

Opinion of the National Commission for Data Protection relating to

to bill no. 7877 amending:

1° the amended electoral law of 18 February 2003;

2° of the amended law of 27 July 1991 on electronic media

Deliberation n°28/AV12/2022 of July 1, 2022.

Pursuant to Article 57, paragraph 1, letter c), of Regulation (EU) 2016/679 of 27 April

2016 on the protection of natural persons with regard to the processing of personal data

personal character and on the free movement of such data, and repealing Directive 95/46/EC

(General Data Protection Regulation) (hereinafter the "GDPR"), to which refers

article 7 of the law of 1 August 2018 on the organization of the National Commission for the

data protection and the general data protection regime, the Commission

national body for data protection (hereinafter the "National Commission" or the "CNPD")

"advises, in accordance with the law of the Member State, the national parliament, the government and

other institutions and bodies on legislative and administrative measures relating

to the protection of the rights and freedoms of natural persons with regard to processing".

By letter dated September 2, 2021, the Prime Minister, Minister of State, invited

the National Commission to decide on the bill amending the electoral law

amended on February 18, 2003 (hereinafter the "draft law"). By letter dated November 16, 2021, the

National Commission informed the Prime Minister, Minister of State, that it had not

could identify data protection issues so that it did not consider

necessary to issue an opinion on this bill. By letter dated May 19, 2022, the

CNPD was invited to comment on the amendments adopted by the Committee on

Institutions and Constitutional Review at its meeting of May 2, 2022. By email from

June 14, 2022, the amendments adopted by the Committee on Institutions and Revision

at its meeting of May 20, 2022 were submitted to the CNPD for an opinion.

This opinion will limit its observations to questions dealing with aspects relating to the

data protection, particularly raised by parliamentary amendments

which were adopted on May 20, 2022 (hereinafter the “parliamentary amendments”).

The amended electoral law of 18 February 2003 provides in paragraph 3 that “[a]ny citizen may

take inspection and request in writing a copy of the updated lists as well as the parts

mentioned above to the municipal secretariat up to and including the fifty-eighth

day before election day. The copy will be delivered either in paper or digital form

in the applicant's own hands or by a secure means of communication in a

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appropriate The citizens' data contained in the lists cannot be used for

purposes other than electoral. The bill, as originally introduced, proposed to give

citizens the possibility of having a copy of the electoral lists delivered the next day

their temporary suspension, during the period of inspection of the electoral lists by the public, which

extends from the 54th to the 47th day before the elections. Thus, it would have been possible to inspect

and to obtain a copy of the provisional electoral lists during the period from the 54th to the

47th day, then in a second phase, to take inspection and to be issued a copy

updated voter lists from the 44th to the 30th day before the elections.

The parliamentary amendments seek to remove the right of citizens to request, in the

within the framework of the inspection of the electoral lists, the delivery of a copy of the lists. The comment

of the articles specifies in this respect that “[t]he issuance of copies of the electoral lists constitutes

in our country a long-standing tradition that is an integral part of our electoral system

and which has been maintained to this day. As the electoral law limits the use of data to

personal character contained in the electoral lists for purely electoral purposes, it

in fact served the interests of political parties to use it for prospecting purposes politics in the context of electoral periods. However, given the rules applicable to of general data protection and the general trend which is increasingly towards strengthening the protection of personal data, maintaining the right to advantage of any citizen to request a complete copy of the electoral lists is no longer appropriate Nowadays. It is therefore proposed to abolish it since the right for the citizen to inspect of the electoral list to the secretariat of the municipality which is maintained satisfied on its own already at the electoral purpose pursued. »

In its opinion on draft law no. 5859 amending the amended electoral law of 18 February 2003¹, the National Commission had already warned against the risk that data from the electoral lists, after communication to the citizens, can be processed subsequently in a manner incompatible with their electoral purpose. More recently, the CNPD has published a communication on the use of electoral lists for canvassing purposes elections² as well as guidelines aimed at raising the awareness of political actors on the risks associated in particular with the collection and processing of personal data voters for electoral purposes. It should also be noted that the CNPD has received in the past complaints in connection with the use of personal data appearing on the copies of voters lists.

1 Opinion of the CNPD of October 28, 2008, doc. speak. 5859/2

2 <https://cnpd.public.lu/fr/actualites/national/2018/08/communication-administrateurs.html>

3 <https://cnpd.public.lu/fr/dossiers-thematiques/campagnes-electorales.html>

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