

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

RECOMMENDATION No. R (83) 10

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE PROTECTION OF PERSONAL DATA USED FOR SCIENTIFIC RESEARCH AND STATISTICS¹

*(Adopted by the Committee of Ministers on 23 September 1983
at the 362nd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members ;

Aware of the need to protect the privacy of individuals in relation to the growing use of data processing in the field of scientific research and statistics ;

Convinced that the use of personal data is often a necessary condition for the progress of science ;

Considering the importance of scientific research as a value in itself and also as a vital factor for the progress of society ;

Recalling the derogations allowed in favour of scientific research and statistical activities in the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data ;

Noting that derogations of this kind are also provided for in a number of member states in existing legislation or in legislation being prepared relating to the protection of data ;

Bearing in mind the Statement of the European Science Foundation concerning the protection of privacy and the use of personal data for research ;

Mindful of the needs of the research community ;

Considering that a balance should be struck between the need for research and statistics on the one hand, and the necessary protection of the individual especially when automatic data processing is involved, on the other ;

1. When this recommendation was adopted, and in application of Article 10.2.c of the Rules of Procedure for the meetings of the Ministers' Deputies :

— the Representative of the Federal Republic of Germany reserved the right of his Government to comply or not with the principles set out in points 1.1, 3 and 10.1 of the appendix to the recommendation ;

— the Representative of Ireland reserved the right of his Government to comply or not with the principles set out in the appendix to the recommendation ;

— the Representative of Norway reserved the right of his Government to comply or not with the principle set out in point 2.2 (first sentence) of the appendix to the recommendation ;

— the Representative of the United Kingdom reserved the right of his Government not to comply with the recommendation as far as it relates to manually processed data.

Aware of the need to establish suitable procedures designed to reconcile the interests of the various parties concerned,

Recommends that the governments of member states :

— take as their basis, in their domestic law and practice concerning the use of personal data for scientific research and statistics, the principles and guidelines set out in the appendix to this recommendation ;

— ensure that this recommendation is widely circulated in the public and private circles concerned with scientific research and statistics.

Appendix to Recommendation No. R (83) 10

1. *Scope and definitions*

1.1. The principles and guidelines in this appendix apply to the use of personal data for scientific research and statistics in both the public and private sectors, irrespective of whether such data are processed automatically or manually.

1.2. For the purposes of this recommendation :

“Personal data” means any information relating to an identified or identifiable individual. An individual should not be regarded as “identifiable” if the identification requires an unreasonable amount of time, cost and manpower.

“Research” should also comprise the collection and the processing of personal data for statistical purposes.

1.3. The member states may apply these principles and guidelines to information relating to groups of persons, associations, foundations, companies, corporations and any other bodies consisting directly or indirectly of individuals, whether or not such bodies possess legal personality.

2. *Respect for privacy*

2.1. Respect for the privacy of individuals should be guaranteed in any research project requiring the use of personal data.

2.2. Whenever possible, research should be undertaken with anonymous data. Scientific and professional organisations, as well as public authorities, should promote the development of techniques and procedures securing anonymity.

3. *Consent of the person concerned*

3.1. Any person who furnishes data concerning himself should be adequately informed about the nature of the project, its objectives and the name of the person or body for whom the research is carried out.

3.2. If the person from whom data are sought is not under an obligation to provide the data, he should be informed that he is at liberty to give or withhold his co-operation. He should have the right at any time to withdraw from further co-operation without giving reasons.

3.3. If, given the purpose pursued, the information mentioned in paragraph 3.1 above cannot be disclosed either in whole or in part before the data are collected, the person concerned should be fully informed after the collection is completed, and be free to continue his co-operation or withdraw it and, in the latter case, be entitled to ask for the erasure of the data collected.

3.4. Special protection measures should be taken in connection with persons from whom data are being collected and who are not in a position to defend their interests or are not able to give their consent freely.

4. *Use of the data*

4.1. Personal data obtained for research should not be used for any purpose other than research.

In particular, they should not be used to make any decision or take any action directly affecting the person concerned, except within the context of the research or with the express consent of the person concerned.

4.2. Personal data collected for the purpose of a given research project and with the consent of the persons concerned should not be used in connection with another research project substantially different in its nature or objects from the first, except with their consent. However, where it would be impracticable to obtain such consent by reason of the lapse of time or because of the large number of persons concerned, the previously collected data may be used in conformity with other safeguards laid down by domestic law.

4.3. Both public and private bodies should have the right to use for their own research purposes the personal data which they hold for administrative purposes. If in the course of such research personal data are added to files already held by the administrative body, or its files are altered, these new files should not be made available to administrative personnel dealing with individual cases, except with the consent of the person concerned.

4.4. Personal data may be released by public or private bodies for the purpose of research only with the consent of the person concerned or in accordance with other safeguards laid down by domestic law.

5. Collection of samples

5.1. Access by researchers to public population registers should be facilitated to enable them to obtain the samples required for making surveys. Subject to any limitations which may be imposed by national authorities in certain cases, such samples may reveal name, address, date of birth, sex and occupation.

6. Access of the person concerned to the data

6.1. The individual's right to obtain and rectify data concerning him may be restricted in cases where the data are collected and held solely for statistical or other research purposes and where the resulting statistics or results of the research do not readily identify the individual and where there are adequate security measures to ensure his privacy at every stage of the research project, including conservation of data for future use.

6.2. This provision should not apply where in view of the nature of the research the individual can demonstrate a specific interest which deserves protection.

7. Data security

7.1. Research projects should make express provision for technical and organisational measures to ensure the security and confidentiality of data.

8. Publication of data

8.1. Personal data used for research should not be published in identifiable form unless the persons concerned have given their consent and in conformity with other safeguards laid down by domestic law.

9. Conservation of data

9.1. In each research project, it should be specified as far as possible whether, on completion of the project, the personal data collected will be destroyed, rendered anonymous or kept, and, in the latter case, under what conditions.

9.2. When the consent of the persons concerned is required for carrying out a research project, it should also include the possibility of the data collected being kept after completion of the programme. If it has not been possible to seek consent for the conservation of the data, they may be kept on condition that conservation is carried out in accordance with safeguards laid down by domestic law.

9.3. Before a decision is taken on the destruction of personal data held by the public authorities, the possible future use of such data for research should be examined, preferably in consultation with the institutions responsible for the conservation of public records.

9.4. If, on completion of a project, the personal data that have been used are not destroyed or rendered anonymous, their deposit should be encouraged with institutions entrusted with the task of keeping data and in which adequate security measures have been taken.

10. Establishment of boards within the research community

10.1. The establishment of boards within the research community should be encouraged with a view to contributing towards the development of the principles and guidelines contained in this recommendation.