RECOMMENDATION No. R (83) 10
ON THE PROTECTION OF PERSONAL DATA
USED FOR SCIENTIFIC RESEARCH AND STATISTICS

(Adopted by the Committee of Ministers on 23 September 1983
at the 362nd 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 members;

Aware of the need to protect the privacy of individuals in relation to the growing use of data processing in the field of scientific research and statistics;

Convinced that the use of personal data is often a necessary condition for the progress of science;

Considering the importance of scientific research as a value in itself and also as a vital factor for the progress of society;

Recalling the derogations allowed in favour of scientific research and statistical activities in the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data;

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 the Federal Republic of Germany reserved the right of his Government to comply or not with the principles set out in points 1.1, 3 and 10.1 of the appendix to the recommendation;
   — the Representative of Ireland reserved the right of his Government to comply or not with the principles set out in the appendix to the recommendation;
   — the Representative of Norway reserved the right of his Government to comply or not with the principle set out in point 2.2 (first sentence) of the appendix to the recommendation;
   — the Representative of the United Kingdom reserved the right of his Government not to comply with the recommendation as far as it relates to manually processed data.
Noting that derogations of this kind are also provided for in a number of member states in existing legislation or in legislation being prepared relating to the protection of data;

Bearing in mind the Statement of the European Science Foundation concerning the protection of privacy and the use of personal data for research;

Mindful of the needs of the research community;

Considering that a balance should be struck between the need for research and statistics, on the one hand, and the necessary protection of the individual especially when automatic data processing is involved, on the other;

Aware of the need to establish suitable procedures designed to reconcile the interests of the various parties concerned,

Recommends that the governments of member states:

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

— ensure that this recommendation is widely circulated in the public and private circles concerned with scientific research and statistics.

Appendix to Recommendation No. R (83) 10

1. Scope and definitions

1.1. The principles and guidelines in this appendix apply to the use of personal data for scientific research and statistics in both the public and private sectors, irrespective of whether such data are processed automatically or manually.

1.2. For the purposes of this recommendation:

“Personal data” means any information relating to an identified or identifiable individual. An individual should not be regarded as “identifiable” if the identification requires an unreasonable amount of time, cost and manpower.

“Research” should also comprise the collection and the processing of personal data for statistical purposes.

1.3. The member states may apply these principles and guidelines to information relating to groups of persons, associations, foundations, companies, corporations and any other bodies consisting directly or indirectly of individuals, whether or not such bodies possess legal personality.

2. Respect for privacy

2.1. Respect for the privacy of individuals should be guaranteed in any research project requiring the use of personal data.

2.2. Whenever possible, research should be undertaken with anonymous data. Scientific and professional organisations, as well as public authorities, should promote the development of techniques and procedures securing anonymity.

3. Consent of the person concerned

3.1. Any person who furnishes data concerning himself should be adequately informed about the nature of the project, its objectives and the name of the person or body for whom the research is carried out.

3.2. If the person from whom data are sought is not under an obligation to provide the data, he should be informed that he is at liberty to give or withhold his co-operation. He should have the right at any time to withdraw from further co-operation without giving reasons.

3.3. If, given the purpose pursued, the information mentioned in paragraph 3.1 above cannot be disclosed either in whole or in part before the data are collected, the person concerned should be fully informed after the collection is completed, and be free to continue his co-operation or withdraw it and, in the latter case, be entitled to ask for the erasure of the data collected.

3.4. Special protection measures should be taken in connection with persons from whom data are being collected and who are not in a position to defend their interests or are not able to give their consent freely.

4. Use of the data

4.1. Personal data obtained for research should not be used for any purpose other than research.
In particular, they should not be used to make any decision or take any action directly affecting the person concerned, except within the context of the research or with the express consent of the person concerned.

