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STATISTICAL CONFIDENTIALITY

Supporting paper submitted by the Central Statistical Office of Poland¹

I. HISTORICAL OUTLINE AND CURRENT LEGAL REGULATIONS

1. The year 2003 is a special year for Polish statistics. In the middle of the year the Central Statistical Office (CSO) as a body of official statistics is celebrating the 85th anniversary of its establishment.
2. As is well-known, one of the basic canons of statistics is statistical confidentiality.
3. I have to note, to my satisfaction, that the problems of confidentiality, and the associated problems of protection of statistical data, are emphasized in all legal regulations with the status of a legal act and which define the functioning of statistics in Poland.
4. The first law, dated 21 October 1919 on the organization of administrative statistics, Article 4, determines that the data provided according to the duty imposed by the law shall be used only for statistical purposes and shall not be available for other purposes either to public authorities or to private persons. Officials participating in statistical surveys were personally responsible for the strict implementation of this provision.

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5. Article 12 of the Decree on the organization of state statistics and on the Central Statistical Office dated 31 July 1946 also contains a provision determining that individual data obtained from housing and population censuses, as well as from other statistical surveys according to the duty imposed on private persons and institutions, may be used exclusively for statistical compilations. These data shall not be available for other purposes either to public authorities or to private persons. Officials participating in statistical surveys were personally responsible for the strict implementation of this provision.

6. In the subsequent law dated 15 February 1962 on the organization of state statistics, the provision pertaining to statistical confidentiality was tightened up, stipulating that any use of information and individual data obtained from population and housing censuses, as well as from other statistical surveys for purposes other than statistical compilations, is forbidden on pain of criminal responsibility.

7. Similarly, in the next law dated 26 February 1982 on state statistics, Article 24 stipulates that it is forbidden to use individual information obtained from population and housing censuses, as well as from other statistical surveys, for purposes other than statistical compilations and analyses.

8. It should be emphasized that in the period from 1946 to 1989, the protection covered survey data provided by citizens and private enterprises including individual agricultural holdings, whereas individual data from the public sector enterprises were published and made available through statistical services. This concerned the state sector exclusively.

9. The situation has changed substantially in connection with obligations adopted under Art. 92 of the Europe Agreement establishing an association between the Republic of Poland, on the one hand, and the European Communities and their Member States on the other, (signed on 16 December 1991), in which the Government adopted obligations to ensure the development of the effective statistical system, as well as to ensure data confidentiality. The principle of individual data confidentiality and protection as provided for in the Resolution of the United Nations Organization, also called the Statistician's Decalogue, is fully reflected in the binding Law on Official Statistics of 29 June 1995. This Law provides for a number of provisions ensuring the protection of individual and personal data collected in statistical surveys where personal data are defined as data pertaining to particular natural persons including various aspects of their lives, and individual data as data coming from or pertaining to particular business entities. At the same time, the Law imposes on statistical services a duty to inform business entities about surveys to be conducted, as well as a duty to observe the principles of statistical data confidentiality.

10. Among the provisions of the Law in force that relate to the confidentiality of individual data and to the duty of their protection, special attention should be paid to the following articles:

- Article 10 stipulating that individual and personal data collected in statistical surveys of official statistics shall be confidential and subject to special protection; the data shall be used exclusively for statistical calculations, compilations and analyses, as well as for the creation by official statistics services of sampling frames for statistical surveys conducted by the services; making available or

- using individual and personal data for other than purposes specified above shall be prohibited (statistical confidentiality);
- Article 38 stipulating that any individual data obtained from official statistics surveys shall not be published or made available. Statistical information which is obtained from official statistics surveys and which can be linked with or can identify particular persons, as well as individual data characterizing economic activity of business entities shall not be published or made available. This refers in particular to data aggregations that consist of fewer than three entities or to those in which the share of one entity is higher than the three-fourths of the total;
 - Article 39 obliging the CSO President to ensure that the method used to store collected statistical data guarantees observance of the principles of statistical confidentiality;
 - Article 54 stipulating that anyone who violates principles of statistical confidentiality shall be subject to imprisonment of up to 3 years;
 - Article 55 stipulating that anyone who, in order to obtain material or personal profits, uses statistical data he/she has been acquainted with while performing his/her work or tasks to order of the organizer of an official statistics survey, is subject to imprisonment of up to 5 years.

