

Law 12/1989, of 9 May, on the Government Statistics Act

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As amended by:

Article 9 of the LEY 36/2006, de 29 de noviembre, de medidas para la prevención del fraude fiscal ("the Tax Fraud Prevention Act", published in [BOE 30 November 2006](#)).

This is an unofficial translation, the only legal binding text is the one published in the Spanish Official Journal.

JUAN CARLOS I KING OF SPAIN

To all unto whom these presents shall come,

Know ye: That the Cortes Generales [the Spanish national parliament] have passed, and I do hereby give my assent to, the following Act:

PREAMBLE

I The mere mention of the date of enactment of the hitherto current statistics act – 31 December 1945 – may suffice to explain its replacement by a new statute. Legislative output in our time has risen unremittingly, but not because older statutes need constantly to be replaced, but because it is sometimes the case – as with statistics – that the earlier law has aged to such an extent that few of its provisions are any longer of use to present concerns.

The 1945 Statistics Act was, in fact, falling short in many new and urgent respects which, leaving to one side the issue of whether or not the text was properly framed for its time, it simply could not consider because they then existed only in embryonic form or not at all.

For instance, the new matters not addressed by present statistical legislation include citizens' growing concern about the computer processing of data relating to them, and the special protection afforded by the Spanish Constitution of 1978 to fundamental rights, of which privacy is specially relevant here. Moreover, the present value and significance of the role of statistics bears no relation to the state of affairs in 1945. Public authorities must now undertake a far greater number of statistics, and the political, social and economic importance of statistics in the functioning of the State is likewise greatly increased.

The increase in size and importance of government statistical functions entails a need promptly to reshape the organisational structures that serve the purposes of statistics. Today, statistical efforts are enormously complex, and vast human and material resources must be brought to bear. It is unfeasible to implement statistical functions using the organisational capability put in place in 1945, unless one were to accept poor performance, idly rising bureaucratic costs and increasingly sclerotic structures.

The government statisticians and departments involved in statistical production have themselves increased, and it would be pointless to expect the machinery of interdepartmental coordination designed close to half a century ago to remain of any use.

The vertical coordination of statistics, which in 1945 consisted merely of linking up central government departments with local councils, has become a wholly new proposition in Spain. First, the country's recent accession to the European Community, though not a source of particular statistical difficulties, should be borne in mind; and, second and more importantly, the emergence of the autonomous communities [the self-governed regions of Spain] has occasioned the assumption of major statistical duties by the regions. There is a need to create connections between regional and national units and devise methods to mesh together and allow optimal use of statistical operations conducted by both levels of government.

II Title I of this Act, on statistics and their legal framework, makes far-reaching changes to statistical bodies' data collection, processing and storage and dissemination of results.

These matters were dealt with inadequately by the earlier statute now being replaced.

The new Act begins by addressing the statistical functions of government, to determine which public authority may decide to create a statistic and what legislative instruments must be used to govern such statistic. The Act lays down the principle, closely connected to the rules under articles 18(1) and (4) and 53(1) of the Constitution on the exclusive preserve of primary legislation, that, in their essential aspects at least, statistics requiring mandatory response must be governed by a parliamentary act. But the core instrument guiding government statistical functions is the Plan Estadístico Nacional ("the National Statistical Plan"), which sets out all statistical programmes to be implemented and specifies the necessary means and expenditures. The Act leaves open the possibility of stipulating and implementing statistics outside the Plan, but such actions are subject to special safeguards. None of this, of course, prevents individual central government departments from conducting any quantitative survey, study or investigation they need so as properly to perform their duties.

Further, the Act advocates the principle that there prevail a single set of concepts, definitions, statistical units, classifications, nomenclatures and codes throughout the entire national statistical system, in order to allow comparability, integration and analysis of the data and results produced.

As regards the new rules on data collection, processing, storage and dissemination, the following three points are of note:

First, data collection is affected by a constant concern to safeguard fundamental rights, especially privacy, where personal data are required. However, the Act underlines the importance of the use for statistical purposes of data already collected by other government offices and units in the ordinary course of their business: such use achieves considerable savings and removes the need to reapply to respondents for data already in government files.

Second, as regards data processing and storage the Act introduces extensive and, for Spain, entirely new rules on statistical confidentiality. It should be noted that the Act leaves untouched that role which would fall to a putative data protection statute enacted to give force to article 18(4) of the Constitution. It does, however, regulate the data protection issue to the extent required by the observance of fundamental rights in the performance of statistical functions. The Act, then, is not intended to operate as a data protection act, but it should nonetheless be borne in mind that the collection and dissemination of data for statistical purposes always involve specific issues that could not be dealt with by generally applicable statute but are more suitably addressed - as is commonplace in other countries - by special statistical legislation.

Some of the provisions under the Act, particularly in connection with data collection and statistical confidentiality, do affect fundamental rights, especially personal privacy. But the Act is not an implementing statute of the constitutional prescriptions on the right of privacy, nor does it regulate that right directly. According to the doctrine of the Tribunal Constitucional [the Spanish constitutional court], therefore, those provisions need not rank as a *ley orgánica* [a parliamentary act passed by a qualified majority and concerning issues of constitutional importance].

Third, as regards the reporting and dissemination of statistics, the Act prescribes rules to widen and strengthen such efforts, while abiding by the requirements of statistical confidentiality. The sharing of personal data between public authorities of the same or of distinct levels of government is subject to a range of legal principles (most saliently, the requirements of speciality of the shared data and of specialisation of the recipients) to which some foreign constitutional courts have been enormously sensitive, but which are wholly new to Spanish legislation.

It seems unnecessary to explain that the Act is concerned with regulating the principles of government statistical functions only, particularly those of data collection, and not the general principles of government business: these are more fittingly addressed by other laws on government, which naturally also apply to the conduct of statistical services.

III Of note among the organisational arrangements under the Act is the restructuring of the statistical services of central government.