4.2. Personal data collected for the purpose of a given research project and with the consent of the persons concerned should not be used in connection with another research project substantially different in its nature or objects from the first, except with their consent. However, where it would be impracticable to obtain such consent by reason of the lapse of time or because of the large number of persons concerned, the previously collected data may be used in conformity with other safeguards laid down by domestic law.

4.3. Both public and private bodies should have the right to use for their own research purposes the personal data which they hold for administrative purposes. If in the course of such research personal data are added to files already held by the administrative body, or its files are altered, these new files should not be made available to administrative personnel dealing with individual cases, except with the consent of the person concerned.

4.4. Personal data may be released by public or private bodies for the purpose of research only with the consent of the person concerned or in accordance with other safeguards laid down by domestic law.

5. Collection of samples

5.1. Access by researchers to public population registers should be facilitated to enable them to obtain the samples required for making surveys. Subject to any limitations which may be imposed by national authorities in certain cases, such samples may reveal name, address, date of birth, sex and occupation.

6. Access of the person concerned to the data

6.1. The individual's right to obtain and rectify data concerning him may be restricted in cases where the data are collected and held solely for statistical or other research purposes and where the resulting statistics or results of the research do not readily identify the individual and where there are adequate security measures to ensure his privacy at every stage of the research project, including conservation of data for future use.

6.2. This provision should not apply where in view of the nature of the research the individual can demonstrate a specific interest which deserves protection.

7. Data security

7.1. Research projects should make express provision for technical and organisational measures to ensure the security and confidentiality of data.

8. Publication of data

8.1. Personal data used for research should not be published in identifiable form unless the persons concerned have given their consent and in conformity with other safeguards laid down by domestic law.

9. Conservation of data

9.1. In each research project, it should be specified as far as possible whether, on completion of the project, the personal data collected will be destroyed, rendered anonymous or kept, and, in the latter case, under what conditions.

9.2. When the consent of the persons concerned is required for carrying out a research project, it should also include the possibility of the data collected being kept after completion of the programme. If it has not been possible to seek consent for the conservation of the data, they may be kept on condition that conservation is carried out in accordance with safeguards laid down by domestic law.

9.3. Before a decision is taken on the destruction of personal data held by the public authorities, the possible future use of such data for research should be examined, preferably in consultation with the institutions responsible for the conservation of public records.

9.4. If, on completion of a project, the personal data that have been used are not destroyed or rendered anonymous, their deposit should be encouraged with institutions entrusted with the task of keeping data and in which adequate security measures have been taken.

10. Establishment of boards within the research community

10.1. The establishment of boards within the research community should be encouraged with a view to contributing towards the development of the principles and guidelines contained in this recommendation.
EXPLANATORY MEMORANDUM

Introduction

1. As a result of the enormous growth of data processing in recent decades, numerous questions have arisen as to the threat which these new techniques may pose to freedoms.

2. Conscious of this threat and of its role in the defence of freedoms, the Council of Europe has taken steps, since the early 1970s, to protect the individual from misuse of personal data.

   Having adopted two resolutions on the protection of the privacy of individuals vis-à-vis electronic data banks, one in 1973 relating to the private sector and one in 1974 for the public sector, the Council's Committee of Ministers decided to prepare a convention incorporating the principles laid down in the two resolutions and giving them binding force.

   The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data was opened for signature by member States on 28 January 1981.

3. Alongside these international measures, general legislation on data protection has been passed in several member states (Sweden, the Federal Republic of Germany, France, Denmark, Norway, Austria, Luxembourg and Iceland). In four member states data protection is included in the constitution as a fundamental right (Article 35 of the Portuguese Constitution of 1976, Article 18 of the Spanish Constitution of 1978, Article 1 of the Austrian Data Protection Act of 1978, which lays down a fundamental right to data protection, and Article 10 of the 1983 revised Constitution of the Netherlands). In other member states (notably Belgium, 

---

1. Resolution (73) 23 and Resolution (74) 29 adopted by the Committee of Ministers of the Council of Europe on 26 September 1973 and 20 September 1974 respectively.

