

Deliberation 2023-020 of March 9, 2023 National Commission for Computing and Liberties Nature of the deliberation: Other authorization Legal status: In force Date of publication on Légifrance: Saturday March 11, 2023 Deliberation No. 2023-020 of March 9, 2023 bearing a single and authorizing decision the company "APM International" to implement automated processing for the purposes of research, study and evaluation in the field of health requiring access to national data from the program for the medicalization of information systems (PMSI) (Request no. 922297) The National Commission for Computing and Liberties, Registration by the company APM International of a request for authorization of automated processing for the purposes of research, study and evaluation in the field of health requiring access to national data from the program for the medicalization of information systems; 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 personal data and the free movement of such data, and repealing Directive 95/46/EC (RGPD); Having regard to Law No. 78-17 of 6 January 1978 as amended relating to data processing, files and freedoms, in particular its articles 66, 72 and following; Having regard to the favorable opinion of the Ethics and Scientific Committee for research, studies and evaluations in the field of health of December 15, 2022; Having regard to deliberation n ° 2019-142 of the December 5, 2019 issuing a single decision authorizing APM International to implement automated processing for research, study and evaluation purposes requiring access to national data from the information systems medicalization program (PMSI) (request for authorization no. 919393); Having regard to the file and its supplements; On the proposal of Mrs Valérie PEUGEOT, commissioner, and after having heard the observations of Mr Benjamin TOUZANNE, government commissioner, Responsible for processing The company APM is a press agency specializing in the health sector. It has several online services such as APM News, an information service that offers access to articles or reports, and APM Intelligence, which allows the structured consultation of information and data by health establishment. or group of establishments. As part of its activity of informing health professionals, it deals with subjects related to health policy, public and private establishments, scientific news and the life of health industries. Its editorial project provides, in addition to the treatment of news from the health sector, the analysis of the hospital landscape and the realization of targeted analyzes at national or regional levels of health policies, in particular from data available in an open way. (opendata). On the advisability of renewing the single decision previously issued by the Commission On December 5, 2019, the company APM was authorized by the Commission to implement for three years the processing of personal data from data from the medicalization program information systems (PMSI). It appears from the report sent to the Commission that six treatments

were implemented according, for each of them, to a precise scientific protocol. Five treatments are subject to an annual update. The data controller has also complied with its commitments regarding the implementation of the transparency portal. APM is requesting a renewal of the authorization previously issued by the Commission in order to access PMSI data in order to continue to implement these processing operations annually for three years. These processing operations have the same purpose, the carrying out of studies intended for the construction of activity indicators for establishments, groups of establishments or hospital groups, relate to categories of data identical – in this case, the PMSI data – and for which the categories of recipients are identical – the persons authorized by the APM company. ° 78-17 of January 6, 1978 as amended (hereinafter the Data Protection Act), the Commission considers it appropriate, in view of the elements presented in the application file, to apply the provisions of Article 66 IV, which allow it , by single decision, to issue to the same applicant an authorization for processing for the same purpose, relating to identical categories of data and having identical categories of recipients. On the application of the provisions related to the SNDS The PMSI data being a component of the SNDS, the Commission recalls that all the legislative and regulatory provisions relating to the SNDS are applicable in this case, and in particular the prohibition on using this data for the purposes described in Article L. 1461-1 V of the public health code (CSP). On the purpose of the processing operations and their character in the public interest The processing operations requiring access to PMSI data are intended to analyze the evolution of the hospital landscape with the construction of activity indicators linked to care by establishment, group of establishments, categories of establishments or by region, with regard to the public policies put in place. These indicators, whose calculation methods have been precisely described in the application file, will be used in particular to: illustrate the evolution of the activity hospital; evaluate the impact of the policies put in place; analyze the evolution of the management of certain pathologies in the hospital; analyze the evolution of the consumption of care. The Commission notes that a specific governance is provided for the evaluation of each analysis requiring data processing: firstly, the relevance and feasibility of using PMSI data is questioned; secondly, in the event that the use of the database data from the PMSI would be necessary, a validation committee from the company APM will intervene in order to verify that the analysis envisaged falls within the purposes set out in the authorization from the Commission. If these conditions are not met, the study cannot be implemented. The Commission considers, on the one hand, that the purpose of the processing is determined, explicit and legitimate, in accordance with Article 5.1.b of the GDPR and, on the other hand, that it is in the public interest, in accordance with Article 66 I of the Data Protection Act. Finally, the Commission notes that: the indicators calculated from PMSI

