Law No 22/2008 of 13 May[1]
National Statistical System's Law

Pursuant to Article 161(c) of the Constitution of the Portuguese Republic, the Portuguese Parliament provides for the following:

CHAPTER I
Subject matter, definitions and structure

Article 1
Subject matter

This law lays down the principles, rules and structure of the National Statistical System (NSS).

Article 2
Definitions

For the purposes of this law, the following definitions shall apply:

a) «Official statistical activity» shall mean the set of methods, techniques and procedures used to produce and disseminate official statistics;

b) «Official statistics» shall mean the official information produced, as a rule, within the scope of implementation of the statistical activity programme of the NSS and the international organisations of which Portugal is a member, in compliance with national and international technical standards and fulfilling the principles set out in Chapter II;

c) «Individual statistical data» shall mean data allowing for the direct identification of statistical units or data that due to their nature, structure, contents, significance, number, relationship with other data or degree of disaggregation, allow for an indirect identification of statistical units, with no disproportionate effort and costs involved;

d) «Anonymised individual statistical data» shall mean data modified to minimise the possibility of identifying the statistical units to which they refer, in accordance with the best methodological practice and with no disproportionate effort and costs involved;

e) «Administrative data» shall mean data collected by public entities on individuals or enterprises, including individual data based on administrative procedures which usually have a primary purpose other than statistics;

f) «Statistical metadata» shall mean data describing the characteristics of statistical series and data, as well as relevant concepts and methodologies involved in their production and use.

Article 3
Structure

1 — The National Statistical System is composed of:

a) *Conselho Superior de Estatística*, the Statistical Council;

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[1] This translation is unofficial, and therefore has no legal value.

b) *Instituto Nacional de Estatística (INE), I. P.* (the National Statistical Institute, hereinafter referred to as Statistics Portugal);

c) Banco de Portugal (the Portuguese Central Bank);

d) Regional Statistical Services of the Autonomous Regions of the Azores and Madeira;

e) Entities which are delegated by Statistics Portugal to produce official statistics;

2 — The Statistical Council is the Government body which oversees and coordinates the NSS.

3 — Statistics Portugal is the central body that produces and disseminates official statistics, supervising and coordinating technical and scientific matters within the NSS.

4 — Statistics Portugal, Banco de Portugal, the Regional Statistical Services of the Autonomous Regions of the Azores and Madeira and entities with powers delegated by the Administration Board of Statistics Portugal, in their capacity as official statistics producers, shall be considered statistical authorities.

CHAPTER II

Core principles of the National Statistical System

Article 4

Statistical authority

1 — Statistical authorities, within the scope of their activities, may require of all services or bodies, individuals and enterprises, obligatorily and free of charge, the provision of information deemed necessary to produce official statistics. They may also establish the collection of statistically relevant data, although with no bearing on the specific activity of reporting entities.

2 — The provisions of the foregoing paragraph shall prevail over possible limitations or obligations of secrecy included in special regimes; for all purposes, the use of administrative records for official statistical purposes shall be considered one of the key objectives of their collection.

3 — The provisions of paragraph 1 shall not apply to data subject to security classification, State secret, investigation secrecy, data kept in the data centres of the Portuguese Republic information system's services, genetic or personal data on philosophical or political convictions, party or trade union membership, religious beliefs, private life and racial or ethnic origin and personal data concerning health or sex life.

4 — Data subjects shall be informed on the intended purposes for the collected data, the compulsory or optional nature of responses, the consequences of non-response, on how they can access and correct data, as well as protection measures adopted to ensure the confidentiality of the collected data.

5 — Information requirements may be waived should they prove impossible or imply disproportionate efforts.

Article 5

Technical independence

1 — Official statistics shall be produced with technical independence, without prejudice to compliance with the rules laid down by the National Statistical System or the European Statistical System.

2 — Technical independence shall mean the sole responsibility for defining statistical methods, standards and procedures, as well as the content, type and timing of data releases.

Article 6

Statistical confidentiality

1 — Statistical confidentiality shall aim at safeguarding citizens' privacy and ensuring trust in the NSS.

