

Confidentiality agreement 2020/035

concluded between

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

&

The Joint Research Centre of the European Commission

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, hereinafter “Statbel”, of the one part,

AND

**The Joint Research Centre of the European Commission**, represented by Mr. A. PAGANO, Scientific Technical Support Officer , 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 2020/035 of 17 April 2020 (hereinafter “the decision on data communication”) ;

THE PARTIES HAVE AGREED THE FOLLOWING

#### **ARTICLE 1 – SUBJECT MATTER OF THE AGREEMENT**

Statbel, 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 “Measuring and Monitoring the absolute poverty (ABSPO)”. The objectives and the duration of the research are exhaustively defined in *annex 2*.

The data provided remain Statbel’s exclusive property, without prejudice to any contrary provisions in the applicable laws and regulations or provisions arising from contracts concluded with third parties. In no event shall the researcher be entitled to claim the right of ownership or any other real or intellectual right to the data provided.

The obligations in this agreement also apply *mutatis mutandis* to subcontractors. The researcher shall, where appropriate, be accountable for any damage resulting from the subcontractor's failure to comply with the contract. He shall ensure that the latter complies effectively with the rules on protection, integrity and confidentiality of the data made available to the researcher by Statbel. The information necessary for the implementation of the data processing and the subcontractor’s commitment to the provisions in this agreement are set out in Annex 5.

#### **ARTICLE 2 - RELATED COMMITMENTS**

The researcher undertakes to comply with the relevant provisions of the General Data Protection Regulation, of the law of 30 July 2018 on the protection of natural persons with regard to the processing of personal data and its implementing decrees, of the law of 4 July 1962 on public statistics and its implementing decrees.

The researcher further acknowledges that he has taken note of the decision concerning the data provision.

Finally, the researcher declares that the information in the micro data request are correct and up-to-date. The researcher undertakes to inform Statbel without delay of any changes concerning technical and organisational measures.

#### **ARTICLE 3 – RESEARCH PERFORMERS**

The research shall be performed by the Joint Research Centre. The identity of the individuals working within this department shall be communicated without delay and by email to Statbel. The identity of these individuals comprises the elements defined in *annex 3*.

The researcher undertakes to inform, Statbel of any change regarding the research performers.

The research is carried out by natural persons with whom the researcher has a commitment in the form of an employment contract or a statute.

Notwithstanding the preceding paragraph, research may be contracted out to natural persons or legal entities under an outsourcing contract provided that the researcher has obtained prior authorisation from Statbel and can demonstrate that the technical and organisational measures taken to ensure the protection, confidentiality and integrity of the data are guaranteed. The researcher shall be liable for any damages resulting from this cooperation.

#### **ARTICLE 4 – OBLIGATIONS OF THE RESEARCHER**

The researcher can exclusively use the data communicated for the purposes described in *annex 2*.

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

Without prejudice to Article 15, 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.

If the statistical purposes set out in *Annex 2* are achieved before the expiry of the period, the researcher shall 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. Under no circumstances may the analyses, studies and statistics carried out affect individual situations.

#### **ARTICLE 5 – FINANCIAL PROVISIONS**

The researcher shall assume all the costs associated with the processing of data and ensuring their protection, confidentiality and integrity. The researcher does not require Statbel to pay any costs for the execution of the contract and the related procedures.

#### **ARTICLE 6 – OBLIGATIONS OF THE DIRECTORATE-GENERAL STATISTICS – STATISTICS BELGIUM**

Statbel 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 Statbel.

These data will be made available to the researcher by Statbel as soon as possible after concluding the present confidentiality agreement.

#### **ARTICLE 7 – LIABILITY OF THE DIRECTORATE-GENERAL STATISTICS – STATISTICS BELGIUM**

The parties expressly agree that Statbel is not liable for errors relating to the content of the data communicated.

Statbel 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. If necessary, the parties will negotiate to find a suitable alternative solution.

#### **ARTICLE 8 – MAKING AVAILABLE AND DISSEMINATING THE RESULTS**

The researcher makes the analyses, studies and global and anonymous statistics produced in this way available free of charge to Statbel, who is free to use them.

The results may only be disseminated in global and anonymous form. At least fifteen days before their dissemination, the researcher must submit them to Statbel, who may prohibit their dissemination. In that case, the grounds for the prohibition will be communicated to the researcher and the parties will seek a solution.

The term ‘dissemination’ should be understood in a broad sense, taking into account the development of the information society and technologies. It includes every dissemination form, both written and oral as well as online.

Whenever data are disseminated, regardless of the form in which they are disseminated, Statbel must be mentioned as source in the following form: “Source : **Statbel** (Directorate-General Statistics - Statistics Belgium)”.

#### **ARTICLE 9 – DATA CONTROLLER AND CONTROL OVER THE EXECUTION OF THIS CONTRACT**

THE RESEARCHER SHALL BE THE CONTROLLER WITHIN THE MEANING OF THE GENERAL DATA PROTECTION REGULATION, WITHOUT PREJUDICE TO THE OBLIGATIONS LAID DOWN IN THIS CONTRACT AND IN THE DECISION CONCERNING THE DATA PROVISION.

