

The Consultation Process, an Essential Step for the RÉSIL Project



Françoise Dupont^{}, Josy Dussart^{**} and François Guillaumat-Tailliet^{***}*

Setting up a Statistical Register of Individuals and Dwellings (Résil) is a challenge that involves technical, legal and ethical issues. The ethical issues arise in a context where the need for reliable and detailed statistical information, the circulation of personal data and vigilance over the proper use of such data are all on the increase.

The consultation process initiated by INSEE provided an opportunity to share ideas on what Résil could be and how it should be used, as well as how to explain it to the general public. Conducted under the aegis of the National Council for Statistical Information (CNIS, Conseil national de l'information statistique) this demanding process has mobilised a wide range of skills, most of them outside the world of statistics, to consider ethical considerations (protection of civil liberties, transparency, etc.) and to achieve a shared assessment of the principles of necessity, minimisation and proportionality.

INSEE has incorporated most of the consultation group's recommendations into its reflections. It has translated them into legal, technical (in the design and content of the register) and organisational provisions, and in the communication surrounding the register. The consultation does not end there: the communication and listening process must continue, and a specific issue remains to be addressed concerning the assessment of the matchings made possible by Résil with respect to the principles of necessity and proportionality.

^{*} At the time of writing this paper, "Legal Issues and Communication" manager on the RÉSIL project.

^{**} "Legal Issues and Communication" manager on the RÉSIL project.
josy.dussart@insee.fr

^{***} Deputy Secretary-General of the French National Council for Statistical Information (CNIS).
francois.guillaumat-tailliet@insee.fr

INSEE has undertaken the creation of the *répertoire statistique des individus et des logements* (Statistical Register of Individuals and Dwellings, RÉSIL)¹ due to be completed in 2025. This project falls within a national and international context marked by both:

- a strong expectation for detailed statistics in view of the increase in the volume of available data, together with innovations in statistical uses for the purposes of preparing and evaluating public policies and feeding into public debate. This need is reflected, in particular, in demand for greater responsiveness in the provision of statistics², a demand that the Conseil national de l'information statistique (National Council for Statistical Information, CNIS)³ regularly reiterates.
- increasing attention among citizens and their representatives to the challenges associated with the protection of personal data, in view of the increased volume of personal data and greater processing capabilities. It is reflected among data producers by the strengthening of the rules on data processing transparency, providing citizens with guarantees that their data are being used properly.



INSEE took the view that the legal and ethical issues were on par with the technical challenges.



The RÉSIL project incorporates these two expectations. From the beginning of the project, INSEE took the view that the legal and ethical issues were on par with the technical challenges and required special attention, given the exhaustive nature of the register and the use of several matched sources to create this register.

INSEE also wanted to involve representatives of society in the examination phase, in addition to its usual contacts, to compare their point of view with other approaches at a very early stage in the project. This involvement was achieved via a consultation process group that met between May and September 2022 under the aegis of the CNIS. This original approach brought together specialists in a wide range of subjects (protection of fundamental freedoms, data protection in terms of both IT and legal matters, digital transformation, ethics, socio-economic research, etc.) in order to draw up a list of questions generated by the RÉSIL project, to discuss the responses to these questions provided by INSEE and to propose specific methods for continuing the examinations and deliberations throughout the construction of the project, up to 2025 and beyond. This experience has provided a wealth of insights for the RÉSIL project, as well as for Official Statistics more broadly.

¹ See the paper by Olivier Lefebvre on RÉSIL in this issue and, more generally, the dossier in which this paper is included.

² In particular, this is a recurring request from Eurostat (<https://www.insee.fr/en/metadonnees/definition/c1292>). The Covid-19 pandemic shone a light on the benefit of being able to provide information quickly.

³ See the paper included in *Courrier des statistiques* issue N° 6: "The National Council for Statistical Information (Conseil national de l'information statistique): the quality of Official Statistics also depends on consultation", Isabelle Anxionnaz and Françoise Maurel.

► Ethical Issues Worthy of Shared Examination

Personal Data: Increasing Sensitivity Over Time, Which Differs Based on the Cultural Contexts of Countries

The subject of personal data is a growing concern in the context of the digital transformation of society, with an increasing volume of potentially useable data, while analytical tools are increasingly powerful, driven by technical progress in terms of storage and calculation (Chaire Valeurs et politiques des informations personnelles [Values and Policies of Personal Information Research Chair of the Mines-Télécom Institute], 2019). New possibilities are emerging along with strong calls within society to regulate these new applications and therefore take advantage of benefits while limiting the risks associated with their misuse.

Over the past decade or so, the framework for new tools and new applications has been the subject of numerous discussions concerning data protection and the protection of fundamental freedoms at national, European and international level across a very wide field, much broader than that applicable to the work of the Official Statistical Service.

Thus, for example, the entry into force in 2018 of the General Data Protection Regulation (GDPR, Commission nationale de l'informatique et des libertés [National Commission for Information Technology and Civil Liberties, CNIL], 2016), which concerns all personal data, has been an important step towards new rights for individuals and has led to the establishment of accountability for data processing pilot projects, with new obligations and the establishment of a European coordination body: the European Data Protection Board⁴.

Faced with these Challenges, Official Statistics Relies on a Legal and Ethical Framework that is both Demanding and Protective

Official Statistics has long relied on a legal framework at national level in France⁵, with a specific act dating from 1951, supplemented by the Loi générale sur la protection des données personnelles (General Act on the Protection of Personal Data) of 1978. This framework is updated regularly to take account of changes in needs, opportunities and practices, as well as to ensure alignment with EU law: Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and the General Data Protection Regulation⁶.

