

DELIBERATION n°2019-026 of FEBRUARY 28, 2019 National Commission for Computing and Liberties Nature of the

deliberation: Authorization Legal status: In force Date of publication on Légifrance: Wednesday March 27, 2019 Deliberation n°

2019-026 of February 28, 2019 authorizing the observatory Grand-Est regional health authority to implement automated

processing of personal data for the purpose of a survey aimed at determining the state of health of persons entering a prison

establishment in the Grand-Est region (Authorization request no. 2199779) The National Commission for Computing and

Liberties, Seizure by the Grand-Est Regional Health Observatory of a request for authorization concerning the automated

processing of personal data for the purpose of an investigation aimed at determining the state of health of persons entering a

prison in the region; Having regard to Convention No. 108 of the Council of Europe for the protection of persons with 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 natural persons with regard to the processing of personal data and to

the free movement of such data, and repealing Directive 95/46/EC; Having regard to the Public Health Code, in particular its

article R. 6112-19; Having regard to Law No. 78-17 of January 6, 1978 as amended relating to information technology, files

and freedoms, in particular its articles 8-II-8° and 54; Having regard to decree n° 2005-1309 of October 20, 2005 as amended,

taken for the application of law n° January 1978 relating to data processing, files and freedoms; Having regard to the file and

its supplements, and in particular the impact analysis relating to privacy produced on October 9, 2018; On the proposal of Mrs

Valérie PEUGEOT, commissioner, and after having heard the observations of Mrs. Nacima BELKACEM, commissioner of the

Government, Formula I The following observations: Responsible for processing The Regional Health Observatory (ORS)

Grand-Est, an association created in 1983 and member of the French network of ORS, united within the National Federation of

Regional Health Observatories (FNORS). On the purpose In the context of this investigation, the purposes of the processing

are: to improve knowledge of the state of health of the detainees (from a somatic, psychiatric and social point of view); to best

adapt the health care of detainees; to draw up a report on the results obtained (overall and by establishment). The legal basis

for processing is Article 6-1-e of the General Data Protection Regulation (GDPR), at namely a mission of public interest. The

survey aims to have a collection of epidemiological data on the state of health of people arriving in a penitentiary

establishment, under the jurisdiction of the interregional directorate of the Grand Est penitentiary services. The survey is

carried out by the ORS over a period of 6 weeks and will take place during the first half of 2019. Within each level 1 health unit

(USN1), the doctor completes a questionnaire in paper format when he carries out the medical examination on entry into

detention. Participation in the survey is optional. Detainees may refuse to answer questions. The Commission considers that the purpose of the processing presented is determined, explicit and legitimate, in accordance with the provisions of Article 5-1-a of the GDPR. It considers that there are grounds for application of the provisions of articles 8-II 8° and 54 of the amended law of January 6, 1978, which require authorization for processing involving data relating to health and justified, as in this case, by the public interest. The data processed The questionnaires are completed in paper format by the doctors. A detachable section makes it possible to establish the correspondence between the identity of the detainee and his identifier (alpha numeric code) in the survey. The categories of personal data whose processing is envisaged are: administrative data of the detainee: sex; year of birth ; nationality (French/foreign/dual); communication possible in French (yes/no); pre-incarceration social coverage (type of social coverage); number of days between the date of incarceration and the date of the medical visit; data relating to the criminal situation of the detainee: name of the detention facility; date of incarceration (month/year); first incarceration (yes/no); data relating to detainees, some of which relate to the detainee's state of health: presence of tattoos (yes/no), presence of piercings (yes/no); treatment in progress (name of treatment) / no treatment in progress; contact with the healthcare system in the year preceding incarceration (yes/no) / if yes, which one(s); suicide attempt (yes/no) / if yes year of last attempt; tobacco consumption (average number of cigarettes/day / don't know / quit smoking / never smoked tobacco); alcohol consumption (never/occasionally/excessive consumption); other addictions in the twelve months prior to incarceration (name of addictive product, frequency of use, form of use, addiction without product (yes/no); screening test before incarceration (yes/no; if yes, Which one(s): HIV, Hepatitis B, Hepatitis C); Hepatitis B vaccination (yes/no/unknown) and/or DTP (up-to-date/incomplete/unknown); medical examination (weight, height, general condition (good/fair/poor); oral condition (good/care to be scheduled/urgent care needed), caries index; requires follow-up by general practitioner (yes/no), requires treatment of substitute (yes/no), person with reduced mobility (yes/no); requires adaptation of the conditions of detention due to a medical problem or disability (yes/no; if yes, which one(s) )); prescription of a specialist consultation (yes/no; if so which one(s); prescription of treatment for an acute pathology (yes/no); prescription of comp elementary (exam type); requires urgent extraction (yes/no; if yes for what reason). The Commission considers that the data whose processing is envisaged is adequate, relevant and limited to what is necessary in relation to the purposes of the processing, in accordance with of Article 5-1-c of the GDPR. On the recipients The recipients of the data are: the authorized staff (doctor or nurse) of the health unit of the penitentiary establishment caring for the person concerned; the authorized research officer within ORS Grand Est. The

Commission considers that the categories of recipients do not call for comment. On information and the procedures for exercising rights following: A display in the waiting room and in the treatment room is planned. During the medical visit to the establishment, the doctor in charge of the patient gives him an information note. This information note will be translated into several languages, depending on the nationalities of the persons entering detention. If necessary, the presence of a translator may be requested for the medical examination. The rights of persons are exercised directly with the doctor or with the ORS, through the doctor who alone knows the identity of the detainees. detainees. The Commission also requests that the two information media be supplemented so that they include all the information provided for in Article 13 of the GDPR. The Commission recalls that the information provided must be adapted to the person concerned including, where appropriate, orally when necessary. If the person concerned is a minor, the information must be delivered to the holder of the exercise of parental authority. In the absence of information, data processing is not possible. On security measures The Commission notes that the processing has been the subject of a study of the risks to the privacy of the persons concerned. The Commission notes that the password policy provided by the data controller does not comply with its deliberation n° 2017-012 of January 19, 2017 adopting a recommendation relating to passwords. The Commission therefore invites the data controller to review its policy in order to comply with its doctrine and to reliably authenticate the users of the processing. Given the indirectly identifying nature of the data collected, the Commission would like the processing to be modified, in order to specify that the data collected will be pseudonymized and not anonymized. On the other characteristics of the processing The paper questionnaires will be kept until the publication of the results of the survey scheduled for the course of the first quarter of 2020. correspondence between the identifier in the survey and the identity of the detainee will be kept, by the doctors, for six months following the computer entry of the information. The computerized questionnaires will be kept for five years after the publication of the results. The Commission considers that these data retention periods do not exceed the period necessary for the purposes for which they are processed, in accordance with the provisions of Article 5-1-e of the GDPR. Authorizes, in accordance with this deliberation, the Grand Est Regional Health Observatory to implement the processing described above.

For the President, Deputy Vice-President Sophie LAMBREMON