ministry's desire to identify more precisely small professionals, who until now were mixed with the residential sector and therefore benefited from the protection rules relating to this sector. It notes that this need responds to a strong expectation of local authorities, anxious to have relevant information on the consumption of small professionals to monitor actions to reduce consumption in this sector, which is the second largest emitter of greenhouse gases. notes that in order to facilitate the characterization of belonging to the category of small professionals, the draft decree provides that energy suppliers will have to transmit the SIRETs in addition to the NAF codes of their customers, to the network managers in charge of the development of local energy consumption data. The Commission observes that within the category of small professionals, it is not excluded to be able to identify natural persons practicing in a liberal capacity (lawyers, doctors, etc.) from their domicile, under a company name made up of their family name, and that consequently this category is likely to contain personal data. On the publication of data at the building level The Commission takes note of the publication of data at the building level. This publication completes the one already existing at the IRIS grid, as defined by INSEE as a target size of two thousand inhabitants per grid. The term building is

defined by article D111-52 of the draft decree as a set of delivery points grouped together on the basis of their address within the energy metering system of the network operator concerned, or of a building in the usual sense of the term and designated by the public body requesting to know its energy consumption. The Commission notes that in practice, the data will be linked to the address when they are published. data protection rules for the residential sector, mentioned above, will apply regardless of the publication mesh. For The President, The Deputy Vice-President Sophie LAMBREMON