2 — All individual statistical data collected by statistical authorities are confidential, and therefore:

(a) They cannot be supplied to any persons or entities and no certificate shall be issued thereon, without prejudice to the provisions of Article 18(3);

(b) No service or authority shall order or authorise their examination;

(c) They cannot be disclosed in a way that allows for the direct or indirect identification of the individuals and enterprises to which they refer;

(d) They shall be covered by professional secrecy, even after termination of service, as regards all staff, agents or other persons who, on whatever ground, handle such data in the performance or by reason of their duties or functions related to official statistical activity.

3 — Unless otherwise provided by law, individual statistical data on general government shall not be covered by statistical confidentiality.

4 — Individual business statistical data, as well as those on the entrepreneurial or professional activity of individuals, shall not be covered by statistical confidentiality when they are:

(a) Published under law, namely for being part of public registers;

(b) Made available in groups, variable or set of variables.

5 — Statistical data on individuals cannot be supplied, unless the respective subjects have given their express consent or upon authorisation of the Statistical Council. The latter shall decide on a case-by-case basis on duly substantiated requests when serious public health grounds are at stake, as long as data are anonymised and used exclusively for statistical purposes, subject to an explicit commitment of absolute secrecy with regard to the data provided.

6 — Individual business statistical data cannot be supplied, unless the respective representatives have given their express consent or upon authorisation of the Statistical Council. The latter shall decide on a case-by-case basis on duly substantiated requests when serious grounds are at stake, such as public health, economic planning and coordination, external economic relations or environmental protection, and as long as data are used exclusively for statistical purposes, subject to an explicit commitment of absolute secrecy with regard to the data provided.

7 — In cases other than those envisaged in the foregoing paragraphs, individual statistical data on individuals and enterprises shall only be supplied for scientific purposes, if anonymised, upon an agreement signed between the statistical authority supplying the data and the entity requesting them. This agreement shall define the technical and organisational measures deemed necessary to ensure the protection of confidential data and avoid any risk of illicit dissemination or use for other purposes when output is released.

8 — Requests for data supply made within the scope of a specific scientific project, by researchers in universities or other legally recognised higher education institutions and scientific investigation organisations, institutions or departments recognised by the competent services shall be considered as targeting scientific purposes.

9 — Individual statistical data kept for historical purposes shall lose confidentiality:

(*a*) For individuals — 50 years after the date of death of the respective data subjects, if it is known, or 75 years after the date of the documents;

(*b*) For enterprises — 75 years after the date of the documents.

Article 7

Quality

Official statistics shall comply with national and international statistical quality standards.

Article 8

Statistical accessibility

1 — Statistical authorities shall have the power to make available and release the output of activities developed within the scope of their tasks, without prejudice to compliance with the statistical confidentiality rules set out in Article 6.

2 — Official statistics are considered a public good. They shall be proportionate to user needs and have a non-excessive burden on respondents, namely through a wider use of administrative data.

3 — The availability of official statistics shall be integrated, accurate, timely and punctual, accompanied by the respective statistical metadata and other information supporting the interpretation of statistical output.

4 — Access to official statistics associated with the provision of a public service shall be free of charge, except where further treatment of the information is required.

Article 9

Cooperation among statistical authorities

Statistical authorities shall develop the types of cooperation deemed necessary to the strict performance of their tasks within the scope of the NSS.

CHAPTER III

Conselho Superior de Estatística (Statistical Council)

Article 10

Composition

1 — The Statistical Council is presided over by the minister responsible for Statistics Portugal, or by the Government member to whom the Government delegates the respective tasks.

2 — The Statistical Council is also composed of the following members:

(*a*) The President of Statistics Portugal, acting as the Vice-Chairperson of the Statistical Council;

(*b*) A representative of Banco de Portugal;

(*c*) A representative of the Regional Statistical Office of Azores;

(*d*) A representative of the Regional Directorate of Statistics of Madeira;

(*e*) The head of each entity delegated by Statistics Portugal to produce official statistics;

(*f*) A representative of each Ministry considered, upon proposal of the President of Statistics Portugal, as a major user of official statistics, up to a maximum of five;

(*g*) A representative of the Portuguese Data Protection Authority;

(*h*) A representative of the National Association of Portuguese Municipalities;

(*i*) A representative of each business confederation;

(*j*) A representative of each trade union;

(*l*) A representative of consumer associations;

(*m*) Two university professors in the field of statistical and econometric methods;

(*n*) Five persons of recognised standing and scientific merit and independence.

3 — The Statistical Council has a secretary, with no voting rights, appointed upon proposal of the President of Statistics Portugal.