An ethical framework has been developed over time at international level.

At the same time, an ethical framework has been developed over time at international level:

- the Fundamental Principles of Official Statistics⁷ adopted in 1994 by the UN;

⁴ The European Data Protection Board is a coordinating body for the data protection authorities of the 27 EU Member States, such as the CNIL. https://www.edpb.europa.eu/about-edpb_en.

⁵ See <https://www.insee.fr/en/information/2398930> and the legal references at the end of the paper.

⁶ See the legal references at the end of the paper.

⁷ https://unstats.un.org/unsd/dnss/hb/E-fundamental%20principles_A4-WEB.pdf.

- the International Statistical Institute's Declaration on Professional Ethics⁸ which applies to both private statisticians and public statisticians, was adopted in 1985 and revised in 2023;
- the European Statistics Code of Practice⁹ was adopted in 2005.

More recently, the UNECE adopted six core values for Official Statistics, as well as a body of good practices for their implementation. These values feed into the legal framework of the French Official Statistical Service (*Figure 1*).

► **Figure 1 - The Six Core Values Adopted by the UNECE Conference of European Statisticians**



Source: UNECE: The United Nations Economic Commission for Europe was established in 1947 by the Economic and Social Council of the United Nations. It is one of the five United Nations Regional Commissions. It consists of 56 member states: European countries, as well as the United States, Canada, Israel, Türkiye and the former Soviet republics of the Caucasus and Central Asia.

The Challenge of Establishing and Maintaining Trust

The challenges related to the protection of personal data are becoming increasingly important, and the trust that citizens place in institutions is eroding, against a backdrop of increasing distrust of institutions and all forms of expertise (Agacinski, 2018; Rouban, 2022). Authority is no longer sufficient: it is necessary to explain, listen and adapt.

A Need for Transparency Regarding the Use of Administrative Data for Statistical Purposes...

Unlike the circumstances of a survey, in which informed consent is obtained, when using administrative data, which are now the basis of a significant part of official statistics, the person providing their personal information only gives their explicit consent for the primary

⁸ <https://isi-web.org/sites/default/files/2024-01/isi-declaration-on-professional-ethics-English.pdf>.

⁹ <https://www.insee.fr/en/information/4249492>.



Information on all processing of Official Statistics is currently provided in accordance with the ethical principles applicable to the profession of public statistician and in accordance with the legal basis of the General Data Protection Regulation.



purpose (to declare their income, to receive a benefit, to register in higher education, to subscribe with an energy distributor, etc.) and is not aware of the subsequent processing for reuse of their data, let alone record linkage. Information on all processing of Official Statistics is currently provided in accordance with the ethical principles applicable to the profession of public statistician and in accordance with the legal basis of the General Data Protection Regulation (GDPR, CNIL, 2016) by providing public information on the use of data, in the data protection section of the data controller's websites ¹⁰.

The CNIS also plays a role in promoting this transparency, in particular through a review of the work programmes of Official Statistics, which is increasingly working on the issues related to new data sources and record linkage. In relation to these complex issues, producers of official statistics and the CNIS are gradually increasing the visibility of this work in a manner that is as accessible as possible for the general public.

... but also an Increasing Focus on the Principles of Necessity and Proportionality

Two principles have recently taken on greater importance as part of the dialogue between statisticians and civil society: necessity and proportionality. They are an expression of demand for an increasing focus on a limited use of data. The first step is to verify the **necessity** of using this data in view of the objective pursued and then, secondly, to verify that the data selected and the processing required are genuinely **proportionate** to the goals pursued as a matter of public interest.

Canadian statisticians have recently given particular visibility to these two principles by establishing, in 2018, a specific framework on necessity and proportionality that applies to all data processing (Statistics Canada's Principles of Necessity and Proportionality, 2019; Rancourt, 2019). This initiative follows on from discussions held in relation to the amendment of the Canadian Statistics Act in 2017 and interventions by the public and elected officials concerning projects involving the processing of banking data. Among our Canadian colleagues, constant and increasing efforts have since been made to inform people, in a highly educational manner, about all the work of Official Statistics and the attention paid to the necessity and proportionality of the work. The use of administrative data for statistical purposes and record linkage is well documented on Statistics Canada's website¹¹.

¹⁰ <https://www.insee.fr/en/information/4196120> for INSEE.

¹¹ Administrative data <https://www.statcan.gc.ca/en/our-data?MM=1>; microdata linkage <https://www.statcan.gc.ca/en/our-data/where/microdata-linkage> and <https://www.statcan.gc.ca/en/record/summ>.

In France, such an approach to examining necessity and proportionality is not new. It was first implemented under the aegis of the CNIS and the Comité du label de la statistique publique (Official Statistics Quality Label Committee)¹² in 1994 for all Official Statistics surveys. The aim is to verify that the burden for respondents to surveys is not excessive and that the information requested is not too intrusive in view of the purposes. People outside of Official Statistics are surveyed according to the subject matter (trade and professional unions, CNIL, researchers, etc.). This approach, which is in place for surveys, still needs to be adapted for administrative sources and record linkage.

In this Context, a Consultation Process Was Deemed Necessary for the RÉSIL Project



The decision was made to launch a consultation process that is both expanded, due to the range of skills involved, and given greater depth, thanks to the time spent on discussions.



