

Deliberation 2019-118 of September 12, 2019 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation: Exemption Legal status: In force Date of publication on Légifrance: Wednesday October 23, 2019 NOR:

CNIL1927843X Deliberation No. 2019-118 of September 12, 2019 adopting list of types of processing operations for which a data protection impact assessment is not required The National Commission for Computing and Liberties, 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, in particular its article 35;

Considering the law n° 78-17 of January 6, 1978 modified relating to data processing, files and freedoms;

Having regard to decree n° 2019-536 of May 29, 2019 as amended, taken for the application of law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms;

Having regard to the Guidelines on Data Protection Impact Assessment (DPIA) and how to determine whether processing is likely to create a high risk for the purposes of Regulation (EU) 2016/679 adopted on 4 April 2017;

Having regard to Opinion 19/2019 of the European Data Protection Board relating to the draft list of the French supervisory authority relating to the types of processing operations for which a data protection impact assessment is not is not required (Article 35.5 of the GDPR), adopted on July 10, 2019;

After having heard Ms. Anne DEBET, commissioner, in her report, and Ms. Nacima BELKACEM, government commissioner, in her observations;

Makes the following observations:

Article 35.1 of the General Data Protection Regulation (GDPR) provides that a data protection impact assessment (DPIA) must be carried out when processing is likely to create a high risk for the rights and freedoms of the persons concerned.

Article 35.5 of the GDPR allows supervisory authorities to draw up and publish a list of the types of processing operations for which a data protection impact assessment is not required.

Article 35.6 of the GDPR provides that, where this list concerns processing activities relating to the offer of goods or services to data subjects or the monitoring of their behavior in several Member States, or which may significantly affect the free movement

of personal data within the Union, it must be subject to the consistency check mechanism and must be communicated to the European Data Protection Board (EDPB).

On 29 March 2019, a draft list was adopted by the committee and submitted to the EDPS on 3 April 2019. The EDPS adopted an opinion on this draft on 10 July 2019, which was notified to the committee on 12 July 2019 .

Decided :

The list annexed to this deliberation, relating to the types of processing operations for which a data protection impact assessment is not required, is adopted.

This list complements and clarifies the guidelines adopted by the committee on October 11, 2018.

If the presence of a processing operation on this list dispenses with carrying out an impact analysis, the data controller remains subject to all the other obligations incumbent on him under the GDPR and the law of January 6, 1978. In particular, the fact that a processing activity falls under this list does not mean that a data controller is exempt from the obligations set out in Article 32 of the GDPR with regard to the security of the processing.

This deliberation will be published in the Official Journal of the French Republic. Annex

## ANNEX

### LIST OF TYPES OF PROCESSING OPERATIONS FOR WHICH A DATA PROTECTION IMPACT ASSESSMENT IS NOT REQUIRED

#### Types of processing operations

Processing, implemented solely for human resources purposes and under the conditions provided for by the applicable texts, for the sole management of the personnel of organizations that employ less than 250 people, with the exception of the use of profiling.

Supplier relationship management processing.

Processing implemented under the conditions provided for by the texts relating to the management of the municipal electoral register.

Processing intended for the management of the activities of works councils and works councils.

Processing implemented by an association, foundation or any other non-profit institution for the management of its members and donors as part of its usual activities when the data is not sensitive.

Processing of health data necessary for the care of a patient by a health professional practicing on an individual basis in a medical office, a pharmacy or a medical biology laboratory.

Processing implemented by lawyers in the exercise of their profession on an individual basis.

Processing implemented by commercial court clerks for the purpose of carrying out their activity.

Processing implemented by notaries for the purpose of exercising their notarial activity and drafting documents for notarial offices.

Processing implemented by local authorities and legal persons governed by public and private law for the purpose of managing services in the field of school, extracurricular and early childhood affairs.

Processing implemented for the sole purpose of managing physical access controls and schedules for the calculation of working time, apart from any biometric device.

Excluding data processing that reveals sensitive or highly personal data.

Processing related to breathalyzers, strictly framed by a text and implemented in the context of transport activities for the sole purpose of preventing drivers from driving a vehicle under the influence of alcohol or narcotics.

The president,

M. L. Denis