11. Apart from the above-mentioned provisions of the Law directly pertaining to the subject in question, attention should be also paid to other provisions of the Law which, according to the intention of a legislative body, have been supposed to create appropriate mechanisms to serve proper implementation of principles of statistical data confidentiality. They include the following:

- Article 2, subparagraph 6, stipulating that working on statistical data consists of creating data files, after separating or coding the information which would allow identification of particular business entities or natural persons, and then, on the basis of these files, making calculations, compilations and analyses;
- Article 11 imposing on the official statistics services which conduct statistical surveys a duty to inform data respondents about the rights and obligations of entities providing data for statistical surveys, and also about the guarantee that the principles of statistical data confidentiality shall be observed;
- Article 12 stipulating that the staff of the official statistics services, census enumerators, statistical interviewers, and other persons having direct access to individual and personal data shall observe without exception the principles of statistical confidentiality and shall be allowed to perform their tasks only after delivering a written oath worded as follows: "I hereby take the oath that I shall perform my tasks on behalf of the official statistics with due care and diligence, in accordance with the professional ethics of a statistician and I shall keep not reveal to third parties individual data I have obtained during the performing of those tasks";
- Article 13 establishing the principle of one-way flow from state administration bodies, local authorities, and other governmental agencies, as well as bodies maintaining official registers of administrative data containing individual data in the form of, among others, extracts from registers and copies of: data files, collected declarations, registration documents and other official forms, data from computerized systems databases. This principle has been established and strictly obeyed. The reverse situation shall not occur under any circumstances, i.e. requests for making available individual data collected from surveys and being in the possession of the official statistics services.

This limitation does not apply to two separate official registers that are kept by the services: the register of business entities and the register of territorial division of the country;

- Article 14 stipulating that data collected from official statistics surveys shall be made available exclusively in the form of compilations and analyses made on the basis of collected individual data;
- Article 35 which authorizes the official statistics services to collect for statistical purposes and for the preparation of demographic projections the following strictly defined data on natural persons residing within the territory of the Republic of Poland: first name and surname, gender, date and place of birth, citizenship, marital status, place of residence.

12. These data shall be collected in the form of responses provided directly to the official statistics services by the person concerned or an adult member of the household or can be derived from administrative records; the scope and form of collecting personal data necessary for a given survey are each time defined by the program of statistical surveys of the official statistics, and in the case of population and housing censuses - by a separate law.

13. Data other than those defined above which would allow identification of a particular natural person they refer to may be collected by official statistics services exclusively:

- when the program of statistical surveys indicates as a source of statistical data a document containing personal data that cannot be separated in a simple way for the transmission for statistical purposes, or:
- when identification is necessary for generalization of the statistical surveys results.

14. The storage in one data file or database of all personal data collected by official statistics services from various statistical surveys that concern a particular natural person and that, when combined, could be used for characterizing and evaluating that person shall be prohibited.

15. The name, surname and place of residence of a given natural person shall be excluded from the generalization of personal data when entering them into the computerized systems databases of official statistical services. These data may be entered only into a sampling frame used for statistical surveys conducted by the official statistics services. This regulation establishes the limits protecting the data from an excessive interest of statistics in collecting and storing personal data.

16. Current Regulations of the Law on official statistics do not provide for:

- any exceptions for making individual data available. This also applies to the requests made by the court in the course of penal proceedings;
- making available of statistical data concerning a given entity with its consent;
- special principles of handling the protected statistical data for scientific purposes;
- possibility to protect available data by statistical confidentiality after a fixed period of time.

II. PRINCIPLES AND PROCEDURES OF HANDLING STATISTICAL DATA

17. In order to implement the guarantee of statistical confidentiality and protection as discussed in part 1, it is necessary to undertake a very wide range of practical activities which shall ensure a real protection of personal, as well as individual, data.

18. For the CSO, the activities were defined in detail by the CSO President in “Principles and Procedures of Handling Statistical Data”, to be applied by all agencies of the official statistics services.