With regard to the RÉSIL project, INSEE was convinced very early in the process that these various issues deserved particular focus, given the exhaustive nature of RÉSIL and the record linkage operations that it would facilitate – criteria that require an impact assessment as defined by the GDPR – although it was especially convinced that it was essential not to examine these issues alone. It was therefore necessary to launch the consultation at a very early stage of the project, to ensure its legitimacy, to examine under what conditions the principles of necessity and proportionality could be respected and to

enhance the analysis of the risks associated with this project. The decision was made to launch a consultation process (**Box 1**) that is both expanded, due to the range of skills involved, and given greater depth, thanks to the time spent on discussions.

How Should the Consultation Process on the RÉSIL Project and its Uses Be Organised?

Given the highly technical nature of the project, using an online platform solution was ruled out. After discussions as part of a meeting with the CNIS on 28 January 2022 and discussions held with the CNIL, the difficulties in using a panel of citizens were also apparent. In order to evaluate the RÉSIL project, it must be possible, throughout the consultation process, to sufficiently take on board the challenges associated with record linkage operations and the analysis of Official Statistics databases, as well as the legal and ethical context thereof, so as to be able to assess risks and benefits and thus take part in the discussions and possible alternatives. Discussions concerning

¹² The Official Statistics Quality Label Committee assesses the terms under which surveys are implemented, notably taking into account the project's statistical quality, the burden that the survey places on the respondent legal entities and individuals, the extent of the consultation process with users and compliance with the terms of the opinion given on its appropriateness by the CNIS. The committee also intervenes at the request of the Autorité de la statistique publique (French Official Statistics Authority, ASP) when labelling or recognising the classification of statistics of general interest as administrative statistics, produced by bodies entrusted with a public service mission that are not part of the Service statistique public (Official Statistical Service, SSP).

the project revealed that the cost of entry was too high and that the subject was too abstract, had no direct impact and was not easy for citizens to take on board, rendering it difficult to establish a panel of citizens who had not already thought about these subjects (unlike the subjects usually presented in a consultation process).

► **Box 1. What is a Consultation Process?**

In one of its opinions, the Conseil économique, social et environnemental* (Economic, Social and Environmental Council, CESE) defines a consultation process as “a structured dialogue around a project between stakeholders, aimed at ensuring that it is carried out in the best possible conditions, taking into account the different points of view. It can be seen as an aspiration to collectively find forms of common interest.” It also states that “This approach is associated with a clear and well-defined decision-making process”. It adds: “Stakeholders mean, on the one hand, people, and on the other hand, any group or organisation directly or indirectly concerned or affected by the activities or the objectives of the project”.

A consultation process differs from just consultation and from negotiation. Consultation is collecting ad-hoc advice from stakeholders on a project or issue that feeds into a decision-making process with a single interaction with stakeholders. Negotiation is a discussion aimed at finding an agreement from different positions.

A consultation process aims to work collectively with parties representing a wide variety of viewpoints to jointly find an answer to a problem or to enrich a project. It is based on trust in the sincerity of the discussion and in the conclusions of the consultation process being taken into account in the decisions. The aim is not necessarily to reach a consensus, but to ensure that decisions are as relevant as possible, incorporating as many points of view as possible. This exercise in participatory democracy is a response to a strong expectation from citizens and, more generally, from society as a whole (Dictionnaire critique et interdisciplinaire de la participation [Critical and Interdisciplinary Dictionary of Democratic Participation]).

It is carried out in various ways, depending on the subject matter and the expectations of the project leaders. In any case, the specific organisation of expert interventions and the provision of written and/or video materials that allow for informed and balanced information pose a challenge for ensuring precision, conciseness and accessibility (intelligibility) simultaneously and for all.

Types of Consultation Process

An online consultation aims to make information about a project available to all on a dedicated platform and then to gather public reactions from citizens, companies, representative organisations and associations via a website. The assessment is made public and, in so far as is possible, the project incorporates the requests that have been expressed. Using this method implies that the project lends itself to a very concise, self-supporting presentation and that it is possible to ensure that the approach is sufficiently publicised and unbiased, so as to ensure the representativeness of all stakeholders involved in the responses.

A panel of citizens is a system that brings together some thirty citizens who are volunteers drawn at random, fulfilling the representativeness criteria, during several working sessions spread over one or more weeks. The aim is for them to answer a specific question, using information provided by many stakeholders representing the different points of view on the subject and the deliberations carried out throughout the project.

A citizens' convention is based on the same principle and differs in terms of its scope, which is much broader and adapted to a more general issue such as the end of life or the ecological transition (this time bringing together 150–200 people and involving work over several months). One of the difficulties is finding people who are available and willing to put in the time, often on weekends or evenings, to learn about the subject and give their opinion, either in person or remotely, with little financial incentive.

A panel of experts is suited to highly technical subjects: it is composed of volunteer or non-volunteer experts. Its role is to bring together the perspectives of different experts, to summarise diverse contributions and to share them.

A focus group is a discussion led by a facilitator within a small group of people representative of society or a sub-section of society (a maximum of around 12 people who receive a small amount of financial recompense). The focus group can make it possible to test a concept in advance of a broader “consultative process” approach that it cannot replace.

There are also other tools (CNDP**, 2023).

