

Deliberation 2019-073 of June 6, 2019 National Commission for Computing and Liberties Nature of the deliberation: Opinion
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providing an opinion on a draft Order amending the Order of September 25, 2008 relating to the commissioning at the General
Directorate of Public Finance, at the National Family Allowance Fund (CNAF) and at the Central Agricultural Social Mutual
Fund of an automated transfer procedure tax data (request for opinion no. 2212895)

The National Commission for Computing and Liberties, Seizure by the Minister for Action and Public Accounts of a request for
an opinion concerning the modification of the decree of September 25, 2008 relating to the commissioning of the management
General of Public Finances, the National Family Allowance Fund (CNAF) and the Central Agricultural Social Mutual Fund of an
automated procedure for the transfer of tax data; Having regard to Convention No. 108 of the Council of Europe for the
protection of persons 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 personal nature and the free movement of such data, and repealing Directive 95/46/EC; Having regard to the
book of tax procedures, in particular its article L. 152; Having regard to the social security code; Having regard to law n° 78-17
of January 6, 1978 relating to data processing, files and freedoms; Having regard to law n° 2018-1203 of December 22, 2018
on the financing of social security for 2019 (LFSS 2019), in particular its article 78; Having regard to decree n° 99- 1047 of
December 14, 1999 taken for the application of article 107 of the finance law for 1999 (no. 98-1266 of December 30, 1998)
relating to the use of the registration number in the national identification directory of natural persons (NIR) by the General
Directorate of Taxation, the General Directorate of Public Accounting and the General Directorate of Customs and Indirect
Taxation; Having regard to Decree No. 2002-771 of 3 May 2002 establishing a tax data; Having regard to decree n° 2019-536
of May 29, 2019 taken for the application of law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms;
Having regard to decree n° 2019 -341 of April 19, 2019 relating to the implementation of processing involving the use of the
registration number n to the national directory for the identification of natural persons or persons requiring consultation of this
directory; Having regard to the amended decree of 25 September 2008 relating to the commissioning of the General
Directorate of Public Finances, the National Family Allowance Fund (CNAF) and the Caisse centrale de mutualité sociale
agricole (CCMSA) of an automated procedure for the transfer of tax data; Having regard to deliberation no. for the application
of article 107 of the law of December 30, 1998; Having regard to deliberation n° 01-055 of October 25, 2001 relating to the

creation of a procedure for the transfer of tax data on behalf of the State and social protection organizations referred to in article L. 152 of the book of tax procedures; On the proposal of Mr. Philippe GOSSELIN, commissioner, and after having heard the observations of Mrs. Nacima BELKACEM, government commissioner, Issues the opinion s Following: The Commission was asked for an opinion by the Minister for Action and Public Accounts, pursuant to Article 2 of Decree No. 99-1047 of December 14, 1999 taken for the application of Article 107 of the finance law for 1999 (no. 98-1266 of December 30, 1998) relating to the use of the registration number in the national identification directory of natural persons (NIR) by the general directorate of taxes, the general directorate of public accounting and the general directorate of customs and indirect duties, of a draft amendment to the decree of September 25, 2008 relating to the commissioning at the general directorate of public finances, the CNAF and the CCCMSA of an automated data transfer procedure. At the same time, it received another request for an opinion relating to the modification of this same decree no. CNIL for advice when modifying "TDF" processing, for the purpose of bringing the Commission's referral mechanisms into line with the amendment to the "Informatique et Libertés" law of June 20, 2018 and the reductions in formalities it entails. The initial version of the decree being however still in force, c It is on the basis of this text that the Commission is issuing this opinion. This referral comes within the framework of a project to reform the social benefits system. As a reminder, the reform will notably result in the creation of three new salaries ("individual DSN database", "INDIVIDUAL PASRAU database" and "return service") allowing organizations responsible for managing social benefits to have access to data generated by the "nominative social declaration" (DSN) and "Direct debit At Source – Other Revenues" (PASRAU). The purpose of these processing operations will be to allow the Family Allowance Funds (CAF) and the Agricultural Social Mutual Funds (MSA) to apprehend the amounts of the resources of applicants for and beneficiaries of housing assistance, with a view to deciding on the opening or maintenance of the corresponding rights, as well as on the calculation of the quantum of the latter. Within the framework of the reform , the assessment of the rights will be carried out on the basis of the resources received by the persons concerned during the twelve months preceding the date of the examination of the rights. However, the DSN and PASRAU flows, recently and gradually implemented, do not currently have sufficient historical depth to meet such a need. Therefore, the legislator has introduced into Law No. 2018-1203 of December 22, 2018 on the financing of social security for 2019, an article 78.VI .C according to which "during the year 2019, for the income of the year 2018, the tax administration communicates to the national family allowance fund and to the central fund of the agricultural social mutuality, according to the procedures provided for the application of article L. 152 of the book of tax

