

Deliberation 2019-146 of December 12, 2019 National Commission for Computing and Liberties Nature of the deliberation:

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December 12, 2019 providing an opinion on a draft decree relating to the obligation to inform training organizations on training entries and exits for the benefit of vocational training funders

(request for opinion no. 19020319)

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 obligation to inform training organizations about training entries and exits for the benefit of vocational training funders; 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 European Parliament and of the Council of April 27, 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; Having regard to the Labor Code , in particular its articles L. 6121-5 and L. 6353-10; Considering the modified law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms, in particular its article 8-I-4° -a); Having regard to Decree No. 2017-772 of May 4, 2017 relating to the organization n the exchange of dematerialized data relating to vocational training between the bodies funding vocational training, the institutions and bodies responsible for career development advice and the personal training account; 2019 taken for the application of law n ° 78-17 of January 6, 1978 relating to data processing, files and freedoms; Having regard to deliberation n ° 2017-109 of April 13, 2017 providing an opinion on a draft decree organizing the exchange of dematerialized data relating to vocational training, between the bodies funding vocational training, the institutions and bodies responsible for advice on professional development and the personal training account; 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 of Labor, on the basis of article 8-I-4° -a) of the amended law of January 6, 1978, of a request for an opinion on a draft decree relating to the obligation to inform training organizations of entries and training outings for the benefit of vocational training funders. Paragraph 1 of Article L. 6353-10 of the Labor Code provides that training organizations inform organizations that finance training of the start, interruptions and completion of training courses followed by trainees, and communicate to them the data relating to employment and the professional training course they have on these trainees. The Commission recalls that Decree No. 2017-772 of May 4, 2017,

on which it issued an opinion on April 13, 2017, organizes the exchange of dematerialized data relating to vocational training between vocational training funding bodies, institutions and bodies responsible for career development advice and the personal training account. training actions, skills assessments, validation of acquired experience and apprenticeship training), inform Pôle emploi as well as the local missions and the Cap emploi, of the effective entry, interruption and the effective exit from training of a person registered on the list of job seekers or benefiting from personalized support within the said structures. Articles L. 6353-10 al.1 and L. 6121-5 each refer to a decree determining the procedures for issuing information. It is in the context of these two references that the Commission was asked for an opinion. . Firstly, paragraph I of article 1 of the draft decree provides that the service providers mentioned in article L. 6351-1 of the labor code inform the organizations that finance the training within three days, in dematerialized form. , the effective entry into the training course, the interruptions and the effective exit of their trainees. It also specifies that the training organizations check with the financing organizations that they are authorized to access the information system allowing the dematerialized transmission of these events. Failing this, this information must be transmitted to the funding bodies within three days in paper format. If the deadline provided does not call for observation, the Commission recalls that any transmission of personal data must ensure the confidentiality and integrity transmitted data. Thus, in the case of electronic transmission, data transiting over networks open to the public must be subject to encryption and authentication measures for the sender and the recipient. In the case of paper transmission, physical security measures must be implemented. Secondly, paragraph II of article 1 of the draft decree provides that the transmission of the information provided for in paragraph I enables these service providers to fulfill the obligation mentioned in article L. 6121- 5 of the same code. On this last point, the Commission invites the Ministry to clarify the wording of this provision which can be understood either as referring for the discharge of the obligation of Article L. 6121-5 of the Code of work under the conditions of I, ie, on the principle of the one-stop shop, as meaning that information from a funding organization would make it possible not to inform Pôle emploi as well as the local missions and the Cap emploi. For the PresidentThe Deputy Vice-PresidentSophie LAMBREMON