The most striking novelty may be the transformation of the Instituto Nacional de Estadística (the Spanish national statistical institute) into an autonomous government body subject to the legislation specific to such entities, from which it may depart only insofar as the general rules are adapted to the special features of the Institute.

This organisational initiative is undertaken on the following grounds:

A) As pointed out earlier in this preamble, the Instituto Nacional de Estadística has in recent years come to handle a far greater volume of work, and the complexity of statistical efforts requires that the Institute be given a more flexible legal framework of operation than the rules that apply generally to all central government units. Even for one unacquainted with the details of a large survey, it is easy to imagine that the required resources and staff must be deployed with an agility that calls for changes to certain points of the standard rules of government. The safeguards of legality and

public, democratic control that must guide any government activity, however, are in no way impaired.

B) The solution devised by the Act is to transform the Instituto Nacional de Estadística in an autonomous government body. Higher agility still might have been won by making the Institute a state-owned corporation subject to private law, but this solution was ruled out on the grounds of two unwanted consequences. First, statistical services would lose a measure of authority in the framework of central government, which could hinder the coordination and even the bare functioning of what was a system of statistical services already considerably decentralised by sector. Second, certain statistical functions of a governmental nature (from international cooperation to relations with regional and local authorities, the preparation of binding guidelines and methodologies for all public authorities, the regulation of statistical confidentiality, etc) would have to be carried on by a corporation chiefly subject to employment law, commercial law and civil law.

As in our neighbouring countries, the autonomous body Instituto Nacional de Estadística is attached to the Ministry of Economy and Finance, the ministry where it has lately had its seat and with which it is specially connected by the importance of statistics for economic policy. However, in order to carry on its technical duties and maintain statistical confidentiality, the central office of statistics is vested in the powers required to ensure its operational impartiality.

It is thus clear that the Act has had to devote a number of its provisions - at all events the least possible, so as to leave such matters to delegated legislation - to the organisational structure and legal framework of the new Instituto Nacional de Estadística.

IV Statistics have major implications for broad categories of the economy, society and healthcare; moreover, it is expedient to maintain and, where appropriate, further extend the decentralisation by sector of the statistical system of central government. The Act therefore recognises the important role of the statistical units of ministerial departments, autonomous government bodies and public entities by specifying their wide-ranging functions in the ministerial ambit, and by giving them the same operational impartiality as the Instituto Nacional de Estadística in their technical duties and powers to preserve statistical confidentiality.

The Act seeks to achieve horizontal coordination across the Instituto Nacional de Estadística and the statistical units of the ministries by several different means. Namely, the Act:

(a) ensures that the ministerial statistical units cooperate with the Instituto Nacional de Estadística in the writing of the draft National Statistical Plan;

(b) grants to the Instituto Nacional de Estadística the authority to create a consistent set of standards, binding across the entire central government, on the statistical instruments required for the integration and comparison of data and results compiled by different statistical units;

(c) regulates the exchange of statistical information between the two types of specialised unit; and

(d) creates a Comisión Interministerial de Estadística ("the Interdepartmental Statistical Committee").

In addition, the three following factors, at least, highlight in another way the public nature of official statistics: the political, economic and social importance now accorded to the statistics compiled by government; the fact that no statistics would exist without the cooperation of the natural persons and bodies corporate possessing the raw information; and the importance of statistics for a scientific knowledge of demographic, economic and social reality.

Therefore, within the statistical organisational structure of central government, the Act transforms the Consejo Superior de Estadística ("the Higher Statistical Council"): together with ministerial departments and the Instituto Nacional de Estadística, there will now be represented other institutions, in behalf of respondents, other statistics users, and, most particularly, labour unions and employer organisations.

The most important changes to earlier legislation are the following. First, the Higher Statistical Council is empowered to frame proposals and recommendations on national statistical needs and the improvement of existing means prior to the writing of the draft National Statistical Plan and its annual updates, without prejudice to the Council's final opinion on that draft Plan. Second, the Act recognises the futility of any continued use of the Council's former powers of coordination: statistical duties are now assigned by sector and territory in a different way, new forms of coordination are required and, other than in its advisory capacity, the Council is no longer able to play an effective role as coordinator.

The rules on the Higher Statistical Council are completed by ensuring that it can properly oversee the activities of the Instituto Nacional de Estadística and the other statistical units of central government.

V Relations among different levels of government in the field of statistics are dealt with in simple terms, because, despite appearances to the contrary, within the compass that a parliamentary act may reasonably address the issue is itself simple.

The Act does not regulate in detail the relations between central and local government in the field of statistics. Such detailed regulation would be unnecessary, given that the means and methods of cooperation in general are adequately dealt with by the legislation on local government. The key specific matters are the provisions of such legislation on the formation of the padrón ("the municipal population register") and the population and housing census, and the provisions of electoral legislation on the formation of the electoral roll. References to those statutes suffice, then, to avoid any reiteration of rules which are in any event better placed from a systematic point of view in the legislation specific to each statistic. A channel is nonetheless established to aid coordination between the Instituto Nacional de Estadística and local councils.

Relations between the central government and the autonomous communities are somewhat more complex.

The first issue to be resolved in this respect is the scope of authority granted to central government by article 149(1)(31) of the Constitution (Statistics for central government purposes). The key to interpreting this precept is that the Constitution does not set

specific bounds to the subject-matter that central government statistics may address. The stamp of legitimacy required of such statistics is that they be produced for central government purposes, a notion that can surely be construed as broader than the subject-matters of the powers that article 149(1) gives to central government. The scope of subject-matter to which central government statistics may extend is thus potentially unlimited. It is as broad, at least, as the scope of subject-matter of the rest of its powers. Neither does article 149(1) limit the central government's business in functional terms to regulation, planning, and so forth; rather, it enables central government to conduct the statistical efforts required for its purposes from beginning to end.

