

DELIBERATION n°2018-363 of 20 DECEMBER 2018National Commission for Computing and LibertiesNature of the

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

2018-363 of 20 December 2018 on a single and authorizing the French Insurance Federation to implement automated

processing for research, study and evaluation purposes requiring access to data from the generalist sample of beneficiaries

(EGB), to data marts and to data from Dashboards of the National Health Insurance Interregime Information System

(SNIIRAM), components of the National Health Data System (SNDS). (Request No. 918105) the French Insurance Federation

of a request for authorization for automated processing for research, study and evaluation purposes requiring access to

sample data g generalist of beneficiaries, data marts and data from the dashboards of the National Health Insurance

Inter-scheme Information System; Having regard to Convention No. 108 of the Council of Europe for the protection of

individuals with regard to automatic processing 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 on the free movement of such data, and repealing Directive 95/46/EC; Having regard to the Social Security Code; Having

regard to Law No. 78-17 of 6 January 1978 as amended relating to data processing, files and freedoms, in particular its articles

8- II-8°, 54, 61 and following; Having regard to law n° 2016-41 of January 26, 2016 on the modernization of our health system,

in particular its article 193; Having regard to decree n° 2016-1871 of December 26, 2016 relating to the processing of personal

data referred to as the national data system of health; Considering the decree n° 2005-1309 of October 20, 2005 modified

taken for the application of the law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms; Considering the

decree of March 22, 2017 relating to the security reference system applicable to the National Health Data System (SNDS);

Having regard to the decree of July 19, 2013 relating to the implementation of the amended National Health Insurance

Interregime Information System; opinion of the Expert Committee for research, studies and assessments in the field of health

of March 20, 2018; After hearing Mrs. Marie-France MAZARS, commissioner, in her report, and Mrs. Nacima BELKACEM,

government commissioner , in its observations, Makes the following observations :The National Commission for Computing

and Liberties (hereinafter "the Commission") was seized on March 28, 2018 by the French Insurance Federation (hereinafter

"the Federation"), acting as responsible of processing, a request for authorization of automated processing for research, study

and evaluation purposes requiring access to data from the general sample of beneficiaries (EGB), to data marts and to data

from tables of board of the National Health Insurance Interregime Information System (SNIIRAM), components of the National

Health Data System (SNDS). The French Insurance Federation is a representative federation bringing together the French Federation of Insurance Companies and the group of mutual insurance companies which, for the exercise of its missions, carries out studies based on medico-administrative databases. To do this, it submitted to the Commission a request for authorization based on Article 54 of Law No. 78-17 of January 6, 1978 as amended (hereinafter "Data Protection Act").

Carrying out these studies each year involves the rapid implementation of around ten data processing operations requiring access to EGB data, data marts and data from the SNIIRAM dashboard. While some processing is recurrent, others, linked to legislative, regulatory or conventional news, cannot be anticipated. The processing described falls under the processing authorization regime for research, study or evaluation purposes. The Commission considered it appropriate, in view of the elements presented in the application file, to authorize the implementation of this processing on the basis of the provisions of Articles 54 IV and 61 et seq. of the "Informatique et Libertés" law, in under a single decision. On the application of the provisions related to the SNDS: Since the EGB data, the datamarts and the data from the SNIIRAM dashboards come from a component of the SNDS, the Commission recalls that all the legislative and regulatory provisions relating to the SNDS is applicable. In addition, the Commission recalls the prohibition on using this data for the purposes described in Article L. 1461-1 V of the Public Health Code (hereinafter "the prohibited purposes"): the promotion of the products mentioned in II of Article L. 5311-1 towards health professionals or health establishments; the exclusion of guarantees from insurance contracts or the modification of contributions or insurance premiums for an individual or a group of individuals presenting the same risk. Finally, the Commission recalls the obligation for the persons referred to in Article L.1461-3 II of the Public Health Code (the organizations mentioned in 1 ° of A and at 1°, 2°, 3°, 5° and 6° of B of I of Article L. 612-2 of the Monetary and Financial Code as well as the insurance intermediaries mentioned in Article L. 511-1 of the Insurance Code) to: entrust the processing of data to a design office or laboratory of research having carried out a commitment of conformity with the reference frame including the criteria of confidentiality, expertise and independence, fixed by the decree of July 17, 2017; or to demonstrate that the methods of implementation of the treatment make impossible any use data for one of the prohibited purposes. The Commission notes that, given its mission of representing insurance and reinsurance companies, the Federation is not one of the persons referred to in Article L.1461-3 II of the Public Health Code.