* The organic law of 15 January 2021 establishes the CESE as the forum for citizen participation to feed into its work in several forms: the integration of citizens chosen at random into its working structures, online consultations and citizen petitions (an issue may be referred to the CESE by way of a petition, provided that a petition submitted to it on the website <https://petitions.lecese.fr/> obtains 150,000 signatures). The CESE can also voluntarily take up an issue raised by a petition or include the authors of the petition as part of its work.

** Commission nationale du débat public (National Commission for Public Debate).

After discussions within the CNIS, drawing on the experience gained by consultation process practitioners, the decision was made to bring together a group of specialists with a range of skills to assess all aspects of the project, its opportunities and risks, and the proportionality of the technical solution being designed by INSEE. The areas covered were very broad: public freedoms, data protection, data uses for social sciences, ethics, communication, use of digital tools, etc. INSEE felt that specialists would be better able to grasp the subject and formulate precise criticisms to help it shift the project towards a balanced solution that respects fundamental freedoms, which makes it possible to alleviate any concerns that this register project may raise. These specialists are accustomed to introducing citizens' concerns into debates and it is easier for them to introduce objections where necessary. The abstract nature of the subject and the efforts needed to get to grips with it were confirmed by the group, which took remarkable efforts to come to terms with it, based on the interventions and materials provided and which had been made as simple and accessible as possible in advance. The group brought together eighteen people over the course of seven meetings and ten hearings.

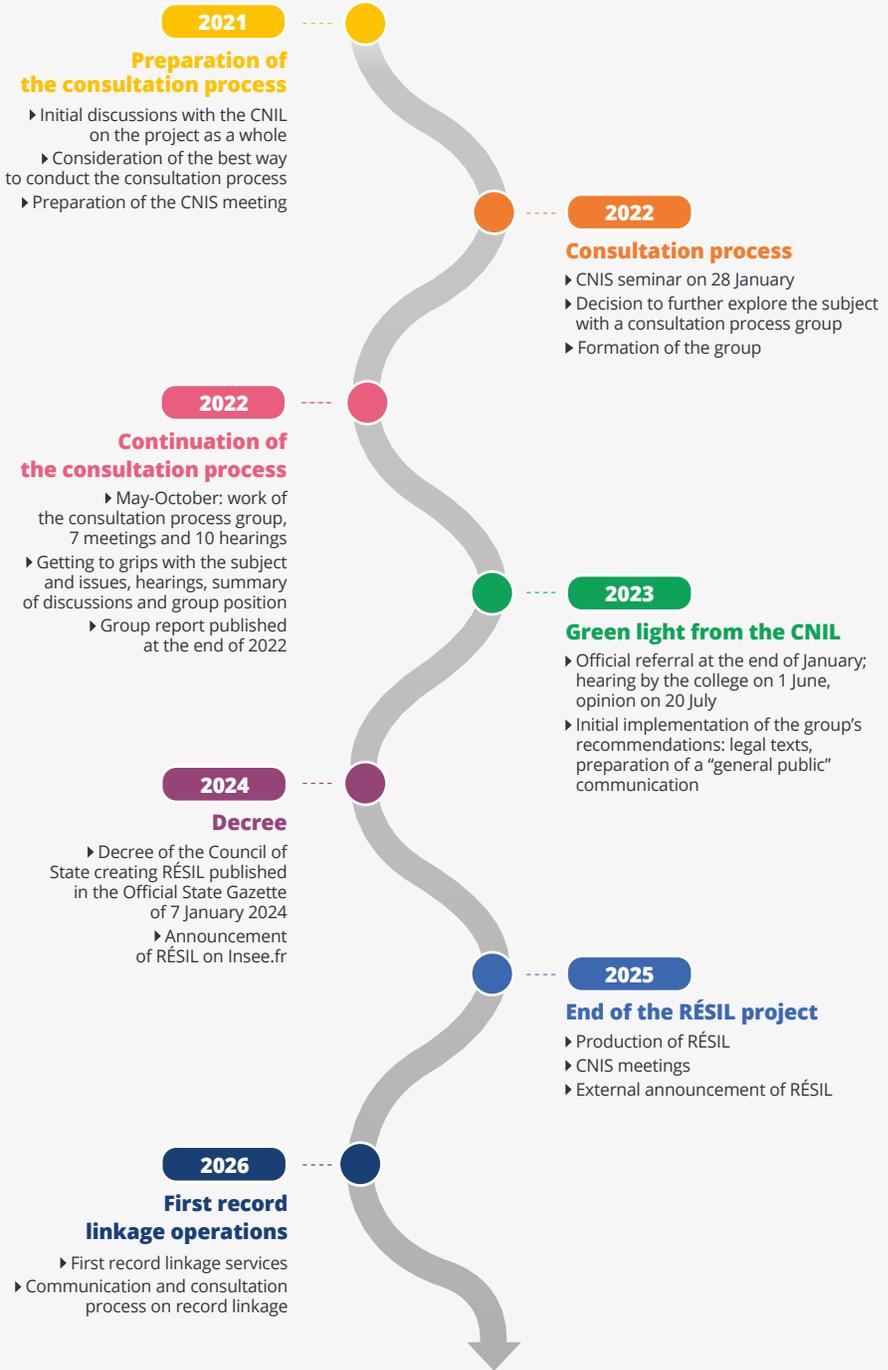
► Conduct of the Consultation Process

The consultation process group for the **RÉSIL project** (*Figure 2*), placed under the aegis of the CNIS, stems from the CNIS meeting of 28 January 2022 (CNIS Meetings, 2022) on record linkage. This meeting was the forum for presenting the RÉSIL project and its aims for the first time, detailing the national and international statistical context for personal data record linkage (Bénichou et al., 2023; Dupont et al., 2023) in order to gather the opinions of societal representatives across diverse sectors (public administration, researchers, associations, trade unions and local authorities) in advance of the project. Members of the round table discussing transparency and public disclosure, who examined RÉSIL and the legal and ethical framework of the Official Statistics work (Anxionnaz et al., 2021; Bureau, 2020; Christine and Roth, 2020; Redor, 2023), stressed that this consideration of the project and the record linkage should, in their opinion, be extended over a longer period for in-depth discussions with a panel of experts suitably qualified to understand the legal and ethical issues involved.