The Constitution does not, as it does with other powers, divide statistical powers into primary and implementing powers, or legislative and executive duties. Rather, it gives central government plenary powers to regulate and execute statistics, provided they are for central government purposes. This is so regardless of the likewise plenary powers of the autonomous communities to enact and conduct those statistics that bear upon their interests. Therefore, the scope of statistical activities conducted by central government does not delimit - by widening or narrowing - the scope of responsibility, which cannot of course depend on whether the statistics designated as being of central government interest are numerous or only a few.

Following this basis of interpretation, which springs clearly from the Constitution, there is no need for the Act to contain an exhaustive list of statistics for central government purposes. Such a list would make the system unsuitably rigid and, given that the underlying constitutional principles are more flexible, would be unjustifiable.

Instead, the Acts settles the issue by prescribing that "statistics for central government purposes" are all those so designated by central government, with no limit other than the formal requirement of including them in the National Statistical Plan or approving them, under that designation, in a Royal Decree. None of this, however, prevents the autonomous communities from deciding to conduct any statistic they deem to be in the regional interest. Insofar as the areas of responsibility of central and regional government may overlap, no principle can be put forth a priori to delineate by subject-matter which statistics should be for central government purposes and which for regional.

Given the above, the coordination of central and regional statistical services - which the Act is intended to regulate as flexibly as possible, so that any improving arrangement may be incorporated - is structured by the following main formulas:

(a) The central government and the autonomous communities owe one another a duty to supply the data needed to conduct the statistics under the responsibility of each. The sharing of information is again subject to the principle of speciality already discussed in this preamble.

(b) Rules are set to allow certain central government statistics to be conducted in cooperation with the autonomous communities in a flexible but sufficiently specific framework of agreements.

(c) The possibility is left open for central government statistical units to conduct statistics of limited territorial scope (occasionally, even on behalf of an autonomous community).

(d) Methodological criteria, codes, nomenclatures and similar conventions can be standardised by a variety of means; the Act nonetheless indicates the utility of a wide range of agreements and arrangements.

(e) It is expedient to create a permanent body to support coordination and cooperation among central and regional statistical units. The Act creates such a body under the name *Comité Interterritorial de Estadística* ("the Inter-Territorial Statistical Committee"). The text describes its duties as relating to those concerns. In particular, the Inter-Territorial Statistical Committee provides a channel for cooperation among central and regional statistical units in the framing of the National Statistical Plan and its annual updates.

Plainly, then, the Act is not an attempt at a complete body of regulations on a comprehensive statistical system, embracing the statistical activities of both central government and the autonomous communities. The Act sets forth principles that for the reasons explained above do of course apply throughout the entire territory of Spain. But, other than those principles, the Act is circumscribed to regulating statistics for central government purposes. The bringing together of all public statistical business within a single system lies outside the duties that the Constitution reserves for central government. Connection and coordination across central and regional statistical services, then, can follow from cooperation only. In this respect, this is the general principle that guides this Act.

VI The rest of matters in the Act do not give rise to issues requiring explanation in this preamble.

It appeared advisable to insert a range of provisions on the applicable principles and required statistics associated with Spain's status as a Member State of the European Community. Rules are likewise introduced on the coordination of statistics supplied to international bodies and foreign states.

Finally, the Act improves, brings into conformity with the Constitution, and introduces *ex novo* provisions to, the system of infringements and penalties for breach of duties imposed by the Act. Only two of the rules on this matter are of note. First, the power to impose penalties vested in the *Instituto Nacional de Estadística* applies only to persons who, having infringed a duty under the Act, are not civil servants or contract staff in government service, because in such cases there first applies the regime of penalties laid down in the relevant specific legislation. Second, the time limits for negative prescription of infringements have had to be made relatively long. The technicalities of statistics generally preclude an infringement under the Act from becoming known until after work is complete on the collection, coding, entry, and editing of the data, and this process may take a considerable length of time.

PRELIMINARY TITLE. **Object and scope of the Act**

Article 1

The object of this Act is to regulate public statistical functions for central government purposes, in pursuance of article 149(1)(31) of the Constitution.

Article 2

This Act governs the planning and preparation of statistics for central government purposes by central government and its dependent entities; the organisational structure of the statistical units of central government; and the statistical relations of central government with the autonomous communities and local councils, and with the European Community and international bodies.

Article 3

1. The provisions of this Act shall apply generally to all levels of government in connection with the statistics for central government purposes mentioned at title I, chapter I.

2. With regard to statistics for autonomous community purposes, this Act shall apply directly, subject to the exceptions herein prescribed, to those autonomous communities vested in powers of legislative implementation and execution, or powers of execution only, and shall apply as a supplement, pursuant to article 149(3) of the Constitution, in autonomous communities vested in exclusive powers in the field of statistics.

TITLE ONE. **Statistics and their legal framework**

CHAPTER ONE. **General principles of government statistics**

Article 4

1. Data for statistical purposes shall be collected in pursuance of the principles of confidentiality, transparency, speciality and proportionality.

2. To safeguard statistical confidentiality statistical units shall, further to compliance with title I, chapter III, adopt such organisational and technical measures as are required to protect information.

3. Pursuant to the principle of transparency, persons supplying data are entitled to obtain, and statistical units are bound to provide, full information on the protection afforded to the supplied data and on the purpose for which they are collected.

4. Pursuant to the principle of speciality, statistical units shall use data collected to prepare statistics for the purposes warranting such collection.

5. Pursuant to the principle of proportionality, the amount of information requested shall be proportionate to the results sought from the processing thereof.

Article 5

1. In the conduct of statistics for central government purposes there shall prevail a single standardised set of concepts, definitions, statistical units, classifications, nomenclatures and codes, such as to allow comparability, integration and analysis of the data and results produced.

2. Central and regional statistical units may enter into agreements to standardise the statistical instruments under the foregoing paragraph, even if used in statistics of regional relevance only, in order to permit better use of statistical data and output.

Article 6

Central and regional statistical units shall create such mechanisms of cooperation as shall from time to time best suit the optimal use of the available information and avoid unnecessary overlap in data collection or any other operations.

