

Act n° 51-711 of June 7th, 1951

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(Unofficial translation)

Act on Legal Obligation, Coordination and Confidentiality in the Field of Statistics

Article 1

I. – The public statistical service comprises the National Institute for Statistics and Economic Studies and the ministerial statistical services.

Public statistics cover all data productions originating from:

- statistical surveys, the list of which is established each year by order of the Minister responsible for the Economy;
- the use, for the purposes of general information, of data collected by administrations, public bodies or private bodies with a public service mission.

Public statistics are designed, produced and disseminated with complete professional independence.

II. – There is hereby created a Public Statistics Authority which shall ensure compliance with the principle of professional independence during the design, production and dissemination of public statistics, as well as with the principles of objectivity, impartiality, relevance and quality of the data produced.

III. – The Authority comprises nine members:

- a President appointed by decree of the Council of Ministers on the basis of his qualifications in the legal, economic and technical spheres;
- a qualified person designated by the President of the National Assembly;
- a qualified person designated by the President of the Senate;
- a member of the Economic and Social Committee designated by its President;
- the President of the Committee on Statistical Confidentiality of the National Council for Statistical Information;
- a member of the Court of Auditors appointed by the First President of the Court of Auditors;
- a member of the Inspectorate General of Finances appointed by the head of the Inspectorate General of Finances;
- a member of the Inspectorate General of Social Affairs appointed by the head of the Inspectorate General of Social Affairs;
- a qualified person in the field of statistics appointed by the Minister responsible for the Economy

IV. – A decree by the Council of State sets out the remit and procedures of the Public Statistics Authority

Article 1bis

I. – The National Council for Statistical Information shall be responsible, under the auspices of the National Institute for Statistics and Economic Studies, for organising consultation between producers and users of public statistics. It makes proposals to draw up a programme of statistical work and to coordinate the statistical surveys carried out by persons mandated with a public service mission.

II. – A decree of the Council of State lays down the remit, composition and procedures of the National Council for Statistical Information, as well as the representation of the Parliament and the Economic Social Committee within said body. It sets out the conditions under which the administrative authority determines the compulsory or non-compulsory nature of each survey in the annual programme as established by the authority.

Article 2

All statistical surveys conducted by public authorities, excluding internal statistical work not involving the assistance of persons from outside government service, shall be submitted for prior approval by the Minister responsible for the Economy and by the Minister responsible for the area in which the survey is to be taken.

Approval may only be granted if the survey fits into the framework of the programme indicated in the preceding article, if it is provided for by a special legal Act or if there is a situation of imperative need or emergency.

Article 3

The natural persons and legal entities shall be required to respond accurately and within the set deadlines, to statistical surveys made compulsory under article 1bis.

Article 4

Professional or inter-professional Organisations may be duly appointed by public authorities to act as intermediaries for conducting statistical surveys. Authorisation shall be granted or withdrawn by a joint order by the Minister responsible for the Economy and the Minister responsible for the concerned sector.

When a questionnaire having obtained approval is thus disseminated by a duly appointed Organisation, the parties concerned shall have the option of responding through the said Organisation or directly to the public authority in charge of the survey.

Duly appointed Organisations shall transmit the information they have gathered to the public authority in charge of the survey within the deadlines specified in approval decision.

Article 5

Repealed

Article 6

Without prejudice to the provisions of articles 40, 56, 76, 97 and 99 of the Code of Criminal Procedure and those of article L. 213-3 of the Heritage Code, individual data in questionnaires displaying the visa provided for under article 2 of this law and pertaining to private and family life and, more generally speaking, to facts and behaviour of a private nature cannot, except subsequent to a decision by the archives administration, taken after requesting the opinion of the Committee on Statistical Confidentiality and on the basis of a request made for the purposes of public statistics or scientific or historical research, be communicated by the archive repository service until sixty-five years after the date when the survey was carried out or twenty-five years after the date of decease of the person concerned, if the latter occurs first.

Without prejudice to the provisions of articles 40, 56, 76, 97 and 99 of the Code of Criminal Procedure and those of article L. 213-3 of the Heritage Code, individual data of an economic or financial nature in questionnaires displaying the visa provided for under article 2 of this law cannot, except subsequent to a decision by the archives administration, taken after requesting the opinion of the Committee on Statistical Confidentiality, be communicated by the archive repository service until twenty-five years after the date when the census or survey was carried out.

This information cannot under any circumstances be used for the purposes of tax controls or economic penalties. Pursuant to the provisions of article L. 84 of the Register of Tax Procedures and article 64 A of the Customs Code, repositories of information of this nature are not bound by the obligations pertaining to the right of the administration to require the communication of such information

Public servants and staff working for bodies acting as agents for the survey-taking pursuant to the provisions of article 4 are bound by professional secrecy and subject to the penalties set out under articles 226-13 and 226-14 of the Penal Code.

Statistical censuses and surveys carried out in accordance with the provisions of this law are regarded as public archives.

Article 6 bis

There is hereby established a Committee on Statistical Confidentiality. This Committee shall give its opinion on any question relating to statistical confidentiality. It shall give its opinion on requests for communication of individual data collected pursuant to this law.

The Committee is chaired by a member of the Council of State, who is designated by the Vice-President of the Council of State. It comprises, amongst others, representatives of the National Assembly and the Senate.

