Deliberation 2020-026 of February 27, 2020 National Commission for Computing and Liberties Nature of the deliberation: Opinion Legal status: In force Date of publication on Légifrance: Saturday July 11, 2020 Deliberation No. 2020-026 of February 27, 2020 providing an opinion on a draft electoral regulations setting the procedures for electronic voting within the National Order of Nurses

(request for opinion no. 20001442)

The National Commission for Computing and Liberties, Seizure by the National Council of the Order of Nurses of a request for an opinion on a draft electoral regulation setting out the procedures for electronic voting within the National Order of Nurses ;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 (General Data Protection Regulation or GDPR); Public Health Code, in particular its article L. 4312-14; Having regard to law n° 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms; Having regard to decree n° 2019-536 of 29 May 2019 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. 2017-108 of April 13, 2017 providing an opinion on a draft electoral regulation setting out the procedures for electronic voting within the national order of nurses; Having regard to deliberation no. 2019-053 of April 25, 2019 adopting a recommendation on the security of electronic postal voting systems, in particular via the Internet, and its amendment; On the proposal of Mr. Alexandre LINDEN, auditor, and after having heard the observations of Mrs. Nacima BELKACEM, Government Commissioner,Issues the following opinion:1. On the basis of Article L. 4312-14 of the Public Health Code (CSP), the National Council of the Order of Nurses has asked the Commission for an opinion on a draft electoral regulation setting the procedures for electronic voting within the National Order of Nurses.2. This article provides that the procedures for electronic elections are set after consulting the CNIL. This draft regulatory act aims to set the procedures for elections to the councils and disciplinary chambers of the Order of Nurses.3. Given the specific risks that this processing of personal data may present for individuals, such as the disclosure of their political or trade union opinions, who benefit from special protection pursuant to Article 9 of the General Data Protection Regulation (GDPR), the Commission pays particular attention to the security measures implemented in the light of its recommendations formulated in deliberation no. 2019-053 of April 25, 2019 adopting a recommendation relating to the security

of electronic postal voting systems, in particular via the Internet (as well as its corrigendum).4. It reminds the National Council of the Order of Nursing of the need to ensure that adequate security measures are implemented effectively by all the actors involved in the implementation of the voting system. It is particularly a question of respecting the confidentiality of the expression of the vote and the sincerity of the ballot.On the level of risk of the ballot5. The recommendation of April 25, 2019 referred to above identifies three levels of risk according to their importance.6. In view of the characteristics of the ballot, which concerns a professional order, involves a large number of voters and presents a high stake for people, in a context which nevertheless seems devoid of any particular conflict, the Commission notes a level of risk of level 2.7. It therefore recommends that the electronic voting device meet the security objectives corresponding to this level of risk as set out in the recommendation.On the data processed8. Article 15 of the draft regulation determines the conditions for transmitting the file of electors and the file of candidates to the voting provider.9. If it is indicated that the file of voters includes the names and electronic and postal addresses of the voters as well as the electoral college in which they must vote , the data of the file of candidates transmitted to the manager of the electronic voting system are not specified in the project.10. The Commission nevertheless notes in Article 8 that the declaration of candidacy includes the surname and first name, the date of birth, the professional address, the title or titles allowing the exercise of the profession, the mode of exercise, the professional qualification and, where appropriate, ordinal functions or in professional bodies, current or past .11. The Commission recommends specifying which personal data contained in the file of candidates will be transmitted to the electronic voting service provider. It recalls in this regard that in accordance with the principle of minimization provided for in Article 5.1.c) of the GDPR, only strictly necessary data may be communicated to the voting provider.12. The Commission also invites the Council to specify the data processed with regard to the processing of the file referred to as the content of the electronic ballot box mentioned in Article 14 of the draft regulation. On the independent expertise of the electronic voting system13. The Commission notes that the electronic voting system is the subject of an independent appraisal under the conditions provided for in Article 17 of the draft.14. It recalls that, in accordance with the recommendation of April 25, 2019, the expertise relating to a solution implemented for an election whose risk level is assessed at 2 cannot include elements of a previous expert report, that on the condition that it is not earlier than twelve months.15. The previous electoral regulations dating from 2017 as indicated by the referral to the National Council of the Order of Nurses, for which the Commission had moreover decided by deliberation n ° 2017-108 of April 13, 2017, the expertise carried out for this purpose cannot be reused within the framework of

