

Deliberation 2022-033 of March 24, 2022 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation:

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2022-033 of March 24, 2022 providing an opinion on a draft decree extending to invalidity and permanent incapacity pensions the scope of inter-scheme samples of contributors and retirees (request for opinion no. Department of Research, Studies, Evaluation and Statistics of a request for an opinion on a draft decree extending to invalidity and permanent incapacity pensions the scope of inter-scheme samples of contributors and pensioners; 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 or GDPR); Having regard to the Social Security Code, in particular Articles R. 161-59 et seq.; Having regard to Law No. 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms, in particular its article 8-I-4°-a); On the proposal of Mr. Philippe GOSSELIN commissioner, and after having heard the observations of Benjamin TOUZANNE, Government Commissioner, The following contextual elements being recalled: The Department of Research, Studies, Evaluation and Statistics (DREES) is in charge of processing the inter-scheme sample of contributors (EIC) and the inter-scheme sample of retirees (EIR), based on the legal basis of the public interest mission provided for in Article 6-1-e) of the GDPR. The implementation of the EIC and the EIR was authorized by decree no. 2003-686 of July 22, 2003 relating to the inter-scheme sample of c workers and the inter-scheme sample of retirees modifying the social security code, codified in articles R. 161-59 to R. 161-69 of the social security code. The EIC is a pseudonymized panel allowing study the pension rights acquired in all the schemes by a sample of people of different generations who contribute or have contributed to a pension scheme during their career. The EIR is a panel allowing us to observe the evolution the number and composition of the group of retirees, to describe the conditions for retirement and to reconstitute the overall average amount of pension per retiree. More specifically, the purpose of this processing is to produce statistics and steer the implementation of old-age insurance policies based on the data processed. Studied together, the two samples make it possible to analyze transitions from employment to retirement and to make projections. In the same logic as decree no. 2015-1570 of December 1, 2015, which extended the scope of the EIR to disability pensions of non-professional origin, the draft decree increases its scope to permanent incapacity pensions, that is to say to invalidity pensions having an occupational origin. Two organizations managing an invalidity and permanent incapacity scheme thus complete the list of organizations from which data are collected, namely the compensation fund for asbestos

victims (FIVA) and the Coordination Fund to social insurance from the Régie Autonome des Transports Parisiens (RATP). The draft decree also provides, in order to bring the regulatory provisions of the Social Security Code into line with Decree No. 2015-1570, that the Caisse Nationale de l'health insurance provides data as a manager not only of a disability scheme but also of a permanent disability scheme. The sample sizes are also scaled with the addition of younger generations and more days to carry out studies on certain small populations. Makes the following observations concerning the draft text: Concerning the nature of the data collected

ésThe draft article R. 161-65 of the Social Security Code provides that, in addition to the year of birth of the persons concerned, two additional data, namely the municipality of residence and the month and birth, must be transmitted for the establishment of the EIR and the EIC. The municipality of residence must make it possible to identify the rural or urban character of the residence of the persons concerned, and the month of birth to precisely determine the retirement age of individuals and to ensure the consistency of this age. with the validated duration and the type of departure. The month of birth is also requested as part of the consistency checks carried out by the DREES with the data from the National Directory of Individuals (RNIPP). The Commission considers that these modifications do not call for any comments with regard to the provisions relating to data protection.

Concerning the rights of data subjectsThe draft decree updates Article R. 161-68 of the Social Security Code with regard to provisions of the GDPR. The Commission notes that only the rights of access and rectification are covered by the draft decree. Asked about the exercise of the rights to erasure, limitation and opposition, the ministry clarified the draft decree to the purposes: to add the right to limitation to the rights that may be exercised by data subjects; to exclude the right to erasure in accordance with the provisions of Article 17-3-d) as well as the right of opposition in accordance the provisions of article 23-1-e) of the GDPR. The mobilization of article 23-1) of the GDPR relating to the limitation of rights supposes compliance with the provisions of article 23-2) according to which elements must be incorporated into the legislative measure, in particular concerning the risks to the rights and freedoms of data subjects. .

Regarding the procedures for informing the persons concerned, the Commission notes that the draft decree will be amended in order to update them with regard to the provisions of the GDPR. It notes that the draft decree provides for the persons concerned to be informed directly, that is to say by sending a letter, or by posting and welcomes the fact that the first option is preferred. The other provisions of the draft call for no comments. The President Marie-Laure DENIS