

Deliberation 2020-121 of April 20, 2021 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation:

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n° 2020-121 of December 3, 2020 providing an opinion on a draft decree relating to the exchange of information and data between administrations in the context of administrative procedures (request for opinion no. 20015052) The National Commission for Computing and Liberties,

Seizure by the Minister for Transformation and the Public Service (inter-ministerial digital directorate) of a request for an opinion concerning a draft decree relating to the exchange of information and data between administrations within the framework of administrative procedures;

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;

Having regard to the code of relations between the public and the administration;

Considering the law n° 78-17 of January 6, 1978 modified relating to data processing, files and freedoms;

Having regard to decree n° 2019-536 of May 29, 2019 as amended, taken for the application of law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms;

Having regard to deliberation no. 2018-357 of December 13, 2018 providing an opinion on a draft decree by the Conseil d'Etat relating to the exchange of information and data between administrations in the context of administrative procedures and the experimentation provided for by the article 40 of law n° 2018-727 of August 10, 2018 for a State at the service of a trust society; On the proposal of Mr. Alexandre LINDEN, commissioner, and after having heard the observations of Mr. Benjamin TOUZANNE, commissioner of the Government, Issues the following opinion: The draft decree, submitted for examination by the National Commission for Data Processing and Liberties (hereinafter the Commission) pursuant to the provisions of Article L. 114-9 of the Code relations between the public and the administration (CRPA), aims to expand the list of administrations to which a request for communication can be made in the context of the processing by another administration of a request submitted by the public or statement transmitted by the latter pursuant to a legislative or regulatory text in accordance with

Article L. 114-8 of the CRPA on the one hand, and the scope of the administrative procedures that may be the subject of an exchange of information, on the other hand. The Commission recalls that it has already ruled on the procedures for exchanging information or data between administrations in the context of its deliberation No. 2018-357 of 13 December 2018 referred to above. The paragraph 1 of article 1 of the draft decree thus provides for the modification of article R. 114-9-3 of the CRPA in order to allow an administration to make a request for communication, depending on the type of information or data in question. cause, to the following departments and bodies: - to the Ministry of National Education, the Ministry of Higher Education and Research or the public bodies responsible for issuing diplomas, titles and qualifications or their recognition, information relating to the situation of the person at school arized;- to Pôle emploi, information relating to the job seeker's situation;- to social protection bodies, information relating to the situation of the family;- to the National Service and Youth Department, information relating to the situation of a person with regard to the obligations provided for in Article L. 111-2 of the National Service Code; - to the national criminal records department, information relating to the mention of bulletin no. 2 of the criminal record - to the public bodies responsible for issuing or recognizing them, information relating to diplomas, titles and professional qualifications. this will be done in compliance with the specific provisions provided for by the Code of Criminal Procedure. Paragraph 2 of the aforementioned article also provides for the replacement of 3° of Article R. 114- 9- 3 of the CRPA by 3° Social rights, income and benefits, to social protection organizations and to the organizations mentioned in the first paragraph of Article L. 133-5 of the Social Security Code. Questioned on this point, the interministerial digital directorate specified that such an extension must allow the administrations within the framework of certain administrative procedures, in particular the request for an activity bonus or the request for a housing allowance, to request the last salaries received by a user, which the Commission takes note of. While the planned expansion to the aforementioned services and organizations does not call for any particular comments, the Commission nevertheless points out that the implementation of data exchanges between administrations must remain limited to strictly necessary data and must guarantee respect for the rights of individuals as well as the security of their data. of the CRPA of the word elections by the word citizenship. The Commission notes that this change in terminology aims to broaden the scope of the administrative procedures which may be the subject of an exchange of information in order to include the mandatory citizen census. Finally, the Commission notes that the security measures , in particular compliance with the general security reference system, the implementation of authorization profiles to access data and an access logging system, as provided for in Articles R. 114-9-5 to R. 114- 9-7 of the CRPA, remain unchanged. The