Article 7

1. Any statistic the production of which requires mandatory supply of data shall be created under a parliamentary act.

2. The parliamentary act governing any such statistic shall address at least the following essential aspects:

- (a) the bodies involved in production of the statistic;
 - (b) a statement of its goals and general description of its content;
 - (c) the reference group of persons and territorial scope;and
 - (d) the estimated budget credits needed to fund the statistic.
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Article 8

1. The National Statistical Plan, which shall be approved by Royal Decree and run for four years, shall be the core instrument governing the statistical activities of central government, and shall contain at least the following specifications:

- (a) the statistics that must be compiled in the four-year period by central government bodies and any other institutions dependent on central government, and those statistics that are to be produced wholly or partly in conjunction with the autonomous

communities and local councils under cooperation agreements with central government statistical units or, as the case may be, in performance of statutory duties;

(b) the essential aspects set forth at article 7(2) for each statistic under the Plan; and

(c) the programme of expenditures to be made in each four-year period to improve and replace resources of all kinds as needed to implement statistical functions.

2. The Government shall draw up an annual programme, to be approved by Royal Decree, which shall set out the actions under the National Statistical Plan to be implemented in the current year, and the related appropriations to be made under the central government budget.

3. Without prejudice to article 7(1), the Government may further approve by Royal Decree, as an emergency measure, the conduct of statistics outside the National Statistical Plan, provided budget appropriations are available and the essential aspects listed at article 7(2) are specified.

Article 9

1. Within the meaning of article 149(1)(31) of the Constitution, the statistics under article 8 shall qualify as "statistics for central government purposes".

2. The autonomous communities' statistical powers shall not prevent central government from conducting a statistic in relation to any demographic, economic or geographic ambit whatever, if under the foregoing paragraph such statistic qualifies as being "for central government purposes".

CHAPTER II. Data collection

Article 10

1. Statistical units may request data from all Spanish and foreign natural and legal persons resident in Spain.

2. All natural and legal persons who supply data, whether their cooperation is mandatory or voluntary, shall reply truthfully, accurately, fully and within deadline to questions duly put to them by statistical units.

3. The same duty binds all institutions and public entities of central government, the autonomous communities and local councils. If statistical production requires the use of data from administrative sources, the bodies, authorities and officials charged with the custody of such sources must assist the statistical units as expeditiously as possible.

4. An exception from this provision may apply to public bodies charged with the custody or handling of data relating to the needs of national security and defence.

Tax data are subject to special laws and regulations.

Article 11

1. When a statistical unit requests data, it shall provide the parties concerned with adequate information on the nature, characteristics and purpose of the statistic, and shall furthermore indicate whether response is mandatory, the protection afforded to such parties by statistical confidentiality, and any penalties such parties may incur for failure to cooperate or for supplying false, inaccurate, incomplete or late data.
2. Data that may reveal ethnic origin, political opinions, religious or ideological beliefs and, in a general sense, any particulars relating to personal and family privacy shall be supplied on a strictly voluntary basis, and may therefore be collected only with the prior express consent of the parties concerned.

Article 12

1. Information shall always be requested directly from the relevant persons or entities, by post, by a personal visit by duly accredited agents, or by any other means ensuring direct communication between those relevant persons or entities and statistical units or their agents.
2. The information requested may be supplied in writing, in electronic media or by other procedures amenable to computer processing, always in accordance with the rules on each specific statistic.
3. Costs incurred by respondents in connection with dispatches and communications generated by the conduct of statistics for central government purposes shall be paid out of statistical units' budgets.

CHAPTER III. Statistical confidentiality

Article 13

1. Any personal data procured by statistical units from respondents directly or from administrative sources are protected by statistical confidentiality.
2. Personal data are defined as data on natural persons or bodies corporate which enable immediate identification of the parties concerned or, by their structure, content or degree of disaggregation, lead to indirect identification of the parties concerned.
3. Statistical confidentiality binds statistical units not to disclose personal data, whatever their origin, in any event.

Article 14

1. Statistical confidentiality shall apply on the terms of this chapter to all levels of government and public authorities of whatever nature, except as provided in article 15.

2. The use of personal data procured by statistical units from respondents directly for any non-statistical purpose is prohibited.

Article 15

1. The sharing among levels of government and public authorities, for statistical purposes, of personal data protected by statistical confidentiality is permitted if (and only if)

the following requirements are met (as verified by the body holding the data in its custody):

(a) the body receiving the data carries on a primarily statistical role, in accordance with regulations enacted prior to the transfer of the data;

(b) the purpose of the data is, precisely, the production of the statistics with which the recipient body is mandated; and

(c) the recipient body has the means necessary to preserve statistical confidentiality.

2. The sharing among levels of government and public authorities, for non-statistical purposes, of data contained in government records shall not be subject to statistical confidentiality, but to the laws and regulations applicable to each specific event.

Article 16

1. Statistical confidentiality shall not protect directories containing no data other than mere lists of establishments, enterprises, business concerns or entities of any kind, indicating each entity's name, location, activity and size range.

2. The size-range datum may be disclosed only if the respondent does not expressly oppose such disclosure.

3. Statistical units shall notify this exception from statistical confidentiality in data collection instruments.

4. Parties concerned shall be entitled to access personal data appearing in non-confidential statistical directories and to have any errors in such directories rectified.

5. The statutory instruments implementing this Act shall lay down the requirements for the use of the right of access and rectification under paragraph (4) above and the terms of publication of non-confidential directories.

Article 17

1. All statistical staff are under a duty to preserve statistical confidentiality.

2. For the purposes of paragraph (1), "statistical staff" shall mean staff attached to the statistical units referred to in titles II and III of this Act.

3. Such duty to maintain statistical confidentiality likewise binds all such natural persons and bodies corporate as may become apprised of data covered by statistical confidentiality by reason of their temporary involvement in any phase of the statistical process under a contract, agreement or convention of any kind.

4. The duty of statistical confidentiality survives even after persons bound by such duty end their occupational activities or their relations with statistical units.