the expertise provided for in this project. On the lists of voters16. With regard to the display of electoral lists relating to the election of departmental councils, article 7 of the draft provides that a dedicated website allows everyone to check their registration.17. With regard to display on the internet, the Commission recommends that the content of the web page be protected from any indexing by search engines.18. With regard to the transmission of the file of voters to the manager of the electronic voting system, the Commission notes that Article 15 of the draft provides in paragraphs 2 and 3 that the file of voters is sent to the manager of the electronic voting system who assigns each voter an access code and password for electronic voting. 19. The file of candidates is transmitted to the manager of the electronic voting system in order to insert it into the voting system .20. The Commission invites the Council to modify paragraphs 2 and 3 as follows: The file of voters is transmitted, in a secure manner, to the manager of the electronic voting system which generates, in a secure manner and without knowledge of it, to each of the voters a access code and password for electronic voting.21. The file of candidates is transmitted, in a secure manner, to the manager of the electronic voting system in order to insert it into the voting system. On computer security22. The Commission recommends that the National Council of the Order of Nurses take into account, particularly with regard to the guarantees ensuring the security and confidentiality of the information processed, the provisions of Ordinance No. 2005-1516 of 8 December 2005 relating to electronic exchanges between users and administrative authorities and between administrative authorities, which creates the general security reference system (RGS), and decree no. 2010-112 of February 2, 2010 taken for the application of articles 9, 10 and 12 of Ordinance No. 2005-1516 cited above. On authentication procedures 23. Article 18 of the draft provides that the voter receives by electronic means (or by post if the order does not hold e-mail address) in a secure manner a few days before the opening of the voting period a personal identification code allowing him to access the voting system in order to withdraw his password after entering this code and the computer number nal for this purpose. The password is sent to the email address or mobile phone number that the order has in its .24 database. The Commission stresses that it is important for the Council to collect, before the elections, reliable and qualified data to ensure that the major and minor risks linked to voter identity theft are significantly reduced.25 . The Commission also invites the Council to take into account, when drafting Article 18, the following elements to ensure correct authentication of voters: the sending of the identification code and the password must not through the same channel. Thus, it is advisable to have at least two means to contact the voter (email and SMS, or postal address and SMS, etc.); the password must never be sent in clear text to a mailbox, be it personal or professional. It is best to send an email containing a one-time secure link

allowing the user to generate a password that will be displayed to him only within the secure connection of his browser, or even to choose his own password. password (the latter must meet the conditions set by deliberation no. 2017-012 of January 19, 2017 adopting a recommendation relating to passwords as well as deliberation no. 2017-190 of June 22, 2017 amending the recommendation relating to passwords); the password must be generated just before sending and then immediately stored in a secure and non-reversible manner within the voting solution, so that the service provider cannot access it.26. In addition, the Commission recommends strengthening voter authentication by using, in addition to the above-mentioned username and password pair, a challenge/response mechanism – i.e. the server sending authentication of a question to which the voter is the only one who knows the answer. It recalls that easily accessible data, such as date of birth, should not be used to organize a challenge/response.27. Article 18 of the draft also provides that in the event of difficulties encountered by the voter in receiving the codes, compromise or loss of these codes, the voter can contact the hotline, implemented by the service provider. 28. The Commission recalls, on the one hand, that the hotline must be able to authenticate the person with certainty and, on the other hand, that in the event of compromise or loss of its means of authentication, the secure procedure must allow the voter to vote and render the lost or compromised means of authentication unusable without the service provider knowing the new password.29. The other provisions of the draft do not call for any comments from the Commission.-For the PresidentDeputy Vice-PresidentSophie LAMBREMON