2. On 31 January 1984, the convention had been signed by Austria, Belgium, Denmark, France (which ratified it on 24 March 1983), the Federal Republic of Germany, Greece, Iceland, Italy, Luxembourg, Norway, Portugal, Spain (which ratified it on 31 January 1984), Sweden (which ratified it on 29 September 1982), Turkey and the United Kingdom.
4. The Convention of 28 January 1981, though an important achievement for the Council of Europe's member states, was far from being the last stage in the organisation's work on data protection. It has in fact been thought necessary to reflect upon the application and possible adaption of the basic principles stated in the Convention to specific sectors, in the light of the particular requirements of each.

5. With this in view, a Recommendation to member states on regulations for automated medical data banks was adopted by the Committee of Ministers on 23 January 1981.

6. The use of personal data for research purposes also calls for specific regulations.

Personal data frequently play an important, if not vital, role in research. Sociological studies, with their questionnaires and interviews, are probably the best-known example of interest in personal data, but there are many others. Special studies into cancer incidence or multiple births also demonstrate how greatly epidemiology, for instance, depends on access to named data which can be used for research based on the case histories of individuals. The same is true of psychology and educational research. Thus disciplines may vary but broad areas of research still require information about identifiable persons.

For a long time no particular justification for the use of personal data was necessary. The mere fact that data were needed for research was sufficient, and the few rare criticisms were met by reference to codes of professional ethics.

7. Since the beginning of the 1970s, however, the situation has begun to change as a result of developments in data protection legislation in several member countries. The need for rules stipulating the conditions under which personal data may be collected, stored, transmitted or used in any form is coming to be recognised openly in legislation.

8. Research is bound by the same fundamental rules as any other activity involving the use of personal data. The laws on data protection do not recognise privilege. They may well adapt their requirements to

the particular structure and specific objectives of the information process but they do not allow any exception to the duty to observe the restrictive principles which they lay down.

Thus data protection legislation may be clear in its attitude, but the consequences are no less so. With or without data protection, longitudinal studies on child development demand knowledge of a minimum of personal data. The etiology of heart diseases and the efficiency of certain forms of treatment cannot be understood without access to information on the behaviour of patients. Any critical analysis of social policy rests largely on the availability of microdata. No one can seriously claim that research in any of these cases should be abandoned on grounds of data protection.

Article 9.3 of the 1981 Convention itself acknowledges that there may need to be exceptions to general data protection laws in certain areas and expressly recognises this fact in the case of research and statistics.

9. With the growth of legislation, researchers are becoming anxious about the possible effects of data protection on research. They have more or less recognised the need for supervisory machinery, but the problem has been seen as a purely internal one to be settled by the research community itself. This accounts for the importance attached to codes of professional ethics, particularly by professional associations which, as in the case of medical associations, have a long tradition in this field and have had no hesitation in modifying professional regulations to meet the demands of improved data protection.

But despite the great efforts made, even in sectors such as sociology, political economy and statistics, which were without codes of professional ethics, rules for research have remained the exception, and where they do exist they cover only certain aspects of data protection.

Furthermore, as self-regulation expresses only the views and opinions of the researchers, they have been open to criticism, mainly for their inability to guarantee sufficient protection. Thus legislative or administrative action remains necessary. Self-regulation can supplement it, but cannot take its place.

10. In the absence of adequate professional rules and in view of their need for guaranteed access to the personal data which they require, researchers have come to reconsider their attitude. The principles adopted at the Bellagio Conference in 1977 and confirmed in 1978 at another
meeting in Cologne on “Emerging Data Protection and the Social Sciences’ Need for Access to Data” testify to this change. Researchers admit the importance of professional rules but at the same time call for regulations to protect privacy, urging the collection of voluntary data, introducing the concept of “informed consent” as a guiding principle and giving priority as far as possible to the use of anonymous data.

