

Topic (iii) - Administration and policy of statistical data confidentiality

## **STATISTICAL CONFIDENTIALITY OF - LEGAL ASPECTS AND PRACTICE**

Submitted by the Statistical Office of the Former Yugoslav Republic of Macedonia<sup>1</sup>

### **Contributed paper**

#### **I. INTRODUCTION**

1. After the country became independent in 1991 there was a need to proceed with a transition toward the market economy and to adopt appropriate legislation. In the same year, the Constitution Law and several laws from all fields of the economy areas were adopted as well as the political system and social reform. Within those frameworks, it was also necessary to transform the statistical system in the country by preparing a new Law which, among others, provides a proper protection of personal data for physical persons and individual data of legal entities, used for statistical purposes.

#### **II. PERSONAL DATA PROTECTION GUARANTEE AND LEGISLATION**

2. The security and confidentiality of the personal data in the country are guaranteed in Article 18 of the Constitution where is strictly stated that citizens are guaranteed protection from any violation of their personal integrity deriving from the registration of personal information through data processing.

3. The legal system which regulates personal data protection was adopted in 1994. The Data Protection Law states that personal data protection covers the legal, organisational, and technical measures to prevent: the illegal collection, analysis, retention, use or transfer of the data; illegal access to the data or equipment where the data are stored; and the accidental or intentional alteration or destruction of the data.

4. Furthermore, the Law stipulates the following:

- conditions for the collection of personal data;
- the establishing, updating and contents of the data file with personal data;
- the rights and obligations of the data file executor for data files with personal data;
- the rights, limits and legal protection of the individual;
- the carrying of personal data out of the country;
- the responsibility for management, and
- the penal provisions.

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<sup>1</sup> Prepared by Dobrinka Borisovska-Gospodinova and Marina Velickovska.

The Criminal Law also states that the misuse of personal data is a criminal offence, which can be penalised.

5. Before 1997, the protection of personal data in the field on statistics was in accordance with the General Data Protection Law. The document concerning this was presented in Bled - Slovenia (2-4 October 1996).

6. Since the end of 1997, in the field of statistics, data protection is regulated in the Law on State Statistics (further: the Law), which was adopted on 14 October 1997 and published in the "Official Gazette", No. 54/97. In the Law, the entire part VII is devoted to statistical data protection. While preparing this part of the Law, the Council of Europe's Convention No. 108/81, the Council of Europe's recommendations for the protection of personal data which has been gathered and processed for statistical purposes, as well as the Act of the European Union of 17 February 1997 for the Union's statistics, were taken into account. At the same time, expert assistance from Eurostat, Denmark and Switzerland was also provided to us.

7. The Law establishes the following new items:
- the definition of sensitive data and measures for their protection;
  - the protection of individual data for legal subjects; and
  - the provision of greater protection of personal data in the field of statistics.

### **III. TENETS AND PRINCIPLES FOR STATISTICAL DATA PROTECTION**

#### **III.1 Tenets**

8. One of the tenets of state statistics is the principle of data confidentiality. This principle, among the other ones (neutrality, objectivity, professional independence and rationality) cited in the Law, are the basic preconditions for the transition of the statistical system in the country and integration with the statistics of the EU countries which is our primary target. The purpose of this tenet is that unauthorised users cannot use the individual data which are collected for statistical purposes. The results of statistical research shall be provided or results shall be made public only under the condition that the identity of the subjects to which they relate has been protected.

#### **III.2 Principles**

##### *Targets*

9. Providing the basis for the collection and processing of personal data on physical persons and/or individual data on legal persons to accomplish statistical research is determined by the country's Programme for Statistical Research. It is stated in the Law that this kind of data could be used only for statistical purposes and they could not be a basis for making any kind of decisions regarding the data (legal or physical) subject. By exception, and under the terms determined in the Law, the data could be used for scientific research.

##### *Scope*

10. The Law covers the field of statistics. Data protection is provided during data collection and processing. Protection by the Law is provided for individual data on legal persons and personal data on physical persons. The Law also specifies the protection of data on relevant subjects.

##### *Definitions*

11. Definitions of confidential data are specified in the Law, in particular for: individual data; personal data; identification data (individual data that provide direct identification of the legal and physical subjects and which refer to the name, surname, address, officially allocated identification number); and sensitive data (personal data which can reveal political opinion, religious or other belief, and personal data related to health and criminal record). From the substance point of view they have been adjusted to international practice.

#### ***Collection of individual and personal data, data processing and publishing of results***

12. Individual data for statistical purposes should be collected only for statistical surveys defined within the Programme for Statistical Surveys as well as for cases stated by the Law (e.g. population censuses). According to the Law, the person should be informed of the purpose of the collection, processing, subject, who is collecting the data, the obligation to provide data (obligatory or voluntary) as well as data protection measures. The staff collecting the data should possess written notification from the authorised collector of the data. The authorisation should be presented to the owner of the data before beginning the collection process. In principle the identification data are not entered into the computer.