Article 11

Appointment

1 — Except as provided for in paragraph 2(*g*) of the foregoing Article, Statistical Council members shall be appointed by a Decision of the Prime Minister under the following terms:

(*a*) Members referred to in paragraph *2(b)* to *(f)* and *(h)* to *(l)* of the foregoing Article, upon proposal of the respective ministers and entities;

(*b*) Members referred to in paragraph 2*(m)* of the foregoing Article, upon proposal of the Council of Portuguese University Rectors;

(*c*) Members referred to in paragraph 2*(n)* of the foregoing Article, upon proposal of the President of Statistics Portugal.

2 — Statistical Council members in representation of the Portuguese Data Protection Authority shall be appointed by this entity, including the alternate member, up to a maximum of two.

3 — The alternate members of Statistics Portugal shall be appointed by a Decision of the Prime Minister, upon proposal of its President.

4 — The alternate members of entities referred to in paragraph *2(b)* to *(f)* and *(h)* to *(l)* of the foregoing Article shall be appointed in the decision nominating Statistical Council members, up to a maximum of two per entity.

Article 12

Term of office

Members of the Statistical Council shall be appointed for three-year terms of office, renewable for equal periods.

Article 13

Powers

The Statistical Council shall be entrusted with the following powers:

(*a*) To define and approve the general guidelines of official statistical activity and relevant priorities;

(*b*) To define, on an annual basis, nationwide official statistical operations and those solely in the interest of the Autonomous Regions, upon proposal of statistical authorities;

(c) To approve technical statistical coordination instruments of mandatory use in the production of official statistics, and promote the respective understanding, publication and use, with the possibility of proposing that the Government extends this imperative use to general government;

(d) To approve and lay down prior registration rules applied to the statistical questionnaires of statistical authorities and to other data collection devices that may be used for statistical purposes;

(e) To decide on proposals to release data subject to statistical confidentiality, pursuant to the provisions of Article 6(5) and (6);

(f) To ensure respect for the principle of statistical confidentiality on the part of entities requesting confidential information – with the possibility of carrying out audits and other supervisory initiatives in the fulfilment of its deliberations – as well as for the remaining NSS core principles set out in this law, issuing recommendations on steps to be taken;

(g) To appraise the plan and budget of the statistical activity of statistical authorities and the respective progress report;

(h) To issue recommendations within the scope of the definition of statistical methodologies, concepts and nomenclatures for the use of administrative records to produce official statistics and ensure their implementation;

(i) To issue an opinion on proposals for the delegation of powers by Statistics Portugal to other entities, so they may produce and disseminate official statistics, for the purposes of Article 24;

(j) To define official statistics associated with the provision of a public service;

(l) To report to the competent statistical authorities, for investigation and the possible imposition of sanctions, facts liable to constitute breaches of regulations under the provisions of Article 26, which come to the knowledge of the Statistical Council by virtue of its functions, namely the provisions of sub-paragraph (f);

(m) To approve its rules of procedure.

Article 14

Consultation within the scope of the legislative procedure

The approval of draft decree-laws setting up statistical services or containing rules governing statistical activities shall necessarily be preceded by a consultation of the Statistical Council.

Article 15

Operation

1 — The Statistical Council may meet in plenary sessions or restricted sessions – standing or ad-hoc – depending on the issue addressed, under the terms of its rules of procedure, and invite representatives of national, foreign and international entities to participate in meetings, with no voting rights.

2 — The Statistical Council may gauge the opinion of experts of recognised standing on the issues it deems relevant to the performance of its tasks.

3 — Statistical Council recommendations and deliberations on the powers set out in Article 13(a), (b), (c), (d), (g), (h), (j) and (m) shall be published in *Diário da República* (Official Gazette), Series II.

4 — Before the end of each term of office, the Statistical Council shall prepare a situation assessment report for the NSS.

Article 16

Operating support

Statistics Portugal shall provide the technical, administrative and logistical support deemed necessary to the operation of the Statistical Council.

Article 17

Financial costs

1 — The costs of maintaining the Statistical Council shall be borne by the budget of Statistics Portugal.

2 — Compensation of Statistical Council members and the payment of other costs shall be set by a joint decision of the minister responsible for Statistics Portugal and the Minister of Finance.

