

Deliberation 2021-090 of July 22, 2021 National Commission for Computing and Liberties Nature of the deliberation: Opinion

Legal status: In force Date of publication on Légifrance: Wednesday June 08, 2022 Deliberation No. 2021-090 of July 22, 2021

providing an opinion on a draft decree authorizing the processing of personal data of the labor inspectorate called "SUIT" (request for opinion no. 21008750) The National Commission for Computing and Liberties, Seized by the Minister for Labour, employment and insertion of a request for an opinion concerning a draft decree in Council of State authorizing the processing of personal data of the labor inspectorate called "SUIT"; 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/C E (general regulations on data protection); Having regard to the labor code, in particular its articles L. 8112-1 and L. 8112-2; Having regard to law n ° 78-17 of January 6, 1978 relating to data processing , files and freedoms, in particular Articles 6-III and 31-II; After hearing the report of Mr. Alexandre LINDEN, commissioner, and the observations of Mr. Benjamin TOUZANNE, government commissioner, Issues the following opinion

The Commission was seized by the Minister of Labour, Employment and the insertion of a request for an opinion on a draft decree in Council of State authorizing the processing of personal data of the labor inspectorate referred to as "SUIT" (Useful system for labor inspection) on the basis of Articles 6.III and 31.II of the "Informatique et Libertés" law. This processing implemented under the responsibility of the General Directorate for Labor, aims to replace around 2023 the "WIKI'T" information system (IS), which is the main tool work of labor inspectors in the performance of their duties, it being specified that the creation and successive modifications of the SI WIKI'T have been submitted to the Commission. The last referral was the subject of deliberation n° 2019-117 of September 12, 2019. A transitional period until the end of 2022 is planned during which the two IS "WIKI'T" and "SUIT" will be used in parallel with so as to allow the migration of all files and procedures in progress to the new tool. The draft decree calls for the following observations. On the purposes of the processing in Article 1 of the draft decree are broadly the same as those pursued by the "WIKI'T" processing. Two new purposes have been introduced in the draft text: "6° to share data, in compliance with the provisions laid down by the conventions of the International Labor Organization (ILO) of 1947 (No. 81), of 1969 (No. 129) and of 1996 (No. 178), with other processing by the Ministry of Labour, other administrations or services exercising a public service mission in order to rimplémenting public policies; "" 7° allow the carrying out of studies for research purposes or reports for statistical purposes by persons or services authorized and approved by the General Directorate of Labour. "Concerning the sharing of data targeted by purpose 6°, the elements

communicated by the Ministry indicate that these sharing will sometimes result in the possibility of exporting data from the SI
SUIT with a view to their transmission to other applications (internal or external), sometimes by the establishment of
application interfaces directly allowing the interconnection of various internal applications. example the "MARS" applications
relating to professional elections, "SIPSI" relating to international service providers, or "DACCORD" relating to company
agreements. The Commission points out that when processing is governed by regulatory acts, the linking must comply with the
provisions governing other processing. This requires ensuring that the operations envisaged comply with the fi characteristics,
data and accessors and recipients of other processing set by other regulatory acts. of data to the Ministry of the Interior is
currently planned, this exclusively to meet the needs of the investigations framed by article R. 5221-20 of the labor code.
Finally, concerning the purpose 7° of research and statistics, the details provided by the Ministry indicate that the processing
does not provide for the collection or use of the directory identification number (NIR), and that specific instructions will be sent
to the services so that this number is masked before the documents which mention it. are included in the processing, in the
form of attachments. The Commission takes note of these clarifications and recalls that in any case, the processing of the NIR
could be carried out only by respecting the applicable provisions, in particular those of decree n° 2019-341 of April 19, 2019. In
view of the foregoing, the Commission considers that all the purposes appearing in the draft decree are determined, explicit
and legitimate. On the nature of the data processed The draft decree provides in its article 2 for the data likely to be collected
and processed within the framework of the system. These data are substantially identical to those appearing in the "WIKI'T"
processing. Therefore, as noted in deliberation no. 2019-117 of September 12, 2019, if the Commission notes the processing
of numerous particularly sensitive data, it nevertheless considers them to be adequate, relevant and limited to what is
necessary with regard to the purposes pursued by the processing. On the retention period of the data With regard to the
retention periods provided for by the draft decree, the Commission notes that they differ: on the one hand, according to the
categories of persons concerned (users, agents of the labor inspectorate or agents of other administrations); on the other
hand, according to whether an offense report has or not been drawn up, then depending on whether or not an appeal has been
exercised against the acts or decisions of the labor inspectorate. If most of the durations are similar to those of "WIKI'T"
processing, the conservation are modified da ns the case where an appeal is exercised against an act of the labor
inspectorate, going from "fifteen years" in "WIKI'T" to a duration going "until the exhaustion of the means of appeal " in " SUIT
", which does not call for any particular observation. With regard to the procedures for archiving and deleting data, the

elements of the file indicate that at the end of the retention periods, the data is archived and not deleted (excluding logs of connection traces which will be automatically deleted). No distinction is made between retention periods depending on whether they are necessary for the current use of the data (known as the active base), or necessary, at the end of this period, to meet a legal obligation or purposes of proof (known as intermediate archiving). The Commission recalls in this respect that the retention of data in the form of intermediate archives is not intended to be systematic, and must be preceded by an assessment of the needs to preserve such and such data or category of data. Finally, it invites the Ministry to ensure that decisions relating to the final fate of data that have reached the end of their life cycle (deletion, transfer to the national archives, etc.) are defined, in particular with the competent archive services.

the logging of traces of activity Article 4 of the draft decree contains specific provisions relating to the logging of traces of activity of all users of the device. In this respect, the Commission notes that the current wording of the draft decree provides that only the operations of "creation and modification of processing data" will be recorded. It therefore draws the Ministry's attention to the fact that this expression seems to exclude the logging of certain traces of activity relating in particular to the consultation of content, contrary to what is indicated in the impact analysis relating to the protection of data. The draft decree provides that traces of activity will be kept for a period of six months and will then be subject to automatic deletion, which does not call for any comments from the Commission. Finally, in the absence of details provided by the Ministry, the Commission recommends setting up an automatic control of logging traces, in order to detect abnormal behavior and generate alerts if necessary. On informing people

The Commission notes that the information of the persons concerned will be done in three ways: generally for all users, by a mention on the website of the Ministry of Labor; individually, by a reminder in each correspondence addressed to a user; finally, in the form of information notices available via the user account of each agent having direct access to the IS "SUIT", as well as by raising awareness during their training in this tool.

The Commission recalls that all of the information provided for in Articles 13 and 14 of the GDPR must be brought to the attention of the persons concerned, under the conditions of Article 12.

On data security and traceability of actions: It From the information provided by the Ministry, it appears that certain measures relating to security are the subject of an action plan, the implementation of which will end in the second half of 2022. As soon as the effective implementation of these measures constitute a necessary condition for the security of the system, the Commission calls on the Ministry to pay particular attention to compliance with this action plan, until the end of its deployment.

resident Marie-Laure DENIS