lawfulness of processing: The Federation is a member of the National Union of Complementary Health Insurance Organizations (hereinafter "UNOCAM") whose composition and missions are provided for by the Social Security Code. As the representative of insurance and reinsurance companies to the

public authorities, the Federation is consulted on changes in the functioning of the health system and participates in contractual negotiations. To carry out its missions, the Federation needs to have the statistical data essential to the profession. To do this, it carries out studies intended to enable it to have a better knowledge of the French health system and its developments. Given the tasks of the data controller, the processing is necessary for the purposes of the legitimate interests that he thus pursues and are, as such, lawful under Article 6 paragraph 1 point f) of the General Data Protection Regulation. data (hereinafter "GDPR"). On the purpose of the processing and their character of public interest: The processing requiring access to SNDS data is intended to carry out studies intended to enable it to have a better knowledge of the French health system thanks to: ex-ante and ex-post assessment of the financial impacts of regulatory measures; ex-ante and ex-post assessment of the financial impacts of treaty negotiations with a view to issuing proposals within the framework of decisions, consultations and negotiations with the public authorities; monitoring changes in the health system by expenditure item, certain acts or services, by population or by health professional. The Commission considers that the purpose of the processing is determined, explicit and legitimate, in accordance with Article 5 paragraph 1 point b) of the GDPR. present a purpose of public interest, in accordance with Article 54 I of the "Informatique et Libertés" law. On the categories of data processed: The Commission recalls that the data controller must not process, for each of the processing operations implemented in the context of this single decision, only the data strictly necessary and relevant to the purposes of the processing. The data that can be consulted on the portal of the National Health Insurance Fund (hereinafter the "CNAM") in the context of this single decision are exclusively: data from the EGB of SNIIRAM; the datamarts of SNIIRAM; data from SNIIRAM dashboards. On the duration of data retention: No export of personal data can be carried out within the framework of this single decision. The duration of access to data in the secure platform for the processing envisaged must be limited to the duration necessary to carry out the research, study or evaluation, and cannot exceed two years. On the publication of the results: The Commission recalls that, in accordance with Article 56 of the "Informatique et Libertés" law, when the result of the data processing is made public, the direct or indirect identification of the persons concerned must be impossible. The results of the studies carried out within the framework of this single decision may be sent to the employees of the Federation in charge of these subjects, such as the employees of the studies and statistics department and the employees of the health department as well as their counterparts in insurance companies that are members of the Federation. On the categories of data recipients: Only the controller has access to the data in the context of this single decision. It keeps up-to-date documents indicating the competent person(s) within it to

issue the authorization to access the data, the list of persons authorized to access this data, their respective access profiles and the methods of attribution, authorization management and control. Only persons authorized by the data controller may have access to the data. These categories of persons are subject to professional secrecy under the conditions defined by Articles 226-13 and 226-14 of the Criminal Code. They must also undertake to comply with the rules of the security baseline implemented for the SNDS. 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 data controller.

On information and the rights of individuals: The information of the persons concerned, as to the possible reuse of their data and the procedures for exercising their rights, is ensured by a notice appearing on the website of the responsible for processing, health insurance organizations and on media allowing it to be brought to the attention of individuals, in particular posters in premises open to the public or documents given to them. The rights of access, rectification and opposition may be exercised with the director of the body managing the compulsory health insurance scheme to which the person is attached, in accordance with the provisions of Article R. 1461-9 of the Public Health Code.

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 processing must be carried out within the CNAM's secure portal and must not provide for the constitution of a child system as defined in the decree of March 22, 2017 mentioned above. Finally, no crossing of several potential identifiers, as defined by Decree No. 2016-1871 of December 26, 2016 relating to the processing of personal data called "National Health Data System", must only be carried out as part of the implementation of its treatments.

On the principle of transparency: The provision of data from the SNDS and its components is designed to account for their use to civil society. To this end, Article L. 1461-3 of the Public Health Code makes access to data from the SNDS and its components subject to the communication to the INDS of several elements by the data controller, before and after the studies. Thus, the data controller undertakes to register the studies carried out within the framework of this single decision with the public directory kept by the INDS. This registration, to be carried out by the data controller or the person acting on his behalf, before the start of the processing, is accompanied by the transmission to the INDS of a file comprising: the protocol, including the justification of the interest public, as well as a summary, according to the model made available by the INDS; the declaration of interests of the controller, in relation to the purpose of the processing. At

the end of the studies, the method and the results obtained must be communicated to the INDS for publication. The recording of the processing and the transmission of the results are carried out in accordance with the methods defined by the INDS. In accordance with the recommendation of the Expert Committee for research, studies and evaluations in the field of health, the authorization will be limited to a period of three years. At the end of this 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 within the framework of the analyzes must be sent to the Commission. Authorizes, in view of the need for rapid implementation processing made necessary by its activity, the French Insurance Federation to implement the processing mentioned above for a period of three years, with the obligation to submit a report to the Commission at the end of this period . The President I.

FALQUE-PIERROTIN