CHAPTER IV

Statistical authorities

Article 18

Instituto Nacional de Estatística, I. P. (Statistics Portugal)

1 — The tasks of Statistics Portugal shall be those envisaged in its Statutory Laws.

2 — Within its fields of competence and to carry out tasks in the public interest, Statistics Portugal may treat personal data, including sensitive data, and interconnect them, namely with the remaining statistical authorities, safeguarding the provisions of Article 9(2) of Law No 67/98 of 26 October (Personal Data Protection Law).

3 — For the purposes of the foregoing paragraph, the Administration Board of Statistics Portugal shall be empowered to:

(*a*) Determine which kind of data treatment is necessary to the carrying out of the activities of Statistics Portugal, and to handle these data;

(*b*) Promote, where necessary, gender-based disaggregated treatment of personal data;

(*c*) Elaborate a specific register that includes treatment purposes, categories of data subjects and personal data treated, addressees or categories of addressees to whom data may be reported and under which conditions, the possible data transfer to third countries, under the terms set out in Articles 19 and 20 of Law No 67/98 of 26 October, and the forecast retention period for data storage;

(*d*) Interconnect personal data, when necessary to produce official statistics;

e) Disclose the manner in which data subjects may access, correct or eliminate data related to them;

(*f*) Authorise the transfer of confidential data to European Union Member States, within the scope of the production of European statistics;

(*g*) Destroy personal data used to prepare statistics, under special security measures.

Article 19

Banco de Portugal

The tasks of Banco de Portugal within the scope of the NSS shall be those envisaged in its Organic Law, namely the collection and preparation of monetary, financial, foreign exchange and balance of payments statistics.

Article 20

Participation in the European System of Central Banks

The participation of Banco de Portugal in the NSS shall be without prejudice to the guaranteed independence stemming from its participation in the European System of Central Banks, particularly as regards the performance of its cooperation tasks with the European Central Bank in statistical issues.

Article 21

Cooperation with Statistics Portugal

Statistics Portugal and Banco de Portugal shall establish the means of collaboration deemed appropriate to the performance of their tasks within the scope of the NSS, and to the development of joint statistical operations, sharing statistical units files, controlling background information quality and external representation at the level of Community statistics.

Article 22

Regional Statistical Services of the Autonomous Regions

The Regional Statistical Services of the Autonomous Regions shall operate as delegations of Statistics Portugal as regards national official statistics, and in accordance with the tasks set out in their statutory laws as regards official statistics in the exclusive interest of the Autonomous Regions.

Article 23

Nationwide tasks

1 — Nationwide tasks of the Regional Statistical Services of the Autonomous Regions shall be performed under the exclusive technical guidance of Statistics Portugal, and include the following:

(a) To collaborate in the design of both basic and regular census operations;

(b) To ensure the collection of background statistical information on censuses and basic and regular surveys within its geographical intervention area;

(c) To participate in the electronic processing of background statistical information collected;

(d) To participate in works involving the creation, update and management of statistical units files;

(e) To carry out the tasks of regional centres of national statistical information and documentation.

2 — In the performance of its tasks, the Regional Statistical Services of the Autonomous Regions may access all data on the respective regions, available at Statistics Portugal.

3 — The costs of maintaining the Regional Statistical Services of the Autonomous Regions shall be borne by the respective regions, without prejudice to financial compensations due by Statistics Portugal, as regards

participation in the production of national official statistics governed by a financial cooperation agreement, to be signed with each Regional Government on an annual basis.

Article 24

Other statistical authorities

1 — The Administration Board of Statistics Portugal may delegate to other bodies the necessary powers to produce and disseminate official statistics.

2 — The powers delegated under the foregoing paragraph shall be exercised under the exclusive technical guidance of Statistics Portugal.

3 — The terms and conditions under which powers are delegated shall be published in the Official Gazette, following approval of the Government member responsible for Statistics Portugal and of the Government member competent in the relevant sphere.

4 — Where the delegation focuses on areas in which the Autonomous Regions have powers, the Regional Statistical Services shall perform the tasks of entity with delegated powers, and Statistics Portugal may, in collaboration with these services, delegate powers to other regional services.

CHAPTER V

Accountability

Article 25

Liability arising from breaches of regulations

1 — Individuals, enterprises – irrespective of their appropriate setting-up – companies and associations having no legal personality may be held accountable for the breaches of regulations envisaged in this law.

