

Deliberation 2019-094 of July 11, 2019 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation: Opinion Legal status: In force Date of publication on Légifrance: Thursday November 14, 2019 NOR: CNIX192819V Deliberation No. 2019-094 of July 11, 2019 providing an opinion on a draft decree amending decree no. 2014-1717 of 30 December 2014 creating the personal training account as well as a draft decree listing the personal data collected and the recipients of the information recorded in the SI-CPF ( request for opinion n° 19008025) The National Commission for Computing and Liberties, Seizure by the Minister of Labor of a request for an opinion on a draft decree amending decree n° 2014-1717 of 30 December 2014 on creation of the personal training account as well as a draft decree listing the personal data collected and the recipients of the information recorded in the SI-CPF; Considering the agreement No. 108 of the Council of Europe 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 27 April 2016 relating to the protection of natural persons with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR); Having regard to the Labor Code, in particular its articles L. 6323-8 II, R. 6323-1 to R.6323-40; Considering the law n° 78-17 of January 6, 1978 modified relating to data processing, files and freedoms, in particular its article 8-I-2°-e); Having regard to law n° 2018-771 of September 5, 2018 for the freedom to choose one's professional future; Having regard to decree n° 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 the administrative authorities; Having regard to decree n° 2019-536 of May 29, 2019 taken for the application of law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms; Deliberation No. 2014-434 of October 23, 2014 giving an opinion on a draft decree relating to the implementation of a processing of personal data called the personal training account information system (SI-CPF); proposal of Mr. Alexandre LINDEN, commissioner, and after having heard the observations of Mrs. Nacima BELKACEM, government commissioner, Issues the following opinion: The personal training account (CPF), established by law n° 2014-288 of 5 March 2014 on vocational training, employment and social democracy, is a tool for individual access to vocational training, open to anyone over the age of sixteen, regardless of their status, as well as to apprentices from the age of fifteen. The CPF lists the rights acquired by the sal ariés, disabled workers in establishments or work assistance services (ESAT) and self-employed workers, throughout their working life and until their retirement, as well as the training from which they can benefit personally. Law No. 2018-771 of September 5, 2018 on the freedom to choose one's

professional future profoundly modifies the governance and financing of the vocational training system. This reform provides in particular that the Caisse des dépôts et consignations is designated, as of January 1, 2020, as the managing body of the CPF on the financial and technical levels for all assets outside the public service. It also provides for the display of CPF rights in euros, new training, new possibilities for contributions and the creation of a mobile application. Article 1 of the aforementioned law therefore modifies the provisions of the labor code relating to the CPF. Article 6323-8 II of the code du travail, as amended by law, specifies that the procedures for implementing the information system for the personal training account (SI-CPF) are set by decree of the Council of State taken after consulting the National Commission for It is in this context that the Commission was asked by the General Delegation for Employment and Vocational Training for an opinion on a draft decree amending Decree No. 2014-1717 of 30 December 2014 creating the CPF as well as a draft decree listing the personal data collected and the recipients of the information recorded in the SI-CPF on the basis of article 8-I-2°-e) of the Data Protection Act. Also, these draft decrees and orders submitted to the Commission update the legal framework of the SI-CPF system with regard to the purposes of the processing, the data processed and the recipients of these data. On the purposeL Article 1 of the draft decree completes Article R. 6323-33 of the Labor Code in order to take into account the modifications made to the SI-CPF by Law No. 2018-771 and more particularly: management and control contributions in additional rights associated with the resources mentioned in Article L. 6333-2 of the Labor Code; payment of training actions, based on information on eligible training, from registration to payment of service providers mentioned in article L. 6351-1 of the labor code, after verification of the service provided; the connection of the CPF holder and the service providers mentioned in article L. 6351-1 of the labor code, in accordance with the terms and conditions provided by the c general terms of use of the dematerialized service mentioned in article L. 6323-9 of the labor code; funding and mobilization of the rights registered in the citizen engagement account in accordance with the provisions of article L. 5151- 8 of the Labor Code; the provision of services to support the holder of the CPF in the construction of his professional career and to formulate proposals for him in connection with his preferences, his expectations and his career; the provision of services allowing the holder of the training account to list the knowledge and skills acquired, throughout their initial and continuing training, as well as during their career, in particular the orientation, training and skills passport in II of Article L. 6323-8 of the Labor Code. The Commission considers that the new purposes pursued by the processing are determined, explicit and legitimate, in accordance with the provisions of Article cle 5-1-b) of the GDPR. On the data processedArticle 1 of the draft decree supplements Article R. 6323-34 of the Labor Code

