COUNCIL OF EUROPE
COMMITTEE OF MINISTERS

RECOMMENDATION No. R (86) 1

OF THE COMMITTEE OF MINISTERS TO MEMBER STATES

ON THE PROTECTION OF PERSONAL DATA USED FOR SOCIAL SECURITY PURPOSES[1]

*(Adopted by the Committee of Ministers on 23 January 1986
at the 392nd meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Article 15.*b* of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its member states;

Bearing in mind the provisions of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, of 28 January 1981;

Aware of the need to protect the privacy of the individual in relation to the increased use of data processing in the field of social security;

Noting the high proportion of the population of the member states which is affected by the social security system, and the consequential volume of information at the disposal of social security institutions, some of which is sensitive;

Bearing in mind that the increased mobility of labour necessitates co-operation between social security institutions in different member states and a corresponding exchange of social security information across national frontiers;

Realising that the use of personal data is indispensable to the effective administration of the social security system;

Considering that a balance should be struck between the need for the use of personal data in the social security sector on the one hand, and on the other hand the necessary protection of the individual, especially when automatic data processing is involved,

Recommends that the governments of the member states:

— take as their basis, in their domestic law and practice concerning the use of personal data for social security purposes, the principles and guidelines set out in the appendix to this recommendation;

— ensure that this recommendation is widely circulated to the authorities responsible for administering the social security system.

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1. When this recommendation was adopted, and in application of Article 10.2.*c* of the Rules of Procedure for the meetings of the Ministers' Deputies:

— The Representative of France reserved the right of his government in regard to paragraph 8.1 of the appendix to the recommendation to the effect that this paragraph will not be applied by his country except insofar as additional safeguards are provided in pursuance of paragraph 8.2;

— The Representative of the United Kingdom reserved the right of his government to comply or not with the second subparagraph of paragraph 1.2, the second sentence of paragraph 3.3 and paragraph 5 of the appendix to the recommendation.

Principles and guidelines

1. *Scope and definitions*

1.1.   The principles and guidelines in this appendix apply to the use of personal data for social security purposes within the meaning of paragraph 1.2 in both the public and private sectors when such data are processed automatically.

1.2.   For the purposes of this recommendation:

— "personal data" means any information relating to an identified or identifiable individual. An individual shall not be regarded as "identifiable" if identification requires an unreasonable amount of time, cost and manpower;

— the expression "social security purposes" comprises all the tasks which social security institutions perform in regard to the following categories of benefits: sickness and maternity benefits; invalidity benefits; old-age benefits; survivors' benefits; benefits in respect of occupational injuries and diseases; death grants; unemployment benefits; family benefits.

1.3.   The member states may extend this recommendation to other benefits whether administered on a contributory or non-contributory basis as well as to data processed manually.

2. *Respect for privacy*

2.1.   Respect for the privacy of individuals should be guaranteed in the collection, storage, use, transfer and conservation of personal data used for social security purposes.

2.2.   Appropriate measures of control sufficient to guarantee the protection of the data should be provided for in each of the social security institutions.

3. *Collection and storage of the data*

3.1.   Collection and storage of personal data for social security purposes should be limited to such as are necessary to enable social security institutions concerned to accomplish their tasks.

The collection and storage of data of a sensitive nature should be carried out only within the limits laid down by domestic law. Furthermore, the collection and storage of personal data concerning racial origin, political opinions or religious or other beliefs should not be permitted unless absolutely necessary for the administration of a particular benefit.

3.2.   Wherever possible, personal data should be obtained by the social security institutions from the person concerned.

3.3.   Social security institutions may, if appropriate, consult other sources as provided for by domestic law. However, personal data of a sensitive nature may be obtained from other sources only with the informed and express consent of the person concerned or in accordance with other safeguards laid down by domestic law.

3.4.   Each social security institution should be required to draw up a list, which should be given adequate publicity, of the categories of data stored as well as the categories of persons covered by the data, the purposes for which they require those data, the authorities to which they regularly communicate data, and the categories of data so communicated.

4. *Use of the data*

4.1.   Personal data obtained by a social security institution for the accomplishment of a certain task may be used for other social security purposes within its competence.

4.2.   Exchange of personal data between social security institutions should be permissible to the extent necessary for the accomplishment of their tasks.

4.3.   Personal data should not be communicated outside the framework of social security for other than social security purposes except with the informed consent of the person concerned or in accordance with other guarantees laid down by domestic law.

5. *Social security numbers*

5.1.   The introduction or use of a single uniform social security number or similar means of identification should be accompanied by adequate safeguards provided for by domestic law.

6. Access of the person concerned to the data

6.1. Subject to provisions of national law concerning medical data or scientific research and statistics, the right of the individual to obtain and rectify data concerning him should not be restricted unless this is necessary for the suppression of fraud or abuse of the social security system or for the protection of the rights and freedoms of others.

6.2. Adequate publicity should be given to the ways and means of exercising the aforementioned right.

7. Data security

7.1. Each social security institution should implement adequate technical and organisational measures to ensure the security and confidentiality of personal data used for social security purposes.

7.2. The personnel of the social security institution and any other person participating in the processing of the data should be kept informed of such measures and the need to respect them.

8. Transborder flows of personal data used for social security purposes

8.1. The transborder transfer of personal data between social security institutions should be permitted to the extent necessary for the accomplishment of their tasks in application of international legal instruments relating to the social security sector.

8.2. The provisions of paragraphs 4.1, 4.2 and 4.3 are applicable to personal data which are subject to transborder flows. Wherever necessary, additional safeguards should be provided so that respect for the privacy of the person concerned is guaranteed in the state to which personal data are transferred.

9. Conservation of data

9.1. Personal data should not be held by a social security institution for a period longer than is justified by the accomplishment of its task or is required in the interest of the person concerned.

9.2. Storage periods should be laid down in respect of each category of benefit having regard to the particular features of that benefit, the data necessary for determining other types of benefit and the sensitivity of the personal data which it involves.

9.3. Where, however, in the interests of historical research, scientific research or statistics it is desirable to conserve personal data that are no longer used for social security purposes, the data should whenever possible be rendered anonymous. If it should prove necessary to keep the data in an identifiable form, adequate security measures should be taken within the bodies ultimately handling such data.