Article 18

1. Data that immediately identify a respondent shall be destroyed when they need not be preserved for the conduct of statistical efforts.

2. At all events, the data referred to in paragraph (1) shall be kept using ciphers, sealing devices or special deposits.

Article 19

1. The duty to maintain statistical confidentiality commences upon obtainment of any information protected by such confidentiality.

2. The information under paragraph (1) may not be publicly consulted without the express consent of the parties concerned or until after the lapse of twenty-five years from the death of such parties, if such date is known, or, otherwise, fifty years from the date of obtainment of the information.

3. By way of an exception, and provided that twenty-five years have elapsed since the information was received by statistical units, data under statistical confidentiality may be supplied to persons who, pursuant to such procedure as implementing regulations shall determine, prove a legitimate interest.

4. In relation to data on bodies corporate, implementing regulations, having regard to the special features of each survey, may prescribe a shorter duration of statistical confidentiality, though never less than fifteen years.

CHAPTER IV. Dissemination and maintenance of statistics

Article 20

1. The results of statistics for central government purposes shall be published by the units responsible for producing them, and shall be disseminated widely.

2. The results of statistics for central government purposes shall enjoy official status from such time as they are made public.

3. The staff of units responsible for the production of statistics for central government purposes are under a duty to keep in confidence until after they are officially made public any partial or complete, interim or final results thereof that by reason of their work become known to them.

Article 21

1. Statistical units may supply to a party so requesting:

(a) statistical tabulations or treatments other than the published results referred to in article 20(1), provided statistical confidentiality is preserved; and

(b) individual data not covered by statistical confidentiality due to their having become anonymous to the point of it being impossible to identify the respondents.

2. The methodology of statistics for central government purposes shall be made public and always available to any party so requesting.

3. Publications and any other statistical information provided to interested parties may be subject to prices fixed by law.

Article 22

1. Statistical units shall preserve and keep in custody the information produced by reason of their own activity. Such information shall remain subject to statistical confidentiality on the terms of this Act, even if the related statistical results have already been duly processed and published.

2. The storage of information need not involve the preservation of its original media, provided the content thereof has been transferred to computer or other media.

3. If a statistical unit deems that the preservation of a given type of document is evidently unnecessary, it may resolve to destroy such documents upon completion of such procedural steps as implementing regulations shall determine.

TITLE II. Statistical units of central government

CHAPTER I. General provisions

Article 23

The central government's statistical role shall be carried out by the Instituto Nacional de Estadística, by the Higher Statistical Council, by the statistical units of individual government ministries, and by any other public bodies attached to central government and entrusted with statistical duties.

Article 24

If the nature of statistic so requires, the competent statistical units may decide to perform it under agreements or contracts with private individuals or with other central government bodies, which shall then also be bound by the provisions of this Act.

Relations among central, regional and local statistical units shall be conducted in pursuance of the general rules under title III.

CHAPTER II. The Instituto Nacional de Estadística (INE, the Spanish national statistical institute)

Article 25

1. The Instituto Nacional de Estadística (INE, the Spanish national statistical institute) is an autonomous government body with its own legal personality and assets, and is attached to the Ministry of Economy and Finance.

2. In the exercise of its powers and duties, the Instituto Nacional de Estadística shall be governed by this Act, and, in matters not herein contemplated, by the Ley de 26 de diciembre de 1958 del Régimen Jurídico de las Entidades Estatales Autónomas ("the Autonomous Central Government Bodies Act"), the Ley 11/1977, de 4 de enero, General Presupuestaria ("the General Budget Act") and the rest of applicable general laws and regulations.

Article 26

The Instituto Nacional de Estadística shall:

(a) act as overall coordinator of the statistical units spread across central government and oversee the technical aspects of the central government statistical units referred to at article 36;

(b) write the draft National Statistical Plan and the draft statutory instruments referred to at article 8(2) and (3), in conjunction with the statistical units of government ministries and other bodies of central and regional government, regard being had to the proposals and recommendations of the Higher Statistical Council and the Inter-Territorial Statistical Committee;

(c) propose standards relating to concepts, definitions, statistical units, classifications, nomenclatures and codes for data classification and presentation of results, without prejudice to articles 5(2) and 43(b);

(d) engage in research, development, improvement and application of statistical methodology within the framework of the national plan for scientific research and technological development, and provide technical assistance in the use of statistical methodology to statistical units within government ministries, autonomous government bodies and other public entities;

(e) apply, and monitor compliance with, the rules of statistical confidentiality in the production of its assigned statistics for central government purposes;

(f) use data from administrative sources for statistical purposes and promote such use by other central government statistical units;

(g) create directories for the statistics it is mandated to produce;

(h) coordinate and maintain, in conjunction with the statistical units of government ministries, records and directories of enterprises and establishments, buildings, premises and housing and any other such units as may be determined as the frame for the production of statistics for central government purposes;

(i) prepare and carry out such statistical projects as are assigned to it under the national statistical plan;

(j) form overall population and economic censuses and their derived and related censuses;

(k) formulate an integrated system of population and social statistics and a system of social indicators;

(l) implement an integrated system of economic accounts and a system of economic indicators;

(m) create and maintain an integrated system of statistical information compatible with the rest of such systems of central government;

(n) draw up, in conjunction with the units responsible, an inventory of available statistics produced by public and private bodies, and maintain a statistics bibliography/documentation and information service;

(ñ) publish and circulate the results and methodological features of the statistics it produces, and promote the dissemination of the rest of statistics included in the national statistical plan;

(o) engage in relations in the statistical field with international bodies and central statistical offices of foreign countries, in concert with the Ministry of Foreign Affairs;

(p) prepare and execute general programmes of international technical cooperation in statistics;

(q) manage the professional development of its staff and the staff of the rest of statistical units of central government, in conjunction with the relevant body for selection, training and career development of government personnel;

(r) enter into agreements with other government bodies in connection with the statistics it is tasked to produce;

(s) propose regulations on statistics other than those referred to at sub-paragraph (c);

(t) draw up the electoral roll in pursuance of the Ley Orgánica 5/1985, de 19 de junio, del Régimen Electoral General ("the Electoral Act"); and

(u) perform any other statistical duties not specifically assigned by statute to another body, and any other duties expressly assigned to it.