In *Annex 3*, the researcher shall designate the natural person responsible for the day-to-day monitoring of compliance with the obligations laid down in the contract and in the standards referred to in Article 2. This person must have a hierarchical rank allowing effective control over the persons carrying out the research.

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

The researcher expressly agrees that the representatives of Statbel 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 comply with the provisions of the contract and the obligations of the standards referred to in Article 2.

If Statbel 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 Statbel 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](mailto:statbel.dpo@economie.fgov.be). The notification shall contain all useful and timely information to enable Statbel 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 – DATA PROTECTION, CONFIDENTIALITY AND INTEGRITY**

Taking into account the nature, the importance, the context and the purpose of the processing, as well as the varying degrees of likelihood and seriousness of the risks to the rights and freedoms of the data subjects, the researcher implements appropriate and suitable technical and organisational measures to ensure and demonstrate that the processing is carried out in accordance with the normative provisions applicable to the data protection.

The researcher further undertakes that individual data cannot be identified directly or indirectly through the disseminated results.

The researcher informs Statbel without delay of any changes concerning technical and organisational measures related to data processing. Without prejudice to Article 18, Statbel reserves the right to suspend the provision of data or to prohibit the researcher from using them, while the relevance and effectiveness of these new measures are analysed.

### **ARTICLE 13 – 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.

Where there is no agreement between the European Union and the United Kingdom on the Brexit or no adequacy decision of the European Commission pursuant to Article 45 of the General Data Protection Regulation, processing operations in the territory of the United Kingdom shall be subject to the same restrictions as those set out in the preceding paragraph.

### **ARTICLE 14 – DURATION AND TERMINATION OF THE AGREEMENT**

Without prejudice to Article 15, the present agreement is concluded for a period not exceeding the research duration as defined in *annex 2*.

### **ARTICLE 15 – EXTENSION OF THE CONFIDENTIALITY AGREEMENT**

Without prejudice to Statbel's right to request the conclusion of a new contract in the event of a change in the design of the contract, changes relating to technical and organisational measures taken to ensure the protection, confidentiality and integrity of data or to increase administrative efficiency, the researcher may request the extension of the contract according to a procedure established by Statbel.

If necessary, Statbel will take a new decision concerning the data provision. The old decision remains applicable *mutatis mutandis*.

### **ARTICLE 16 – MODIFICATION OF THE INITIAL PURPOSE OF THE PROCESSING**

Without prejudice to Statbel's right to request the conclusion of a new contract in the event of a change in the design of the contract, changes relating to technical and organisational measures taken to ensure the protection, confidentiality and integrity of data or to increase administrative efficiency, the researcher may request the modification of the purpose initially defined according to a procedure established by Statbel.

If necessary, Statbel will take a new decision concerning the data provision. The old decision remains applicable *mutatis mutandis*.

### **ARTICLE 17 – PROVISION OF NEW VARIABLES**

Without prejudice to Statbel's right to request the conclusion of a new contract in the event of a change in the design of the contract, changes relating to technical and organisational measures taken to ensure the protection, confidentiality and integrity of data or to increase administrative efficiency, the researcher may request the provision of new variables that are necessary for the research according to a procedure established by Statbel.

If necessary, Statbel will take a new decision concerning the data provision. The old decision remains applicable *mutatis mutandis*.

#### **ARTICLE 18 – SUSPENSION OF THE CONTRACT**

Without prejudice to any other grounds for suspension provided for in the contract, Statbel reserves the right to suspend the provision of data or to temporarily prohibit the researcher from using them if the researcher, due to his attitude towards data protection or compliance with data request procedures, does not meet the requirements of the quarterly audit of Statbel's partners.

The suspension or temporary prohibition referred to in the previous paragraph shall be notified to the researcher by registered letter and shall take effect ninety-six hours after its dispatch. These measures apply as long as the audit reveals that the partner does not comply with certain matters, but may be lifted early by Statbel.

The quarterly audit of Statbel's partners is an internal procedure for monitoring and verifying Statbel's partners in order to ensure the protection, confidentiality and integrity of the data provided by Statbel and the confidence of citizens and businesses in the institutions.

#### **ARTICLE 19 – TERMINATION OF THE CONTRACT**

In the event of non-compliance with the provisions of the confidentiality contract, with the provisions referred to in Article 2 or with the general duty of care and due diligence resulting in damages other than those resulting from the non-performance of the contract, Statbel reserves the right to terminate the confidentiality contract.

That option is without prejudice to the right reserved to Statbel to claim compensation from the researcher for the damages suffered and to refuse to enter into any other confidentiality contract with that researcher, any other authority to which that the researcher is a party or any authority established to circumvent that prohibition, for a period determined by Statbel, taking into account the circumstances of the breach of its obligations. This prohibition may be lifted prematurely if the researcher has taken measures that Statbel considers sufficient to eliminate the risks of a further breach of its obligations.

