

Deliberation 2020-031 of March 12, 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 coordination support mechanisms and specific regional mechanisms
(Request No. 20002504)

The National Commission for Computing and Liberties, Seizure for opinion by the Minister for Solidarity and Health of a request for an opinion relating to a draft decree relating to support mechanisms for coordination and specific regional mechanisms ;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 the directive 95/46/EC (general regulation on data protection); Having regard to the public health code, in particular its articles L. 1110-4, L. 6327-1 and following, R. 1435-16 and following, R. 1527-1, R. 3224-2, R. 4031-2, R. 5124-69, R. 6122-32-1 and following; Considering the code of social action and families, in particular its articles D. 146-29-2, D. 146-29-2, D. 312-155-0, R. 232-40 and R. 232-45; Considering the social security code, in particular its articles R. 161-71 and R. 162-1-16; Having regard to law no. 78-17 of January 6, 1978 amended relating to data processing, files and freedoms, in particular its article 8-I-4°-a); Having regard to law n° 2019-774 of July 24, 2019 relating to the organization and the transformation of the health system; 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; Considering the file and its supplements; 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 National Commission for Computing and Liberties has been referral, on the basis of article 8-I-4°-a) of the amended law of January 6, 1978, of a request for an opinion relating to a draft decree relating to support mechanisms for coordination and specific regional systems. This draft decree is issued pursuant to Article 23 of Law No. 2019-774 of July 24, 2019 relating Organization and Transformation of the Health System (OTSS), which provides for the unification of coordination support mechanisms within three years. The coordination support mechanisms (DAC) integrate the structures existing: the territorial health networks, the method of action for the integration of assistance and care services in the field of the autonomy of the elderly (MAIA), the territorial support coordinations (CTA) of the national program for the elderly at risk of loss of autonomy (PAERPA), the territorial support platforms (PTA) and the local information and coordination centers (CLIC) by decision of the departmental council. The DACs thus created are intended to to articulate

with all the specific coordination approaches of the territory, in order to constitute a support for the professionals and to allow an accompaniment of the people within the framework of a so-called complex health course. The specific regional systems, created by article L. 6327-6 of the public health code, organize specialized support in the fields of oncology and perinatal care and are intended to replace the regional health networks in these same fields. the Commission is seized aims to present the missions and operation of the DACs and specific regional mechanisms (DSR). The Commission notes that Article 1 of the draft decree provides that the coordination support mechanisms, provided for in Articles L. 6327-2 and following of the Public Health Code, will be equipped with a single information system shared between the professionals involved in the device and the third-party professionals involved with the person in the care team within the meaning of the Article L. 1110-4 of the Public Health Code. The Commission draws the Ministry's attention to the fact that these unique shared information systems will probably constitute data processing of a e personnel within the meaning of Regulation No. 2016/679, known as the General Data Protection Regulation, and the amended Law of 6 January 1978. As such, it notes that the draft provides few details concerning the purposes of this processing and their implementation methods (data processed, recipients, retention periods, rights of individuals, security measures, etc.). Nevertheless, the Commission notes that the Ministry has indicated that reflections are already already undertaken by the ARS and the local structures in order to supervise this processing, to delimit the responsibilities of the various actors and to ensure the compliance of these systems with the regulations on the protection of personal data. The ministry also indicated that this work would be accompanied in particular by a national animation carried out by the general direction of the offer of care (DGOS) and the digital agency in health (ANS). On the information of the people, Draft Article D. 6327-1 of the Public Health Code provides that the person concerned is informed of the use of the coordination support system in accordance with Article L. 1110-12 so that they can exercise their right of opposition. The Commission also notes that draft Article D. 6327-6, 2° of the Public Health Code provides that the specific regional system ensures promotion and readability, including patient information and relatives. The Commission recalls that the information of all the persons concerned must also relate to the processing of personal data implemented within the framework of the DACs and DSRs and be carried out in accordance with the provisions of the Regulation general on the pr Data protection. Regarding the data processed and their recipients, the Ministry of Health indicated that the categories of data that will be processed would be the following: identity of the person, identification and contact data of the professionals involved in the team care, health data in the context of treatment. With regard to health data in particular, it was specified that they would be kept in the tools of

city health professionals (practice management software – LGC) outside of the DAC tools and that the summary data would be displayed via the shared medical file (DMP) for authorized professionals in compliance with the legal framework. The Commission nevertheless wonders about the nature of the data that will appear in the digital coordination services of the DACs (coordination file, liaison book) and on the articulation of the use of these tools with that of the DMP and the digital space in health, in particular insofar as the persons concerned may oppose their opening. With regard to the sharing of data, the Ministry of Solidarity and Health has indicated that the DAC is part of the care team within the meaning of Article L. 1110-4 of the Public Health Code, and as such the Commission is wondering about the methods of access to data by salaried professionals of the DAC, on the one hand, and health professionals, on the other hand, in the context of the care of people with complex backgrounds. The Commission also notes that the draft decree provides for an optional regime for the integration of a certain number of structures (army hospitals, CLIC, liberal health professionals, etc.) at the DAC. It recalls that particular attention should be paid to the conditions under which the system can integrate these public and private structures, in particular with regard to the methods of sharing data and their security. assess the coordination support systems, the Commission recalls that the processing implemented in this context is likely to fall under the provisions of Articles 66 and 72 et seq. of the law of 6 January 1978 as amended and must, where applicable, be subject to prior formalities. On security measures, draft article D. 6327-3 of the Public Health Code provides that the device is part of compliance with security and interoperability requirements provided for by article L. 1110-4-1 of the same code. strong authentication of professionals and that these tools will be hosted by HDS approved operators. Finally, the Commission recalls that it is up to the data controller to guarantee the security of personal data by meeting the requirements provided for in Articles 5-1 - f and 32 of the General Data Protection Regulation, and that compliance with these obligations requires a regular reassessment of the risks for the persons concerned and a regular update of these security measures. The other provisions of draft decree no. call for no comments from the Commission. The President Marie-Laure DENIS