

# **FREE ACCESS TO ENVIRONMENTAL INFORMATION AND STATISTICAL CONFIDENTIALITY**

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## Summary

Although more and more detailed environmental information collected for administrative reasons is freely available on the internet, statistical data, is still kept confidential. The paper discusses new ways of administrative and statistical data needs, collection and management. It comes to the conclusion that the rules of statistical confidentiality have to be modified according to new demands with regard to public participation and reduction of response burden.

### **1. FREELY AVAILABLE ENVIRONMENTAL DATA**

The Aarhus Convention, signed by the European Community in 1998, recognised that increased public access to environmental information and the dissemination of such information contribute to a greater awareness of environmental matters. The Convention is a new kind of environmental agreement because it links environmental rights and human rights. It acknowledges that we owe an obligation to future generations, it establishes that sustainable development can be achieved only through the involvement of all stakeholders, it links government accountability, transparency and responsiveness with environmental protection.

Subsequently, the European Union adopted the Directive 2003/4/EC on Public Access to Environmental Information (and repealing the former Council Directive 90/313/EEC). The Directive ensures that any natural and legal person has a right of access to environmental information held by or for public authorities without stating a particular interest. The information must be supplied within reasonable time, with reasonable costs (preferably free of charge) and in a format requested by the applicant.

In addition, the Directive requires that public authorities make available and disseminate on a regular basis environmental information to the general public to the widest extent possible, in particular by using information and communication technologies. The definition of environmental information is broad, as for example on the state of the environment, on factors, measures or activities affecting or likely to affect the environment or designed to protect it, on cost-benefit and economic analyses used within the framework of such measures or activities and also information on the state of human health and safety, including the contamination of the food chain, conditions of human life, cultural sites and built structures in as much as they are, or may be, affected by any of those matters.

The right to information means that the disclosure of information should be the general rule and that public authorities should be permitted to refuse a request for environmental information only in specific and clearly defined cases. Grounds for refusal should be interpreted in a restrictive way, whereby the public interest served by disclosure (as for example in order to maintain statistical confidentiality, tax or company secrets) should be weighed against the interest served by the refusal.

## **2. EXAMPLE: AIR EMISSION DATA PROVIDED BY EPER**

One outcome of the spirit of the Aarhus-Convention is the adoption of the European Commission of a decision on the implementation of a European Pollutant Emission Register (EPER). As stated by the Commission Decision of July 2000 on the implementation of EPER according to Article 15 of Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC), the data on emissions from installations to air and water for specified pollutants for which certain threshold values are exceeded will be published every three years.

The report covers 50 pollutants which must be included if the threshold values indicated in Annex A1 of the EPER Decision are exceeded. The first reporting year was 2001 (although Member States also had the option of providing data for 2000 and 2002); this information had to be reported June 2003 at the latest. Not all industrial plants existing are considered for EPER reporting – only those activities which are listed in Annex A3 of the EPER Decision are included. The threshold values have been chosen in order to include about 90% of the emissions of the industrial facilities looked at, so as to prevent an unnecessarily high burden on all industrial facilities.

The reported data were recently made accessible on the internet for everybody: <http://www.eper.eea.eu.int/eper> (see annex). EPER gives access to information on the annual emissions of 9342 industrial facilities in the 15 Member States of the EU as well as Norway – mostly from the year 2001. On the internet, one may group information easily, by pollutant, activity (sector), air and water (direct or via a sewerage system) or by country. It is also possible to see detailed data on individual facilities. One can search by name or by clicking on a map. Alternatively one can look for the sources of a particular pollutant.

According to the EPER Guidance Document all EPER data are non-confidential. Nevertheless, under existing EU legislation the protection of personal data has to be ensured. Therefore, where an EPER facility is operated by a private person (and not a company), the emissions are included but the person's name and address (including the geographical co-ordinates) may be kept confidential.

The second round of reporting under EPER will take place in 2006 and will cover 2004 data. All new EU Member States will take part, so the number of facilities covered is expected to grow substantially.

The EU plans to establish the Protocol on Pollutant Release and Transfer Registers (PRTRs) under the Aarhus Convention. As a result EPER will eventually be upgraded to a fully comprehensive European PRTR that includes data on waste transfers. The first reporting year for the PRTR is expected to be 2007.

