

Deliberation 2021-065 of June 3, 2021 National Commission for Computing and Liberties Nature of the deliberation:

Authorization Legal status: In force Date of publication on Légifrance: Friday June 11, 2021 Deliberation n°2021-065 of June 3, 2021 approving the code of conduct carried by Cloud Infrastructure Service Providers Europe (CISPE)The National Commission for Computing and Liberties, Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 relating to the protection of natural persons at the with regard to the processing of personal data and the free movement of such data (in particular its articles 40, 41 and 57); Having regard to law n ° 78-17 of January 6, 1978 as amended relating to data processing, files and to freedoms; Having regard to the guidelines on codes of conduct and the bodies responsible for monitoring these codes within the meaning of Regulation (EU) 2016/679 adopted on June 4, 2019 by the European Data Protection Board ed; Having regard to Opinion 17/2021 of the European Data Protection Board relating to the European code of conduct carried by Cloud Infrastructure Service Providers Europe under Articles 63 and 64 of the GDPR, adopted on May 19, 2021; On the proposal by Mr. François PELLEGRINI, Commissioner, and after having heard the observations of Mr. Benjamin TOUZANNE, Government Commissioner, Makes the following observations:Article 40.5 of the General Data Protection Regulation (GDPR) provides that associations and other representative bodies of a sector of activity which intend to draw up a code of conduct submit the draft code to the supervisory authority which is competent under Article 55 of the GDPR. The supervisory authority issues an opinion on whether the draft code complies with this Regulation and approves this draft code if it considers that it offers sufficient appropriate safeguards. Article 40.7 of the GDPR provides that when the draft code of conduct concerns processing activities carried out in several Member States, the competent supervisory authority submits the draft code, before approval, to the European Data Protection Board (EDPB), in accordance with the supervisory mechanism of the consistency. On May 13, 2019, the Commission received a request for approval from Cloud Infrastructure Service Providers Europe (CISPE) for a draft transnational code of conduct, in accordance with the provisions of Article 40.5 of the GDPR. February 25, 2021, the Commission submitted the draft code submitted by CISPE for the opinion of the EDPS. The Committee adopted a favorable opinion on this draft on May 19, 2021, which was notified to the Commission on May 20, 2021. The draft code of conduct meets the formal requirements provided for in Article 40.2 of the GDPR. Indeed, it demonstrates the representativeness of the bearer of the code and specifies its material scope of application as well as its geographical scope. In addition, it identifies the CNIL as the competent supervisory authority in accordance with the provisions of Article 40.5 of the GDPR. Finally, it details the procedures for consulting professionals in the sector and

develops a procedure for monitoring the proper application of the code by members. The code of conduct specifies the procedures for applying the GDPR and takes into account the needs of professionals in the sector. cloud computing as infrastructure service providers (Infrastructure as a Service or IaaS), in accordance with the provisions of Article 40.1 of the GDPR. It also gives concrete examples facilitating the effective application of the GDPR by its members. It also recalls the obligation for member professionals to comply with the requirements of the code of conduct, which are legally binding. To this end, a requirements matrix listing the requirements to be met is provided by the code of conduct. The code of conduct provides for a membership process divided into three stages of a priori, a posteriori and ad hoc control by the control. The code of conduct includes a mechanism allowing the control body to ensure the proper application of the code by the professional members, in accordance with the provisions of Article 40.4 of the GDPR. It also includes a matrix of coercive measures, the implementation of which is the responsibility of the inspection body. GDPR Article 41.1. The code of conduct will be operational as soon as one of these control bodies is approved by the Commission. The code of conduct includes a procedure allowing it to be updated, in accordance with the provisions of article 40.2 of the GDPR. conduct complies with the GDPR and contributes to its proper application, in accordance with the provisions of article 40.1 of this text. It thus brings real added value to future members in their accountability approach. Resolves: The European code of conduct for cloud infrastructure providers relating to data protection carried by Cloud Infrastructure Service Providers Europe (CISPE) and annexed to this deliberation, is approved. In the event of modification of the code, the Commission, after having been informed by the holder of the code, will assess whether a new approval procedure is necessary, in accordance with the provisions of Article 40.5 of the GDPR. This decision will be published on Légifrance. The President Marie Laure DENIS