

Confidentiality agreement 2018/68

concluded between

the Directorate-General Statistics – Statistics Belgium
of the
FPS Economy, SMEs, Self-employed and Energy

&

The Centre for Time Use Research of the Department of Sociology
of the
University of Oxford

Between

The Directorate-General Statistics – Statistics Belgium of the FPS Economy, SMEs, Self-employed and Energy, Boulevard du Roi Albert II 16, 1000 Brussels, represented by Mr. N. WAEYAERT, Director-General, of the one part,

AND

The Centre for Time Use Research of the Department of Sociology of the University of Oxford, Hayes House, 75 George Street, Oxford OX1 2BQ, represented by Mrs. C. PAXTON, Divisional Secretary, hereinafter “the researcher”, of the other part,

Hereinafter collectively referred to as the “parties”.

THE FOLLOWING IS HEREBY AGREED

Having regard to the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (hereinafter “General Data Protection Regulation”);

Having regard to the Law of 4 July 1962 on public statistics;

Having regard to the Law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data;

Having regard to the decision of the Directorate-General Statistics – Statistics Belgium 2018/68 of 7th December 2018 (hereinafter “the decision on data communication”);

Having regard to the information note on data transfers under the GDPR in the event of a no-deal Brexit adopted on 12 February 2019 by the European Data Protection Board;

THE PARTIES HAVE AGREED THE FOLLOWING

ARTICLE 1 – SUBJECT MATTER OF THE AGREEMENT

The Directorate-General Statistics – Statistics Belgium, in application of Articles 15 and 15*bis* of the Law of 4 July 1962 on public statistics, provides the data specified in *annex 1* to the researcher for the implementation of the project “Harmonisation of Belgian data Time Use Survey with Multinational Time Use Study standards”. The objectives and the duration of the research are exhaustively defined in *annex 2*.

The researcher undertakes to comply with all obligations arising from the Law of 4 July 1962 on public statistics, its implementing decrees and the present agreement. The agreement shall not, in any way, prejudice the provisions of the decision on data communication.

ARTICLE 2 – RESEARCH PERFORMERS

The research shall be performed by the team of the Centre for Time Use Research of the Department of Sociology of the University of Oxford. The identity of the individuals working within this department shall be communicated without delay and by email to the Directorate-General Statistics – Statistics Belgium. The identity of these individuals comprises the elements defined in *annex 3*. The researcher undertakes to inform, without delay and by email, the Directorate-General Statistics – Statistics Belgium of any change regarding the research performers.

ARTICLE 3 – OBLIGATIONS OF THE RESEARCHER

The researcher can exclusively use the data communicated for the purposes described in *annex 2*. He cannot take more copies than what is required for these purposes.

The researcher is prohibited from providing the data communicated or part of them to third parties, except with the consent of the Directorate-General Statistics – Statistics Belgium who will contact this new user with whom a confidentiality agreement will be established beforehand.

The researcher can only use the data communicated for the research duration specified in *annex 2*. After this period, the data and backups will be completely destroyed by the researcher. Without prejudice to Article 7, the prolonged use of these data, for the same purposes or for other purposes is not permitted. If the statistical objectives described in *annex 2* are fulfilled before the end of the period provided for in this agreement, the researcher will destroy the data and backups early.

The researcher is allowed to use the data communicated in order to make analyses, to carry out studies and to compile global and anonymous statistics. The data communicated cannot in any circumstance be used for control or repressive purposes.

The researcher undertakes to respect the confidentiality of the data communicated and to ensure their protection and security. He also undertakes to ensure that individual data cannot be identified directly or indirectly through the published results.

Without prejudice to the next paragraph, the researcher ensures that the data communicated are exclusively used for the purpose of carrying out the research referred to in *annex 2*, by natural persons to whom the researcher is bound under an employment contract within the meaning of the Law of 3 July 1978 on employment contracts.

In the event of a research performed by natural or legal persons bound to the researcher under a service contract, the researcher is liable for all damages that may occur in the context of this relationship in relation to the data communicated and undertakes to check the capacity of his contractual partner with respect to the data protection requirements.

The data communicated are made available to the researcher against a payment of five hundred euros (500 EUR) as a contribution to the costs made by the Directorate-General Statistics – Statistics Belgium for the production and transmission of data. Payment is due within one month after the receipt of data, to the following bank account: IBAN BE92 6792-0058-8623 BIC PCHQ BE BB, account beneficiary: Directorate-General Statistics – Statistics Belgium and with the following reference: “Confidentiality agreement 2018/68”.

ARTICLE 4 – OBLIGATIONS OF THE DIRECTORATE-GENERAL STATISTICS – STATISTICS BELGIUM

The Directorate-General Statistics – Statistics Belgium undertakes to provide all coded study data mentioned in *annex 1* to the researcher, for the purposes and the period specified in *annex 2*, provided that the necessary data are available within the Directorate-General Statistics – Statistics Belgium.

