

Deliberation 2019-098 of July 18, 2019 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation:

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No. 2019-098 of July 18, 2019 providing an opinion on a draft decree modifying the decree of October 13, 2004 creating the automated control system (request for opinion no. request for an opinion on a draft decree amending the decree of October 13, 2004 creating the automated control system; Having regard to Convention No. 108 of the Council of Europe for the protection of individuals with regard to automatic processing personal data; Having regard to Directive 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals and natural persons with regard to the processing of personal data p personnel by the competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offenses or the execution of criminal penalties, and on the free movement of such data and repealing Framework Decision 2008/977 /JHA of the Council; Having regard to the Highway Code, in particular its articles L. 121-3, L. 130-9, L. 225-1 to L. 225-9, L 330-2 to L. 330-5, R. 121-6, R. 130-8, R. 130-11 and R. 330-1 to R. 330-5; Having regard to the insurance code, in particular its articles L.451-1-1 and R.451 -1 to R.451-5 Having regard to the Code of Criminal Procedure, in particular its articles 537 and 529 to 530-3; Having regard to law no. 2016-1547 of 18 November 2016 on the modernization of justice in the 21st ° 78-17 of January 6, 1978 amended relating to data processing, files and freedoms, in particular its article 31 and its title III; Having regard to decree n ° 2016-1955 of December 28, 2016 implementing the provisions of articles L. 121-3 and L. 130-9 of the Highway Code; Having regard to Decree No. 2011-348 of 29 March 2011 amended creating the National Agency for the automated processing of offences; Having regard to the decree of 13 October 2004 amended establishing the automated control system; Having regard to deliberation no. 04-076 of 5 October 2004 providing an opinion on draft inter-ministerial decree creating a device called an automated control system aimed at automating the observation, management and repression of certain traffic offences; Having regard to deliberation no. information technology and freedoms providing an opinion on a draft decree amending the decree of October 13, 2004 creating the automated control system. On the proposal of Mr. Eric PERES, commissioner, and after hearing the observations of Mrs. Nacima BELKACEM, commissioner of the Government, Issues the following opinion: The Commission has received a request for an opinion from the Minister of the Interior relating to a draft decree amending the decree of 13 October 2004 creating the automated control system (SCA). Insofar as the purpose of the processing is to establish or prosecute criminal offences, it must therefore be the subject of an order, issued after reasoned and published opinion of the Commission in

accordance with the provisions of article 89 of the modified law of January 6, 1978. the holder of the registration certificate of the vehicle concerned and to manage the operations relating to the corresponding fine notices. This processing is implemented by the National Processing Center (CNT), managed by the National Agency for the Automated Processing of Offenses (ANTAI) and has also been examined on several occasions by the Commission. that the decree of October 13, 2004 was the subject of a deliberation dated October 4, 2018 which extended the purposes of the SCA in order to process data relating to the offenses mentioned in article R.130-11 of the code of the road and to take into account the fixed price of offenses of lack of driving license and lack of insurance. This involved taking into account the amendments to the Highway Code and the Code of Criminal Procedure, introduced by Law No. 2016-1547 of 18 November 2016 on the modernization of justice in the 21st century, aimed at improving the repression of certain traffic offences. The draft order submitted today for the opinion of the Commission proceeds to a new modification of the order of October 13, 2004 mentioned above in order to make effective the treatment of the fixed price of the offense of lack of insurance by the SCA. It provides that the SCA will be the subject of a new relationship with another processing operation, that of the file of insured motorized land vehicles (FVA). In addition to this new relationship, the draft order introduced for the rights of the persons concerned the right to limitation as provided for in article 106 of the law of January 6, 1978 and proceeds to the modification of the references to the law of January 6, 1978 with regard to the exercise of the rights of the persons concerned by the processing .The Commission notes that an update of the impact assessment relating to the automated control system was carried out in May 2019 in order to take into account the draft order amending the order of 13 October 2004. The modifications of this impact analysis relate to the relationship between the SCA and the FVA and also provide general details on the functioning of the FVA. On a new interconnection, linking or reconciliation with the FVA Article 5 of the decree of October 13, 2004 provides that the automated control system may be subject to interconnections, linking or reconciliation with other processing , namely: the national registration file; the national driving license system; automated processing for monitoring the recovery of fines and monetary convictions; processing relating to the management of rental contracts and rented vehicles implemented by companies whose business is the rental of vehicles; processing relating to the management of the vehicle fleet implemented by companies or establishments making vehicles available to their employees or customers; the electronic payment systems for fines implemented by the competent departments of the Directorate General of Public Finances; automated processing relating to the processing of orders and judgments before the police courts called Minos; automated processing relating to legal