The consultation process group was given the task of drawing up the list of questions raised by the RÉSIL project, discussing the responses offered by INSEE and proposing concrete methods for continuing evaluations throughout the project construction period to 2025, and beyond if necessary. The CNIS Bureau of 12 March 2022 approved the establishment and mandate of this group.

The CNIS suggested that Jean-Marie Delarue, Honorary State Councillor, chair this consultation process group given his expertise and interest in the right to civil liberties and privacy. Excluding its chair, the group comprised the RÉSIL project manager and 14 people (*Box 2*) with specialities likely to reflect societal concerns regarding the project (protection of fundamental rights, protection of data from a legal and IT standpoint, statistical work, economic and social research, digital transformation, public data communication and ethics).

► **Figure 2 - Consultation Process and Legal Framework Calendar for RÉSIL**



► Box 2. Participants in the Consultation Process Group

Chair:

Jean-Marie Delarue
(Honorary State Councillor)

Rapporteur:

Françoise Dupont (Insee)

Group support:

- François Guillaumat-Tailliet (Deputy Secretary-General of the CNIS)
- Cédric Afsa (Honorary INSEE Inspector General)

Group members:

- Maryse Artiguelong, Ligue des droits de l'Homme (Human Rights League)
- Jennyfer Chrétien, Renaissance numérique (Digital Renaissance)
- Valérie Gayte, CFE-CGC (Confédération française de l'encadrement - Confédération générale des cadres [French Confederation of Management - General Confederation of Executives]), CESE
- Mark Hunyadi, University of Louvain, philosopher
- Alexandre Léchenet, data journalist, La Gazette des Communes
- Olivier Lefebvre, INSEE
- Georges Louis, CFE-CGC
- Michelle Meunier, Senator of Loire-Atlantique
- Benjamin Nguyen, INSA (Institut national des sciences appliquées [National Institute of Applied Sciences]) Centre - Val de Loire, Laboratoire d'Informatique Fondamentale d'Orléans (Laboratory of Fundamental Information Technology of Orléans)
- Emmanuelle Roux, Chaudron numérique (Digital Cauldron)
- Marion Selz, Société française de statistique (French Statistical Society)
- Roxane Silberman, Centre d'accès sécurisé aux données (Secure Access Data Centre, CASD)
- Bernard Sujobert, CGT (Confédération générale du travail [General Confederation of Labour])
- Cécile de Terwangne, University of Namur, lawyer
- Youssr Youssef, data journalist, Le Figaro

The Subject Matter, Resource and Parties Involved

The group of specialists placed under the aegis of the CNIS was selected relatively quickly. The material and financial conditions were well defined at the outset. The chair of the group, recognised for his expertise and independence, played a fundamental role in the credibility of the process.

A significant part of the work consisted in identifying the existing experts not yet known to the CNIS and INSEE who would be useful for forming the group and available to attend a consultation process without charging a fee. However, specialists (from the world of research, a company, a public institution or an association) are already in great demand and the resources of associations are particularly limited. Group participation requires substantial time to be invested in order to get to grips with the subject and participate actively in the discussions. As such, it is difficult to find people who are available for multiple half-day meetings and it is not a foregone conclusion that they will participate for free. Let us remember that it is customary in citizen panels to cover travel expenses and provide a



The consultation process focused on the RÉSil register, but it naturally included the record linkage operations that RÉSil enables.



small amount of recompense (albeit very modest) for participation. For this consultation process under the aegis of the CNIS, the usual rule on participation free of charge (excluding transport costs) has been applied.

In order to achieve the best conditions for the debate, it was necessary to clarify the mandate (what the participants are and are not committing themselves to) and the room for manoeuvre within the project (what can be questioned and what has already been decided or strongly restricted). This was discussed in

advance at the time of recruitment and then fully explained during the first session. The scope and subject matter of the discussion must also be clear to all to make it possible to then draw up a list of the aspects that it is absolutely necessary to clarify, so that the discussion occurs with no blind spots. In the case at hand, the consultation process focused on the RÉSIL register, but it naturally included the record linkage operations that RÉSIL enables. The questions to be clarified were determined relatively easily from the CNIS meeting of 28 January 2022.

Hearings have made it possible to broaden the scope of the examination by bringing in various speakers, both French and foreign:

- a lawyer specialising in fundamental freedoms;
- the director of an English institute specialising in consultation procedures with citizens on digital matters (Peppin, 2022);
- an expert in general public mediation;
- Agence nationale de la sécurité des systèmes d'information (National Cybersecurity Agency, ANSSI) to discuss cybersecurity risks;
- a statistician familiar with the Safari project (Poulain, 2022; Espinasse and Roux, 2022), thereby enabling a discussion of the major differences with the RÉSIL project;
- an economics researcher to discuss information needs and compare international record linkage opportunities for this audience;
- Eurostat for statistical needs and practices in other countries;
- a representative from Statistics Canada to discuss the Canadian approach to analysing necessity and proportionality;
- a CESE representative, but their hearing could not be held.