### 3. CONFLICTS WITH STATISTICAL CONFIDENTIALITY

In Germany, similar to other countries, the principle of legality requires from official statistics to have a legal basis which describes how to conduct and organise the collection of data. In particular it describes the obligation for the respondents to provide the requested information and as a consequence it assures statistical confidentiality. The obligation to provide information and confidentiality are described in §§ 15 and 16 of the German Federal Statistics Act („Bundesstatistikgesetz“).

In addition, in 1983 the German Federal Constitutional Court („Bundesverfassungsgericht“) has stated explicitly that no statistical information may be used for administrative or other purposes without the knowledge of the individual. The Court introduced a new legal right for the individual on the use of their private data („informationelles Selbstbestimmungsrecht“). As a direct consequence of the decision of the Court the planned population census in 1983 was cancelled.

Another recent development are the complaints of respondents on the increasing demand of administrative and statistical inquiries. The target to reduce the burden of bureaucratic procedures on enterprises is on the forefront of the political agenda: The Federal Minister of Economics and Labour has set up recently a project group which should facilitate administrative processes including statistics. In particular in the field of statistics, the Statistical Advisory Committee („Statistischer Beirat“) has recommended to increase the use of administrative records.

As one consequence, statistical needs are more and more covered by using the information of administrative registers. The flow of data from administration to statistics is, as a consequence of the decision of the Court, a one-way-street only which means, a flow of individual data from statistics to administration is forbidden.

One puzzling effect is that – while more and more administrative data are accessible by everybody via internet including the names and addresses of single installations – the same data in statistical offices have still to be kept confidential. In the case of the upcoming PRTR the information on waste are already available in statistical offices but according to the rules of confidentiality the current law does not allow to transfer the data to the administrative bodies. Instead the same data has to be inquired for the second time from the respondents starting from 2007 provided the legal rules will not be changed.

Another effect is that according to the above mentioned new Directive on Public Access to Environmental Information which will soon be implemented in Germany by revising the current Environmental Information Act (Umweltinformationsgesetz), selected statistical data which has strictly to be kept confidential according to § 16 of the Federal Statistics Act may be made available for the public as far as emissions are concerned in order to serve the public interest on environmental matters.

#### 4. POSSIBLE SOLUTIONS

Based on these findings, new ways of administrative and statistical data management which has to serve access to, collection of and confidentiality of environmental information have to be developed. Three of them are described in the following.

##### a) Intensify the use of administrative data for statistical purposes

Using administrative data for statistical purposes has many advantages. Besides reducing response burden, administrative data are reliable, comprehensive, timely and – while applying advanced computer technologies – easily transferrable between administrative and statistical institutions.

Therefore, the German Environmental Statistics Act („Umweltstatistikgesetz“) requests in two cases the use of data primarily generated for administrative monitoring of emissions (hazardous waste and air emissions) for statistical purposes:

However, the German experiences on the usefulness of administrative data sources for environmental statistics are mixed (Becker/Grundmann (2003)): On the one hand, these two administrative sources of environmental data provide relevant statistical information on key indicators of environmental policy. On the other hand, the statistical use of administrative data on environmental issues faces many problems which are well known from other fields of statistical concern.

In order to rationalise the use of existing data sources, administrative data management has to better serve the needs of statistical users (Statistischer Beirat (2002)). The right of statistical agencies to access administrative data should be extended substantially and - where appropriate - administrative data should be linked with other sources on micro-level – while maintaining high standards of statistical confidentiality.

In addition, the needs of administrative and statistical data should be harmonised. With regard to terminology, concepts, classifications and periodicity the data should better serve administrative and statistical purposes simultaneously.

The cooperation between administrative and statistical institutions should be institutionalised as a dialogue between the concerned parties in order to discuss and fine-tune on a regular basis all relevant aspects of data design and management. The dialogue may lead for example to a mutually agreed upon list of minimum standards on data management which provides guidelines with regard to data content, data quality, data exchange and timeliness of data (Eurostat (1999)).

