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#### Data ethics – a key enabler of social acceptability

### **Towards a “social mandate” for the French project of a statistical directory of individuals and dwellings: a challenging consultation with civil society**

**Prepared by France**

#### *Summary*

The French National Institute of Statistics and Economic Studies (INSEE) launched in 2021 an ambitious project called “Résil”, which aims to build a statistical register of individuals and dwellings based on the linkage of various administrative data.

Regarding this project, the legal and ethical issues are as important as the technical challenges and require special attention. An ambitious consultation process with civil society was therefore carried out in parallel with the statistical engineering work, done by a special working group that functioned intensively for 6 months, from May to October 2022. The paper describes the consultation process, its outcomes and lessons learned. The experience was challenging, but very useful for INSEE. It helped to identify some fears and communication challenges that might emerge about such a system, and allowed to improve the design of the project.

The document is presented to the Conference of European Statisticians’ session on “Data ethics – a key enabler of social acceptability” for discussion.



## I. A major, structuring project that raises questions

1. The French National Statistical Institute (Insee) has decided to make major methodological and IT investments in order to build up an Information System (IS) based on linking multiple administrative sources. In this context it was decided to launch the Résil programme, aiming to build a statistical directory of individuals and dwellings, known in French as the “Répertoire Statistique d’Individus et de Logements” or Résil. Through the constitution of statistical registers of individuals, dwellings and households, RESIL aims to facilitate and make more reliable and secure the mobilization of administrative data, within the French official statistical service, in strict compliance with the conditions of individual data protection. This is scheduled for implementation in 2025.
2. Résil will comprise two exhaustive **statistical directories** covering, on the one hand, individuals residing in the national territory and, on the other, dwellings, and the links that bind individuals and dwellings. A “snapshot” of individuals, dwellings and households will be prepared each year reflecting the situation on 1 January
3. Résil meets several, exclusively statistical purposes:
  - It will offer the Official Statistical Service (exclusively) a data matching solution<sup>1</sup> that improves quality, harmonization and security when compared with current practice;
  - It will shed light on the quality of statistical use of administrative sources, which constitute one of the key resources for official statistics;
  - By renewing existing systems, it will provide a sampling frame for surveys conducted by the Official Statistical Service among households, ensuring enhanced coverage;
  - It will provide information that will help in preparing and carrying out annual censuses and extrapolating the results, like the current use of files resulting from the dwelling tax system;
  - More robust and early demographic indicators can be produced.
4. Its essential characteristics are, on the one hand, the absence of the registration number used in the National Directory for the Identification of Natural Persons (known in France as NIR or “social security number”), and on the other, the absence of data such as income, social category and marital status.
5. Given the exhaustive character of the two directories and the crossover of numerous sources to achieve this, a Privacy Impact Assessment (PIA) is required by the General Data Protection Regulation (GDPR). However, INSEE wishes to have a solid legal framework, with the Résil project regulated by a decree of the Council of State as of 2023<sup>2</sup>.
6. Aware that the strong legal framework is necessary but insufficient, and that it is important to have a clear social mandate, namely explicit recognition by society of the value of the project and the legitimacy of INSEE in running it, INSEE has expressed a wish to involve social representatives well upstream of the Résil project so that various points of view can be voiced and INSEE can take these into account in constructing the statistical directory and defining its use.

## II. An essential consultation—with the first step ensured by the group—and a significant contribution

7. The consultation group for the Répertoire Statistique d’Individus et de Logements (Résil) project, placed under the authority of the CNIS ([National Council for Statistical](#)

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<sup>1</sup> This matching can relate to administrative data only or to administrative data and statistical surveys.

<sup>2</sup> « The Conseil d’État is a judge that settles disputes between citizens and administrative authorities. It ensures that the rights and freedoms of each citizen are respected by administrative authorities. It also serves as a legal advisor to the Government and Parliament, suggesting improvements to their bills and legislative proposals to ensure the new laws entering into force are clear, effective and comply with the existing body of law. »

Information which runs official statistics dialogue with users and society representatives), stems from the CNIS meeting of 28 January 2022.

8. At this meeting the Résil project and its aims were presented for the first time, detailing the national and international statistical context for personal data matching to gather the opinions of representatives of diverse sectors of society (public administration, researchers, associations, trade unions, local authorities) at the start of the project.

9. During this meeting, members of the round table discussing transparency and public disclosure, who examined Résil and the legal and ethical framework of official statistics, stressed that this consideration of the project and the matching should be extended over a longer period for in-depth discussions with an appropriately qualified panel of experts.