11. Despite certain differences, occasionally pronounced ones, the same tendencies are to be found in the work which led to the adoption by the Assembly of the European Science Foundation (ESF) on 12 November 1980 of the Statement concerning the protection of privacy and the use of personal data for research. This Statement, which aims to establish a common core of rules, gives special attention to the improvement of access and the institution of supervisory machinery capable of ensuring effective protection in the light of the principles stated in legislation on data protection.

12. As early as 1979 the Committee of experts on data protection felt the need for the Council of Europe to pursue further study of the problems of using personal data for scientific research or statistics. In the following year the committee decided to set up a working party to study these problems in the light of the Statement on the protection of privacy and the use of personal data for research adopted by the European Science Foundation on 12 November 1980 and the results of the 10th Colloquy on European Law organised by the Council of Europe in Liège from 23 to 25 September 1980 on the theme “Scientific Research and the Law”. The working party held three meetings between November 1980 and March 1982 during which it prepared the text of a draft Recommendation on the protection of personal data used for scientific research and statistics. Representatives of the European Science Foundation also participated in this work as observers.

Finalised by the Committee of experts on data protection at its seventh meeting from 27 to 30 September 1982, the draft Recommendation was revised by the CDCJ at its thirty-ninth meeting from 27 June to 1 July 1983 and transmitted to the Committee of Ministers who adopted it on 23 September 1983 at the 362nd meetings of the Ministers’ Deputies.

Detailed comments

Preamble

13. The use of personal data for research is an area which requires specific rules. In the formulation of basic principles for states to observe in their laws in this field, account must be taken of the need to reconcile the various interests involved. The importance of these interests is reaffirmed in the Recommendation’s preamble, which concludes by stating the need to strike the balance between the requirements of research and the vital necessity of protecting individual privacy.

14. The arguments put forward in the preamble for specific rules in this field are followed by a reference to the derogations allowed in the case of scientific research and statistics under some countries’ data protection legislation and in the Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data.

But it should be noted that the present Recommendation aims to establish general rules for the sector in question, not simply ad hoc rules on restriction of access by the person concerned as allowed under Article 9.3 of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

Scope and definition

15. As it is explicitly stated in paragraph 1.1, the Recommendation covers personal data used for research and statistics in both the public and private sectors.

16. In regard to public sector statistics it will be recalled that they are normally governed by specific legislation, some of which lays down rules on statistical secrecy and sometimes on data protection.

Apart from the importance of the use of statistics in the private sector, the extension of the Recommendation’s scope to this field was considered necessary given the different circumstances existing in the member states and the advisability of harmonising legislation in such a way as to take better account of data protection requirements.

17. At a general level, it is to be understood that the provisions of this Recommendation do not affect those contained in the domestic law of the member states which confer on the individual a more extensive protection, a possibility expressly provided for in Article 11 of the Convention.

18. Both automatic and manual processing are covered by the Recommendation since the ethics of research apply equally to them, although the Convention confines itself to the former. In fact, the Convention allows member states the discretion to extend its scope to manual processing.
19. The definition of "personal data" in paragraph 1.2 has been taken over in full from the Convention of 28 January 1981. But it was considered appropriate to add the explicit provision that an individual is not to be regarded as identifiable if identification would necessitate unreasonable time, cost and manpower. It is an objective notion and it is understood that it will be for the researcher to show, taking into account his situation and the means at his disposal, the difficulty of identification.

From the point of view of the effectiveness of protection, this is a perfectly legitimate conception. To limit the rules to cases where individuals are clearly identified would not only rule out the really critical situations but would encourage fraud.

20. As stated in the title, the Recommendation covers scientific research and statistics.

Scientific research is not defined but may be taken to cover both the exact sciences and social sciences. It should also be noted that the Recommendation covers only "information aspects" of research, excluding other aspects, for example, its practical use, its moral value or whether it is prejudicial to other interests, etc.