Foreign colleagues (Eurostat and Statistics Canada) explained that concerns were widely shared, and that each country had implemented approaches that seemed appropriate, taking into account the specific institutional or cultural context of each country.

An Open Mindset in Discussions to Welcome Criticisms, Questions and Proposals

During the first meetings of the consultation group, it became clear that it was essential to draw up an overview to allow all participants, no matter how uninvolved in statistics, to understand the general framework (legal matters, practices and ethics). From this point of view, the work carried out for the group and then to prepare the announcement for the general public has enabled INSEE to progressively streamline future presentations. For all the presentations, the simplification efforts already made for the CNIS meeting, increased for the first session and then adjusted gradually to the needs of the participants during the sessions, were beneficial.

During the meetings, certain aspects were simplified as much as possible for the participants, whether in terms of participation conditions, familiarisation with the specific details of the subject matter and its challenges or the provision of informative and educational materials.



During the group's meetings, the decision was made to prioritise discussions and therefore shorten presentation times.



During the group's meetings, the decision was made to prioritise discussions and therefore shorten presentation times¹³, making them as concise and simple as possible to explain the project, constraints and opportunities, and the challenges. A focal point for all debates was to avoid implicit, because there is a high risk that each person's inference, determined by their

own frame of reference, will not be the same and that people talking at cross purposes will disturb the process. Clarifying the vocabulary was a crucial step. The way the meetings were held also allowed speakers to be precise and concise without being held back.

Finally, in this consultation process, there were questions and proposals that were sometimes far removed from or even contradictory to considerations of the project already carried out internally. The sharing of knowledge, challenges and ideas (solutions) helps to create a dynamic of trust. However, to maintain trust, the discussions were transcribed in each session and then in the report, in the most faithful and accurate manner possible. The transcription was scrupulously checked with the participants to ensure it was a faithful representation of the debates.

The contribution of the CNIS group to INSEE's thought process on the project's construction and support is undeniable, but it is important to emphasise that there are still avenues to explore. Firstly, as time was limited (seven meetings in five months, including two in the summer) and the subject vast, technical and rarely discussed up to that point; secondly because if an attempt was made to involve specialists outside of Official Statistics, they would not have considered themselves invested in the mission of representing the whole of society within this group, with their expertise making their approach somewhat different from that of the general public, even though they contributed to understanding it; and thirdly because this is a project with a 2025 construction deadline where applications and developments cannot be fixed once and for all.

Continuing to Benefit from External Views

The consultation process must continue: this is a strong recommendation from the group.

The consultation process on RÉSIL is not yet complete. It will continue, in appropriate formats that are yet to be defined, first during the RÉSIL start-up phase and then throughout its use. Extending the process of consultation on the principles of necessity and proportionality, intervening in the event of a risk of misuse, advising INSEE on the implementation of specific provisions, auditing the result and testing the communication media: in all these cases, the use of bodies outside INSEE is, for the participants of the consultation process group, a visible guarantee by citizens that the commitments will be monitored and therefore kept.

For the rest of the project, enriched external perspectives (sometimes already requested in advance), will make it possible to check on various aspects of the project or its implementation:

¹³ The proportion recommended by the CNDP is 2/3 of discussion for 1/3 of presentation.

- the CNIS to integrate needs but also, if its role evolves, to take into account the views of contributing citizens, with regard to ethical issues;
- the CNIL, which ensures compliance with the protection of personal data and which will be consulted for any potential addition of sources feeding into RÉSIL;
- ANSSI, for the security of the information system. The use of ANSSI is likely to reassure citizens because the register will benefit from the strongest IT protections (high-level protection) and an up-to-date compliance review;
- the ASP Autorité de la statistique publique (French Official Statistics Authority), which guarantees proper use for statistical purposes only and in accordance with the European Statistics Code of Practice, while acting as a “whistleblower” in case of infringements;
- “focus groups” of citizens to gather their views on the resource and how it is presented.

Beyond these perspectives, which are recommended by the group, it will be important that discussions continue to involve speakers with specific perspectives, on ethics, the



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protection of public freedoms, digital uses, etc. The arrangements regarding this joint consideration are yet to be determined, but it is essential to continue this approach of bringing different viewpoints together. It will be important for INSEE to continue with an approach of providing communications on its work and values, while listening to the public more intently and regularly analysing trust in the information¹⁴ it provides.

► Recommendations of the Consultation Process Group —

In advance, the group highlighted the risk that the increase in record linkage operations will encourage a policy trend towards “governing by numbers”; in other words, that making more data available could encourage those in government to make decisions based only on quantified data. This risk does exist, but the group considered that it was related more to the use of data rather than their production. The group also expressed fears over the risks of misuse of RÉSIL data or resulting record linkages if this information were to leak out following a cyberattack or if the purpose were to be diverted as a result of political pressure, for example.

The group’s concerns focus on three lines of ideas that are reflected in the recommendations: the principle of such a register; the privacy breaches that could result; and the limitation of internal access and protection against cyberattacks.

