

Deliberation 2020-074 of July 23, 2020 National Commission for Computing and Liberties Nature of the deliberation:

Authorization Legal status: In force Date of publication on Légifrance: Wednesday August 25, 2021 Deliberation n° 2020-074 of July 23, 2020 authorizing the company PREMIÈRES LIGNES TÉLÉVISION to implement automated processing of personal data for the purpose of a study on the variations in incidence and mortality linked to the COVID-19 epidemic by types and subtypes of establishments in the establishments of accommodation for dependent elderly people, entitled "VarIncidMortEHPAD"

(Request for authorization no. 920238)

The National Commission for Computing and Liberties, Seizure by the company PREMIÈRES LIGNES TÉLÉVISION of a request for authorization concerning the automated processing of personal data for the purpose of a study on the variations in incidence and mortality related to the COVID-19 epidemic by types and subtypes of establishments in accommodation establishments for dependent elderly people, entitled VarIncidMortEHPAD; 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 individuals with regard to the processing of personal data and to the free movement of such data, and repealing Directive 95/46/EC; 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; Considering the decree n° 2019-536 of May 29, 2019 taken for the application of the law n° 78-17 of January 6, 1978 relating to data processing, files and freedoms; opinion of the Ethics and Scientific Committee for research, studies and assessments in the field of health of June 9, 2020; Considering the file and its supplements; On the proposal of Mrs Valérie PEUGEOT, commissioner, and after having heard the observations by Mrs. Nacima BELKACEM, Government Commissioner, Makes the following observations: On the data controller PREMIÈRES LIGNES TÉLÉVISION specializes in the production of television programs, and more particularly of investigative documentaries. In this capacity, she notably produces the show Cash Investigation for the France 2 television channel. /ESMS coordinated by the National Public Health Agency. On the legality of the processing The processing implemented by the company PREMIÈRES LIGNES TÉLÉVISION is part of its activity of producing investigative documentaries. It is necessary for the purposes of legitimate interests pursued by the controller. As such, the very indirectly identifying nature of the data and the guarantees, particularly in terms of the rights of persons, provided for in the application file are taken into consideration. This processing is, as such, lawful under Article 6 -1-f)

of the General Data Protection Regulation (hereinafter GDPR). On the purpose and public interest of the processing The purpose of the processing is to carry out a study on the intensity of the epidemic linked to COVID-19 within accommodation establishments for dependent elderly people. The Commission considers that the purpose of the processing is determined, explicit and legitimate, in accordance with Article 5-1- b of the GDPR. It considers , moreover, that this processing has a purpose of public interest, in accordance with Article 66-I of the Data Protection Act. On the nature of the data processed The data collected by the mandatory reporting platform COVID-19 EHPAD / ESMS during the 2020s and 2021 will be used in the context of this study, subject to their availability. The Commission notes that this platform, coordinated by the National Public Health Agency, makes it possible to report the occurrence of cases presenting a clinical picture compatible with an infection linked to COVID-19 among residents and staff of accommodation establishments for dependent elderly people (EHPAD) as well as medico-social establishments (EMS) in order to put in place medical, health and social support measures for these people .This platform notably collects information relating to: the characteristics of the establishment (administrative status and sub-status, FINESS number); the number of residents and staff members present when the report is made; the number of cases among residents and staff members (possible cases, confirmed cases, hospitalized cases and, where applicable, place of death); the number of tests carried out s with residents and staff. The Commission notes that the declarations made by the establishments differ according to the status of the infectious episode (initial, in progress or completed): for establishments in which the infectious episode has not been completed , the data controller requests access to all the variables available at the time of the extraction; for establishments in which the infectious episode has ended, the data controller requests access to all the consolidated variables. data from the reporting platform will be matched with data available in open-data: data from the national file of health and social establishments (FINESS) of officially registered EHPADs in order, on the one hand, to merge reporting institutions and non-reporting institutions and, on the other hand, to link each reporting institution to its managing entity; the data in the directory of u National information and guidance portal for the elderly with loss of autonomy and their relatives, containing in particular information relating to the legal status of the establishment, its total capacity and its prices. This data will be matched from a primary key made up of the postal code followed by the name of the establishment and a secondary key made up of its geographical FINESS number. Finally, the Commission notes that the data thus matched will make it possible to analyze the intensity of epidemic through the production of indicators relating to: incidence rate among residents and/or staff of these establishments; mortality rate; incidence ratio between infected residents and infected staff

