

DELIBERATION n°2019-002 of JANUARY 10, 2019 National Commission for Computing and Liberties Nature of the
deliberation: Authorization Legal status: In force Date of publication on Légifrance: Wednesday March 27, 2019 Deliberation n°
2019-002 of January 10, 2019 authorizing the Agency national public health authority to implement personal data processing
for the purpose of HIV and tuberculosis surveillance processing by a dematerialized mandatory reporting system called "E-DO"
and repealing deliberation no. 2015-344 of October 6, 2015 (Authorization request no. 1818160v1) The National Commission
for Computing and Liberties, Seizure by the National Public Health Agency of an authorization request concerning treatment for
monitoring HIV and tuberculosis by a dematerialized system of compulsory declaration called "E-DO"; Having regard to
Convention No. 108 of the Council of Europe for the protection of persons with regard to the automated 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 individuals with regard to the processing of personal data and on free movement of this data, and repealing
Directive 95/46/EC; Having regard to the Public Health Code, in particular its articles L. 3113-1, R. 3113-1 et seq. and D.
3113-7; Having regard to Law No. 78-17 of January 6, 1978 modified relating to data processing, files and freedoms, in
particular its articles 8-II-8° and 54; Considering the decree n° 2005-1309 of October 20, 2005 modified taken for the
application Law No. 78-17 of January 6, 1978 relating to data processing, files and freedoms; Having regard to the decree of
December 4, 2015 modifying the model of the notification form appearing in annex 29 of the decree of August 22, 2011 relating
to the mandatory notification of infectious diseases and other diseases mentioned in Article D. 3113-7 of the Health Code
public health; Having regard to Commission deliberations No. 00-045 of October 3, 2000, No. 02-020 of March 21, 2002, No.
02-082 of November 19, 2002 and No. 2006-258 of December 5, 2006; the file and its supplements, and in particular the
impact assessment relating to data protection produced on November 15, 2018; On the proposal of Mr. Alexandre LINDEN,
Commissioner, and after hearing the observations of Mrs. Nacima BELKACEM, Government Commissioner, Makes the
following observations: On the controller The National Public Health Agency (ANSP). On the purpose The provisions of Article
L. 3113-1 of the Public Health Code (CSP) provide that diseases mandatory declaration (MDO) are subject to the transmission
of individual data to the health authority by doctors and managers of public and private medical biology services and
laboratories. HIV and tuberculosis are on the list of MDOs which are the subject of a notification compulsory to the health
authority according to the methods of transmission defined by articles R. 3113-1 and following of the CSP. By deliberation n°
02-082 of November 19, 2002, the Commission authorized the ANSP computer application intended for the national

epidemiological surveillance of notifiable infectious diseases, including HIV. With regard to tuberculosis, the particular circuit of the declarations which are entered by the regional health agencies (ARS) had led the General Directorate of Health (DGS) to seize the CNIL of a request for authorization (n ° 902313).The ANSP, within the framework of this request, wishes to:

dematerialize the procedure concerning HIV/AIDS by setting up "e-DO"; implement the entry by the ARS of data concerning tuberculosis in the "e-DO" application and allow their consultation by the ARS and the ANSP; update the notices on this occasion; extend the retention period for personal data, as permitted by Article R. 3113-3 of the CSP, amended by Decree No. 2018-338 of May 4, 2018. These changes aim to simplify the notification process; improving healthcare professional adherence; increase the number of declarations and shorten their delay; monitor trends and characteristics of cases and evaluate programs to combat these pathologies. The Commission considers that the purpose of the processing presented is determined, explicit and legitimate, in accordance with the provisions of Article 5-1-a of the General Regulations on data protection (GDPR). It considers that it is necessary to apply the provisions of articles 8-II 8° and 54 of the law of January 6, 1978 as amended, which subject to authorization processing involving data relating to health and justified, as in I species, by the public interest. On the data processed The information that must appear on the individual data notification form is listed in Article R. 3113-2 of the CSP, including the "anonymity number" established by coding computer based on the identity of the person. The decree of August 22, 2011 relating to the compulsory notification of infectious diseases and other diseases mentioned in article D. 3113-7 of the CSP details in its appendix 24 (tuberculosis) and 29 (HIV) the list of information to be contained in the notification forms. "e-DO". The Commission pr clarifies that, insofar as article R. 3113-2 of the CSP provides that an order sets the clinical, biological and socio-demographic data that must appear on the notification form, the collection of the aforementioned additional data cannot begin until one once this decree has been published.The Commission considers that the data whose processing is envisaged are adequate, relevant and limited to what is necessary with regard to the purposes of the processing, in accordance with the provisions of Article 5-1-c of the GDPR.On the recipientsThe Commission notes that the dematerialization project does not change the recipients of the currently authorized processing. i.e. declaring health professionals, authorized agents of the ARS of the doctor's place of practice, authorized agents of the Regional Intervention Units (Cir e) of the ANSP. The "e-DO" application allows biologists and doctors to create accounts in order to allow the personnel designated by name, placed under their authority and subject to professional secrecy, to complete and send the declarations . During the investigation, it was specified to the CNIL services that this staff would under no circumstances have