Article 27

1. The engagement under contract by the Instituto Nacional de Estadística of work, services and supplies shall be compliant with laws and regulations on central government procurement.

2. Paragraph (1) notwithstanding, the power to enter into contracts shall rest, without need of prior authority, in the President of the Institute, without prejudice to any delegation of powers he/she may determine or to the relevant powers of the Consejo de Ministros ("the Cabinet").

Article 28

1. The governing bodies of the Instituto Nacional de Estadística are:

(1) The Governing Board.

(2) The President.

2. The Governing Board shall comprise the President and such officeholders as implementing regulations shall determine.

3. The President shall be appointed by the Government under a Royal Decree at the proposal of the Minister of Economy and Finance, and shall be the legal representative of the Institute.

4. The internal organisational structure of the Instituto Nacional de Estadística and the specific rules on its services shall be determined by implementing regulations.

Article 29

The economic resources of the Instituto Nacional de Estadística are:

(a) the assets and securities of the Institute's property, and their associated output and income;

(b) current and capital transfers appropriated to the Institute under the central government budget;

(c) the proceeds or economic earnings of its own activities and publications, pursuant to article 21(3); and

(d) any other resource that may be attributed to it.

Article 30

1. In order to carry on its technical duties and maintain statistical confidentiality, the Instituto Nacional de Estadística shall be vested in the powers required to ensure its operational impartiality.
 2. "Technical duties" shall mean duties relating to statistical methodology, the publication and dissemination of results and the design of systems of standards, as referred to at article 26(c).
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Article 31

An act emanating from the Instituto Nacional de Estadística may be challenged by an appeal to the higher authority of the Minister of Economy and Finance, unless such act relates to the exercise of the technical statistical faculties under article 30(2) or to the preservation of statistical confidentiality, in which event a decision of the President of the Instituto Nacional de Estadística shall exhaust administrative proceedings.

CHAPTER III. Other statistical units of central government

Article 32

1. Government ministries and any other central government bodies shall, through their statistical units, take part in the production of statistics for central government purposes within the scope of their respective fields of activity.
 2. Government ministries may propose the addition of statistics to the National Statistical Plan.
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Article 33

The statistical units of government ministries shall:

- (a) draw up sector-specific statistical plans in subject areas within their purview;
- (b) cooperate, in their field of activity, with the Instituto Nacional de Estadística to write the draft National Statistical Plan and its annual updates;
- (c) apply, and monitor compliance with, the rules of statistical confidentiality in the production of their assigned statistics for central government purposes;
- (d) use for statistical purposes the administrative data arising from the operations of the ministries of which they form part;

- (e) create directories as required for the statistics for central government purposes they are mandated to produce;
 - (f) prepare and carry out such statistical projects as are assigned to them under the National Statistical Plan;
 - (g) publish and disseminate the results and methodological features of the statistics they produce;
 - (h) enter into agreements with other government bodies in connection with the statistics they are tasked to produce; and
 - (i) perform any other statistical duties entrusted to them by statute.
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Article 34

1. The Instituto Nacional de Estadística may procure from the statistical units of government ministries and other bodies attached to central government information on the methodology used to conduct each given statistic and on the rest of its technical features.
 2. The Instituto Nacional de Estadística may obtain from government ministries, autonomous bodies and public authorities of central government any datum or file of data and directories amenable to statistical use, unless such information relates to the matters indicated at article 10(4), and without prejudice to the personal data protection provisions of article 16. Likewise, on the same terms of personal data protection, the statistical units of government ministries, autonomous bodies and public authorities of central government may obtain from the Instituto Nacional de Estadística such data, files and directories as they need to conduct the statistics they are tasked to produce.
 3. Government ministries shall collate the records and files associated with their business that may be amenable to statistical use, and shall computerise such information to permit the use of administrative data for statistical purposes and the provision to interested parties of any information on such records and files on the terms laid down in applicable laws and regulations.
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Article 35

1. In order to carry on their technical duties and maintain statistical confidentiality, the statistical units of government ministries and of their dependent entities shall be vested in the powers required to ensure its operational impartiality.
2. "Technical duties" shall mean those duties under article 33(e), (f) and (g).

Article 36

There is hereby created the Interdepartmental Statistical Committee, chaired by the President of the Instituto Nacional de Estadística. The membership and functions of the Committee shall be determined by implementing regulations.

CHAPTER IV. The Consejo Superior de Estadística (the "Higher Statistical Council")

Article 37

1. The Higher Statistical Council is an advisory body of central government statistical units. Its membership, organisational structure and functioning shall be determined by implementing regulations.

2. The chairman of the Higher Statistical Council shall be the Minister of Economy and Finance.

3. One half of Council members shall represent labour unions and employer organisations and other adequately representative social, economic and academic groups and institutions. Each government ministry and the Instituto Nacional de Estadística shall be represented at all events.

Article 38

1. The Higher Statistical Council shall:

(a) frame proposals and recommendations on national statistical needs and the improvement of existing means prior to the writing of the draft National Statistical Plan and its implementing annual plans and programmes;

(b) issue a legally required opinion on all proposed statistics for central government purposes and on the draft National Statistical Plan;

(c) put forward recommendations on proper application of statistical confidentiality; and

(d) consider any other issue referred to it by the Government, whether directly or through the Instituto Nacional de Estadística.

2. The statistical units of the autonomous communities and local councils may refer to the Council queries on issues within its remit.

Article 39

1. The Instituto Nacional de Estadística and the statistical units of government ministries shall annually submit to the Higher Statistical Council an annual report on their performance, rendering accounts on the projects conducted, problems encountered,

extent of completion of the National Statistical Plan and the rest of issues relating to the scope of inquiry of the Council.