#### ***Storage and destruction of individual data***

13. Individual data are stored until the fulfilment of the objective for which they were collected. The relevant technical and organisational measures for protection of individual data during their storage and destruction are defined in a separate general act.

#### ***Transmission of individual data in the country and abroad***

14. The transmission of individual data should be done only for statistical purposes (among the Statistical Office and other authorised subjects in the country). Transmission of individual data for non-statistical purposes is not allowed without the written confirmation of the owner of the data. The transmission of individual data out of the country is done according to the procedure detailed in the Convention No. 108/81 of the Council of Europe.

### **IV. PRACTICAL IMPLEMENTATION FOLLOWING ADOPTION OF THE LAW**

15. The implementation of the Law began immediately after its adoption in October 1997. At the same time, the new five-year Programme for Statistical Research (1998-2002) was adopted. At this stage, we can say that we have one year of experience in the implementation.

16. What has been done in the field of data protection?

(i) Questionnaires for data collection and their guidelines have been revised and updated according to the Law. A separate part in these instruments has been created explaining the protection of individual data (personal data for physical persons and individual data for legal subjects) and the procedure. To obtain a unified approach concerning this matter in all sectors, we have prepared a short Guideline about the way of incorporating the data protection and we have made additional contacts with the colleagues because of the certain specific aspects in subject research.

(ii) Several activities through which we wanted to obtain public transparency concerning the new Law on data protection were organised (e.g. through regular televised press conferences). Instructions were also given to citizens when collecting the data or when asked to submit data. We introduced the right to choose whether or not to give data. At the same time, we emphasised data protection as one of the segments for further development.

- (iii) Certain improvements were also made in training of the statistical staff responsible for collecting, processing and dissemination of the data. All employees were informed about the adoption of the Law and about how to implement the data protection procedures in all stages of the work.
- (iv) Instruction manuals and authorisations were prepared for those persons performing direct data collection. In the authorisation document specific mention is made of individual/personal data protection. Instructions were also mentioned in all contracts with persons not employed in the Statistical Office.
- (v) In the part of the surveys carried out directly in the field, the identification data are separated (the enumerator has a separate list of addresses and the code for connection if necessary). Also, for a better control of personal data such as on households, if necessary, they are entered in the questionnaire but not coded.
- (vi) As a rule, during data processing the identification data for the person (name, surname, and Personal Identification Number - PIN) are used only as a control factor to see the scope of the gathered data. The other identification data are not coded or entered into the system for further processing. Addresses are coded and entered into the system.
- (vii) The connection of the statistical databases with statistical or administrative registers is strictly controlled and access is available only for authorised persons for the purposes of the surveys.
- (viii) During data editing of population statistics, if matching occurs of several personal data (nationality, religion, occupation, age, etc.) and if there are some results where the person could be recognised, then those data are not published.
- (ix) The destruction of the basic material is done once or twice a year (this material was previously stored according to procedures at the time).

17. It should be emphasised that in the realisation of the above-mentioned activities within the area of statistical data protection experience has also been used from the protection of personal data in the 1994 Census on the Population and experience from the General Data Protection Law.

18. We would still like to mention that:

- There are significant difficulties when presenting the results from the legal subjects. Although the data are presented by indices, growth, percents etc. there is a need to present part of the results at the country level in relative values. But this is a separate problem because in certain areas there are main enterprises or small numbers of enterprises (especially when presenting the data by branch).
- We are now at the stage of preparing documentation and finding solutions for protection of sensitive data but we lack experience in this area. We analyse the statistical research where we have sensitive data and will make the proposals for each statistical research. But it is not easy and we need to spend more time on this activity.
- The period of one year in giving the individual data is too short for a broader experience in this matter.
  - Up to now, in several cases we have presented individual data concerning the legal subjects but only when the data provider asked for it (upon written request).
  - There were several cases when the personal data for statistical purposes were requested from the persons to use those data as evidence (for example: how did they declare themselves by nationality or religion during the last population census, and they explained that this is necessary for them to obtain citizenship of another country, concretely of new countries within ex-Yugoslavia).

- This kind of data or certificates were not issued because they do not correspond with the Law, and for this reason, the persons were informed in writing.

## **V. CONCLUSION**

19. The experience gained has been positive, but there are still some open issues and documents which have to be prepared in order to find solutions to all the problems. The Statistical Office is still going through a period of transition and we are making our own organisational and technological changes. The area is vast and necessitates permanent following and upgrading.