



Access to statistical micro data across borders: an introduction about the legal issues

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DwB project and the overview of the legal framework for micro data access across borders

National legal frameworks for micro data access across borders are perceived as an important obstacle for micro data access across borders.

Is this statement true or false?



In the DwB project we would like to find out:

- best practices,
- similarities across countries,
- inefficiencies in providing access to micro data based in the law,
- efficient interpretation of the silence of the law on this issue.

How to use the results?

Results of the exercise will enable NSIs to find out the most efficient legal elements for micro data access across borders . They can incorporate proposed elements into their national laws.

Steps for analyzing elements of good practice



Elements:

- Power,
- Permission,
- Protections.

Example:



At the EU level:

- **Power** (to grant access) - Regulation 223/2009 (Article 23) "Access to confidential data... may be granted..."
- **Permission** (to grant access) - Regulation 831/2002 - "...establish the conditions under which access to confidential data may be granted..."
- **Protections** - Regulation 223/2009 (Article 26) requires sanctions to be established by Member States.





Interpretation of silence

DwB would like to plant the attitude that silence of the law is permission to act when there is assurance, rather than a prohibition on access across boundaries.



Law on statistics - usual contents

- Fundamental principles of national statistics - neutrality, objectivity, professional independence, rationality, statistical confidentiality, transparency, etc.,
- Organization and status of national statistics - authorised producers of national statistics, their functions (collecting and processing of data, dissemination of statistics), Head, Statistical Council,
- Funds and expenses of the national statistical system,
- Programme of statistical surveys,
- Data providers (including holders of administrative records) - reporting duties, rights,
- Storing of data (including personal data),
- Information security requirements,
- International statistical co-operation,
- Penalty provisions (for non-providing data, for misuse of data).



Law on statistics: micro data access for research purposes

- Sometimes the law is silent (old legislation, countries with limited demand for micro data use),
- Many times mentioned without details,
- Sometimes even organizational details are described.

Law on statistics: micro data access across borders for research purposes

- Majority of laws are silent (but interpretation of the silence differs!).





Are NSIs eager to change their laws often?

No.

Background:

- laws are complex, public debate and legal procedures could provoke changing or deleting elements of the existing law the NSI is in favour,
- procedures are burdensome,
- present financial and staff restrictions put at risk even existing outputs on NSI.



International recommendations enhancing micro data access for research purposes (1)

UNECE: Managing Statistical Confidentiality & Micro data Access: principles and guidelines of good practice, 2006

Principles

Principle 1: It is appropriate for micro data collected for official statistical purposes to be used for statistical analysis to support research as long as confidentiality is protected. (Principle 1 does not constitute an obligation to provide micro data.)

Principle 2: Micro data should only be made available for statistical purposes.

Principle 3: Provision of micro data should be consistent with legal and other necessary arrangements that ensure that confidentiality of the released micro data is protected.

Principle 4: The procedures for researcher access to micro data, as well as the uses and users of micro data, should be transparent and publicly available.

Making micro data available for research purposes is not in contradiction with the sixth UN Fundamental Principle of Official Statistics as long as it is not possible to identify data referring to an individual.



International recommendations enhancing micro data access for research purposes (2)

The European Statistics Code of Practice

- based on 15 principles covering the institutional environment, the statistical production processes and the output of statistics,
- a set of indicators of good practice for each of the Principles provides a reference for reviewing the implementation of the Code.

Principle 15: Accessibility and Clarity

15.4: Access to micro data is allowed for research purposes and is subject to specific rules or protocols.



Thanks for Listening!

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