

Deliberation 2019-149 of December 12, 2019 National Commission for Computing and Liberties Nature of the deliberation:

Opinion Legal status: In force Date of publication on Légifrance: Saturday August 01, 2020 Deliberation n° 2019-149 of December 12, 2019 providing an opinion on a draft decree relating to the filing of the apprenticeship contract (request for opinion no. 19020445)

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 filing of the apprenticeship contract; Having regard to convention n° 108 of the Council of Europe for the protection of individuals with regard to the 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 the free movement of such data, and repealing Directive 95/46/EC (general data protection regulation); Having regard to the labor code, in particular its articles L. 6224-1 and L. 6227-11; Having regard to law n° 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular its article 8-I-4°-a); Having regard to law n° 2018-771 of September 5, 2018 for the freedom to choose one's professional future; Having regard to Decree No. 2010-112 of February 2, 2010 taken for the application of Articles 9, 10, and 12 of Ordinance No. 2005-1516 of December 8, 2005 relating to exchanges between users and administrative authorities and between administrative authorities; Having regard to Decree No. 2019-536 of May 29, 2019 taken for the application of Law No. files and freedoms; Having regard to deliberation no. 2014-434 of October 23, 2014 providing 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 July 11, 2019 providing an opinion on a draft decree amending the decree n° 2014-1717 of December 30, 2014 creating the personal training account as well as a draft decree 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: I-4°-a) of the Data Protection Act, a request for an opinion on a draft decree relating to the filing of the apprenticeship contract. Law No. 2018-771 of September 5, 2018 for the freedom of choose one's professional future profoundly modifies the governance and financing of the vocational training system and in particular the methods of transmission of apprenticeship contracts. Article 11 of the aforementioned law provides that the procedure for registering apprenticeship contracts is replaced by the filing procedure. Article L. 6224-1 of the Labor Code provides that the apprenticeship contract or, where applicable, the declaration mentioned

in Article L. 6222-5 is sent to the operator of competences (OPCO), which proceeds to its deposit under conditions fixed by regulation. It is within this framework that the Commission was seized of the draft decree. Also, article 1 of the draft decree specifies that the Employers, with the exception of those in the non-industrial and commercial public sector, now send the apprenticeship contract to the OPCO, and no longer to the consular chambers (the chambers of trades and crafts, agriculture or trade and industry). In the event of acceptance of the apprenticeship contract, the OPCO files said contract with the ministry in charge of professional training by dematerialized means. This same provision lists the information transmitted by the employer to the 'OPCO. Article 1 of the draft decree is equal specify the procedure for filing the contract in the non-industrial and commercial public sector. As such, it provides that the public employer henceforth sends the apprenticeship contract to the regional directorate for business, competition, consumption, labor and employment. The Commission recalls that any transmission of data to personal character must ensure the confidentiality and integrity of the data transmitted. 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. As this is a paper transmission, physical security measures must be implemented. She considers that these changes do not call for any further comments on her part. For the President The Deputy Vice-President Sophie LAMBREMON