

Deliberation 2020-033 of March 19, 2020 National Commission for Computing and Liberties Nature of the deliberation: Opinion
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providing an opinion on a draft decree relating to the death certificate amending the general code of local authorities.
(request for opinion no. 20004039)

The National Commission for Computing and Liberties, Seizure by the Ministry of Solidarity and Health of a request for an opinion concerning a draft decree relating to the death certificate, modifying the general code of local authorities; Having regard to the convention No. 108 of the Council of Europe for the protection of individuals 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 relating to the protection of natural persons with regard to the processing of personal data and the free movement of such data, and repealing Directive 95/46/EC; Having regard to the general code of local authorities and in particular its article L.2223-42; Having regard to Law No. 78-17 of January 6, 1978 as amended relating to data processing, files and freedoms; Having regard to Law No. 2019-774 of July 24, 2019 relating to the organization and transformation of the health system ;Having regard to Decree No. 2019-536 d u May 29, 2019 taken for the application of Law No. 78-17 of January 6, 1978 relating to data processing, files and freedoms; Having regard to deliberation No. 2011-247 of September 8, 2011 providing an opinion on the draft decree relating to the death certificate and operations following death, modifying the general code of local authorities; Having regard to deliberation no. 2017-067 of March 16, 2017 providing an opinion on a draft decree relating to the death certificate modifying the general code local authorities; On the proposal of Mrs Valérie PEUGEOT, commissioner, and after having heard the observations of Mrs Nacima BELKACEM, government commissioner, - Issues the following opinion: The general directorate of Health, of the Ministry of Solidarity and health referred to the National Commission for Computing and Liberties (the Commission) a draft decree in Council of State relating to the establishment of the death certificate, taken pursuant to the provisions of Article L. 2223-42 of the general code of local authorities. Article 12 of the law of July 24, 2019 relating to the organization and transformation of the health system modified article L. 2223-42 of the general code of local authorities in order to to allow students in the course of 3rd cycle of medical studies, retired doctors and practitioners with a foreign diploma outside the European Union authorized to pursue a course of consolidation of skills in medicine, to establish death certificates. The draft decree of which the Commission is seized modifies Articles R. 2213-1-1 to R. 2213-1-5 and Article R. 2213-1-7 of the General Code of Local Authorities.

Its main purpose is to specify the conditions under which retired doctors, students and doctors with a foreign diploma from outside the European Union can draw up a death certificate. With regard to retired doctors, the committee notes that the draft article R.2213-1-2 of the general code of local authorities provides in particular that the departmental council of the College of Physicians ensures the capacities and updates the list of voluntary retired doctors. The Commission recalls, in the absence of specific elements other than the mention of the recipients of the information, that this list constitutes a processing of personal data, the implementation of which must therefore take place in accordance with the provisions of the general regulations on data protection and the Data Protection Act. Moreover, as it had already pointed out with regard to doctors, in its deliberation n°2017-067 of March 16, 2017 providing an opinion on a draft decree relating to the death certificate amending the general code of local authorities, the Commission notes that the draft text does not refer either to the traceability of access by doctors and students to the forms making up the death certificate, or to a policy of management of authorizations. The other provisions of the draft do not call for comment. The President Marie-Laure DENIS