21. Like the Convention, paragraph 1.3 of the Recommendation allows member states to extend protection to legal persons.

Respect for privacy

22. A direct consequence of the fundamental principle of respect for the privacy of individuals, referred to in paragraph 2.1, is the duty to refrain, whenever possible, from using personal data for research, as stated in paragraph 2.2.

Researchers must therefore reconsider their methods carefully. Instead of taking access to personal data for granted, they must consider to what extent the use of such data can be reduced or even replaced by other methods which are as cost-saving and as capable of maintaining the quality of research as the use of personal data. A request for personal data is justified only if the particular purpose of the research work concerned cannot be achieved by other means.

23. Bearing in mind the definition of "identifiable" in paragraph 1.2, we must agree that the anonymity referred to in paragraph 2.2 can only be de facto anonymity, which, for the time being at least, is the best way of reconciling access to data for research purposes with the requirements of data protection.

Consent of the person concerned

24. "Informed consent" is only required in cases where the person concerned himself communicates the information at the time of an interview, a questionnaire etc.

With this in mind, paragraph 3.1 provides that the subject of the research should be provided with adequate information on the nature, objectives and the initiator of the research project so that there is better communication between the latter and the person concerned.

25. As stated in paragraph 3.2, the point is to enable the individual to assess the use to be made of his personal data and, where he is not bound by an obligation, whether imposed directly by law or arising out of a contract, to take his own decision as to whether he should give or withhold his co-operation ("informed consent").

In the absence of such an obligation, the subject will be able to withdraw his co-operation at any stage during the collection of data.

26. Problems may conceivably arise where an individual undertakes a contractual commitment to provide information to a researcher. While recognising that this will arise in only a few cases, if the individual unjustifiably breaks the contract the consequences of the breach of contract should be determined in accordance with domestic law.

27. A request for consent may make co-operation between researchers and the individuals concerned more difficult, but will not necessarily result in refusal. On the contrary, Individuals are frequently more prepared to give detailed and precise answers when they are asked for permission to use the data provided and when an explanation is given of the measures taken to protect the data.

28. The emphasis placed on informed consent has however been the subject of lively criticism, and it has even been said that it makes all research impossible. The mere fact of requesting authorisation and providing an explanation as to the research objectives is often said to arouse suspicion, which in fact modifies the attitude of the research subject, making effective research, particularly in the field of psychology, impossible. For that reason paragraph 3.3 provides that in some cases the person concerned may be informed immediately after the data required for completion of the research project have been collected.
Naturally the person may refuse to take part, once the true purpose of the project has been disclosed, and may, where appropriate, request the destruction of information supplied since the beginning of the research.

29. Rules governing research needs must do more than assert the need for consent. Account must also be taken of possible limits to conscious and active participation by research subjects. These limits may relate to their particular physical, moral or psychological situation. Paragraph 3.4 therefore provides for special measures (by a supervisory authority, for example) whenever consent may be seriously impaired by not being consciously or freely given (in the case of persons not responsible for their acts or subject to pressure or sanctions), so as to make up for shortcomings in communication between researchers and subjects.

Use of the data

30. The wording of paragraph 4.1, which lays down the rule relating to the purpose of the research and is to be found in the same form in the Statement of the European Science Foundation, again emphasises the importance of the fundamental principle of observance of the ultimate purpose. Where research is concerned, this principle is accompanied by the stipulation that data collected for research purposes must in no cases be used for the taking of decisions concerning the research subjects. This is one aspect of what is termed "functional separation", which is sometimes criticised by researchers. In the medical field, for example, any research project on the etiology of heart diseases may, and perhaps even should, be accompanied in many cases by therapeutic treatment of the persons concerned, and a register of cases of cancer is not simply a source of abstract information but a possible basis for improving the treatment of certain patients. In none of these examples, however, is abandonment of the principle of functional separation warranted. The desire to make use of the results of research for specific treatment can easily be met even with functional separation. All that is needed is to inform the research subject and seek his consent, as provided in the second sub-paragraph of this paragraph. As the aim is to improve his condition, nothing would seem more natural than to seek his co-operation. There may be cases where a serious threat to the health of an individual requiring immediate clinical treatment might call for some other method. But such cases must be considered in relation to the conditions and limits of consent, as prescribed by medical ethics, and not in the context of functional separation.

