

The three institutions of official statistics in France

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The organization and functioning of France's official statistical service have been substantially transformed by the publication of the Economic Modernization Act and the decrees promulgated to implement it.¹

Official statistics are now governed by a tripartite organization: the official statistical service itself, which plays a key role in their design, production, and dissemination; the National Council for Statistical Information (CNIS), which ensures "upstream" consultations between producers and users of official statistics; and the Official Statistical Authority (ASP), which oversees compliance with the principles of professional independence, impartiality, objectivity, relevance, and quality in the production of official statistics.

An official statistical service with more clearly defined boundaries

The French Statistics Act² now begins with this statement: "The official statistical service includes INSEE and the ministerial statistical offices [Services Statistiques Ministériels: SSMs]." This is the first time that an official document clearly spells out the boundaries of the official statistical service³. The same article in the Act defines the content of official statistics: (1) information obtained from statistical surveys whose list is published annually in the *Journal Officiel* (the government publication of record), and (2) information obtained from the analysis—for general-information purposes—of data collected for other purposes by public or para-public entities.

The official statistical service (Service Statistique Public: SSP) and official statistics do not overlap exactly. True, most SSP output consists of official statistics. But the SSP also performs purely administrative tasks such as maintaining the database of enterprises and local units, the register of private individuals, and voter rolls. These projects do not conform to the rules that apply to the production of official statistics. The SSP also produces studies that also lie outside the domain of official statistics in the narrow sense: this is a specific feature of the French system. Conversely, some producers of official statistics do not belong to the SSP: the Bank of France and the National Institute for Demographic Studies (INED), for example, produce information that clearly meets the criteria above, yet they do not belong to the SSP, for they lack SSM status.

Just what exactly are the SSMs? Until the recent Act and the related decrees, the answer to this question did not rest on solid legal foundations. True, the official statistical service released regularly updated lists of SSMs, and the periodical *Courrier des statistiques* issued a highly appreciated annual directory of all the SSMs complete with an organization chart for each. But these documents have scarce legal value by comparison with the legislation defining specific rights and obligations for SSMs:

- Article 7bis of the 1951 Act gives them access, under certain conditions, to all administrative data
- Article 8 of the "Information Technology and Civil Liberties" Act makes it easier for them to conduct surveys involving sensitive data⁴
- Article L.135D of the manual of tax procedures gives them access—for the sole purpose of preparing

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¹ . In particular the decrees of March 3, 2009, on the Official Statistical Authority (ASP) and of March 20, 2009, on the National Council for Statistical Information (CNIS) and the Statistical Confidentiality Committee (CSS).
http://www.cnis.fr/files/content/sites/Cnis/files/Fichiers/statistique_publique/Decree_2009_03_20_cnis.PDF

² Act no. 51-711 of June 7, 1951, on legal obligation, coordination, and confidentiality in the field of statistics.

³ Often previously referred to as "Official Statistical System" (Système Statistique Public): the shift from the term "system" to the term "service" substitutes the reference to the objective (the service) for the reference to the resources applied (the system).

⁴ "Sensitive data" are those that, directly or indirectly, reveal people's racial or ethnic origins, political, philosophical or religious opinions, or membership in labor organizations, or concern their health or sex life.

statistics—to confidential information gathered by customs and tax agencies.

To fill the legal void, the Decree of March 3, 2009, on the Official Statistical Authority (Autorité de la Statistique Publique: ASP) now states that the list of SSMs shall be drawn up and updated by a decision (*arrêté*) from the Economy Minister, promulgated after consultation of the ASP. The appendix to this Decree gives a list of the SSMs as of the date of publication.

CNIS refocused on its missions

The law states very clearly that the mission of the National Council for Statistical Information (Conseil National de l'Information Statistique: CNIS) is to organize consultations between producers and users of official statistics. CNIS membership and functioning have been modified to meet this requirement more effectively.

The Economy Minister will no longer act as CNIS Chairperson. Under the new procedure, the Chairperson will be appointed by the Economy Minister from among the Executive Committee members and after consultation of the latter. The CNIS Chairperson will also chair the Executive Committee. This arrangement creates a greater distance between CNIS and the government, the better to underscore the major role assigned to users of official statistics in the Council. The CNIS Chairperson, like all other members, is appointed for a five-year term, renewable once only.