These data will be made available to the researcher by the Directorate-General Statistics – Statistics Belgium as soon as possible after concluding the present confidentiality agreement.

ARTICLE 5 – LIABILITY OF THE DIRECTORATE-GENERAL STATISTICS – STATISTICS BELGIUM

The parties expressly agree that the Directorate-General Statistics – Statistics Belgium is not liable for errors relating to the content of the data communicated.

The Directorate-General Statistics – Statistics Belgium cannot be held liable for the non-delivery of data resulting among others from their unavailability or from a technical, human, legal or regulatory event rendering the implementation of the agreement impossible or difficult.

ARTICLE 6 – DECISION OF THE DIRECTORATE-GENERAL STATISTICS – STATISTICS BELGIUM ON DATA COMMUNICATION

The present agreement is binding upon the parties without prejudice to the provisions of the decision on data communication 2018/68 by the Directorate-General Statistics – Statistics Belgium on 7th December 2018. The researcher acknowledges having read them and undertakes to respect their content.

ARTICLE 7 – MODIFICATION AND EXTENSION OF THE CONFIDENTIALITY AGREEMENT

Without prejudice to the right of the Directorate-General Statistics – Statistics Belgium to ask for a new agreement in case of significant modification of the economy of the agreement or in order to increase the efficiency of data communication, the researcher can ask for an amendment to the present agreement to

redefine the variables communicated, to extend the objectives of the research, to modify the elements inherent to his identity or to extend its validity.

To be valid, the amendment to the agreement comprises the application form properly filled in by the researcher as well as the decision on data communication by the Directorate-General Statistics – Statistics Belgium signed by its Data Protection Officer and its Director-General. The two original documents will be kept by the Directorate-General Statistics – Statistics Belgium.

In the event of a request to redefine variables, the researcher shall have to establish that these variables are necessary to continue the research project, without prejudice to the initial objective. Furthermore, such an addition cannot concern sensitive data or be of such a nature as to increase the risk of identification of the respondents.

In the event of an extension of the research purposes, the researcher shall have to establish that these purposes could be deduced from the initial request and that the new request only responds to a need for clarification in order to achieve the initial research project.

In the event of an modification of the elements inherent to the researcher's identity, he shall have to communicate the new elements to the Directorate-General Statistics – Statistics Belgium as soon as possible. The modification of the elements inherent to the researcher's identity concerns his name, address, legal representative or any other relevant information relating to his identification.

The researcher wishing to extend the validity of this agreement shall have to establish the elements relevant to the continuation of his research project without prejudice to the initial purpose. This extension is without prejudice to the right of the Directorate-General Statistics – Statistics Belgium to terminate the agreement for reasons relating to the security of information, the applicant's conduct in other files, the availability of data or any other reason making the performance of the agreement impossible or difficult in the light of technical, legislative or human requirements.

ARTICLE 8 – AVAILABILITY AND DISSEMINATION OF RESULTS

The researcher undertakes to make global and anonymous analyses, studies and statistics available free of charge to the Directorate-General Statistics – Statistics Belgium, which may use them freely.

The published results shall only be global and anonymous. At least fifteen days before their dissemination, the researcher shall submit them to the Directorate-General Statistics – Statistics Belgium, which can prohibit the dissemination. The term “dissemination” is understood in the broad sense, taking the evolution of the information society into account. It includes any kind of written, oral or online dissemination. With each dissemination of these global and anonymous study data, whatever the kind of dissemination, the Directorate-General Statistics – Statistics Belgium should be quoted as source as follow: “Source: **Statbel** (Directorate-General Statistics – Statistics Belgium)”.

ARTICLE 9 – DATA CONTROLLER AND MONITORING OF THE AGREEMENT EXECUTION

The researcher takes on the role of data controller under the General Data Protection Regulation without prejudice to the obligations defined in the present agreement and in the decision on data communication.

The researcher undertakes to indicate in annex 3 the natural person who will oversee compliance with all obligations relating to the present agreement, to the Law of 4 July 1962 on public statistics and its implementing decrees and to data protection standards. This person undertakes to effectively monitor the legitimate use of the data communicated.

ARTICLE 10 – MONITORING BY THE DIRECTORATE-GENERAL STATISTICS – STATISTICS BELGIUM AND BY THE DATA PROTECTION AUTHORITY

The researcher expressly agrees that the representatives of the Directorate-General Statistics – Statistics Belgium or the Data Protection Authority established by the Law of 3 December 2017 on the creation of the Belgian Data Protection Authority have, at any moment and without prior notice, access to the premises and IT infrastructure where the data communicated are stored, in order to monitor the implementation of the provisions of the decision on data communication, of the Law of 4 July 1962 on public statistics, of its implementing decrees, of the present agreement and of any other relevant standard.

Upon request, the Directorate-General Statistics – Statistics Belgium or the Data Protection Authority can obtain access to other ICT systems and premises, in order to check that no violation of this agreement is committed.