data cannot be exported; the users of the APM Intelligence tool undertake, via the general conditions of use, not to pursue prohibited from the aggregate data indicators of the PMSI made available to them. On the categories of data processed The data controller must only process, for each of the processing operations implemented within the framework of this single decision, the data strictly necessary and relevant to the objectives of the processing. Provided that these files can be distributed by the Technical Agency for Hospitalization Information (ATIH), in addition to the specific file allowing all the PMSI data concerning the same patient to be linked (file ANO), the data concerning the following activities are necessary to carry out these studies: medicine, surgery, obstetrics and odontology (MCO); home hospitalization (HAD); complementary file (FICHCOMP). The processing included in the framework of the single decision relates to the national data of the PMSI for the years 2017 to 2024 in a rolling window, provided that they can be disseminated by ATIH. Only strictly necessary and relevant data must be made available of the data controller. In accordance with Article 30 of the GDPR, the latter must keep up to date, within its register of processing activities, the list of processing operations implemented within the framework of this single decision. , the adequacy, relevance and limited to what is necessary with regard to the purposes for which the data are processed, the geographical area concerned and the historical depth of the data consulted must be justified in this register for each processing operation implemented within the framework this single decision. The Commission considers that the data whose processing is envisaged are adequate, relevant and limited to what is necessary in relation to the purposes of the processing, in accordance with the provisions of Article 5.1.c) of the GDPR. storage of data PMSI personal data may not be stored by the data controller outside the platform of the Secure Data Access Center (CASD), their export being prohibited. access to the data in the secure platform must be limited to the duration necessary for the implementation of the processing, which may not exceed three years, from the date of effective access to the data. The Commission considers that this duration retention of the data does not exceed the duration necessary for the purposes for which they are collected and processed, in accordance with the provisions of article 5-1-e) of the GDPR. On the publication of the results When the result of the data processing is made public, the direct or indirect identification of the persons concerned must be impossible, in accordance with Article 68 of the Data Protection Act. The results of the studies carried out within the framework of this single decision may be sent to users of the services of the APM company, in particular APM News and APM Intelligence. On the categories of data recipients Only the data controller and the persons authorized by him have access to data under this Single Decision. The data controller keeps documents up to date indicating the competent person(s) within it to issue the authorization to access the

data, the list of authorized persons, their respective access profiles and the methods of allocation, management and control of authorizations. These categories of persons are subject to professional secrecy under the conditions defined by Articles 226-13 and 226-14 of the Criminal Code. The qualification of authorized persons and their access rights must be regularly reassessed, in accordance with the procedures described in the authorization procedure established by the data controller. On information and the rights of persons The persons concerned are informed of the implementation of the SNDS and of the possible reuse of personal health data concerning them according to the terms defined by article R. 1461-9 of the CSP. The provisions of article 69 of the Data Protection Act are applicable to all processing carried out using data from the SNDS. In accordance with the provisions of Article 14 of the GDPR, in the event that the provision of individual information proves impossible, requires disproportionate effort or seriously compromises the achievement of the processing objectives, appropriate measures must be implemented by the data controller in order to protect the rights and freedoms, as well as the legitimate interests of the data subject, including by making the information publicly available. In this case, an exception is made to the principle of individual information of persons and appropriate measures are taken by the controller to make the information publicly available concerning the implementation of this processing. Finally, the Commission takes note of: the free access to all dispatches and all reports from analyzes carried out using PMSI data, once the period of one month following the publication of the article has passed, corresponding to the period during which access is reserved for subscribers only; transparency devoted to the processing of PMSI data, on which will be listed all the processing carried out by the company APM, the links to the publications resulting from the analysis of the results of the processing carried out as well as a link to the descriptive sheet of the tool deployed as part of the APM Intelligence service. On data security and traceability of actions The implementation of personal data processing within the framework of the study is carried out under the responsibility of the data controller, including with third parties acting on its behalf, in compliance with the provisions of Articles 24, 25, 28, 32 to 35 of the GDPR as well as the decree of March 22, 2017 relating to the security baseline applicable to the SNDS. The data will be made available to the data controller through the secure access provider designated by ATIH, namely the CASD. Only data resulting from anonymization processes, such that the identification, direct or indirect, of people is impossible, can be extracted. To claim the anonymity of a data set, the data controller must carry out an analysis to demonstrate that its anonymization processes meet the three criteria defined by Opinion No. 05/2014 on data processing techniques. anonymization adopted by the Article 29 group (G29) on April 10, 2014. If these three criteria cannot be met, a study of the risks of re-identification must

have been carried out in order to demonstrate that the risks of re-identification are negligible and thus conclude that the data is anonymous. In this case, the results concerning less than eleven stays are systematically excluded and will not be made accessible. The Commission draws the data controller's attention to the fact that the deletion of results containing small numbers may not be sufficient to meet the three criteria defined by the above-mentioned Opinion No. 05/2014 and that a complete analysis of its anonymisation processes must be carried out, accompanied by a regular reassessment of the risks of re-identification. On the principle of transparency The provision of data from the SNDS and its components is designed in such a way as to account for their use to the public. To this end, Article L. 1461-3 of the CSP makes access to data from the SNDS and its components subject to the communication to the Health Data Platform (PDS) of several elements by the data controller, before and after the studies. Thus, the data controller undertakes to register with the public directory kept by the PDS all the studies carried out within the framework of this single decision. This registration, to be carried out by the data controller or the person acting on his behalf before the start of processing, is accompanied by the transmission to the PDS of a file comprising: the protocol, including the justification of the public interest, as well as a summary, according to the model made available by the PDS; the declaration of interests of the data controller, in relation to the purpose of the processing. The Commission recalls that at the end of the studies, the method and the The results obtained must be communicated to the PDS with a view to their publication. The recording of the processing operations and the transmission of the results are carried out in accordance with the procedures defined by the Health Data Platform. annual report on the studies carried out and that this report will be communicated to the Commission and to the PDS. Finally, it recalls that at the end of the three-year period, a report containing in particular the list of analyzes carried out within the framework of the single decision as well as the methodology followed in the context of the analyzes must be sent to it. Authorizes, in accordance with this deliberation, the company APM INTERNATIONAL to implement the processing described above for a period of three years, with obligation to return a report to the Commission at the end of this period. The President Marie-Laure DENIS