

Deliberation 2022-032 of March 24, 2022 Commission Nationale de l'Informatique et des Libertés Nature of the deliberation:

Opinion Legal status: In force Date of publication on Légifrance: Tuesday April 12, 2022 NOR: CNIC2211236V Deliberation n°

2022-032 of March 24, 2022 providing an opinion on a draft decree relating to the publication of the measures to freeze real estate taken pursuant to EU regulation n° 269/2014 of the Council of 17 March 2014 (request for opinion n° 22005420) The National Commission for Computing and Liberties , Seizure by the Ministry of the Economy, Finance and Recovery of a request for an opinion concerning a draft decree relating to the publication of the measures to freeze real estate taken pursuant to EU Regulation No. 269/2014 of the Council of March 17, 2014; Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of April 27, 2016 on the protection of individuals with regard to the processing of personal data and on the free circulation of this data, and repealing Directive 95/46/EC (general regulation on data protection); Having regard to the code of relations between the public and its administration, in particular its article L. 312-1-2; Having regard to the law No. 78-17 of 6 January 1978 amended relating to data processing, files and freedoms; On the proposal of Mr. Philippe-Pierre CABOURDIN, commissioner, and after hearing the observations of Mr. Benjamin TOUZANNE, government commissioner , Issues the following opinion: On 21 March 2022, the Commission received a request for an opinion from the Ministry of Economy and Finance and Recovery, relating to a draft decree relating to the publication of measures freezing of real estate taken pursuant to EU Council Regulation No. 269/2014 of 17 March 2014 as amended concerning restrictive measures with regard to actions compromising or threatening the territorial integrity, sovereignty and independence of Ukraine. These properties are previously registered in the real estate file or the land register in application of article L. 562-8 of the monetary and financial code. the list of real estate (address and cadastral references) subject to a freezing measure pursuant to the aforementioned EU Regulation No. 269/2014. The names of the owners of each property, which are those mentioned by this European regulation as indicated in the appendix to the aforementioned regulation, would not be indicated. The Commission notes that the draft decree, on the one hand, adds a category of documents derogating from the obligation of anonymization prior to dissemination, pursuant to the second paragraph of Article L. 312-1-2 of the code of relations between the public and the administration, and organizes, on the other hand , processing relating to the publication of the list subject of this decree. The Commission notes that the purpose of this draft decree is to organize the publication of information including personal data, which are not directly identifying . It therefore considers that this draft decree constitutes processing of personal data within the meaning of Article 4 of Regulation (EU) 2016/679 of 27 April 2016 referred to above (GDPR). On the processing of

personal data This draft decree provides for the processing of personal data, namely the address of real estate belonging to natural or legal persons subject to a freezing measure pursuant to EU Regulation No. 269/2014 and their references.

cadastral. The Commission takes note of the details of the Ministry, according to which the establishment of the list subject of this draft decree will result from an extraction of the land register, operated by the competent administrations in matters of asset freezing and within the framework of their missions. On the one hand, it was declared to the Commission that the publication concerns only the data referred to in an exhaustive manner in the decree, thus excluding any nominative or immediately identifying data. In this respect, the Commission takes note of the Ministry's clarification that the information relating to the goods will not be linked, reconciled or interconnected in the publication with the persons concerned to whom they belong. The Commission recalls that, despite this, this list of goods remains potentially identifying, insofar as the re-identification of their owner remains possible although not provided for by the list and that no anonymization measure is provided for in the processing. It considers that the absence of the possibility of easy reconciliation with the owners' names must remain a strong guarantee for the protection of personal data. a temporary measure which must be specified in the decree. Finally, the purpose of the processing is to inform the public about the freezing measures implemented by the State in the context of the application of the aforementioned 2014 regulation and its legal basis is the performance of a task in the public interest within the meaning of e) of 1. of Article 6 of the GDPR. Under these conditions, and in view of the aforementioned context, the processing of personal data covered by this draft appears proportionate to the aim pursued. The Commission recalls, however, that the publication of such information constitutes processing of personal data within the meaning of Article 4 of the GDPR and that the controller must, for the implementation of the decree, ensure its compliance with the regulations relating to the protection of personal data. Therefore, it invites the Ministry to carry out an impact analysis relating to data protection. If the level of residual risk was high at the end of this analysis, then the Commission should be consulted on it pursuant to 1 of Article 36 of the GDPR. In particular, it calls on the controller to be particularly vigilant with regard to the information of persons, in order to allow a rapid and effective exercise of rights, in particular in the event of an error in the information whose publication is envisaged. On the addition of a category of documents exempted from anonymization prior to dissemination The Commission recalls, as a preliminary point and in general, that the massive publication of data online automatically has the effect of increasing the potential risks for the persons concerned. Indeed, this publication presents the risk that public information may, without even initially containing directly identifying data, allow, by

cross-checking with other public information made available and more generally with other available data, the identification or the re-identification of natural persons. In this case, more than its intrinsic quality, it is the use made of the initial data that gives it its personal character. In this case, the Commission notes that this draft decree aims to respond to a situation of special urgency linked to the international context. and that this new derogation taken pursuant to Article L. 312-1-2 of the CRPA is a temporary measure, which is therefore not intended to be codified. The Commission notes that the government considers that the regulation of the national register for the freezing of assets, provided for in article R. 562-2 of the monetary and financial code, does not preclude elements relating to the freezing of assets other than those present in the aforementioned article from being the subject of publication measures. It underlines that in the absence of modification of the categories of data entered in the national register for the freezing of assets created in this article, the category created by this draft decree cannot be integrated into this register, of which it is independent. This also implies that the list created by this project is independent of the list of persons whose assets are frozen. Finally, it notes that this category of data can only be published by the Minister responsible for the economy. , the Commission considers that this derogation from the anonymisation of personal data appears to be appropriate to the specific context in which it takes place. The President Marie-Laure DENIS