

Deliberation 2019-147 of December 12, 2019 National Commission for Computing and Liberties Nature of the deliberation:

Opinion Legal status: In force Date of publication on Légifrance: Tuesday August 04, 2020 Deliberation No. 2019-147 of December 12, 2019 providing an opinion on a draft decree relating to the implementation by France competences of the national information system common to the regional interprofessional joint commissions

(request for opinion no. 19020444)

The National Commission for Computing and Liberties, Seizure by the Minister of Labor of a request for an opinion relating to a draft decree relating to the implementation by France of competences of the national information system common to the joint interprofessional committees regions; 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 (General Data Protection Regulation or GDPR); the labor code, in particular its article L. 6323-17-2; Considering the law n ° 78-17 of January 6, 1978 modified relating to data processing, files and freedoms, in particular its article 8-I-4° -a); Having regard to Law No. 2018-771 of 5 September member 2018 for the freedom to choose one's professional future; Having regard to decree no. 2018-1332 of December 28, 2018 relating to the use of the personal training account as part of a professional transition project and the conditions for opening and remuneration for professional transition projects; Having regard to decree no. 2018-1339 of December 28, 2018 relating to the methods of organization and operation of regional joint interprofessional committees and the conditions for opening and remunerating professional transition projects; Having regard to Decree No. 2019-536 of May 29, 2019 taken for the application of Law No. 78-17 of January 6, 1978 relating to data processing, files and freedoms; Having regard to deliberation No. 2014-434 of January 23 October 2014 issuing 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); Having regard to deliberation no. 2019-094 of 11 July 2019 issuing an opinion on a draft decree amending decree no. 2014-1717 of December 30, 2014 creating the personal training account as well as a draft order listing the personal data collected and the recipients of the information recorded in the SI-CPF; On the proposal of Mr. Alexandre LINDEN, Commissioner, and after having heard the observations of Mrs. Nacima BELKACEM, Government Commissioner, Issues the following opinion: The Commission has been seized, urgently, by the Minister du travail, on the basis of article 8-I-4° -a) of the amended law of 6 January 1978, a request for an opinion on a draft

decree from the Council of State relating to the implementation implementation by France competences, of the national information system common to the regional joint interprofessional committees, taken for application of article L. 6323-17-2 of the labor code in its wording resulting from law n ° 2018-771 of 5 september 2018 for the freedom to choose your a come professional. France competences, created by article 36 of the aforementioned law n ° 2018-771, is a national public institution endowed with legal personality and financial autonomy whose mission is to ensure the financing, regulation , monitoring and evaluation of the vocational training and apprenticeship system. Article 1 of Law No. 2018-771 provides for the creation of regional joint interprofessional commissions, approved by the administrative authority, which replace joint organizations approved for the payment of individual training leave. on the other hand, to monitor the implementation of professional development advice on the regional territory, and finally, to certify the real and serious nature of the professional projects of employees wishing to resign within the framework of the procedure mentioned in 2° of II of article L. 5422-1 of the labor code. Article L. 6323-17-2 of the labor code provides that a national information system common to these regional interprofessional joint commissions (hereinafter SI-CPIR) is implemented by France competences, and that its rules of creation and supply will be specified by decree in Council of State. is in the context of this draft decree that the Commission has been seized. Firstly, the Commission notes that Article 1 of the draft decree provides that France competences is responsible for the design and implementation of the SI- CPIR, including the processing of personal data relating thereto. This article specifies in particular that France competences determines the methods and the support actions necessary for its use by the regional interprofessional joint committees. The role of France powers provided for by the draft decree does not call for any particular observation. Secondly, as it had done in its deliberation No. 2019-094 of July 11, 2019, the Commission recalls that with regard of the data that will be processed therein, in particular those relating to the identity and professional activity of the holder of the CPF, the implementation of this system must be accompanied by robust security measures, such as to guarantee the integrity and the confidentiality of the data transmitted, including by physical security measures in the case of paper transmissions. It emphasizes in any case that this obligation requires the updating of security measures with regard to the regular reassessment of the risks The Commission recalls that it is up to the data controller to ensure that the information system implemented is compliant with the general safety reference system (RGS) provided for by decree no. 2010-112 of February 2, 2010, and to carry out, as such, a risk analysis including the risks weighing on the persons concerned. Thirdly, the Commission recalls that the agents of the regional interprofessional joint committees can only access or receive

communication of the above-mentioned information within the limits of their legal attributions, and each for what concerns it.For

the PresidentThe Deputy PresidentSophie LAMBREMON