

Deliberation MEDP-2020-003 of July 16, 2020 National Commission for Computing and Liberties Legal status: In force Date of publication on Légifrance: Tuesday July 21, 2020 Deliberation of the office of the National Commission for Computing and Liberties No. MEDP-2020 -003 of July 16, 2020 deciding to make public formal notice No. MED-2020-015 of July 15, 2020 taken against the xThe office of the National Commission for Computing and Liberties, meeting on July 16, 2020 under the chairmanship of Mrs Marie-Laure DENIS; In addition to the President of the Commission, Mrs Sophie LAMBREMON, Deputy Vice-president, and Mr Eric PERES, Vice-president; Having regard to Convention No. 108 of the Council of Europe of January 28, 1981 for the protection of individuals with regard to the automatic processing of personal data; Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of natural persons at the regard to work ment of personal data and the free movement of such data; Having regard to law n° 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular its article 20; Having regard to decree n° 2019-536 of May 29, 2019 taken for the application of law n ° 78-17 of January 6, 1978 modified relating to data processing, files and freedoms; Having regard to decree n ° [...] of May 29, 2020 relating to the processing of data called [...]; Having regard to the decree of May 30, 2020 defining the criteria of distance and duration of contact with regard to the risk of contamination by the covid-19 virus for the operation of the processing of data called [...]; Having regard to deliberation no. 2013-175 of July 4, 2013 setting the internal regulations of the National Commission for Data Processing and Liberties; Having regard to deliberation no. 2020-046 of April 24, 2020 providing an opinion on a draft application mobile called [...]; Having regard to deliberation no. 2020-056 of May 25, 2020 providing an opinion on a draft decision cret relating to the mobile application called [...]; Having regard to decision n° MED-2020-015 of July 15, 2020 of the President of the Commission giving formal notice to X; Adopted the following deliberation: The CNIL carried out checks on 9, 25 and 26 June 2020 on the processing of personal data in the context of the application [...], which made it possible to note that the operation of the application [...] essentially complies with the applicable provisions relating to the protection of personal data. Most of the recommendations made by the Commission in its opinions of April 24 and May 25, 2020 were taken into account by X. The delegation however noted certain breaches of the provisions of the GDPR and the Data Protection Act. By decision of July 15 2020, the President of the Commission, on the basis of article 20 of the law of January 6, 1978 as amended, gave formal notice to X, located [...] in PARIS, to cease within one (1) months the breaches observed in the provisions of Regulation (EU) 2016/679 (hereinafter the Regulation or the GDPR) and of Law No. 78-17 of January 6, 1978 as amended (hereinafter the Data Protection Act). of the

formal notice, the X is asked to stop sending all the data from the user's contact history to the central server, for example by forcing the update of the application [...] to the new version v1.1.\* by blocking the application in its version v1.0.\* It is also enjoins the X to complete the information provided to users of the application [...] on the recipients or categories of recipients of personal data from the application as well as on the operations of reading the information present on the terminal equipment, carried out within the framework of GOOGLE's reCaptcha technology present in the launch version of the application, and of their right to refuse these reading operations. X is finally given formal notice to ensure that the subcontracting contract concluded with INRIA contains the information provided for in Article 28 of the Regulation and, finally, to complete the impact analysis relating to the processing of data from the application [...]. Pursuant to the last paragraph of II of article 20 of the amended law of January 6, 1978, the President of the CNIL has regularly convened the office of the Commission for the purpose of ruling on her request to make public its decision. The bureau was convened for this purpose on July 16, 2020. After deliberation, the bureau considers that the publication of the formal notice decision is justified due to the unprecedented questions in terms of privacy protection and personal data posed by the application [...] and the interest they present for the public. The office recalls in this respect that the fight against the covid-19 epidemic, which is a valuable constitutional protection of health, constitutes a major imperative likely to justify, under certain conditions, infringements of the right to the protection of privacy and personal data. The office nevertheless considers that, due to their particularly sensitive nature in that they relate to the state of health of users, personal data from the application [...] should only be collected and stored in the limits of what is strictly necessary for the management of the current health crisis. public interest within the framework of which the processing of personal data falls [...]. application work. Therefore, the office considers that the publication of the formal notice contributes to the objective of transparency on the control carried out by the CNIL on the conditions and methods of operation of the application [...]. Finally, the office notes that by the end of June 2020, the app [...] had been downloaded by around 1.9 million users and had been activated around 1.5 million times. Also, given the number of people concerned, the office considers that the publicity of the formal notice will make it possible to make a large number of people aware of the importance of updating the application to version v1. 1\*, which is more protective of personal data. Consequently, the office of the National Commission for Computing and Liberties decides to make public the decision n°MED-2020-015 of the President of the CNIL implementing remains X. The office recalls that this formal notice does not have the character of a sanction. As such, no follow-up will be given to the procedure if X complies in all respects with the

requirements of the formal notice within the time limit. If this is the case, it will be subject to a closure which will also be made public. within two years of their publication. President Marie-Laure DENIS