

Observations of the French Ministry of Health

First, the French Ministry of Health would like to thank the EDPB for these guidelines on the right of access and for its thorough examination of this very essential issue, both for controllers and data subjects.

The French Ministry of Health wishes nonetheless to submit the following observations on these guidelines and, especially, to address the issue of large and imprecise requests and the answers to be given to such requests. These observations are therefore related to paragraphs 35.b), 123, 145, 164 and 185 of the guidelines.

The approach followed here by the EDPB is likely to put an organization like the French Ministry of Health, as well as other public authorities, in great difficulty. The not-so specific situation of controllers processing a wide variety of data, for various purposes, should be taken into account, without any effect of limiting replies to access requests or hiding any information.

The French ministry of health processes a large quantity of information relating to data subjects that can be processed for various purposes (i.e for diverse public health purposes : covid vaccination, covid testing, medical management, scientific research, for other administrative purposes related to its duties, human resources purposes, etc.) and in multiple databases.

Each processing and each database obey and respect its own and specific data protection rules, as well as they are technically different. Therefore, most of the time, neither a name/first name nor an identification number would enable the controller to identify the appropriate database. It has to be underlined that this separation of the databases is also regarded as a guarantee for the data subject, any kind of interconnection being regarded as a risky processing according to EDPB guidelines on DPIA. It means that in case of a request expressed in very general terms, the controller would have to check thousands of processing by hundreds of different administrative services, since automatic tool to search for all the data is and should be available. This would create a manifestly excessive administrative burden.

Moreover, the high number of processing of the ministry prevent it from giving even general information about all the processing operations potentially concerning the data subject. Citizens are moreover informed of every processing concerning administrative users, through the adoption and publication of all regulatory measures creating these databases, and should then be able to express precise requests.

At last, any access request should be addressed to a specific controller – there are several controllers within the French ministry, i.e its administrative directorates for example (and it would be against the right of access' perspective to answer to such a request "The French ministry of health is not the controller of hundreds of processing undertaken by its Health Directorate") – and towards specific processing. It can not legally be addressed to any organism, regardless of its actual qualification from a data protection perspective, or to any kind of processing under its controllership – even if multiple access request can of course be joined in a single one.

For all these reasons, overly broad and imprecise requests should be regarded as excessive.

Therefore, the Ministry of Health suggests that EDPB guidelines should clearly specify that in cases where controllers process a large amount of data concerning data subjects that can be spread in numerous databases, data subjects must provide additional information. For example, this additional

information can be the purposes of the processing or the context in which the person could have been involved in a processing of the ministry of justice. Those additional information should legally be requested by the controller at the time its asks the data subject to specify the request. Those additional information must help the controller to identify the correct databases where personal data is collected.

In the absence of sufficient additional information on the processing concerned, the controller should be able to reject the access request by pointing out the disproportionate efforts. It should of course be able to explain and justify the reasons why he dismissed the access request.

In the same perspective, the French ministry of Health suggests adding another example of excessive requests, i.e when several people, each expressing the same standard request, only aim at disturb the controller, even if each person sends only one request.