procedures, the personal information necessary to determine, among the recipients of these funds, those who can benefit from housing aid ". The proposed decree aims to implement these provisions. To this end, it provides for a temporary modification of the tax data transfer procedure ("TDF"). This procedure was created by decree no. dated 25 October 2001, in order to enable tax administration officials to communicate to bodies and services responsible for the management of a compulsory social security scheme or a compulsory supplementary pension scheme, on computer media, tax information necessary for the execution of the purposes mentioned in article L. 152 of the book of tax procedures (LPF). These purposes concern, in general terms, the control of the declarations of the beneficiaries for the purposes of opening, maintaining and calculating the rights. This same article specifies that the NIR can be used for the requests, exchanges and processing necessary for the communication of the information mentioned therein, when it concerns natural persons. tax data (CNTDF). The latter receives requests from social security organisations, which provide a "call file" concerning some of their policyholders, forwards them to the DGFIP and sends the responses received from the latter ("return files"). This procedure thus makes it possible to communicate to the social organizations by making the request only the data which are necessary for them. Article R* 152-1 of the LPF defines the conditions under which the organizations and authorities responsible for the application of social legislation may obtain nominative information on the tax situation of individuals from the DGFIP. In application of the aforementioned texts, an order of 25 September 2008 has already authorized the transfer of tax data resulting from income declarations made by the persons concerned. themselves, by the DGFIP to the CNAF and the CCMSA. The draft decree submitted for opinion to the Commission provides that during 2019, the DGFIP may also communicate to the CNAF and CCMSA tax data resulting from declarations made by third parties and concerning the income received by the interested parties in 2018. More specifically, for this purpose, data from the "pre-fill declaration" flow will be used. ie " (DPR). As a reminder, the DPR system was the subject of two deliberations by the Commission: deliberation no. the generalization of the process of pre-filling income declarations, whatever the medium; deliberation no. forwarding to the General Directorate of Taxation, for the purposes of pre-printing on their tax return, the income received by people employed at home and paid by employment service check or as part of the childcare service. The Commission notes that the proposed amendments to the decree of 25 September 2008 do not result in modifying the purposes of the "TDF" processing. As regards the data processed, the Commission notes that the NIR will be processed in e framework of the device. In this case, the use of this identifier complies with the provisions of article 2-D-4° of the decree n ° 2019-341 of April 19, 2019 mentioned above. The draft decree provides that for obtain information

relating to the income of applicants for or beneficiaries of a housing allowance, the CNAF and the CCMSA must send the DGFIP call files compiled according to the same procedures and including the same categories of information as those which have already been authorized by the Commission, in the initial version of the decree. The restitution data will be kept for two years at the DGFIP. They will only be kept by the CNAF and the CCMSA for the time necessary to achieve the purposes of the processing. The draft decree does not modify the security measures surrounding the operation of the system. For the President,

Deputy Vice-President Sophie LAMBREMON