when cases have been declared among the staff of the establishment. These indicators will be declined according to different variables relating to the profile of the residents (average level of dependence, etc.), of the establishment (status and sub-status legal status, capacity, supervision rate, tariffs), of the managing entity (single-site, multi-site, etc.) as well as at different geographical scales (establishment or managing entity, municipality, department, region, territory national). 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. information and the rights of individuals Pursuant to Article 69 of the amended Data Protection Act and Article 14-5-b of the GDPR, the obligation to provide individual information to the person concerned may be subject to exceptions where the provision of such information would require disproportionate effort. In such cases, in accordance with the General Data Protection Regulation, the controller shall take appropriate measures 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, the Commission notes that an exception will be made to the principle of individual information for persons and that appropriate measures will be implemented, in particular by the dissemination on the France Télévisions group's website of information relating to the project which must include all of the information provided for in Article 14 of the GDPR. It notes that this information will be put online as soon as the data has been made available to the data controller by the National Public Health Agency. The persons concerned will also be informed when the documentary is broadcast. On the security measures and the traceability of the actions La Commission notes that the provision of data can only be made according to one of the following two methods. The provision of data via the Secure Data Access Center (CASD) The data may be made available to the controller through the Secure Data Access Center. The Commission stresses that the transmission of data to CASD must be carried out by secure means. Subsequently, only data resulting from anonymization processes, such that the direct or indirect identification of persons is impossible, may be extracted from CASD. the three criteria defined by Opinion No. 05/2014 on anonymization techniques adopted by the Article 29 group (G29) on April 10, 2014. Failing this, if these three criteria cannot be met, a study re-identification risks must be carried out. In this respect, the Commission notes that the results concerning fewer than ten cases will be systematically excluded. ats containing small numbers may not be sufficient to meet the three criteria defined by the aforementioned opinion n°05/2014 and that a complete analysis of its anonymization processes must be carried out, accompanied by a regular reassessment of the risks of re-identification. The provision of aggregated indicators by the National Public Health Agency If they are not made available via

the CASD, the Commission notes that the National Public Health Agency may transmit to the data controller the processed and aggregated results according to the methodology set out in the application file. In this case, the Commission recalls that only data verifying the criteria of the aforementioned G29 opinion may be made available, and this by secure means, adapted in particular to the level of risk of re-identification. On the categories of recipients Whatever the methods of provision of the data, only the person in charge of the treatment and the persons authorized by him have access to personal data within the framework of this authorisation. The data controller 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 procedures for 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 methods described in the authorization procedure established by the data controller. On the duration of data retention The duration of access to personal data must be limited to the duration necessary for the implementation of the processing , which cannot exceed ten months, from the effective access to the data. This duration does not exceed that necessary for the purposes p for which the data is collected and processed, in accordance with the provisions of Article 5-1-e of the General Data Protection Regulation. On the transparency of processing and the publication of results The Commission notes that the data controller is considering disseminating of all the results in a documentary. These results will in particular be made accessible in the form of maps (with regard to geographical variables), graphs and tables. In addition to making the documentary available in replay, the Commission takes note of the commitment of the data controller to online a web page specific to this project on the website of the France Télévisions group containing a summary of the project, a precise description of the methodology followed, all the results obtained as well as the reference to a dedicated email address in order to allow the general public to send requests for additional explanations. and freedoms. Authorizes, in accordance with this deliberation, the company PREMIÈRES LIGNES TÉLÉVISION to implement the aforementioned processing ionné. The President Marie-Laure DENIS