access, in the "e-DO" application, to the directly identifying data of the persons who were the subject of the declaration. The Commission considers that the categories of recipients do not call for comment. On information and the rights of individuals An information note intended for the individuals concerned by the compulsory declaration is given to them by their doctor. It sets out the objectives of this collection, the content of the information collected, the data security guarantees and the procedures for exercising rights. An information note specific to the virological surveillance of HIV infection is also given to the persons concerned. access and rectification are exercised with the infectious diseases department of the ANSP through the doctor who made the notification. With regard to HIV, these rights are only exercised within twelve months after the doctor sent the notification form. In the case of tuberculosis, rights can be exercised for three years (after this period, correspondence is deleted). The declaration of HIV and tuberculosis resulting from a legal obligation, the right of opposition does not apply. not apply. The Commission requests that the information media be completed so that they include all the information provided for in Article 13 of the GDPR. On security measures The "e-DO" web application is hosted by an approved health data host. The Commission notes that various security measures aimed at ensuring the confidentiality, integrity and availability of data are implemented within this network (low-level partitioning, application filtering, fight against malware, redundant physical hosting, relocated backups, development of applications from anonymized data sets, secure erasure of data in the event of hardware disposal, specific architecture that and dedicated to recording functional traces). The revocation lists associated with the certificates deployed in these cards are regularly retrieved from the Agency for Shared Health Information Systems. In addition, the Commission notes that specific technical measures to protect the identity of patients are implemented (hash of the identifier transmitted by the doctor, partitioned by disease requiring compulsory notification). The Commission considers that the security measures described by the data controller comply with the security requirement provided for in Articles 5.1.f and 32 of the GDPR. However, it recalls that this obligation requires the updating of security measures with regard to the regular reassessment of the risks. On the retention period of the data With regard to HIV, the correspondence table between the "anonymity number" and the The person's identification data is kept by the doctor for twelve months. prescriber and those of the head of the biology department or the laboratory. ten years, in order to be able to assess the evolution of the infection both at the level of the individual case declared (from infection to AIDS until death, if applicable) and at the collective level on all the declarations effected. With regard to tuberculosis, the correspondence table between the identifying data of the case and its anonymity number is kept by the doctor for three years and for five years specifically for the data for the years 2018 and

2019 (taking into account the delay in processing the data linked to their integration into "e-DO"). The Commission notes that at the end of this period of three years and five years for the transition years, the correspondence table is destroyed, the ANSP, for its part, deleting the contact details of the prescriber and those of the head of the biology department or the laboratory, in accordance with the provisions of article R. 3113-2-II-2°. The ANSP plans to keep epidemiological surveillance data, purged of any identification data and "anonymity number", for a period of twenty-five years. Regarding other data, including date of birth and postal code of residence, they are kept for 25 years for monitoring purposes, in order to be able to measure trends over a sufficiently long period of time and to assess monitoring programs over the long term. do not exceed the duration necessary for the purposes for which they are processed, in accordance with the provisions of Article 5-1-e of the GDPR. Authorizes the ANSP, in accordance with this deliberation, to implement the aforementioned processing. For the President Deputy Vice-President Marie-France MAZARS