concerning the list of data likely to be recorded in the SI- CPF in order to take into account the changes made by the law. The Commission notes that, to improve the readability of the decree, the data likely to be recorded and processed in the SI-CPF are listed in appendix 1. S Regarding the new personal data, these relate to: the holder of the CPF: status of beneficiary of the employment obligation; date of liquidation of pension rights according to the conditions provided for in the last paragraph of Article L. 5151-2 of the Labor Code; the professional career of the CPF holder: type of employment contract (permanent contract, determined time) ; profession and socio-professional category of the last job held for job seekers; economic and financial data relating to the CPF holder: banking data entered on the account holder's bank card (name, card number banking, expiry date, visual cryptogram); those present on the account holder's bank identity statement (name and address of the bank account holder, RIB, IBAN, bank domiciliation address); the rights and training course of the CPF holder: number of points present on the professional prevention account; amount corresponding to the points acquired under the professional prevention account; information relating to the actual payment of the contribution to vocational training and the duration of the exercise of the activity during the year for the self-employed, members of the liberal professions and self-employed professions, their spouses collaborators and author artists; amount of the provisional and actual remaining charge; amount and type of ancillary costs; methods of carrying out and pedagogical organization of the training; additional information about the training organization; certifying dimension or not of the training eligible for the personal training account; data relating to the reasons for canceling registration for a training course, in particular in the event of force majeure; training evaluations and feedback from trainees; validation by the account holder of the service performed; data relating to exchanges between account holders and training organisations, from registration to the closing of the training file. The Commission considers that the new data collected in the context of this processing are adequate, relevant and not excessive with regard to of the purpose pursued by the data controller, in accordance with the provisions of Article 5.1.c) of the GDPR. On the recipients The Commission also notes that, to improve the readability of the decree, the persons authorized to access and receive communication of the information recorded in the processing are listed in annexes 2 and 3 of the project. Also, the staff of the Association for the management of the fund for the professional integration of disabled people, training organizations and France Competences complete the list the recipients of the information recorded in the SI-CPF mentioned in article R. 6323-36 of the labor code in order to take into account account the changes made by the law. The new persons authorized to access the processing are the agents of the joint interprofessional committees and those of the public employers. legal attributions, and each for what

concerns it. It also notes that the approved joint collecting bodies have been replaced by the skills operators. On information and the rights of persons The persons concerned are informed, in accordance with the provisions of Article 13 of the GDPR, by a notice inserted in the access portal to the website [moncompteformation.gouv.fr](http://moncompteformation.gouv.fr). The Commission notes that the information notice will be updated in order to take into account the evolution of the legal framework of the CPF. The rights of rectification and access are exercised with the Caisse des dépôts et consignations. The Commission considers that these procedures for informing and exercising the rights of individuals are satisfactory. On the storage period The draft decree submitted for opinion to the Commission does not modify the data storage periods. will be kept until the expiry of a period of three years from the death of the CPF holders. This period will be extended, in the event of litigation, until the pronouncement of a final judicial decision. However, the article 1 of the draft decree provides for the addition of a provision concerning the anonymous storage of data of statistical interest for a period of five years. 'a dataset, the data controller must be able to demonstrate that its anonymization processes comply with the conditions of Opinion No. 05/2014 on anonymization techniques adopted by the European Data Protection Board. Otherwise, if these three criteria cannot be met, a study of the risks of re-identification must be carried out. Finally, the Commission points out that the GDPR does not apply to anonymous data: the latter can, therefore, be kept without time limit. On security measures The Commission points out that it has already issued several opinions on the SI-CPF and specifies that the technical methods of implementing the processing are only moderately impacted by the modifications set out above. The Commission first recalls that the processing being a teleservice within the meaning of ordinance no. of December 8, 2005 relating to electronic exchanges between users and administrative authorities and between administrative authorities, it must comply with the General Security Guidelines (RGS) provided for by Decree No. 2010-112 of February 2, 2010 referred to above. It also reminds that it is up to the data controller to formally certify the acceptance of the security level of the teleservice through an RGS approval and to publish the approval certificate on its site. In this regard, the Commission takes note of the Ministry's details that a presentation to the provisional approval committee will take place during the second half of 2019 for the mobile application and the new website. With regard to the mobile application, the Commission takes note that the web services used by this application will be the same as those existing for the website and will thus be secured in the same way. The Commission recommends the use of the TLS protocol in its most up-to-date version and with strong cryptographic suites. Concerning the processing of the registration number in the National Directory for the Identification of Individuals ( NIR ), the Commission notes that the NIR are stored in hashed form in the computer directory of rights holders

using a state-of-the-art cryptographic hash function. In order to better protect the NIRs against a brute force attack, the Commission recommends the use of a secret salt which is not kept in the same storage space. Furthermore, the Commission notes that the NIRs as well as other data from the nominative social declaration can be stored in plain text before being processed for the consumption of CPF rights. NIRs can also be stored in truncated form in some SI-CPF business applications. Given the nature of this data, the Commission recommends that the databases and their backups be encrypted. As regards the processing of economic and financial data, the Commission notes that the data relating to the bank card used during the online payment of the remaining charge are not conveyed or stored in the SI-CPF. The Commission notes that authentication at the SI-CPF portal complies with deliberation no. a password recommendation. However, the Commission recommends the deployment of strong authentication using an additional authentication factor. The Commission notes that the management of application authorizations is managed by a centralized solution, is the subject of a documented procedure and that reviews are implemented twice a year. Concerning the traceability of actions, the Commission notes that the traces relating to the actions of users of the SI-CPF portal are kept for a rolling year, in accordance with its recommendations. The Commission also notes that access to production traces is secured via an authorization platform and limited to certain production and security teams of the Caisse des dépôts et consignations. It recommends setting up read-only access to these technical traces and verifying their integrity by calculating a hash with a cryptographic hash function. has been put in place to detect abnormal behavior and generate alerts if necessary. Finally, it notes that the Caisse des dépôts et consignations regularly conducts security audits and intrusion tests on infrastructures and on the applications of the SI-CPF. Subject to the previous observations, the Commission considers that the security measures described by the data controller comply with the security requirements provided for by article 99 of the law of January 6, 1978 as amended. It recalls, however, that this obligation requires the updating of security measures with regard to the regular reassessment of risks. In this respect, it recalls that specific attention should be paid to the reassessment of security measures within the of the update of the impact analysis.

For The President  
Deputy Vice-President Sophie LAMBREMON