As regards the principle of the register, the group acknowledged that the criterion of **necessity** was satisfied in so far as the needs for knowledge and increased precision are real and there is no convincing alternative. It also found that the use of registers complies with the principle of **proportionality** required by the legislation in force. The

¹⁴ Perception of the image that INSEE and its socio-economic indicators have among the “general public”, survey conducted annually: <https://www.insee.fr/fr/information/3669009>.

group also noted that the services proposed by RÉSIL would 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 details were specified in the legal texts that established RÉSIL.

An Unfavourable Opinion for Some Sources

The absence of use of the NIR¹⁵ and the appropriate use of the Code statistique non signifiant (Non-Significant Statistical Code, CSNS¹⁶), together with INSEE's commitment that no "sensitive" data, as defined by the GDPR, would appear in the register were noted.

In view of the data sources envisaged for RÉSIL, the group¹⁷ issued an unfavourable opinion on the use of the file of residence permits for foreign citizens (AGDREF¹⁸), due to the sensitivity of the issue of the possession of residence permits by foreign citizens. It also expressed an unfavourable opinion, based on an image risk and non-proportionality, regarding the VITALE health insurance card file¹⁹ and the file of the RNCPS²⁰ (itself a compilation of files from various social security agencies).

A Legal Framework in Need of Completion

The group was in favour of RÉSIL having a legal framework established by a Council of State decree passed based on the advice of the CNIL. It recommended that the data sources comprising the registers of individuals and housing should be included in a separate legal text passed based on the advice 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 (see the legal references at the end of the paper).

The group felt that the legal basis for record linkage could be better assured and recommended that it be clarified. It also concluded that vigilance regarding the risk of stigmatisation of social groups due to the increase in the number of record linkage operations, although these are already present in current statistical work, should be heightened. To that end, the group recommends publishing the list of record linkage operations carried out using RÉSIL, mentioning the data controller, the sources used, the purposes of the processing and the data subject populations in order to demonstrate compliance with the principles of necessity and proportionality. It recommended that the CNIS give an opinion on the appropriateness of the record linkage operations carried out by Official Statistics, taking into account ethical aspects, as well as those related to the rights and freedoms of individuals, while also recommending an expansion of the CNIS's tasks and a change in its composition, by appointing members with expertise in data protection and freedoms.

15 NIR: Registration number in the Répertoire national d'identification des personnes physiques (National Register for the Identification of Individuals, RNIPP) or social security number.

16 See the paper included in *Courrier des statistiques* issue No 9: "The Non-Significant Statistical Code (CSNS): a service to facilitate file matching", Yves-Laurent Bénichou, Lionel Espinasse and Séverine Gilles.

17 The details are provided in part 5.3.7 of the report of the consultation process group (Report of the consultation process group of the CNIS, 2022).

18 AGDREF: Application de gestion des dossiers des ressortissants étrangers en France (Application for Managing the Files of Foreign Nationals in France).

19 The VITALE card is the health insurance card in France.

20 Répertoire National Commun de la Protection Sociale (Common National Social Security Register).
<https://www.securite-sociale.fr/la-secu-en-detail/gestion-financement-et-performance/rncps>.

Preventing Misuse

The information security of RÉSIL must be guaranteed by INSEE, which bears responsibility for the system and the data it processes. The precautions that INSEE will take in this regard (in accordance with the State Security Policy and the recommendations of ANSSI) seemed appropriate to the group, which requested that the security of the information system be audited regularly by an external party.

The group also recommended mobilising the ASP to flag 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 uses.

Developing Communications with the General Public



The group suggested developing communications with the general public on the use of administrative sources and record linkage.



More broadly, the group suggested developing communications with the general public on the use of administrative sources and record linkage, drawing on the best practices of foreign national statistics institutes, particularly Statistics Canada. It recommended continuing the consultation process regarding the RÉSIL project: it proposed holding a new CNIS meeting on record linkage and the

implementation of RÉSIL in 2025 and expressed its desire for the CNIS office and the competent committees to be regularly informed of the progress of the RÉSIL project. In respect of communications regarding the project and its uses, transparency must remain the rule. To that end, the group recommended creating a highly comprehensive public section on the INSEE website to present the RÉSIL project, its purpose, the expected contributions, the means of data protection, the legal texts and the deliberations of the CNIL.