If the Directorate-General Statistics so requests, the researcher undertakes to provide, free of charge and without delay, all the elements supporting the information provided by the latter in the data request form.

ARTICLE 11 – NOTIFICATION TO THE DATA PROTECTION AUTHORITY AND THE DIRECTORATE-GENERAL STATISTICS – STATISTICS BELGIUM IN THE EVENT OF A PERSONAL DATA BREACH

The researcher undertakes to notify the Directorate-General Statistics – Statistics Belgium of all personal data breaches as soon as possible and at the latest twenty-four hours after the notification to the Data Protection Authority. The researcher shall give the notification by email to statbel.dpo@economie.fgov.be. The notification shall contain all useful and timely information to enable the Directorate-General Statistics – Statistics Belgium to take measures in respect of this breach, among others the development of technical measures rendering data unusable, the assessment of the risk of a new breach, the communication with the competent authorities and stakeholders or the setting up of an audit of the processes and operations within the framework of the investigation of the breach.

The researcher shall take all necessary measures to collaborate with the Directorate-General Statistics – Statistics Belgium in the investigation of the data breach.

The researcher undertakes to fully cooperate with the administrative and/or civil proceedings against the FPS Economy, SMEs, Self-employed and Energy in respect of this personal data breach and all related proceedings.

ARTICLE 12 – INTERPRETATION OF THE PROVISIONS OF THE CONFIDENTIALITY AGREEMENT

The researcher undertakes to inform the Directorate-General Statistics – Statistics Belgium in advance of any situation, which, considering the provisions of the present confidentiality agreement, could give rise to any doubt or ambiguity; an arrangement would then be sought, while remaining in the framework and spirit of this confidentiality agreement.

ARTICLE 13 – DURATION AND TERMINATION OF THE AGREEMENT

The present agreement is concluded for a period not exceeding the research duration as defined in *annex 2* without prejudice to the possibility to extend its validity according to Article 7 of the present agreement.

In the event of non-compliance with the provisions of this confidentiality agreement, the decision on data communication or with the general duty of care or diligence resulting in damages different from those resulting from the failure to fulfil an obligation of this agreement, the Directorate-General Statistics – Statistics Belgium reserves the right to terminate the confidentiality agreement by recorded letter.

This possibility is without prejudice to the right of the Directorate-General Statistics – Statistics Belgium to claim compensation for the damage suffered and to refuse to conclude any other confidentiality agreement with this researcher, any other organisation the researcher is a party to or any other organisation created to circumvent the prohibition, for a duration set by the Directorate-General Statistics – Statistics Belgium taking into account the circumstances of the failure to comply with his obligations. This prohibition may be lifted early if the researcher has taken measures deemed satisfying by the Directorate-General Statistics – Statistics Belgium in order to eliminate the risks of a new failure to comply with the obligations.

The Directorate-General Statistics – Statistics Belgium has the right, without any compensation being owed, to terminate the present confidentiality agreement at any time if, for technical, legal or opportunistic reasons, the provision of the coded study data specified in *annex 1* is no longer possible, temporarily or definitively.

ARTICLE 14 – PROCESSING OUTSIDE THE EUROPEAN ECONOMIC AREA

Any processing of the data communicated, even for a short period, outside the European Economic Area, must be approved beforehand by the Directorate-General Statistics – Statistics Belgium. Such a processing covers the storage on servers outside the EEA, among others.

ARTICLE 15 – SANCTIONS

The researcher has read Articles 22 and 23 of the Law of 4 July 1962 on public statistics, a copy of which is attached in *annex 4* of the present confidentiality agreement. These provisions are applicable without prejudice to other administrative and criminal sanctions, including the sanctions referred to in Article 83 of the General Data Protection Regulation.

ARTICLE 16 – BREXIT PROVISIONS

In the absence of an adequacy decision adopted by the European Commission following the Brexit, the parties are committed to deal a new agreement on the measures settled to comply with the General Data Protection Regulation.

This new agreement will be based on the standard data protection clauses adopted by the European Commission in Decision 2004/915 / EC of 27 December 2004 amending Decision 2001/497 / EC as regards the introduction of an alternative set of standard contractual clauses for the transfer of data personal data to third countries.

In the absence of a new agreement by April 30, 2019, this agreement will be suspended without notice and without compensation.

ARTICLE 17 – APPLICABLE LAW AND COMPETENT JURISDICTION

Only Belgian law is applicable to this agreement. In the event of a dispute, the courts of Brussels have exclusive jurisdiction.

Done in Brussels, on 15th February 2019 in as many copies as the number of parties to the agreement, each party acknowledging having received an original copy. Madame C. PAXTON, Divisional Secretary

**For the Directorate-General
Statistics – Statistics Belgium,**

For the researcher,

Mr N. WAEYAERT
Director-General

Madame X. PAXTON
Divisional Secretary