10. INSEE therefore suggested forming a consultation group to draw up the list of questions raised by the Résil project, discuss the responses offered by INSEE, and propose concrete methods for continuing evaluations throughout the project implementation period, to 2025, and beyond if necessary. The CNIS's Bureau in March 2022 approved the instigation and mandate (see Appendix 1) of this group.

11. The group's objectives were :

- to list the questions raised by this project ;
- to present for discussion the answers provided by INSEE ;
- to propose concrete ways to continue the reflections throughout implementation of the project and, if necessary, beyond.

12. The group could thus contribute to Privacy Impact Assessment.

13. Under the chairmanship of Jean-Marie Delarue, Honorary State Councillor, former Controller General of places of deprivation of liberty and former President of the National Consultative Commission on Human Rights, the consultation group brought together, in addition to the Résil project owner, fourteen people with expertise likely to shed light on society's questions about the Résil project (protection of fundamental freedoms, legal and digital data protection, statistical work, research work, digital transformation, communication on data, ethics). It was very difficult to find appropriate and available persons to participate to the consultation group: there are few specialists on these subjects, and they are very solicited. This group conducted its work and reflections in complete independence, as shown by its recommendations (see below).

14. As a result of the decision to address people who are not very familiar with official statistics production (philosophers, lawyers, members of associations or think tanks, etc.), a major effort was required to summarise the work of matching official statistics, its legal and ethical framework at national and European level, as well as efforts to educate people to present the Résil project and its uses in the time available. The participants made a considerable effort to understand the content of our work, the conditions in which it is carried out and the added value provided by Résil over the period from May to October 2022. The group held 7 plenary meetings and auditioned 10 specialists of various subjects.

### **III. Questions and recommendations of the group**

15. The group shared in advance the perceived risk that the increase in matching will encourage a tendency to “govern by numbers”; that is, using more data will encourage the government to make decisions based only on quantified data. This risk does exist, but the group considered that it was more related to the use of data rather than its production.

16. The group expressed concern over the risk of misuse of Résil data or resulting data matches if this information were to leak out following a cyberattack, or if the purpose were to be diverted as a result of political pressure, in the context of an authoritative regime or otherwise.

17. The group focused its preoccupations on three broad ideas:

- The principle of such a directory;

- The privacy breaches that could result;
  - The “internal” and “external” security of the system.
18. The responses it gave relate to four areas outlined below.

## A. The principle of the directory

19. The group acknowledged that the criterion of necessity was satisfactory in so far as the needs for knowledge and increased accuracy are real and there is no convincing alternative to secure improvements in this area.
20. It was considered that the legal basis for matching should be better assured. Matching is not explicitly defined by laws or regulations. For statisticians, this is a particular case of interconnection. Thus the group recommended that the legal basis for matching be clarified.

## B. System architecture

21. The group questioned whether the methodology behind Résil meets the principle of proportionality with regard to the use and potential risks to freedoms.
22. It noted that the services proposed by Résil will only be accessible to agents of the Official Statistical Service, for statistical processing purposes only, and that the tool will remain under the sole control of INSEE. These elements should be clearly specified in the legal texts.
23. It also noted INSEE’s assurance that no “sensitive”<sup>3</sup> data would be included in the directory and asked that any subsequent change to this point be put to the opinion of the CNIL (the French data protection authority) and CNIS.
24. The group requested that existing vigilance about the risk of stigmatisation of social groups (by household characteristics, etc.) be reinforced on account of the increase in matching and therefore the various data available and collected for an individual, even if such information is pseudonymised.
25. The directory itself will be populated by different existing administrative files, notably intended to compensate for the disappearance of the dwelling tax fiscal files. Some files will be surely used whilst others may be subject to a technical feasibility study or an assessment of their statistical relevance (enhanced quality of the directory) and proportionality of processing.
26. The group was against using files of residence permits for foreigners (AGEDREF) due to the sensitive issue of foreigners having residence permits. It also expressed an unfavourable opinion, based on an image risk and non-proportionality, regarding the VITALE health insurance card files and the RNCPS files (Répertoire National Commun de la Protection Sociale, the national social security directory, itself a compilation of files from various social security agencies).
27. Information security must be guaranteed by INSEE, which bears responsibility for the system and the data it processes. The precautions to be taken by the Institute in this regard, which are aligned with a stringent information security policy operated by INSEE and more

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<sup>3</sup> Sensitive data represents a particular category of personal data. This is information that reveals the stated racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership of a natural person, as well as the processing of genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person’s sex life or sexual orientation.

The European regulation prohibits such data from being gathered or used except, notably, in the following cases:

- if the data subject has given their express consent (active, explicit approach, preferably in writing, which must be free, specific and informed);
- if the information is manifestly made public by the data subject;
- if it is necessary to safeguard human life;
- if its use is justified by public interest and authorised by the CNIL;
- if it concerns members or followers of a political, religious, philosophical, political or trade union association or organisation.

generally by the government, appeared appropriate to the group, even though there are no absolute guarantees in matters of security. The group recommends a regular security audit by an external agency.