Statbel reserves the right, without being liable to pay any compensation, to terminate the contract at any time if, for technical, legal or expediency reasons, it is no longer possible, on a provisional or definitive basis, to provide the data described in *Annex 1*.

#### **ARTICLE 20 – MODIFICATION OF THE CONTRACT**

The parties may agree any necessary modifications to the contract. These will take the form of an amendment with identical terms for the conclusion of the agreement. The provisions of this contract remain applicable *mutatis mutandis*.

#### ARTICLE 21 – 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 22 – INTERPRETATION OF THE PROVISIONS OF THE CONFIDENTIALITY AGREEMENT

The researcher undertakes to inform Statbel 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 23 – 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 20 April 2020 in as many copies as the number of parties to the agreement, each party acknowledging having received an original copy.

For the Directorate-General  
Statistics – Statistics Belgium,

Nicolas  
Waeyaert  
(Signature )

Digitally signed  
by Nicolas  
Waeyaert  
(Signature)  
Date: 2020.04.28  
09:15:53 +02'00'

Mr N. WAEYAERT  
Director-General

For the researcher,



Mr. A. PAGANO  
Scientific Technical Support Officer



Annexes to the present agreement	
Annex 1	
	<ul style="list-style-type: none"> <li>• Definition of data requested</li> </ul>
Annex 2	
	<ul style="list-style-type: none"> <li>• Description of the research theme</li> <li>• Description of the research objectives</li> <li>• Indication of the research duration</li> <li>• Duration of data retention by the researcher</li> <li>• Research frequency</li> </ul>
Annex 3	
	<ul style="list-style-type: none"> <li>• Data controller</li> <li>• Identification elements of the research performers</li> </ul>
Annex 4	
	<ul style="list-style-type: none"> <li>• Extract from the law of 4 July 1962 on public statistics</li> </ul>

## Annex 1

### Definition of data requested

We request the Belgian HBS data for 2016, with comprehensive set of observations and variables from all its files (i.e. accommodation, cars, equipment, expenditure, household, income and members files). Our aim is to define minimum expenditure thresholds for absolute poverty measurement by different household types and societal circumstances.

Annex 2	
Research theme	
	Cross-country comparable poverty measurement from an absolute standpoint in the European Union. This requires mixing reference budget methods and statistical techniques using household expenditures.
Research objectives	
	The particular objective of the current research line is to analyse national HBS data to measure minimum reference budgets and expenditure thresholds in a robust and granular fashion in Belgium. Using household expenditure data, we can analyse expenditure patterns by COICOP category, income level, household composition, and define minimum expenditure thresholds to be used as inputs to poverty calculations on the basis of EU-SILC data.
Research duration	
	Until June 2021
Duration of data retention by the researcher	
	Until the end of the research project.
Research frequency	
	Unique pilot project.

Annex 3		
Supervisor		
	Name	Pagano
	First name	Andrea
	Position	Scientific Technical Support Officer
Address	Street	Via Enrico Fermi
	Number	2749
	Box	
	Postal code	21027
	Town	Ispra (VA), Italy
	Telephone number	+39 0332 78 3632
	Email	Andrea.pagano@ec.europa.eu
	Signature and date	
Identification elements of the research performers		
<p>In accordance with Article 2 of the confidentiality agreement, the researcher is requested to provide to Statbel, <b>by email</b> (<a href="mailto:statbel.datarequests@economie.fgov.be">statbel.datarequests@economie.fgov.be</a>), the following identification elements.</p> <ul style="list-style-type: none"> <li>- Name ;</li> <li>- First name ;</li> <li>- Complete address ;</li> <li>- Telephone number ;</li> <li>- Email address ;</li> <li>- Date of birth ;</li> <li>- National register number ;</li> </ul>		

## Annex 4

Extract from the law of 4 July 1962 on public statistics (translated in English from the French version)

Criminal law provisions.

Article 22.- A fine of between 26 francs and 10,000 francs shall be imposed on:

1° Any person who, being required to supply information pursuant to this law and its implementing decrees, fails to comply with those obligations;

2° Any person who opposes the investigations and findings referred to in Article 19 or the automatic enforcement as set out in Article 20 or hinders the activities of the people in charge of these investigations and findings or of the automatic enforcement;

3° Any person who uses for purposes not permitted by this law the individual data collected pursuant to this law or the global but confidential data referred to in the second paragraph of Article 2 (c).

4° Any person who fails to comply with the obligations or prohibitions concerning the collection of statistical data, imposed by a legal provision which is directly applicable and is issued by an institution of the European Union.

The penalty shall be doubled and imprisonment for a period of eight days to one month may also be ordered if the offence is committed within five years from the date on which a previous conviction on account of any of the offences referred to in this article became irrevocable.

Article 23.- The provisions of book I of the Penal Code, including chapter VII and Article 85, shall apply to the offences described in Article 22.