The CNIS Plenary Session membership has been reduced in order to give greater visibility to the “social demand” for statistical information. The Session no longer includes representatives of every government cabinet member. This change, too, is designed to give more prominence to user opinions. Moreover, each organization represented will have only one vote rather than several, as was often the case under the previous rules. The number of Plenary Session members has thus been cut from 138 to 46, making its decisions clearer. Each member will have an alternate and—subject to the Chairperson’s consent—can be accompanied by an expert. Some organizations such as SSMs and Eurostat will be allowed to attend the Session, without voting rights.

CNIS will prepare an annual report of its activities. The document will include a detailed assessment not only of the follow-up of Council opinions issued the year before—as was already the case—but also of the actual fulfillment by producer entities of their annual and medium-term work programs. The goal is to move from a formal observation to an initial assessment of official statistics produced in the previous year and the medium-term outlook.

The role of the Executive Committee has been strengthened as well. Acting as a full-fledged “board of directors” for the Council, it comprises representatives of the main users of official statistics, including social partners (employers and employees), local elected officials, academics, major government bodies, and individual experts. Besides being consulted for the appointment of one of its own members as CNIS Chairperson (a mandatory procedure), the Executive Committee prepares the CNIS work agenda, sets up the task forces, defines the missions, membership, and duration of working groups, and approves the reports prepared by these CNIS units. It also exercises a measure of authority over all CNIS commissions and task forces, as it can draw up their internal regulations if it deems it necessary to do so. This strengthening of the Executive Committee’s role and powers aims to make CNIS more efficient in its day-to-day operations. The Council’s broad operating guidelines, however, will continue to require Plenary Session approval.

An Official Statistical Authority

The main innovation in the Economic Modernization Act of August 4, 2008, however, is the establishment of an Official Statistical Authority (Autorité de la Statistique Publique: ASP).

The rationale for the creation of this new entity is both specific to France and inspired by the model chosen by several European countries and the European Union (EU) itself.

In 2004, the Inspectorate-General of Finance issued a report on the subject in which it already noted that “in several countries, the ‘national statistician’ can rely on a collegial body to deflect some of the pressures that are exerted on it: the Central Commission for Statistics in the Netherlands, the Board of Statistics Denmark, the Council for Official Statistics in Sweden, and the Commission for Guaranteeing Statistical Information in Italy. These bodies, composed of around ten members each, can strengthen the authority and legitimacy of the national statistician⁵.” The report concluded that “the institutional organization of the French official statistical

⁵ *Mission d'analyse comparative internationale de l'Insee*, Inspection Générale des Finances no. 2004-M042-01, supervised by Philip Dane, summary report (*rapport de synthèse*), p. 14.

system—and INSEE in particular—could be fleshed out by a small collegial body that it currently lacks.”⁶

An initial version of such a body had been envisaged in a draft decree that was never finalized (December 2005). Meanwhile, the adoption of the European Statistics Code of Practice⁷, promoted by France, placed professional independence in the production of official statistics at the top of the principles to be respected.

The first criterion for evaluating compliance was that the professional independence of official statistics should be written into law. France was one of the few European countries—and the only major country after the reform enacted in the United Kingdom—that did not formally meet this criterion. In their January 2007 review, the European “peers” emphasized the gap in French law while acknowledging that the French official statistical system enjoyed a genuine, recognized independence.

It then became accepted that the establishment of a governance body for official statistics should guarantee independence in the design, production, and publication of official statistics. Naturally enough, this independence should extend to all French official statistics and not only to the production of statistics for the EU.

What remained to be found was the legislative vehicle for such an innovation. The solution emerged with the Economic Modernization Act, prepared by the government in early 2008. At the same time, and independently, a parliamentary “information mission on the measurement of major economic and social data” (also known as the “Muet-Mariton” mission) had also looked into the issue. In its report, the mission suggested setting up a body to monitor issues of ethics and independence in official statistics.

After amendments to the government draft from the National Assembly and the Senate, and the inclusion of some proposals from the parliamentary report, the result was a law that is highly innovative for France.

The organization introduced by the law closely resembles the one adopted by the EU, in which the European Statistical System (ESS) is flanked by the European Statistical Governance Advisory Board (ESGAB)⁸ and the European Statistical Advisory Committee (ESAC)⁹. ESGAB missions are similar to those of France’s ASP, while ESAC performs certain functions similar to those of CNIS at national level.

The ASP has a very restricted membership and specific missions.

Its membership is defined in the law:

– A Chairperson appointed by the French cabinet (Council of Ministers)

– Members appointed by

- the Speaker of the Senate, the Speaker of the National Assembly, and the Chairperson of the Economic, Social, and Environmental Council
- the Vice-President of the Conseil d’État (this member also heads the Statistical Confidentiality Committee)
- the President of the Court of Auditors (Cour des Comptes)
- the Head of the Inspectorate-General of Social Affairs (IGAS)
- the Head of the Inspectorate-General of Finance (IGF)
- the Economy Minister.