2. The Higher Statistical Council may obtain from the Instituto Nacional de Estadística and the other statistical units of central government such reports as it thinks fit to oversee those bodies' statistical activities.

3. The Higher Statistical Council shall write an annual activity report.

TITLE III. Relations among levels of government in statistical matters

Article 40

1. All bodies of the autonomous communities and of local councils shall provide to the statistical units of central government such information as they possess and is deemed necessary to produce statistics for central government purposes.

2. Likewise, all bodies of central government shall provide to the statistical units of the autonomous communities such information as the former possess and the latter request for the production of statistics of regional relevance, unless such information relates to the matters under article 10(4).

3. In the events specified at paragraphs (1) and (2) of this article, the body from which information is requested shall at all events be advised of the type of statistic for which such information shall be used, its main purposes and its governing statute.

Article 41

1. The statistical units of central government and of the autonomous communities may enter into agreements on the conduct of statistics when appropriate to the improvement and effectiveness thereof or to avoid overlap and costs.

2. The agreements under paragraph (1) shall, if proper coordination so requires, lay down technical procedures for data collection, processing and dissemination, including the time frames for such operations.

3. Within the framework of cooperation agreements there may be created mechanisms for participation of central government units in the funding of statistics for central government or autonomous community purposes.

4. Central government statistical units may conduct statistics of regional relevance on instructions from an autonomous community. Conversely, regional statistical units may conduct statistics of central government relevance on instructions from central government. In either event appropriate agreements may be concluded for these purposes.

Article 42

1. There is hereby created the Inter-Territorial Statistical Committee, which shall comprise one representative from the statistical office instituted in each of the autonomous communities, and such number of representatives of the Instituto Nacional de Estadística and the statistical units of government ministries as implementing regulations shall determine.

The combined total of votes of central government representatives shall be equal to the combined total of votes of all autonomous community representatives.

2. The Committee shall be chaired by the President of the Instituto Nacional de Estadística.

3. The Committee shall approve its own rules and regulations of organisation and functioning.

Article 43

The Inter-Territorial Statistical Committee shall oversee statistical coordination, cooperation and standardisation between central government and the autonomous communities, to which end it shall:

(a) Discuss proposals and recommendations put forward by its members on the writing of the draft National Statistical Plan and its implementing annual plans and programmes, with a special focus on autonomous community involvement in the various statistical projects.

The Committee shall likewise discuss proposals and recommendations on this matter issued by the Higher Statistical Council.

(b) Encourage the adoption of agreements to standardise the statistical instruments referred to in article 5 of the Act.

(c) Prepare studies and reports, issue opinions and formulate proposals and draft agreements to ensure the improved functioning and performance of statistical units.

(d) Promote joint use by central government and the autonomous communities of the data from their respective administrative sources that are amenable to use for the production of statistics for central government or autonomous community purposes.

(e) Encourage the exchanges required between the two levels of government to complete and improve directories and records of any kind of use for their statistical units, coordinate their integrated system of statistics and create an inventory of available statistics.

(f) Foster the sharing of methodological experiences in statistical matters, including data collection and processing procedures.

(g) Regularly monitor any existing statistical cooperation agreements.

(h) Take reports from the Instituto Nacional de Estadística on its relations with international bodies.

(i) Write an annual activity report, to be submitted for the purposes of information to the Higher Statistical Council and the competent bodies of the autonomous communities.

Article 44

1. The relations of cooperation between central government and local councils in the field of statistics shall be compliant with the general principles of this Act, with articles 55 et seq. of the Ley Reguladora de las Bases de Régimen Local, de 2 de abril de 1985 ("the Local Government Act") and with the implementing regulations of the Local Government Act.

2. As regards the formation of the municipal population register, there shall apply the special rules governing relations between the Instituto Nacional de Estadística and local councils as prescribed in local government legislation and in relevant autonomous community laws and regulations. The electoral roll shall be subject to the laws and regulations cited above and, in particular, to the Electoral Act 1985 and its implementing regulations.

3. The Instituto Nacional de Estadística shall convene regular meetings with representatives of the largest nationwide association of local councils in order to discuss problems and propose and agree on mechanisms of coordination, which shall be reported to the Inter-Territorial Statistical Committee and the Higher Statistical Council.

TITLE IV. Relations with the European Community and international bodies

Article 45

1. The provisions of this Act shall likewise apply to statistics required by European Community legislation, unless such legislation prescribes procedures or requirements that oppose this Act.

2. Statistics that are mandatory under European Community law shall be automatically included in the National Statistical Plan under article 8.

Article 46

All statistical results to be transmitted to international bodies or foreign states by the established channels shall be reported to the Ministry of Foreign Affairs and, for coordination purposes, to the Instituto Nacional de Estadística, which may request further information if it deems fit.

Article 47

The President of the Instituto Nacional de Estadística, with the prior consent of the Ministry of Foreign Affairs, may represent Spain at international conferences and present and future working groups specifically dealing with statistical matters.

TITLE V. Breaches and penalties

Article 48

1. Breach of the obligations laid down in this Act in relation to statistics for central government purposes shall be penalised pursuant to the rules set out under this title.

2. Paragraph (1) notwithstanding, this title shall not apply to breaches defined in article 51 if committed by civil servants or contract staff in government service. Such breaches shall be subject to the regime of penalties set forth in specifically applicable laws and regulations.

3. Otherwise, the power to impose penalties shall rest with the Instituto Nacional de Estadística, which shall exercise such powers through its President, in the manner prescribed under article 54. However, if a breach concerns statistics on exchanges of goods among European Union Member States, the power to impose penalties shall rest with the head of the customs and excise department of the Agencia Estatal de Administración Tributaria (the Spanish central tax authority). (Paragraph amended by the Tax Fraud Prevention Act 2006.)

Article 49

1. Administrative liability shall apply without prejudice to any applicable civil, criminal or other liabilities.

2. If a breach may constitute a criminal offence or misdemeanour, the competent government body shall refer the issue of criminal liability to the relevant judicial jurisdiction and abstain from continuing the penalties procedure until that judicial authority issues a final decision.