### **C. Procedures for adopting and monitoring the system**

28. The group was in favour of having the project regulated by a Council of State decree passed on the advice of the CNIL (the French data protection authority).

29. The group recommends that the data sources comprising the directories of individuals and dwellings should be included in a simple decree or regulation passed based on the opinions of the CNIS and CNIL, to ensure that the principles of necessity and proportionality are evaluated for each source used. These texts should be updated on the advice of the CNIL and CNIS each time the list of sources is modified.

30. The group recommends that the CNIS Bureau and the competent committees be regularly informed of Résil's progress.

31. The group recommends continuing consultation on Résil's project throughout its construction, and broadening the focus on matching. It particularly suggests holding a meeting with the CNIS to discuss matching and the implementation of Résil in the first quarter of 2025, such meeting being similar to the CNIS meeting on matching of 28 January 2022. Concerning Résil and data matching, direct consultation of a citizens' panel—as practised in the UK for certain projects on digital themes—could be useful and could even be extended to other official statistics projects.

32. The group recommends that the CNIS express its thoughts on the desirability of matching carried out by the Official Statistics services, taking account of the ethical dimensions and those linked to individual rights and freedoms. For this, the group recommends broadening the mandates of the CNIS and modifying its composition to incorporate four or five members with expertise in the field of freedoms and data protection.

33. The group also recommends mobilising the ASP (National Official Statistics Authority) to prevent the risks of misuse that would contravene the rules set out: the ASP must be able to act preventively if the services are under pressure and report any misuse. It is important that this body be regularly informed of the progress of the project and of its use.

### **D. Public presentation of the project and how it will be used**

34. Transparency must remain paramount when implementing Résil :

- The group recommends opening up a very comprehensive public channel to present Résil, its purpose, the expected contributions, the means of data protection, the legal texts and the deliberations of the CNIL;
- The group recommends publishing the list of matchings created thanks to Résil and the processing manager, the sources used, the purpose of the processing and the populations concerned in order to demonstrate its compliance with the principles of necessity and proportionality.

35. More broadly, the group suggests developing communication with the public on the use of administrative sources and data matching, drawing on the best practices of foreign national statistics institutes, particularly of Canada.

36. The group considers that even though its report is the result of significant educational efforts and clarification, it does not constitute a “public” document on Résil, the use of administrative sources and matching. To achieve this, a more in-depth approach and the set-up of an appropriate device are needed.

37. The group recommends the use of a focus group for preparing information for public circulation.

## IV. Follow-up

38. The group formulated thirteen recommendations with varying degrees of impact for INSEE and for which the instruction of implementation methods began at the end of 2022:

(a) Some of which are in line with our approach (need of a legal framework, security approval),

(b) Others require us to go further than we are already doing (developing communication and in particular communication to the general public on Résil and the use of administrative sources, taking CNIS opinion on matching (with regard to the principles of necessity and proportionality), according to methods that will have to be defined to ensure that they are sustainable,

(c) Others that take us "off the beaten track" (focus groups, citizen panels),

(d) Others which pose limits (opposition to three envisaged sources).

39. Insee has decided to follow the recommendations concerning the list of sources, in particular to remove the three sources on which the group has issued an unfavourable opinion, and to submit this list to the opinion of the CNIL and the CNIS.

40. It will also endeavour to ensure the expected level of transparency on the construction of Résil, on its functioning and its uses, in particular in terms of sources feeding the directory and matches made thanks to Résil services. The recommendations of external audit and advise from the ANSSI (national cybersecurity agency) concerning Résil's IT security are in line with our usual practices; with the appropriate level of requirement in view of the importance of the security issues attached to Résil. The other recommendations will be examined in depth, in particular with the CNIS.

41. A draft decree and the data protection impact assessment, taking into account some of the recommendations of the consultation group, were sent to the CNIL on 31 January 2023. CNIL staff seemed were interested by our consultation demarch. A hearing by the CNIL college is scheduled for 1 June.

42. The next stage is the submission to the Council of State, of a text that may be modified following the opinion of the CNIL. In the best case scenario, the decree could come out at the end of the second quarter of 2023.

43. Insee is preparing internal and external communication elements to accompany the publication of the decree. This will be more of a "preventive" communication, in response to possible questions, rather than a proactive communication that is planned for 2025, when Résil is deployed.

44. The work in progress includes the preparation of several explanatory pages for insee.fr on Résil, but also on matching, the use of administrative sources, the framework of official statistics, and a blog post on the use of administrative sources for statistical purposes.

