

## **Deliberation no. 2019-118 of 12 September 2019 for adoption of the list of the kind of processing operations for which a data protection impact assessment is not required**

The Commission nationale de l'Informatique et des Libertés (French Data Protection Authority),

Having regard to Convention no. 108 of the Council of Europe for the protection of individuals with regard to 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 and on the free movement of such data, and repealing Directive 95/46/EC, particularly its article 35;

Having regard to Act no. 78-17 of 6 January 1978, amended, on information technology, data files and civil liberties;

Having regard to Decree no. 2019-536 of 29 May 2019, amended, implementing Act no. 78-17 of 6 January 1978 on information technology, data files and civil liberties;

Having regard to Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is “likely to result in a high risk” for the purposes of Regulation (EU) 2016/679 adopted on 4 April 2017;

Having regard to opinion 19/2019 of the European Data Protection Board (EDPB) on the draft list of the French supervisory authority regarding the kind of processing operations for which an impact assessment regarding data protection is not required (article 35.5 of the GDPR), adopted on 10 July 2019;

Having heard the report of Ms Anne Debet, commissioner, and the observations of Ms Nacima Belkacem, government commissioner

### **Makes the following observations:**

Article 35.1 of the General Regulation on Data Protection (GDPR) lays down that a data protection impact assessment (DPIA) must be conducted when a processing “*is likely to result in a high risk to the rights and freedoms of natural persons*”.

Article 35.5 of the GDPR allows supervisory authorities to establish and publish the list of the kind of processing operations for which data protection impact assessment is not required.

Article 35.6 of the GDPR lays down that, when this list involves “*processing activities which are related to the offering of goods or services to data subjects or to the monitoring of their behaviour in several Member States, or may substantially affect the free movement of personal data within the Union*”, the “*consistency*” mechanism shall apply and must be communicated to the European Data Protection Board (EDPB).

On 29 March 2019, a draft list was adopted by the Commission and submitted to the EDPB on 3 April 2019. The EDPB adopted an opinion regarding this draft on 10 July 2019, which was notified to the Commission on 12 July 2019.

**Decides:**

The list appended to this deliberation, on the kind of processing operations for which a data protection impact assessment is not required, is adopted.

This list completes and specifies the guidelines adopted by the Commission on 11 October 2018.

Although the presence of a processing operation on the current list dispenses from an impact assessment, the controller remains subject to all other obligations in application of the GDPR and the Act of 6th January 1978. In particular, the fact that a processing operation is included on this list does not exempt a controller from the obligations set out in article 32 of the GDPR in terms of processing safety.

This decision will be published in the Official Journal of the French Republic.

The Chair

Marie-Laure Denis

## Appendice

### List of the kind of processing operations for which a data protection impact assessment is not required

Kind of processing operations
Processing operations, implemented under the conditions laid down by the applicable texts, solely for human resources purposes by employers with fewer than 250 people, except when profiling is used ;
Processing carried out for the management of the relationship with suppliers ;
Processing implemented under the conditions provided by the law relating to the management of the electoral register of municipalities ;
Processing carried out for the management of working committees and councils ;
Processing carried out by an association, foundation or any other non-profit institution for the management of its members and donors in the framework of its regular activities as long as the data is not sensitive ;
Processing of health data necessary for the care of a patient by an individual healthcare professional in a medical practice, a pharmacy or a medical biology laboratory ;
Processing carried out by lawyers in the individual practice of their profession ;
Processing carried out by the clerks of commercial courts for the purpose of carrying out their activity ;
Processing carried out by notaries for the purpose of carrying out their notarial activity and the drafting of notarial office documents ;
Processing carried out by local authorities, as well as legal persons covered by public and private law, for the management of schools, as well as extracurricular and early childhood services ;
Processing carried out solely for the purpose of managing physical access controls and schedules for calculating of working times, excluding any biometric device. The processing does not reveal sensitive data or data of a highly personal nature ;
Processing relating to breathalyser tests, implemented in the framework of transport activities, mandatory by law and restricted to the sole purpose of preventing drivers from operating vehicles while under the influence of alcohol or narcotics ;