19. This regulation defines in particular:

- principles and procedures of handling statistical data at the stage of data collection by statistical interviewers, via mail, fax; the method of data reception by statistical agencies; transmission of reports within statistical agencies and for registration;
- methods of registering, editing and creating statistical data files in statistical offices including the principles and the level of data protection against unauthorized access, loss, destruction or falsification, as well as handling of reports after data have been edited;
- protection of places of data storage and processing including the separation of protected areas and safety zones with appropriate protection and control of entries and exits;
- principles of creating, maintaining, storing and updating of national files and databases including the protection of national files and databases on servers, the access to data in the network of a given unit, as well as statistical units' wide area network (WAN);
- duty to label data while creating the files for storing aggregated data which must not be available due to the possibility of indirect identification;
- principles of establishing levels of aggregates in working and result tables including the creation of the working tables for analytical purposes, as well as the result tables and tables for publication;
- principles of protecting the results and the level of detail preventing indirect identification, as well as principles of labelling the protected data in cases where there are fewer than three entities in the aggregate and when one entity is dominating;
- procedures in case of the possibility of indirect identification when there is only one protected aggregate at a given level among all aggregates that make up a higher level aggregate, which means that the unit, conducting a survey and making assumptions for reckoning result tables to be widely available, assumes that the second aggregate of the lowest value out of component aggregates of a higher level shall be hidden, or the aggregate data are combined with the preceding or next aggregate, or all aggregates making up the aggregate of higher classification level shall be hidden;
- adopted principles of making unidentifiable statistical data available to scientific centers (excluding data describing the economic position);
- making generalizations and analyses to individual orders to which all above-mentioned regulations limiting access to individual data shall apply;
- storing and keeping the data, as well as the safety copies on computer carriers, protection of data carriers, computers, and premises.

20. These principles are regularly updated and their application is subject to constant control due to the supervision of the CSO President over subordinate units of the official statistics services.

21. In cases of doubt regarding the possibility of making available statistical data both collected in surveys covered by the program of statistical surveys and those prepared upon request, the decisions of the CSO President are supported by the Commission of Statistical Confidentiality headed by the CSO Vice-President and consisting of experts who are also employed in statistics.

22. The decisions adopted by this Commission apply to specific cases and, at the same time, serve as precedents helpful in defining the possibility of making available data in cases analogous or similar to those already examined by the Commission.

III. PLANNED SUPPLEMENTARY REGULATIONS ON DATA CONFIDENTIALITY AND PROTECTION

23. Currently, draft amendments to the binding Law on Official Statistics are being prepared. A number of issues have already been discussed. The amendments shall refer to a wider range of problems than data confidentiality and protection. Nevertheless, new solutions will concern this subject as well. So far, the article regulating access to anonymized individual data for scientific purposes has already been introduced into the draft in question. In this field, solutions have been adopted similar to those provided for in the Regulation Commission (EC) No 831/2002 dated 17th May 2002. In particular, the possibility is provided to make individual data from the following surveys available to higher schools and scientific and research institutes:

- households' budgets;
- living conditions of the population;
- economic activity of the population and labour force;
- continuing education;
- innovations.

24. The data shall be available on written request defining the scientific purpose of their use. An additional provision has been introduced stipulating that the scope of availability for national scientific purposes shall not be narrower than the scope of the availability planned in Eurostat.

25. We are also considering the possibility of adding a provision ensuring that government administration bodies which conduct analyses and which, in line with the Law on Official Statistics, are also authorized to independently conduct statistical surveys with free access to unidentifiable individual data from social statistics surveys. This pertains to absolutely anonymous series of records from surveys on living conditions and households' budgets, i.e. individual records that are properly modified and that cannot in any way be linked to a particular person. This issue has not been settled yet.

26. The next issue to be worked out is a possible introduction to the Law of regulations concerning the rights of the exporter or importer to submit to the CSO a motion for a data compilation that would

make indirect identification impossible, and the data dissemination would not violate the principles of data confidentiality in the movers' own interest (passive confidentiality).

27. There are no plans for extending the scope of regulations stipulating that certain data may be provided by official statistics services with the consent of the entity from which they are coming or to which they are referring.

28. The intended amendments to the Law on Official Statistics have been currently under consideration. Further decisions and social consultations will finally define the scope of these amendments.