The composition and procedures of the Committee are established by decree of the Council of State.

The recipients of the data communicated as a result of the ministerial decisions, taken after requesting the opinion of the Committee on Statistical Confidentiality, agree not to communicate this data to anyone. Any breach of the provisions of this paragraph is punishable by the penalties set out in article 226-13 of the Penal Code.

Article 7

In the event of failure to respond, subsequent to formal notice, within the deadline set by the said notice, or in the event of a knowingly inaccurate response, natural persons or legal entities may be subject to an administrative fine imposed by the Minister responsible for the Economy as advised by the National Council for Statistical Information, convened in the Litigation Committee for compulsory statistical surveys under the conditions provided for in articles 13 to 20 of the amended Decree n°84-628 of July 17th 1984, related to the National Council for Statistical Information and bearing application of the present law.

The advice of the Committee shall be transmitted to the Minister, supported, if the case arises, by the comments of the concerned person.

The decision of the Minister pronouncing a fine shall be justified ; the recourse directed against this decision shall be a recourse of full jurisdiction.

The Minister cannot impose a fine after a period of two years from the date of receipt of the formal notice.

The amount of the first fine thus incurred by a natural person or a legal entity shall not exceed 150 euros.

In the event of a repetition of the offence within a period of three years, the amount of the fine shall be increased to a minimum of 300 euros and a maximum of 2 250 euros for each infraction.

These fines shall be collected to the profit of the Treasury according to the terms provided for the debts mentioned in article 80 of the Decree n°62-1587 of December 29th, 1962 amended bearing general regulation on public accounting.

Nevertheless, any failure to respond, subsequent to formal notice and within the deadline set by the said notice, and every knowingly inaccurate response to questions concerning personal and family life, shall be punished by the fine provided for in 1° of article 131-13 of the Penal Code.

Article 7 bis

On the request of the Minister responsible for the Economy as advised by the National Council for Statistical Information, and except contrary legal provision, the information related to natural persons, except the data related to sexual life, and those related to legal entities, collected in the framework of its mission by a public service, a legal entity of public law or a legal entity of private law managing a public service, shall be transferred, for exclusive purposes of drawing up statistics, to the National Institute of Statistics and Economic Studies or to the Ministerial Statistical Offices.

The data of personal nature related to health collected under the conditions provided for in the previous paragraph shall be transmitted, on request of the Minister in charge of Health, to the National Institute of Statistics and Economic Studies or to the Statistical Offices of the ministries taking part in the definition, the conduct and the assessment of the public health policy, only in the framework of drawing up statistics on the population health, the policies of public health or the refunding systems by the health and social protection systems in connection with the morbidity of populations. Further surveys, bearing the approval mentioned in article 2, may be carried out on samples of these populations.

The transmission procedures of personal health related data collected under the conditions provided for in the previous paragraph shall, under no circumstances, permit the identification of the persons.

It can be departed from this latest obligation only when the conditions of compilation of statistics provided for in the second paragraph require to obtain direct or indirect identification elements of the persons, in particular for the purpose of drawing up samples of persons and matching data from different sources, under the provisions of the Act n°78-17 of January 6th, 1978 related to information technology, files and liberties.

Only the persons in charge of the operation, appointed to this end by the legal entity authorised to implement the data processing, may receive the personal health related data transmitted to the National Institute of Statistics and Economic Studies or to the Statistical Offices of the Ministries taking part in the definition, conduct and assessment of the public health policy. After the use of these data, the identification elements of the persons must be destroyed.

Subject to article 777-3 of the Penal Procedure Code, the provisions of previous paragraphs apply notwithstanding any contrary provisions related to professional confidentiality.

The transfers of data of personal nature, such as the ones defined in article 2 of the Act n°78-17 of January 6th, 1978 related to information technology, files and liberties shall be submitted to the provisions of this law ; the regulatory Act and, providing that the transfers occurs between two distinct legal entities, the conventions between the assignor and the assignee of this information shall specify the transmission procedures, the purpose of the data processing and the fate of the information after its use for the statistical processing purpose.

The transfers concerning information about legal entities shall be authorised by joint decision of the Minister responsible for the Economy and of the concerned Ministers.

Subject to the provisions of articles 40, 56, 76, 97 and 99 of the Penal Procedure Code, the information, transmitted in application of the present article, which allows the identification of natural persons or legal entities to which they apply, shall in no circumstances be subject of any transmission from the beneficiary service.

Employees of the National Institute of Statistics and Economic Studies and those of the Ministerial Statistical Offices are subject, in relation to the data they may know about in application of the present article, to the obligation of professional confidentiality under the penalties provided for in the articles 226-13 of the Penal Code.

Article 7 ter

The plenary session of the Committee on Statistical Confidentiality is competent, after requesting, if it so wishes, the opinion of the administration or the legal person that collected the data concerned, to issue recommendations on access for the purposes of scientific research to the individual data transmitted to the National Institute for Statistics and Economic Studies pursuant to article 7bis of this law.

Article 8

All legislative provisions or regulations contrary to the present Act are hereby repealed.

Article 9

The present Act shall be applicable in overseas and associated territories.

The rules of application of the present Act shall be prescribed by Decrees of the Conseil d'Etat based on the report of the Minister responsible for the Economy, or on the joint report of the Minister responsible for the Economy and the Minister responsible for the Overseas Territories and Departments.