2 — Enterprises and similar entities as set out in the foregoing paragraph shall be accountable for the breaches of regulations envisaged in this law when these occur in the exercise of the respective activity, in their name or on their behalf, for members of corporate bodies, delegates, representatives or workers.

Article 26

Breaches of regulations

1 — Except as provided for in Article 32 of this law, any violation of statistical confidentiality shall be considered a very serious breach of regulations.

2 — Where there are information reporting requirements, each of the following types of behaviour shall be considered a serious breach of regulations:

(a) Non-response to questionnaires within the deadline established by the statistical authority;

(b) Repeatedly inaccurate and insufficient response to questionnaires;

(c) Refusal to send information to statistical authorities;

(d) Misleading response to questionnaires;

(e) Supply of information differently than established on a legal or regulatory basis.

3 — Negligence shall be punishable.

Article 27

Fines

1 — The breach of regulations envisaged in paragraph 1 of the foregoing Article shall be subject to a fine from €500 to €50,000 for individuals or €1,000 to €100,000 for enterprises.

2 — Breaches of regulations envisaged in paragraph 2 of the foregoing Article shall be subject to a fine from €250 to €25,000 for individuals or €500 to €50,000 for enterprises.

3 — In case of negligence, minimum and maximum amounts of fines envisaged in the foregoing paragraphs shall be halved.

4 — Where the criminal procedure results from the omission of a duty, the imposition of a penalty and the payment of a fine shall not exempt the offender from fulfilling it, should this still be possible.

5 — The fine may be paid voluntarily for its minimum value.

6 — Proceeds from fines obtained from breaches of regulations shall be entered to the benefit of statistical authorities (40%), the State (60%) or the Autonomous Regions (in full), depending on where the action underlying the offence occurred.

Article 28

Criteria for determining the applicable penalty

1 — The exact fine shall be determined on the basis of the specific tort and the agent's fault.

2 — To determine the specific tort and the agent's fault, account is taken, inter alia, of the following circumstances:

(a) Occasional or frequent nature of the offence;

(b) Reminders sent for response dispatching;

(c) The offence having contributed to prevent or delay the release of official statistics;

(d) Economic situation of the agent;

(e) Economic benefit the agent withdrew from the breach of regulations;

(f) Turnover of the enterprise;

(g) Volume and frequency of the information requested.

Article 29

Conduct of proceedings and imposition of fines

Statistical authorities' bodies or senior managers are entrusted with the power to conduct proceedings and impose fines, without prejudice to the possibility of delegation pursuant to the law.

Article 30

Competent court

1 — The competent court to bring legal proceedings, review and enforce the decisions of statistical authorities in breach of regulations proceedings initiated pursuant to this law shall be the *Juízo de Pequena Instância Criminal* (court for minor offences) of Lisbon, except as provided for in the following paragraph.

2 — With regard to decisions made by the Regional Statistical Services of the Autonomous Regions of the Azores and Madeira and by entities with powers delegated by Statistics Portugal located in the Autonomous

Regions, the powers to conduct the proceedings referred to in the foregoing paragraph shall result from the general rules of the relevant legislation.

Article 31

Subsidiary application

The general regime governing criminal procedure, provided for in Decree-Law No 433/82 of 27 October, as amended by Decree-Laws No 356/89 of 17 October, No 244/95 of 14 September and No 323/2001 of 17 December, and by Law No 109/2001 of 24 December shall be subsidiarily applied to breaches of regulations and the respective proceedings.

Article 32

Criminal liability

Without prejudice to liability to disciplinary action, the violation of statistical confidentiality considered as a breach of the obligation of professional secrecy shall be punishable under the terms of Articles 195, 196 and 383 of the Penal Code.

Article 33

Liability to disciplinary action

General government managers, employees, agents or other staff who violate the provisions of Article 4(1) of this law in the performance of their tasks shall be liable to disciplinary action pursuant to the law.

CHAPTER VI

Final provision

Article 34

Repeal

Law No 6/89 of 15 April and Decree-Laws No 124/80 of 17 May and No 294/2001 of 20 November are hereby revoked.

Approved on 26 March 2008.

Jaime Gama, President of the Parliament.

Promulgated on 28 April 2008.

Let it be published.

ANÍBAL CAVACO SILVA, President of the Republic.