

Deliberation 2022-065 of June 9, 2022National Commission for Computing and LibertiesNature of the deliberation:

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2022-065 of June 9, 2022 providing an opinion on a draft amended decree relating to the unique victim identification information system (SIVIC)

(request for opinion no. 22006437)The National Commission for Computing and Liberties,Seizure by the Minister for Solidarity and Health of a request for an opinion concerning a draft amended decree relating to the information system of Unique Victim Identification (SIVIC);

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);

Considering the modified law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms; On the proposal of Mrs Valérie PEUGEOT, commissioner, and after having heard the observations of Mr Damien MILIC, deputy commissioner of the Government;Issues the following opinion:On the subject of the referral:The Commission has been seized of a draft rectified decree relating to the information system for the unique identification of victims (SIVIC), which plans to modify the provisions Article R. 3131-10-2 of the Public Health Code (CSP) and 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 (NIR decree) in order to allow the use of the NIR within the framework of SIVIC processing. SIVIC processing, for which the Minister in charge of Health is responsible, is provided for by article L. 3131-9-1 of the CSP and aims, e n the event of an event constituting an exceptional health situation or being likely to involve many victims, to ensure the management of these events and the monitoring of the victims. Article L. 3131-9-1 of the CSP refers to a Conseil d'Etat decree, taken after consulting the Commission, the task of specifying the nature of the data collected and setting the terms of their transmission in compliance with the rules guaranteeing the protection of privacy. This corrective referral follows Commission deliberation no. In this opinion, the Commission had in particular questioned the legal basis and the procedures for processing the NIR as a national health identifier (INS). The corrections made to the initial draft decree relate to: the legal basis and the procedures for processing the NIR, in particular as INS; the procedures for exercising the rights of data subjects. On the legal basis and the procedures for processing the NIR, in particular as INS The draft decree

provides for the replacement of the mention of the INS by that of the registration number in the national directory for the identification of natural persons, used if necessary as a national health identifier. The draft decree therefore now distinguishes between the processing of the NIR and the processing of the NIR INS optionally. The Commission recalls that the processing of the NIR is governed by the provisions of the NIR framework decree and that the processing of the NIR INS can only be implemented in the cases provided for by the provisions of the CSP. Thus, the draft decree provides that the personnel from the Ministries of the Interior, Justice and Foreign Affairs and those working within the framework of a structure responsible for informing families, will be able to access certain data, excluding the registration number in the national identification number for natural persons used as the national health identifier. The ministry specified that these personnel would not have access to the NIR but would be informed of the fact that the identity traits have been validated by the INSi teleservice. The Commission takes note of this and invites the Ministry to clarify the decree in order to mention that these personnel will not have access to the NIR, whether or not it is treated as INS. Furthermore, the Ministry specified that, contrary to what provides for draft article R. 3131-10-2 of the CSP, the NIR will not be recorded in the SIVIC processing. In this regard, the Ministry indicated that only the identity traits will be recorded in order to allow the query of the INSi teleservice which, in return, will validate the identity traits and return the NIR, which however seems to contradict the assertion that it will not be recorded in the treatment. The Commission therefore invites it to clarify the draft, so that it clearly establishes the cases in which the NIR will be treated as such in the context of the implementation of the SIVIC processing, as well as the methods according to which the processing of this data will occur. The ministry also specified that this validation of the NIR will only be requested in the event of the opening of a judicial inquiry or a telephone call for response to the families. The Commission takes note of this. Finally, article 2 of the draft is amended in order to complete the provisions of the NIR decree to allow the ministry to process the NIR to ensure the management and follow-up of victims in the context of the treatment mentioned in article R. 3131-10-1 of the CSP. In the absence of details, the Commission considers that the Ministry responsible for health will be able to process the NIR, but not as an INS. number of organizations and people required to process the NIR in this context. On the procedures for exercising the rights of data subjects The Commission welcomes the modification made to the draft, allowing people to also exercise their rights with the establishment of health and the medico-psychological emergency care unit. The Commission notes that the draft now expressly mentions that the right of opposition is waived pursuant to the provisions of Article 23 of the GDPR. This draft decree does not call for any other observations from the Commission with

regard to the protection of personal data. The President Marie-Laure DENIS