

Deliberation 2021-013 of January 26, 2021 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation:

Opinion Legal status: In force Date of publication on Légifrance: Tuesday April 27, 2021 NOR: CNIX2112933 Deliberation No.

2021-013 of January 26, 2021 providing an opinion on draft decree modifying the decree of August 7, 1997 relating to the management by the Ministry of Youth and Sports of a file of physical and sports activities concerning educators and establishments (request for opinion no. 20019871) The Commission Nationale de l'Informatique et des Libertés, Seizure by the Minister responsible for sports of a request for an opinion concerning a draft decree amending the decree of 7 August 1997 relating to the management by the Ministry of Youth and sports of a file of physical and sports activities concerning educators and establishments; Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 relating to the protection of personal physical rules 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);

Considering the code of penal procedure, in particular its article 776;

Considering the sports code, in particular its articles L. 212-9, L. 212-13 and L. 322-1;

Considering the modified law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms, in particular its articles 31-I-2° and 89-I; After having heard Mr. Christian KERT, commissioner, in its report and Mr. Benjamin TOUZANNE, government commissioner, in his observations, Issues the following opinion: I-2° of the amended law of January 6, 1978 (hereinafter the Data Protection Act), a request for an opinion on a draft decree amending the decree of August 7, 1997 relating to management by the Ministry of youth and sports of a file of physical and sporting activities concerning educators and establishments. The draft decree aims to change the system put in place for the management of this file. It modifies the data that can be recorded in the automated processing managed by the Ministry responsible for sport, in particular by broadening the nature of the data that can be collected. The Commission indicates that it was simultaneously informed by the Ministry of two other requests for an opinion additional information concerning: a draft decree relating to the collection of data from persons subject to the obligations of Articles L. 212-9 and L. 322-1 of the Sports Code with a view to checking their good repute; a draft decree creating 'automated processing of personal data called SI Honorabilité aimed at ensuring the control of the integrity of persons subject to the obligations of Articles L. 133-6, L. 227-10 and L. 227-11 of the Code of social action and families and Articles L. 212-9, L. 212-13 and L. 322-1 of the Sports Code. Under these conditions, the Commission makes the following observations. On the data processed Article 1 of the draft of arrested extends the the nature of the categories of

personal information recorded in the processing implemented by the Ministry of Sports to manage the file of physical and sports activities concerning educators and establishments and authorized by the decree of August 7, 1997 referred to above (APS file) . It adds to this processing the recording of the result of the interrogation of bulletin n° 2 of the criminal record (hereinafter B2), by providing for the insertion of the following mentions: either nil when the B2 is blank; or sending of a letter when the B2 is positive or when a request for additional information on the identity of the request is desired. The Commission observes that, in accordance with the provisions of Articles L. 212-9, L. 212-13 and L. 322- 1 of the Sports Code, professional sports educators and operators of physical and sports activity establishments are subject to checks to ensure compliance with their obligations in terms of, on the one hand, qualification and, on the other hand, of good repute. These verifications are carried out for professional sports educators via the processing of personal data called Teledeclaration of sports educators authorized by the decree of February 28, 2014 relating to the establishment of a teleprocedure for the declaration of sports educators and the management by the Ministry of Sports of the file of sports educators and establishments of physical and sports activities. According to article 1 of the decree of February 28, 2014, the necessary checks are carried out, according to the categories of information by the competent decentralized services or in an automated manner. The information and documents communicated by professional sports educators are included in the file of sports educators and establishments created by the aforementioned decree of 7 August 1997. The Commission notes that Article 776-3° of the Code of Criminal Procedure authorizes the issuance of B2, necessary for the control of good repute, to the administrations or bodies charged by law or regulation with the control of the exercise of a professional or social activity when this exercise is subject to restrictions expressly based on the existence of criminal convictions or disciplinary sanctions. Under these conditions, the Commission considers that the recording, within the file specially created to manage the physical and sports activity of professional sports educators and establishments, of the information resulting from the consultation of the B2 by the Ministry of Sports is relevant, adequate and not excessive with regard to the purposes pursued by the Treaty ment. The draft order does not call for any further comments from the Commission. The President Marie-Laure DENIS