45. The objective is to identify the questions that the public may have, to prioritise them, and to prepare clear, simple and convincing answers, with examples to support the message. These materials (infographics completed by short videos) will be tested with one or more focus groups. These external communication elements will also be relayed in internal communication (intranet; newsletter of the Résil project, wider actions of presentation of Résil).

## V. Our feedback: it was challenging but essential and very useful

Challenging, because :

- It was very difficult to find appropriate (and available) persons to participate in the consultation group: there are few specialists on these subjects, and they are very solicited.

- We made a major effort to explain Resil, and more generally, the way official statistics are produced to our interlocutors because most of them knew nothing about our work (data collection, data processing, data protection...)
- For their part, the members of the group also made very significant efforts to fully understand the issues about official statistics and formalize their points of view
- Some unexpected questions, about what seems obvious to us, emerged during the exchanges.

But very useful:

- The group forced us to make real progress in our capacity of communication about the project
- It formulated concrete recommendations for the present (Resil construction) and the future (Resil's uses)
- It gave an explicit and published external point of view; a first step for further concertation

## Annex

### **Mandate of the consultation group: Consultation prior to setting up the statistical directory of individuals and dwellings**

#### **I. Background**

1. INSEE has committed to devising a system of statistical directories of individuals and dwelling (Résil) for the benefit of all Official Statistics services, which is scheduled for implementation in 2025.
2. Building a statistical repository on individuals and dwellings that will enrich the statistical data available within the Official Statistical Service by combining several sources of information from different services constitutes a structuring project for demographic and social statistics. It fulfills three different purposes:
  - Résil offers a data matching service that increases efficiency and quality and harmonises methods;
  - As a point of reference for comparison, Résil allows the quality of administrative sources—one of the key official statistics resources—to be measured;
  - By extending existing systems, Résil will provide a sampling frame for surveys conducted by the Official Statistical Service amongst households, ensuring enhanced coverage.
3. A meeting<sup>4</sup> organised by the CNIS on 28 January 2022 was the forum for presenting this project to potential users and societal representatives, with the day devoted largely to the matching of socio-demographic data to produce official statistics.
4. The Résil statistical directory project was presented to the CNIL in December 2021 and January 2022 as part of a request for advice in preparing the impact analysis and consolidating the legal basis of the project. A decree of the Council of State is in preparation to provide a suitable legal framework at the beginning of 2023 so that developments can continue on a sound footing.

#### **II. Objectives**

5. The meeting of 28 January highlighted questions regarding the conditions under which matching is performed, and resulted in a request for continued discussions, encompassing varied standpoints on the topic in order to provide further explanations, set out the consequences and support the deployment of the project.
6. In this context, in order to favour communication and transparency regarding the Résil project and ensure full acceptance of the official statistics process by civil society, the CNIS has commissioned a consultation group to continue the process started at the meeting of 28 January.
7. The group's objectives will be :
  - to list the questions raised by this project;
  - to discuss the answers provided by INSEE;
  - to propose concrete ways to pursue the reflections throughout the construction of the the project and, if necessary, beyond.

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<sup>4</sup> <https://www.cnis.fr/evenements/appariements-de-donnees-individuelles-entre-richeesse-de-linformation-statistique-et-respect-de-la-vie-privee/?category=1067> videos and summary are available in english



8. It will thus contribute to the data protection impact analysis provided for in the General Data Protection Regulation (GDPR).

### **III. Composition of the group**

9. The group is chaired by: Jean-Marie Delarue, honorary member of the Council of State<sup>5</sup>.

10. The rapporteur is: Françoise Dupont, Résil project, INSEE. The group will be composed of qualified personalities with diverse profiles (lawyers, sociologists, computer scientists, elected officials, journalists, etc.) to shed light on the social acceptability of the project, and personalities in charge of the protection of data and liberties or in charge of the representation of citizen (human rights league, defender of rights, associations...).

### **IV. Operating mode**

11. The working group will hold four or five half-day sessions. In order to carry out its work, the working group will benefit from introductory presentations during the first session on the project. It will audition as needed, qualified individuals who can answer questions that the project may raise and can give information on measures in order to limit its impact. A bibliography will be provided.

### **V. Work schedule**

12. The working group will present the progress of its work in June and will deliver its conclusions in a report at the end of September 2022.

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<sup>5</sup> The Council of State (Conseil d'État) is a judge that settles disputes between citizens and administrative authorities. It ensures that the rights and freedoms of each citizen are respected by administrative authorities. It also serves as a legal advisor to the Government and Parliament, suggesting improvements to their bills and legislative proposals to ensure the new laws entering into force are clear, effective and comply with the existing body of law.