If a criminal proceeding ends in acquittal or other decision ending such proceeding provisionally or finally and no criminal liability has been found, and provided such absence of criminal liability is not consequent upon non-existence of the underlying act, the respective penalties procedure may be begun, continued or resumed to determine the issue of administrative breach.

3. In no event may an act subject to penalties in criminal proceedings or first subject to employment law or the special rules applicable to civil servants be subject to the penalties procedure prescribed in this Act.

Article 50

1. Breaches are classified as very serious, serious and minor.
2. The following are very serious breaches:
 - (a) Breach of the duty of statistical confidentiality.
 - (b) Use of personal data procured by statistical units from respondents directly for any non-statistical purpose.
 - (c) Supply of false data to the competent statistical units.
 - (d) Manifest or persistent refusal or refusal on false grounds to supply the required data, if such transmission is mandatory.
 - (e) A serious breach, if the breaching party has within any one year been penalised for two other serious breaches.
3. The following are serious breaches:
 - (a) Failure or delay in the supply of requested data, response being mandatory, with serious detriment caused to the statistical unit.
 - (b) Supply of incomplete or inaccurate data, response being mandatory, with serious detriment caused to the statistical unit.
 - (c) A minor breach, if the breaching party has within any one year been penalised for two other minor breaches.
4. The following are minor breaches:
 - (a) Failure or delay in the supply of requested data, response being mandatory, without serious detriment caused to the statistical unit.
 - (b) Supply of incomplete or inaccurate data, response being mandatory, without serious detriment caused to the statistical unit.

Article 51

1. Very serious breaches are subject to fines of 500,001 to 5,000,000 pesetas.
2. Serious breaches are subject to fines of 50,001 to 500,000 pesetas.
3. Minor breaches are subject to fines of 10,000 to 50,000 pesetas.
4. The amount of the fines provided in the foregoing paragraphs shall be graduated on the basis of the specific seriousness of the breach, the nature of the damages caused and the previous conduct of the breaching party.

Article 52

1. Minor breaches lapse after one year; serious breaches after two years; and very serious breaches after three years.
2. The time limit on instituting proceedings against a breach starts to run on the day of the breach.
3. The time limit on instituting proceedings against a breach is interrupted, with notice to the party concerned, by the bringing of penalty proceedings. The time limit starts to run again if proceedings are idle for over six months for reasons not attributable to the alleged breaching party.

Article 53

1. Penalties imposed for minor breaches lapse after one year; those imposed for serious breaches lapse after one year and a half; and those imposed for very serious breaches lapse after two years.
2. The time limit for enforceability of a penalty starts to run from the day following the day on which the decision imposing the penalty becomes final.
3. That time limit is interrupted, with notice to the party concerned, by the commencement of the penalty enforcement procedure. The time limit starts to run again if such procedure is idle for over six months for reasons not attributable to the breaching party.

Article 54

1. The Instituto Nacional de Estadística may only impose penalties for very serious or serious breaches by virtue of proceedings conducted for the purpose in pursuance of title VI, chapter II of the Ley de Procedimiento Administrativo ("the Administrative Procedure Act").
2. Penalties for minor offences are enforceable with no further procedure than a prior hearing granted to the party concerned.

ADDITIONAL PROVISIONS

First

Title to all the assets, rights and obligations resting with the Dirección General del Instituto Nacional de Estadística shall upon the coming into force of this Act be transferred to the autonomous body Instituto Nacional de Estadística.

Second

1. Title to the lease contracts on the properties used by the Dirección General del Instituto Nacional de Estadística shall upon the coming into force of this Act be treated as having been transferred to the autonomous body Instituto Nacional de Estadística.

2. Such transfer of title, for the purposes of article 114 of the revised, consolidated text of the Ley Reguladora de Arrendamientos Urbanos ("the Urban Lettings Act"), approved under Decree 4104/1964 of 24 December 1964, shall in no event operate as grounds for termination of such contracts.

Three

The amount of the penalties prescribed in article 51 may be regularly updated by the Government, at the proposal of the Minister of Economy and Finance, having regard to variation in the consumer price index.

Four

Within six months from the publication of this Act the Government shall enact regulations on the Higher Statistical Council under a Royal Decree.

TRANSITIONAL PROVISIONS

First

Civil servants and other staff affected by the organisational changes introduced by this Act shall continue to receive the entirety of their remuneration out of the budget appropriations against which such remuneration was hitherto debited until implementing regulations are enacted and the relevant updates are made to the budget.

Second

Pursuant to article 34(3), government ministries may enter into agreements with the Instituto Nacional de Estadística to computerise their files and records.

Three

The National Statistical Plan shall be issued within one year from the publication of this Act. Until that time, the designation of "statistics for central government purposes" shall apply to all those statistics presently regulated in the current laws and regulations on the matter.

FINAL PROVISIONS

First

The Government is hereby authorised to issue, at the proposal of the Minister of Economy and Finance, all such regulations as may be required to implement this Act.

Second

The Ministry of Economy and Finance shall effect all necessary budgetary changes to release the appropriations required for the performance of the provisions of this Act.

Three

This Act shall come into force on the day after it is published in the Boletín Oficial del Estado (the Spanish central government gazette).

REPEALING PROVISION

Any enactment of equal or lower rank that opposes this Act is hereby repealed, in particular:

(a) item 6 of the Ley de 25 de noviembre de 1944, sobre Bases de la Sanidad Nacional ("the National Health Act"); and

(b) the Ley de creación, composición y funciones del Instituto Nacional de Estadística, de 31 de diciembre de 1945 ("the National Statistical Institute Act").

Therefore,

I do hereby command all Spaniards, be they private individuals or public officials, to abide by and enforce this Act.

Palacio de la Zarzuela, Madrid, this 9 May 1989.

JUAN CARLOS R.

The President of the Government

FELIPE GONZÁLEZ MÁRQUEZ