##### b) Collect data for statistical and administrative use only once

The above mentioned example of the waste data needed for setting up PRTR has recently led to an intensive discussion between the concerned institutions of statistics, ministry of environment and others on how to solve the conflict between data confidentiality and reduction of response burden.

Since it will take substantive time to modify the Federal Statistics Act, practical solutions have to be found meanwhile. One solution is currently discussed in which data needed for both statistics

and administrative procedures have to be collected only once via one questionnaire which than the respondent splits into two and sending one to the statistical and the other to the administrative institutions.

While the share of respondents using modern survey tools such as the internet is increasing, the process of collecting the data will be even more simple because the PC decides which data has to be transferred to which authority.

The discussion on that solution has just started, many practical problems such as checking completeness or plausibility of data are not yet solved.

### c) Modify the rules of statistical confidentiality

The conflict between public interest, confidentiality and response burden can only solved by modifying the rules of statistical confidentiality itself. Although it will take many years for discussing the related problems and finding a reasonable compromise, the discussion should be started as soon as possible.

As stated by the Court, in particular personal data has to be kept confidential, however other data on enterprises or installations may be judged differently. In addition, data on matters of public interest may be treated differently as it will be the case when the upcoming new Environmental Information Act will be adopted.

In addition, data which is already made public via internet may be – as statistical data – treated differently compared to data which is only available as statistical data.

Above all, according to the rules set up by the Court, the respondent has to be informed at all times for which purposes his data is collected and where and how and for what reason it may be made available for the public.

The first solution a) was discussed in more detail because the discussion is ongoing since many years, the other two examples b) and c) however are recent developments which have to be elaborated in the coming months and years.

## References

1. Becker, B./Grundmann, Th. (2003): *Using administrative data for environmental statistics: German experiences, paper presented to the 54<sup>th</sup> ISI-Conference, Berlin/Germany.*
2. Eurostat (1999): *Administrative sources: Use of Administrative Sources for Business Statistics Purposes, Handbook of Good Practices, Version 1,an actual version of this handbook is available in the internet: <http://forum.europa.eu.int/irc/dsis/bmethods/info/data/new/adso/adso.html>*
3. Statistischer Beirat (2002): *Empfehlungen zur Weiterentwicklung der amtlichen Statistik (Recommendations for the Development of Statistics), Wirtschaft und Statistik, Wiesbaden, 784-791.*

# ANNEX

http://eper.eea.eu.int/eper/

 **EPER**  
The European Pollutant Emission Register

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**EPER**

## Welcome to EPER !

EPER is the **European Pollutant Emission Register** - the first European-wide register of industrial emissions into air and water.

It gives you access to information on the annual emissions of 9342 industrial facilities in the 15 Member States of the EU as well as Norway – mostly from the year 2001.

It lets you group information easily, by pollutant, activity (sector), air and water (direct or via a sewerage system) or by country.

It is also possible to see detailed data on individual facilities.

You can search by name or by clicking on a map. Alternatively you can look for the sources of a particular pollutant.

We hope you enjoy this website and we welcome your questions and comments!



Sources: GDP03 and AirWork03



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**EPER**

**Report of facilities**

You can search for a facility name, facility city/address or you can choose from a list of all facilities in a preselected area.  
 You can also search for a facility by using the ▶ [Map search](#) in the navigation menu.

<b>Area:</b>	Germany	<b>Facility name:</b>	<input type="text"/>
<b>Year:</b>	2001	<b>City/ Address:</b>	<input type="text"/>
<b>Pollutant:</b>	All	<b>Activity:</b>	All

[Show all facilities in selected area](#)

**1839 facilities found**

ⓘ Clicking the arrows in the column header will sort result either descending ▼ or ascending ▲.

#	Facility	Postcode	Address
1	<a href="#">Abfalldeponie</a>	DE-09228	[Redacted]
2	<a href="#">Abfalldeponie</a>	DE-79822	[Redacted]
3	<a href="#">Abfallentsorgungsanlage</a>	DE-35614	[Redacted]
4	<a href="#">Abfallentsorgungsanlage</a>	DE-65614	[Redacted]
5	<a href="#">Abfallverbrennungsanlage</a>	DE-60439	[Redacted]