INE Instituto Nacional de Estadística	Institutional Commitment on Statistical Confidentiality

1. Entity to which the team belongs

Name of the institution	
Address	

2. Project data and project manager

Project title	
Project manager	
Position	
Telephone	
Email	
Website	

Mr./Mrs ……………………………………………………………………………………….

as manager in the above-mentioned project

DECLARES

To have read and understood the document entitled: THE STATISTICAL CONFIDENTIALITY. THE OBLIGATIONS IT IMPOSES. THE CONSEQUENCES OF ITS VIOLATION.

which is found below, and with which you undertake to ensure that only the personnel related to the project who have signed the document 'Declaration on Statistical Confidentiality' have access to the confidential microdata, and to provide the INE with said individual declarations.

And for the record, signs this document:

(Signature and date)

The Statistical Confidentiality. The obligations it imposes. The consequences of its violation

THE STATISTICAL CONFIDENTIALITY

Article 2 of Regulation 223/2009 of the Council and the European Parliament on European Statistics states that: 'Statistical Confidentiality' means protecting data related to individual statistical units obtained directly for statistical purposes or indirectly from administrative or other sources against any infringement of the right to privacy, which implies the prevention of the use of data for non-statistical purposes and their unlawful disclosure.

The Law on the Public Statistical Function (LFEP) of 1989, updated on 8 July 2022, in its Article 13 states that:

1. *Confidential data obtained by the statistical services both directly from informants and from other sources shall be protected and covered by statistical confidentiality.*

2. *Confidential data are understood to be data that allow statistical units to be identified, directly or indirectly, and thus disclose information on individuals. In determining whether a statistical unit is identifiable, account shall be taken of all relevant means that could reasonably be used by a third party to identify the statistical unit. Direct identification shall mean the identification of a statistical unit by its name or surname, its address or a publicly accessible identification number. Indirect identification shall mean the identification of a statistical unit by means other than direct identification.*

3. *Statistical confidentiality obliges the statistical services not to disseminate confidential data under any circumstances, regardless of their origin.*

THE OBLIGATIONS IT IMPOSES

Article 25.1 of Organic Law 3/2018 of 5 December on the Protection of Personal Data and the Guarantee of Digital Rights establishes that 'the processing of personal data carried out by bodies with powers related to the exercise of the public statistical function shall be subject to the provisions of their specific legislation, as well as to Regulation (EU) 2016/679 and this Organic Law'. Therefore, the provisions of the LFEP continue to apply in this matter, without prejudice to the inspection and sanctioning powers exercised by the Data Protection Agency, also with regard to statistical data.

Article 17 of the LFEP (sections 17.1 and 17.2) establishes that 'all statistical personnel', whether they are employed by the National Statistics Institute or by other statistical bodies of the General State, Autonomous or Local Administration, are obliged to maintain statistical confidentiality.

Also obliged to preserve it are 'all persons, natural or legal, who have knowledge of data covered by it on the occasion of their participation in any of the phases of the statistical process by virtue of a contract, agreement or arrangement of any kind'. (Art. 17.3 LFEP)

'This obligation remains in place even after the persons concerned have terminated their link with the statistical services'. (Art. 17.4 LFEP).

THE CONSEQUENCES OF ITS VIOLATION

Disciplinary measures for breaches of statistical confidentiality are both criminal and non-criminal.

1. According to Article 50 of the LFEP:

The following are very serious infringements:

a) Failure to comply with the duty of statistical confidentiality.

b) The use for purposes other than statistics of confidential data obtained directly from respondents by the statistical services..

2. *For staff providing services for the administration, or similar services by virtue of a contract, agreement or service, a criminal offence may be considered as a criminal offence under Articles 197, 198 and 199 of the Penal Code:*

Article 197.

1. *Anyone who, in order to discover secrets or violate the privacy of another, without their consent, (...) shall be punished with imprisonment of one to four years and a fine of twelve to twenty-four months.*

2. *The same penalties shall be imposed on anyone who, without being authorised to do so, seizes, uses or modifies, to the detriment of a third party, the confidential personal or family data of another person recorded in computer files or media (...).*

Article 198.

