

Deliberation 2019-150 of December 12, 2019 National Commission for Computing and Liberties Nature of the deliberation:

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December 12, 2019 providing an opinion on a draft decree relating to the communication to the information system of the personal training account of information relating to holders of professional certifications and certifications and authorizations registered in the national directories (request for opinion no. 19020446)

The National Commission for Computing and Liberties, Seizure by the Minister of Labor of a request for an opinion concerning a draft decree relating to the communication to the information system of the personal training account of information relating to holders of certifications professional and certifications and authorizations registered in the national directories; 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 monetary and financial, in particular its article L. 518-3; Having regard to the labor code, in particular its articles L. 6113-8, L. 6323-8, L. 6353-10 as well as articles R. 6323-31 and following ; Saw the Law No. 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular Article 8-I-4°-a); Having regard to Law No. 2018-771 of September 5, 2018 for the freedom to choose one's professional future; Having regard to Decree No. 2010-112 of February 2, 2010 taken for the application of Articles 9, 10, and 12 of Ordinance No. 2005-1516 of December 8, 2005 relating to electronic exchanges between users and administrative authorities and between administrative authorities; Having regard to Decree No. 2019-341 of April 19, 2019 relating to the implementation of processing involving the use of the registration number in the national identification directory of natural persons or requiring the consultation of this directory; Considering the decree n ° 2019-536 of May 29, 2019 taken for the application of the law n ° 78-17 of January 6, 1978 relating to data processing, files and freedoms; Decree No. 2019-1049 of October 11, 2019 amending the automated processing of data for the personal training account called Information system of the personal training account; Considering the deliberation n ° 2014-434 of October 23, 2014 giving opinion on a draft decree relating to the implementation of a processing of personal data called system of information on the personal training account (SI-CPF); Having regard to deliberation no. 2019-094 of July 11, 2019 providing an opinion on a draft decree amending decree no. 2014-1717 of December 30, 2014 creating the personal training account training as well as a draft order listing the personal data collected

and the recipients of the information recorded in the SI-CPF; On the proposal of Mr. Alexandre LINDEN, commissioner, and after hearing the observations of Mrs. Nacima BELKACEM , Government Commissioner, Issues the following opinion: The Commission has been seized, urgently, by the Minister of Labour, on the basis of Article 8-I-4°-a) of the law of January 6, 1978 as amended , a request for an opinion on a draft decree relating to the communication to the personal training account information system (SI-CPF) of information relating to holders of professional certifications and certifications and authorizations registered in the national directories. Article L. 6113-8 of the code labor provides for the obligation, for ministries and certifying bodies, to communicate to the SI-CPF certain information relating to the obtaining of professional certifications registered in the national directory of professional certifications (RNCP) and certifications and authorizations registered to the specific directory of certifications and authorizations (RSCH). This obligation allows users on the one hand to have access to all the diplomas, certificates and certifications obtained within the framework of initial, work-study or continuing training, in a single dematerialized environment, and on the other hand, to the public authorities to have data s statistics consolidated at the national level in terms of professional certification. Article L. 6113-8 refers to a Conseil d'Etat decree setting the terms for communicating this information. It is within the framework of this draft decree that the Commission has been seized. To do this, article 1 of the draft decree introduces four new articles numbered from R. 6113-34 to R. 6113-37 within a section entitled Communication of data relating to holders certifications. The proposed article R. 6113-34 lists the categories of personal data likely to be communicated, i.e. those relating to the identification of persons, as well as to professional certifications, to certificates of validation of blocks of skills within the meaning of Article L 6113-1 of the Labor Code, and the certifications or authorizations obtained. With regard to data relating to the identification of persons, the Commission notes that the current wording of u 12° of part F of article 2 of decree n° 2019-341 of April 19, 2019 referred to above does not allow the use of the registration number in the national directory for the identification of natural persons (NIR). Asked by the Commission, the ministry specified that the use of this number is not envisaged within the framework of the transmission of information between the training organizations and the IS CPF. has indicated that only the data will be transmitted allowing identification of the certification obtained, its date of issue as well as the organization which issued it, excluding the methods of obtaining certification by the holder (in session normal or remedial, the assessments of the jury, etc.). The proposed article R. 6113-35 provides that the communication of data must take place within a period of 3 months from the date of issue of professional certifications, certificates of validation of blocks of skills or certifications or authorisations, which does not call for any

comments on the part of the Commission. The draft article R. 6113-36 describes the sanction mechanism that the Caisse (CDC) may take action with regard to ministries and training organizations in the event of a breach of the obligation to transmit this information. Although these provisions do not, as such, concern the processing of data personal nature, the Commission notes that no specific mechanism is currently provided for allowing users to compensate for any failure in the transmission of such data. The Commission points out that the persons concerned must be able to rectify or complete the erroneous or incomplete data which concern them, in particular in the event of failure of the training organizations to their obligation to communicate this data to the SI-CPF. Article R. 6113-3 7 provides that an order issued by the Minister responsible for vocational training will specify the data transmitted under the proposed system, as well as the procedures for their communication to the IS CPF. In this respect, the Commission recalls that any transmission of personal data must ensure the confidentiality and integrity of the data transmitted. In the case of electronic transmission, data transiting over networks open to the public must be subject to encryption and authentication measures for the sender and the recipient. In the case of transmission by paper, physical security measures must be implemented. The proposed decree also aims to modify the existing article R. 6323-36 of the labor code, which provides decree n°2019-1049 of October 11, 2019, the list of categories of recipients likely to access the data processed within the framework of the SI-CPF. authorized agents of: the CDC (in its capacity as SI-CPF data controller); funding bodies; and institutions and bodies responsible for career development advice mentioned in Article L. 6111-6 of the Labor Code. The Commission recalls that access by these organizations to said data must only be done in strict compliance with the purposes, in particular statistical purposes, pursued by the planned processing. In particular, access to this data for different purposes, in particular in the context of assessing the follow-up to be given to a request for training funding, is not covered by the current wording of the draft decree. Finally, it recalls that the modifications made to the SI-CPF must be brought to the attention of the persons concerned under the conditions provided for by Articles 13 and 14 of the GDPR, in particular on the procedures for exercising their rights. Deputy President Sophie LAMBREMON