

Deliberation 2022-108 of November 3, 2022 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation: Opinion Legal status: In force Date of publication on Légifrance: Saturday April 08, 2023 NOR: CNIX2308444V Deliberation No. draft decree authorizing the creation of automated processing of personal data relating to the care of minors returning from areas of operation of terrorist groups (MRZOGT) (request for opinion no. 22007872) The National Commission for data processing and freedoms, Seizure by the Ministry of the Interior of a request for an opinion relating to a draft decree authorizing the creation of automated processing of personal data relating to the care of minors under return from areas of operation of terrorist groups (MRZOGT); 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 the free movement of such data, and repealing Directive 95/46/EC (general regulation on data protection); Having regard to law n° 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular its article 31.II; After having heard the report of Mrs. Sophie LAMBREMON, commissioner, and the observations of Mr. Benjamin TOUZANNE, commissioner of the Government, Being reminded of the following elements of context: The National Commission for Computing et des libertés ("hereinafter the Commission") was asked by the Ministry of the Interior for an opinion on a draft decree relating to the creation of an automated processing of personal data relating to the management minors returning from areas of operation of terrorist groups ("MRZOGT") on the basis of II of article 31 of the amended law of January 6, 1978. This text authorizes the general secretariat of the interministerial committee for the prevention of delinquency and Radicalization ("SG-CIPDR"), under the authority of the Minister of the Interior, to implement treatment to allow better coordination of the competent services in terms of administrative, judicial, medical and socio-economic care -education of minors. This processing aims to ensure their protection and prevent their involvement in a process of delinquency and eradication on the one hand, and to strengthen the monitoring of the care of minors by improving and establishing management indicators, on the other hand. . Since 2017, a system has been implemented to allow the care of these minors. MRZOGT processing will be a tool used in this context, which will aim to facilitate the monitoring of care and allow real-time visibility on the effectiveness of care measures. Based on common law of child protection, the system for taking care of minors makes it possible to mobilize all the State services competent on this issue, to improve their coordination with the departments within the framework of their attributions in terms of child welfare, to specify the articulation of the various existing legal mechanisms in order to ensure the most appropriate support for the situation and status of these minors and to establish reinforced long-term monitoring of these children with regard to the

specificity of their background and their family situation. According to the SG-CIPDR, the creation of the MRZOGT treatment responds to the difficulties encountered by the departmental councils which are entrusted with the care of these minors. It aims to reduce the difficulties of coordination between the competent services and to avoid interruptions in follow-up, in particular in the event that the minor changes his place of residence, leading to a modification of the territorial competence of the services involved in the system. This system is essentially based on exchanges of information on the minors concerned, in order to allow an overall understanding of their situation. The follow-up of these minors could also be done within the framework of local measures for the prevention of radicalization, and, more particularly within the cells for the prevention of radicalization and support for restricted families (CPRAF-R). Formulates observations following concerning the draft text

On the purposes of the processing

According to the Ministry, the purpose of the processing is to strengthen the monitoring of the care of minors returning from the areas of operations of terrorist groups by allowing better coordination of the competent services. More concretely, it is a question of preventing any interruption of care, in particular in the event of interdepartmental social and medico-social monitoring or the minor's move, and allowing, more indirectly, the prevention of their involvement in a process of delinquency. or radicalization. The processing thus makes it possible to share the relevant information between different actors involved in the follow-up and care of these minors, and to verify that all the actions necessary for the proper follow-up of the minors, such as the carrying out of the initial health check or registration in a school, has been carried out. In practice, this processing takes the form of a checklist of the actions to be carried out within the framework of the multidisciplinary follow-up of these minors (medical, social, educational, judicial and administrative). No information relating to the precise implementation of the measures will be provided. Given these characteristics, and even though the processing is notably implemented for the more general purposes of preventing crime and radicalisation, the Commission considers that it falls exclusively under the GDPR. The processing also aims to strengthen the monitoring of the care of minors "by improving the feedback of information and establishing management indicators". The ministry specified that these indicators will be established on the basis of aggregated data in order to provide an accurate state of the situation, but also to guide public policies. In view of the limited number of minors concerned and the nature of the data processed, these indicators do not a priori make it possible to guarantee the anonymity of the persons concerned. Consequently, given the real risk of people being re-identified, the Commission draws the Ministry's attention to this point during any dissemination and reuse of these indicators. On the categories of data collected

The Commission notes that the data collected includes information on the prison situation of the

parents as well as, where applicable, the name of the service in charge of a penal measure in progress and the date of release from detention if this is scheduled. These data are supplied by the public prosecutor or the territorially competent prefect.