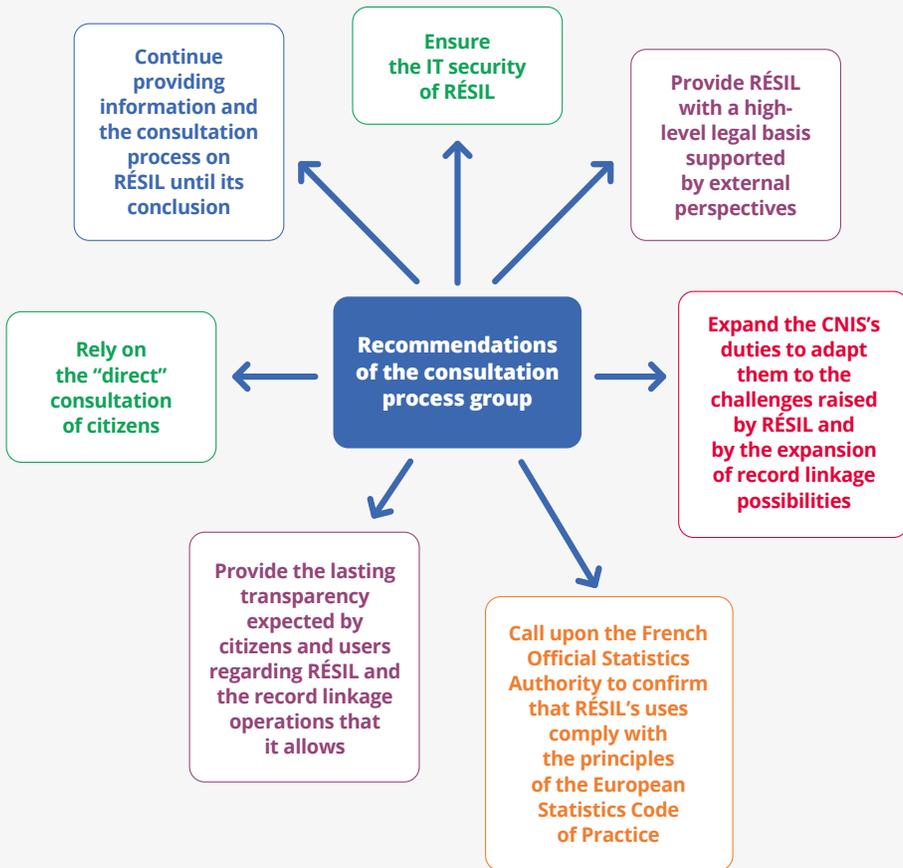
► Lessons Learnt from this Consultation Process

For INSEE, the exercise was demanding, but highly stimulating and useful. The discussions allowed the project to be genuinely improved, as well as enabling a shared appreciation of the issues of proportionality, making it possible to question certain evidence (of which there was not that much, ultimately) and to direct the focus in a relevant manner. It not only draws direct lessons from this concerning RÉSIL, but also more general lessons on the consultation process and communications regarding the production of statistics.

Recommendations Directly Related to the RÉSIL Project

For the project, INSEE decided to take on board almost all of the recommendations (*Figure 3*), which was possible thanks to a consultation process conducted sufficiently in advance of the project.

► **Figure 3 - The Recommendations of the Consultation Process Group**



Sources: CNIS Report N° 161, November 2022.

INSEE has thus incorporated the provisions recommended by the group into the decree establishing RÉSIL. It has also implemented, in accordance with the group's recommendations, communications specific to the RÉSIL project: these are in the form of websites providing access to infographics and videos, with a significant amount of work to ensure that they are as accessible as possible²¹. These materials were the subject of a critical examination by a "focus group" composed of people representative of society (with varied profiles) who had little or no knowledge of the work of official statistics. The discussions, which provided a great number of insights, have made it possible to simplify the message delivered as much as possible. These communications supplement more general communications regarding our work and were provided by means of two blog posts: one entitled "Quels types de sources l'Insee utilise-t-il pour construire ses statistiques ?" (What types of sources does INSEE use to construct its statistics?) and the second entitled "Les appariements de données de la statistique publique : des analyses

²¹ The RÉSIL project: a tool to better understand French society, Public presentation of RÉSIL on the insee.fr website: <https://www.insee.fr/fr/information/7748883>.

enrichies, un cadre juridique protecteur” (Official Statistics Record Linkage: enriched analyses and a protective legal framework) (Dupont, May and September 2023).

In its deliberations, the CNIL made numerous references to the work of the consultation process group, first to praise INSEE’s approach and then to incorporate the conclusions to supplement the information provided by INSEE. It calls for the continuation of the process of seeking out external perspectives, taking into account issues concerning ethics and transparency in relation to RÉSIL and what it will allow.

Beyond the RÉSIL project, this consultation process allowed the members of the group to discover the work and practices of official statisticians, in particular the scope of the data processed, as well as their values. Moreover, it strongly encouraged INSEE to provide further communications on its work and values.

Lessons for Conducting Consultation Processes in relation to High-Impact Projects

Compared to the more conventional consultation process practices of the CNIS, the format of the consultation process chosen for RÉSIL is different: it involves people who are more unfamiliar with official statistics and the ways in which they are used. The update was based on various consultation process practices and forms of expertise (the CNDP²², researchers, the CESE, etc.). At the end of this exercise, it is possible to glean insights that are not specific to RÉSIL.

In order for the consultation process to generate impacts on the project and therefore interest in participating among the stakeholders, it is essential to schedule it relatively early on the project timetable, as soon as its main outlines are known, perhaps with the addition of a prototype of what it is hoped will be achieved and experiments relating to certain parts of the project. The timing is important, because if this takes place prematurely, there is a risk of discussing very abstract principles; in contrast, if the project is too advanced, the room for manoeuvre in jointly creating the project is too restricted.

The time required to prepare the framework for the consultation process must not be underestimated: any consultation process involves determining its scope, its operational organisation and the rules of dialogue, then setting up the structure (the consultation process infrastructure, the search for participants and the creation of teaching materials to provide information on the subject of consultation in an educational way).

In accordance with the recommendations of the consultation process group in this respect, the consultation process in relation to RÉSIL must continue within the CNIS, a central governance instrument for consultation processes in relation to Official Statistics in France. The CNIS will need to ensure a constant balance between the need for knowledge and the protection of individual freedoms, in a context marked by an increasing use of record linkage using personal data.

More generally, RÉSIL opens up possibilities for the development of record linkage within a protective information technology, legal and ethical framework. This means changing the consultation process methods used by giving greater room to reflections on the protection of individual freedoms in the field of record linkage. This reflection process is under way.

²² Commission nationale du débat public (National Commission for Public Debate).

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