proceedings within the high courts called Cassiopée; the central management application; the vehicle registration system; the satellite database of stolen vehicles; the processing called digitization of criminal proceedings; the processing of criminal records. Article 1 of the draft decree adds to this list the file of insured motorized land vehicles (FVA). , the Commission notes that the FVA is a processing of personal data provided for by Article L.451-1-1 of the Insurance Code and that it is implemented by the Association for the management of information on the risk in insurance (AGIRA) as an information organization. Its purpose is to keep the list of motorized land vehicles insured under automobile civil liability up to date. It retains the data relating to the contracts taken out by the insured, namely the registration of the vehicle, the name of the insurer and the number of the contract with its period of validity. The draft decree provides for the linking of the system of automated control with the FVA, in order to control the lack of insurance of the vehicle. Thus, when a violation message noted by an automatic control device generates the production of a notice of violation (currently, only in terms of non-compliance with the maximum authorized speeds or crossing a red traffic light) , the SCA will interrogate the FVA in order to check whether the vehicle is included in this processing. The interrogation takes place seventy-two hours after the observation of the offence. This connection will make it possible to publish, for the attention of the holder of the registration certificate, a notice of a fixed tort fine in the event of a finding of an offense by an uninsured vehicle. Without calling into question the need to query such a file, the Commission points out that, given the significant stakes for the data subjects resulting from this query, specific safeguards will have to be implemented in order to limit the potentially negative consequences for the data subjects concerned resulting in particular from the absence of updating of the FVA file. As such, it recommends, with a view to updating the processing, that the data controller take the necessary steps to bring to the attention of AGIRA the case of any holder of the registration certificate recipient of a notice of fine having provided proof of an active insurance guarantee when the infringement was observed. objective of verifying the absence of insurance guaranteeing the civil liability of motorized land vehicles, as referred to by law no. 2016-1547 of 18 November 2016 on the modernization of justice in the 21st century. Articles 2 and 3 of the draft decree provide for the introduction, for the rights of data subjects, of the right to limitation as provided for in Article 106 of the law of January 6, 1978 and the modification of references to the law of January 6, 1978. January 1978 in my exercise of the rights of the persons concerned by the processing, taking into account the entry into force on June 1, 2019 of Ordinance No. 2018-1125 of December 12, 2018 amending Law No. 78-17 of 6 January 1978 relating to data processing, files and freedoms. In general, the Commission recalls that data subjects wishing to exercise their rights can prove their identity by

any means. The data controller must, in this context, take care to collect only data strictly necessary to verify the identity of the person concerned. In the present case, the Commission considers that the transmission of a copy of proof of identity is sufficient to meet this requirement. On security measures With regard to existing or planned measures, the infrastructure of the automated control system has been analyzed by the Commission on various occasions. The Commission notes that the encryption of all the data stored in the database is under feasibility study and that a detailed action plan aimed in particular at specifying the methods of pseudonymization and to determine the implementation strategy has been proposed, as has an overhaul of the archiving system in order to ensure NF42-013 certification. The Commission considers that the technical security measures described by the data controller comply with the safety requirement provided for by article 99 of the law of January 6, 1978 as amended. It notes, however, that with regard to the risks identified by the impact analysis relating to the automated control system, the measures in force do not make it possible to reduce the severity of the risk for all categories of risk sources. In any case, it recalls that the obligations provided for in the aforementioned article require the updating of security measures with regard to the regular reassessment of risks. In this respect, the Commission recalls that specific attention should be paid to the reassessment of these measures in the context of the update of the impact assessment.

President Marie-Laure DENIS