This composition, which is the one recommended in the Muet-Mariton report, seeks to combine the technical expertise of the leading State bodies with the political sensitivity of the constitutional assemblies. Its small size (cf. the seven-member ESGAB) will give it a responsiveness that may prove necessary in certain circumstances. Members are appointed for six-year terms—one year longer than for CNIS members—in order to provide some continuity for their action.

To strengthen the Authority’s independence, the Chairperson cannot be reappointed. This will enable him or her to serve without having to factor in the possibility of being reappointed or not. ASP members cannot be removed except in the event of resignation, inability to attend, or serious misconduct, recognized by a majority of the Authority’s own members. This provision introduces a guarantee against the risk of interference in ASP activities by the appointing bodies.

⁶ . *ibid.* p. 42.

⁷ The Code is available on the Eurostat website: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-77-07-026/EN/KS-77-07-026-EN.PDF

⁸ Decision no. 234/2008/CE by the European Parliament and Council of March 11, 2008.

⁹ Decision no. 235/2008/CE by the European Parliament and Council of March 11, 2008.

The Authority's remit is to monitor compliance with the principles of the European Statistics Code of Practice, which will also apply to all French statistics. For this purpose, the ASP has no legal or repressive powers. The wish has been expressed that, in ethical matters, the force of words and example should be wielded to remedy any departures from those principles. The ASP resources will be those placed at its disposal by the various inspectorates-general in ministries. Its members will have access to all locations where official statistics are produced and disseminated. They will have the right to request all useful documents and collect information from all personnel of producer entities.

The ASP will be empowered to issue any opinion that it deems useful for enforcing compliance with the Code's principles. If it finds that a private individual (irrespective of rank or position) or legal entity has failed to conform to the principles, it will be allowed to publish observations, after the party concerned has been given the opportunity to state his/her/its position.

With respect to the organization of official statistics, the ASP will have to be consulted on any draft decree concerning the missions of INSEE or the SSMs. As noted earlier, draft ministerial decisions to grant SSM status to a government entity must be submitted to the ASP for its opinion.

The Authority will audition the CNIS Chairperson and INSEE's Director-General at least once a year on the subject of CNIS opinions and the status of annual and medium-term statistical projects. The ASP will thus be able to determine whether the projects selected and carried out by the official statistical service faithfully reflect—given the available resources—the social demand voiced through the CNIS annual and medium-term opinions.

On the basis of these documents and consultations, the ASP will prepare a public annual report and submit it to Parliament.

Matters can be referred to the Authority by the following persons: the Speakers of the National Assembly and the Senate, and the Chairperson of the Economic, Social, and Environmental Council, acting under their constitutional powers as representative of the Nation; the Prime Minister or the Economy Minister, as representatives of the government; the Chairperson of CNIS, as a pre-eminent representative of users of official statistics; and INSEE's Director-General, acting—as noted in the decree—as head of the institution in charge of coordinating the entire official statistical system. These functions were vested in INSEE by the Decree of June 14, 1946, which defines INSEE's terms of reference as including the coordination of statistics across all government entities. This solution was adopted to allow a very broad range of persons representing producers and users of official statistics to refer matters to the Authority. The ASP can also, of course, examine on its own initiative any matters within its remit.

A Statistical Confidentiality Committee with a wider remit

In parallel with these changes, France enacted a major reform of its statistical-confidentiality rules by adopting the Archives Act of July 15, 2008.

The Statistical Confidentiality Committee (Comité du Secret Statistique: CSS) has had to transform itself in order to take these new provisions into account. It will now be allowed to issue opinions on requests for access to confidential information concerning not only economic and financial data, but also facts and behavior of a private nature. This change addresses a long-standing demand from social scientists. The CSS membership system has been revamped in order to give greater room to these specialists as well as to the National Commission on Information Technology and Civil Liberties (Commission Nationale de l'Informatique et des Libertés: CNIL), which is in charge of ensuring the protection of individual confidentiality.

Access to such data will be granted under a very strict protocol, relying in particular on secure remote data centers.

A new organization

These far-reaching changes make the French official statistical service compliant with the latest developments in European statistical governance. They will provide official-statistics users with a more visible form of representation. By offering new resources, they open a vast field of opportunities for French scientific research. Researchers will now be in a favorable position relative to their foreign colleagues, in keeping with confidentiality-protection rules.