'execution. It thus considers that there is no mention relating to criminal convictions, offenses and security measures. data relating to criminal convictions or offences. It considers that information concerning the prison situation is by nature data covered by Article 10 of the GDPR when it is qualified as such by a competent authority. In this case, it considers that the processing of these data will be lawful, pursuant to 1° of article 46 of the law of January 6, 1978 as amended.

On accessors and recipientsThe exchange of information relating to the care of minors is carried out in particular within the CPRAF- R. These cells meet at the initiative of the public prosecutor when a legal measure is in progress or of the prefect. They are made up in particular of representatives of the territorial directorate for the judicial protection of young people (PJJ), the representative of the penitentiary service of the local integration and probation service (SPIP) and representatives of the intelligence service(s) under the security monitoring. Some of the data contained in the "MRZOGT" processing is intended to be shared within these cells. With regard to the implementation of the decree, the Commission notes that, in particular with regard to the number and diversity of the profiles making up the CPRAF-R, there are risks that the information exchanged, which is particularly sensitive for minors whose situations are discussed, will be transmitted to persons not bound by professional secrecy, that this information will give rise to an excessive retention period or although they are used in subsequent processing. With regard to the nature of the data transmitted and the various secrets likely to protect them, the Commission considers that the current framework for the exchange of information likely to occur within the framework of the CPRAF-R should be significantly strengthened, both at the regulatory level technical, in order to guarantee the confidentiality of the information transmitted. It considers it essential that a reflection be carried out on this question as well as on the security measures to be implemented.

On information and the rights of individualsArticle 6 of the draft decree governs the procedures for exercising the rights of individuals concerned. The Commission notes that the right to object does not apply to this processing pursuant to Article 23 of the GDPR, and that the rights of access, rectification and limitation may be subject to restrictions in order to guarantee the general interest objective of taking care of minors. These limitations appear to be based on i) of the first paragraph of Article 23 relating to the protection of data subjects or the rights and freedoms of others, and more specifically on the best interests of the child. information of the persons concerned, the draft decree indicates that the right to information must be exercised with the administration. The Commission recalls that this right does not have to be

"exercised" by the person, since it is up to the data controller to provide the data subject with the information and not to the person to request communication of this information. It takes note of the ministry's commitment to modify the draft decree in this sense. In addition, the Commission takes note of the details provided by the ministry regarding the procedures for informing minors and their legal guardians. It welcomes the fact that the information will be provided individually to the minor, whatever their age, provided that they have sufficient discernment, and to the holders of parental authority as soon as the minor is registered in the processing either by e-mail, by telephone or by post. Similarly, it very much welcomes the submission of a document adapted to the age of the minor concerned, and more particularly the transmission of an explanatory diagram for the youngest. The Commission notes, however, that in application of the regulations, individual information must also be provided to the other persons appearing in the processing, in particular other members of the siblings who have lived in the aforementioned areas and parents who have lost their parental authority. The Commission takes note of the details provided by the Ministry in this regard. On the retention period Article 4 of the draft decree indicates that data relating to minors will be retained until the majority of minors, regardless of the existence or not of a decision to end follow-up of the minor. If these durations do not call for observation, the Commission emphasizes that the data may be subject to statistical processing. The Commission recalls that in the event that the statistics are produced beyond the majority of the minor, and therefore kept beyond the retention period set by the draft decree, the data used for this purpose must be aggregated and subject to a GDPR-compliant anonymization process. On this point, it refers to the work of the EDPS, and in particular to Opinion No 05/2014 on anonymisation techniques of the "Article 29" Working Party. On security measures The Commission takes note of the existing security measures as well than those that will be implemented, in particular with regard to encryption measures, both on data in transit and on certain stored data, key management, authentication methods or measures relating to traceability and logging .The PresidentMarie-Laure DENIS