

Deliberation 2022-119 of December 15, 2022 National Commission for Computing and Liberties Nature of the deliberation:

OpinionLegal status: In force Date of publication on Légifrance: Tuesday January 31, 2023NOR: CNIX2301299XDeliberation

n° 2022-119 of December 15, 2022 providing an opinion draft decree modifying the decree of May 15, 2009 authorizing the implementation of an automated processing of personal data called "DICEM" (request for opinion no. 22016854)The National Commission for Computing and Liberties ,

Seizure by the Ministry of the Interior of a request for an opinion concerning a draft decree amending the decree of May 15, 2009 authorizing the implementation of an automated processing of personal data called DICEM;

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 (General Data Protection Regulation);

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

On the proposal of Mr. Alain DRU, commissioner, and after having heard the observations of Mr. Benjamin TOUZANNE, government commissioner, Bearing in mind the following contextual elements:1. In order to fight against the nuisances and miscellaneous facts related to the use of non-approved machinery on the public highway, the legislator has provided for the obligation, for the owners of the machinery provided for in Article L. 321-1-1 of the highway code (moped, motorcycle, motor tricycle, etc.) to declare them and obtain an identification certificate when acquiring this type of vehicle (article L. 321-1-2 of the the road).

2. The draft decree submitted for opinion to the Commission Nationale de l'Informatique et des Libertés (hereinafter the Commission) aims to modify the decree of 15 May 2009 authorizing the implementation of automated processing of personal data called declaration and identification of certain motorized vehicles (DICEM). It aims to modify the processing in order to: update the name of the authority responsible for the processing; modify the categories of data by deleting the recording of the title of the declarant whose operational usefulness is no longer proven and by adding the collection of the declarant's IP address; expanding the list of accessors; bringing the rights of data subjects into line with the legal processing regime. Makes the following observations concerning the draft text: 3. Article 2 of the draft decree provides for the collection of the declarant's IP address.

4. The Ministry specified that this collection falls within the framework of data logging, which is essential to ensure the security

of personal data, in particular by making it possible to identify incidents (for example, by identifying terminals that may be the source of malicious actions).

5. The declaration procedure can be carried out via three distinct channels: it can be carried out by means of online teleservice: in this case, user authentication is done by FranceConnect; for users who do not wish to use FranceConnect, a form contact form accessible online allows them to provide all the information necessary for their declaration to be taken into account. In this case, the user must indicate an e-mail address to which he will be sent his certificate; in accordance with Commission deliberation no. 2022-040 of 7 April 2022, a paper alternative is also available.6. The Commission recalls that, in general, the controller must demonstrate that the IP address will be used in a relevant way to help secure the processing in question, in accordance with the principle of data minimization, enshrined in Article 5.1. c GDPR.

7. It considers that, in this case, the collection of the declarant's IP address is not necessary for the purposes pursued since the declaration procedure is carried out in an authenticated environment. Indeed, insofar as the declarant's access to the teleservice will be enabled by the use of FranceConnect and, when it is implemented, by the use of ProConnect for the declarations made by legal persons, such collection does not add value in terms of traceability. This necessity is also not characterized when the user is identified by an electronic address.

8. The other provisions call for no comments from the Commission.

The president,

M. L. Denis