The authority or public official who, outside the cases permitted by law, without legal cause for a crime and taking advantage of their position, carries out any of the conducts described in the previous article, shall be punished with the penalties respectively provided for in the upper half of the article and, in addition, with that of absolute disqualification for a period of six to twelve years.

Article 199.

1. *Any person who discloses the secrets of others, of which they have knowledge by reason of their trade or employment relations, shall be punished by imprisonment for a term of one to three years and a fine of six to twelve months.*

2. *Any professional who, in breach of their obligation of secrecy or reserve, divulges the secrets of another person, shall be punished by a prison sentence of one to four years, a fine of twelve to twenty-four months and special disqualification from the profession for a period of two to six years.*

3. *In the specific case of civil servants, the violation of statistical confidentiality may constitute one of the offences foreseen for civil servants, as set out, among others, in Articles 417 and 442 of the Criminal Code:*

Article 417.

The authority or public official who discloses secrets or information of which they have knowledge by reason of their office or position and which should not be disclosed shall be liable to a fine of twelve to eighteen months and special disqualification from public employment or office for a period of one to three years.

If the disclosure referred to in the previous paragraph results in serious damage to the public cause or to a third party, the penalty shall be imprisonment of one to three years, and special disqualification from public employment or office for a period of three to five years. (...)

Article 442.

The authority or public official who makes use of a secret of which they have knowledge by reason of their office or position, or of privileged information, with the intention of obtaining an economic benefit for himself or for a third party, shall incur the penalties of a fine of three times the benefit sought, obtained or facilitated and special disqualification from public employment or position and from the exercise of the right to passive suffrage for a period of two to four years. If they obtain the benefit sought, they shall be sentenced to one to three years' imprisonment, a fine of six times the amount of the benefit sought, obtained or facilitated and special disqualification from public employment or office and from exercising the right to passive suffrage for a period of four to six years.

If serious harm to the public cause or to a third party results, the penalty shall be imprisonment for one to six years, and special disqualification from public employment or office and from the exercise of the right to passive suffrage for a period of nine to twelve years. For the purposes of this Article, inside information means any information of a precise nature which is held solely by reason of public office or position and which has not been notified, published or disclosed.

4. *In cases where criminal proceedings are applicable, these will be pursued, without prejudice to the fact that in the event of a non-conviction, proceedings may be initiated in the jurisdictional order that corresponds to the link with INE.*

1. Team component data

Name and surname(s)	
Foreign identity document no.	
Position	
Telephone	
Email	
Address	

2. Project data

Project title	
Project manager	

Mr./Mrs ……………………………………………………………………………………

as a participant in the above-mentioned project

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The Law on the Public Statistical Function (LFEP) of 1989, updated on 8 July 2022, in its Article 13 states that:

> 4. Confidential data obtained by the statistical services both directly from informants and from other sources shall be protected and covered by statistical confidentialit.

> 5. Confidential data are understood to be data that allow statistical units to be identified, directly or indirectly, and thus disclose information on individuals. In determining whether a statistical unit is identifiable, account shall be taken of all relevant means that could reasonably be used by a third party to identify the statistical unit. Direct identification shall mean the identification of a statistical unit by its name or surname, its address or a publicly accessible identification number. Indirect identification shall mean the identification of a statistical unit by means other than direct identification.

> 6. Statistical confidentiality obliges the statistical services not to disseminate confidential data under any circumstances, regardless of their origin.

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4. For staff providing services for the administration, or similar services by virtue of a contract, agreement or service, a criminal offence may be considered as a criminal offence under Articles 197, 198 and 199 of the Penal Code:

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4. Anyone who, in order to discover secrets or violate the privacy of another, without their consent, (...) shall be punished with imprisonment of one to four years and a fine of twelve to twenty-four months.

5. The same penalties shall be imposed on anyone who, without being authorised to do so, seizes, uses or modifies, to the detriment of a third party, the confidential personal or family data of another person recorded in computer files or media (...).

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