

Deliberation 2020-132 of December 17, 2020 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation: Opinion Legal status: In force Date of publication on Légifrance: Wednesday December 29, 2021 Deliberation n° 2020-132 of December 17, 2020 relating to a request for opinion on a draft decree amending decree no. 2010-236 of March 5, 2010 relating to the automated processing of personal data authorized by article L. 331-29 of the intellectual property code by adding the source port among the data collected The National Commission for Computing and Liberties, Seizure by the Ministry of Culture of a request for an opinion concerning a draft decree amending decree 2010-236 relating to the automated processing of personal data authorized by Article L. 331-29 of the Intellectual Property Code; Having regard to Convention No. 108 of the Council of Europe for the protection of individuals with regard to automatic processing of data of a personal nature; 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 (General Data Protection Regulation, hereinafter GDPR); Having regard to the Intellectual Property Code, in particular its article L. 331-29; Having regard to the Post and Electronic Communications Code, in particular its articles L. 34-1 and R. 10-13; Having regard to law n° 2009-669 of June 12, 2009 promoting the dissemination and protection of creation on the Internet and creating the High Authority for the dissemination of works and the protection of rights on the Internet (hereafter HADOPI); Having regard to law n° 78-17 of January 6, 1978 amended by law n° 2018-493 of June 20, 2018 relating to the protection of personal data; decree n° 2010-236 of March 5, 2010 relating to the automated processing of personal data personnel authorized by article L. 331-29 of the intellectual property code called System of management of measures for the protection of works on the Internet modified by decree n° 2011-264 of March 11, 2011; On the proposal of Mr. Christian KERT, commissioner, and after having heard the observations of Mr. Benjamin TOUZANNE, government commissioner, Issues the following opinion: The Ministry of Culture has asked the Commission for an opinion on a draft decree amending the Decree No. 2010-236 relating to the automated processing of personal data authorized by Article L. 331-29 of the Intellectual Property Code called System for managing measures for the protection of works on the Internet. On the modification made The project of decree submitted to the Commission aims to add the source port among the data that can be recorded by HADOPI in the processing of the graduated response procedure and, more specifically, on the part relating to the identification of subscribers which, to date, is based only on the IPv4 address alone. According to the Ministry of Culture, due to the shortage of IPv4 addresses, Internet service providers are increasingly resorting to sharing of these addresses between

several subscribers, by dedicating to each subscriber a range of ports associated with the IPv4 address. the implementation of the graduated response procedure. The Commission notes that collecting the source port would allow HADOPI to store, process and transmit this data to Internet service providers, in addition to the IPv4 address timestamped, with a view to identifying subscribers whose IPv4 address is shared. the legislator to the HADOPI Rights Protection Commission. In this context, the Commission has no comments on the draft decree submitted to it. President Marie-Laure Denis