31. Paragraph 4.2 provides for safeguards where data collected for a specific research project and which have not been rendered anonymous are used for further but different research or some new project. Clearly the problem will not arise where the person concerned has already been informed before giving his consent of the possibility of the data collected being used for a different purpose.

Even if research is still the purpose, it must not be assumed that once the individual has agreed to the use of data for research no further permission is normally required. Indeed, the aim cannot be simply to do away with the need for consent, which under this paragraph must still be renewed in the case of a research project substantially different in its nature or its object from the one to which the individual had originally consented.

However, the need for renewed consent for a further use of the data may jeopardise the research objectives for reasons connected with time or cost. The normal procedure must be replaced by a rule that takes account both of the rightful expectations of researchers and of the need to protect the persons concerned.

Thus it is for the domestic law to lay down the safeguards and conditions in which data may be re-used which are sufficient both to offer an alternative to consent and to ensure a degree of equivalent protection. In states having a law on data protection the safeguards might take the form of an authorisation given by the body charged with looking after the protection of data; in other states, the same role might be performed by special boards created within the research community or other procedures having similar ends in mind might be followed.

32. Paragraph 4.3 seeks to regulate the use of personal data for research carried out in public or private bodies (in-house research). It should be pointed out that the expression "public body" covers only specific bodies and not the administration of the state as a whole.

Research is frequently of understandable interest to administrative authorities, and there are good reasons for using internal resources. The first part of the paragraph therefore reasserts the principle of internal research. But the second part provides safeguards to separate the research and administrative functions, the aim being to avoid a situation in which researchers are at the same time decision-makers taking measures affecting the research subjects without their agreement.

33. Paragraph 4.4 provides an important exception, in favour of research, to the fundamental principle prohibiting the communication to third parties of confidential personal information. This exception is, however, subject to safeguards to be prescribed by domestic law.
The considerations which determine the communication of the data might be the degree of security of the data, the importance of the project, the need for identifiable data and the danger to the person concerned of the using of the data for research purposes. One absolute condition of communication is anonymity in the publication of the research findings, as provided for in paragraph 8.1, unless the person concerned has consented to the publication of the information in identifiable form and domestic law is not opposed to communication.

Collection of samples

34. Nowadays research depends increasingly on the use of data already collected by various state bodies. As long as access is not guaranteed, at least partly, as recommended in paragraph 5.1, the expansion and subject matter of research will depend on the discretion enjoyed by administrative bodies in communicating information.

35. The term “public population registers” means registers containing information kept by public authorities on the population at national or local level. In countries without such registers, researchers should be given access to similar registers.

36. As is apparent from the laws on freedom of information passed in several states, and also from Recommendation No. R (81) 19 on the access to information held by public authorities, adopted by the Committee of Ministers of the Council of Europe on 25 November 1981, guaranteed access is one means whereby existing knowledge may be shared and a basis thereby provided for critical assessment of administrative measures.

37. By emphasising the access to data required to compile samples, paragraph 5.1 indicates that minimum information must be made available in all circumstances.

38. The restrictions covered in the second part of this paragraph are sometimes allowed by the law or practice of some states and relate to the prohibition of divulging certain categories of data such as, for example, address or occupation where this is of special importance to the individual concerned.

Access of the person concerned to the data

39. Paragraph 6.1 clarifies the derogation concerning research allowed in Article 9.3 of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, according to which certain rights of data subjects, such as the right to inspect and correct data, may be restricted “when there is obviously no risk of an infringement of the privacy” of the persons concerned.

Such restrictions on the exercise of the above-mentioned rights will be allowed where data are used in a non-readily identifiable form for the purposes of research or statistics (as anonymity is a guarantee, indeed the main guarantee, against risks of infringement of privacy) and when appropriate security measures have been taken.

40. Paragraph 6.2 provides for an exception to the derogation in the preceding paragraph and has the aim of reaffirming the right of access when a specific interest of the person concerned deserves protection. That might be the case when the purpose of the research or the statistics directly concern determined persons, for example, biographical research or, given the limited number of persons on whom they are focused, for example, pharmaceutical experiments, anonymity cannot in practice exist.

Data security

41. Technical and organisational measures to ensure the security of data are an important factor in data protection. Paragraph 7.1 provides that such measures should be clearly indicated when a research project is first formulated, as they may be a determining factor in any decision by supervisory authorities whose agreement is required for implementation of the research.

Publication of data

42. Under paragraph 8.1 the consent of the person concerned is essential to the publication of data in any form that permits identification of the persons to whom they refer. Publication includes the transmission of data to third parties not concerned with research. The transmission of data for research purposes is covered by paragraph 4.4 of the Recommendation.

Conservation of data

43. One important aspect of data protection policies is how long data should be kept. Article 5.e of the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data stipu-
lates that personal data shall be "preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which the data are stored".

44. As personal data may be collected and used only for certain purposes it is logical to provide for a time-limit. Once the purpose has been met, storage is no longer justified. The data should then be either destroyed or made inaccessible. Effective protection demands safeguards against the perpetual use of existing information. But rules which may be absolutely vital in the case of data collection and storage by public bodies or private firms are hardly appropriate to research projects. Flexibility has been preferred here and no general limit is laid down, researchers being left free to indicate whether, in view of the particular circumstances of each project, the data should on completion of the project be destroyed, rendered anonymous or stored (paragraph 9.1).

45. Paragraph 9.2 strengthens and clarifies the general rule in the preceding paragraph by providing, in specific cases, for the direct participation of the person concerned in the decision whether the collected data should be stored. The storage of data might equally be authorised on the basis of particular safeguards which would be laid down by domestic law.

46. Paragraph 9.3 covers the storage of personal data kept by public authorities for future use.

Public authorities (a notion which also includes private bodies with a public function) are thus required by this paragraph to decide whether data kept by them, and particularly the results of completed research, are likely to be used again before proceeding to destroy them. It is hoped that officials in charge of public archives will also take part in this decision-making process, as is the case in countries where there is a statutory obligation to consult such institutions.

47. Research is a continuous process which uses information supplied by finished projects in order to provide new material for future investigations. Even if the specific aim has been attained, the data base may prove valuable for subsequent research.

Thus time-limits may constitute a serious obstacle to research, and so, for example, paragraph 7 of Recommendation No. R (81) 1 on regulations for automated medical data banks allows the long-term conservation of data provided adequate provision is made for security and the protection of privacy.

48. Further consideration is given to the security of data in paragraph 9.4 of the Recommendation, which states that data which have not been destroyed or rendered anonymous should be stored by institutions designated by the competent authorities. Those authorities would seem likely to avoid giving responsibility for such storage to administrative departments and to be more inclined to make a practice of decentralising data.

Establishment of boards within the research community

49. Conflicts of interests not admitting of a purely legal solution frequently occur in research and conciliation procedures must therefore be provided.

50. Owing to the absence in certain countries of specific rules on research and in view of the special nature of possible conflicts, it is necessary to set up bodies on which the various interests should be represented and which should contribute to the development of rules of conduct.

51. With this in mind, paragraph 10.1 encourages the establishment of boards in the research sphere. Owing to their different nature such bodies should not be regarded as an addition to the numerous existing state bodies and should help to solve possible conflicts in the use of personal data for research purposes, or even to prevent them from arising, by establishing extra-legal rules aimed at the self-regulation of the sectors concerned.

52. Naturally, this provision does not affect the powers of the courts to deal with violations of individual rights and award damages.