

## Law of 4 July 1962 on public statistics, *M.B.*, 20 July 1962: Extract

amended by : Law of 1 August 1985, *M.B.*, 6 August 1985; Law of 21 December 1994, *M.B.*, 23 December 1994; Law of 2 January 2001, *M.B.*, 3 January 2001; Law of 2 August 2002, *M.B.*, 29 August 2002; Law of 22 March 2006, *M.B.*, 21 April 2006 and 2 May 2006 (*errata*); Law of 22 December 2008, *M.B.*, 29 December 2008

**Art. 19:** Without prejudice to the duties assigned to the officers of the criminal investigation department, the following are authorised, individually or otherwise, to investigate infringements of the provisions of this law and its implementing decrees and to establish those infringements by official reports which are valid pending proof to the contrary: 1. government officials appointed to that end by Royal Decree;

2. Members of the municipal police and the gendarmerie, granted individual authority to that end for a limited period by the Minister responsible for the National Statistical Institute.

Those persons may order the submission of the documents, papers or books necessary for investigating and establishing infringements.

With the prior authorisation of the magistrate, the persons mentioned under 1, and – if they have the status of officer of the criminal investigation department - those referred to under 2, accompanied if appropriate by experts, may, between the hours of 08.00 and 18.00, enter the homes, places of work, buildings, adjacent yards and enclosed spaces to which they require access for the purpose of performing their duties, even against the will of the occupier. The burgomaster shall lend them assistance whenever requested to do so by those persons.

The powers specified in the two preceding paragraphs may only be exercised against medical practitioners in the presence of a member of the Council of the Association of Medical Practitioners. The persons mentioned under numbers 1 and 2 shall exercise the powers accorded by this article under the supervision of the Procurator General, without prejudice to their subordination to their superior managers.

### §4. Provisions on official enforcement

**Art. 20:** The provisions of this law and its implementing decrees with which persons liable to submit declarations refuse to comply shall be officially enforced by the government at the expense of the offenders.

To that end, the competent Minister shall appoint a commissioner from among the staff of the National Statistical Institute; if necessary, he shall also appoint the experts and officers whose duty is to assist the commissioner.

For the purpose of performing these duties, the commissioner shall have the powers defined in Article 19.

**Art 21:** The King shall lay down more detailed rules on official enforcement and shall determine the costs chargeable to the offenders.

### § 4bis. - Administrative fines

**Art 21bis:** Under the conditions laid down by the present law, an administrative fine of between 100 euro and 10,000 euro shall be imposed on the following: 1° any legal entity which, being required to supply information pursuant to this law and its implementing decrees, fails to meet those obligations;

2° any legal entity which resists the investigation and establishment of infringements referred to in Article 19 or the official enforcement prescribed under Article 20, or which obstructs the action of the persons responsible for the investigation and establishment of infringements or for official enforcement.

**Art 21ter:** The competent officer referred to in Article 21sexies or the court ruling on an appeal against the decision of the competent officer may, if extenuating circumstances exist, impose an administrative fine below the minimum sum mentioned under Article 21bis, with the proviso that the fine may not be less than 50 % of the sums mentioned in that Article.

**Art 21quater:** In the same decision in which he imposes an administrative fine, the competent officer may grant full or partial postponement of the enforcement of payment of that fine in so far as he has not imposed any other administrative fine on the offender in the year preceding the date on which the infringement was committed. The postponement shall apply for a probationary period of one year. The probationary period shall commence on the date of notification of the decision to impose the administrative fine. The postponement shall be automatically revoked if a new infringement leads to a decision to impose a new administrative fine. The revocation of the postponement shall be announced by the same decision as the one imposing the administrative fine for that new infringement. The administrative fine which becomes enforceable as a result of the revocation of the postponement shall be added to the fine imposed for that new infringement, with the proviso that the cumulative total of the two fines may not exceed 20,000 euro. In the event of an appeal against the decision of the competent officer, the court ruling against an appeal lodged against the decision shall have the same powers as that officer in regard to the postponement.

**Art 21quinquies:** The penalty for the infringements referred to in Article 21bis, 1° and 2°, shall be an administrative fine unless the public prosecutor decides that, in view of the seriousness of the infringement, it is necessary to institute criminal proceedings, especially on the basis of Article 22, 1° or 2°.

**Art 21sexies:** The administrative fine shall be imposed by the head of the National Statistical Institute or his deputy.

**Art 21septies:** A copy of the official report establishing the infringement referred to in Article 21bis shall be sent to the head of the National Statistical Institute and to the public prosecutor. A copy of the official report shall also be sent within the same period to the offender by registered letter with advice of receipt, by fax or by e-mail, if the latter generates an advice of receipt from the addressee.

**Art 21octies:** The public prosecutor shall have a period of 30 days from the date of receipt of the official report to notify the head of the

National Statistical Institute of his decision on whether or not to institute criminal proceedings. If the public prosecutor decides not to prosecute or fails to announce his decision by the stated deadline, the head of the National Statistical Institute or his deputy shall decide whether an administrative fine should be imposed, after first giving the offender the opportunity to present his defence. The decision of the competent officer shall determine the amount of the administrative fine and set out the reasons. It shall be notified to the offender by registered letter, by fax or by e-mail, if the latter generates an advice of receipt from the addressee, together with a request for payment of the fine by the stated deadline. The decision shall state that an appeal may be lodged before the court of first instance within 60 days from the date of notification of the decision. That appeal shall not suspend enforcement of the decision. The notification of the decision determining the amount of the administrative fine shall cause the cancellation of the criminal proceedings. The payment of the administrative fine shall end the claim of the administration. The King shall determine the deadline and detailed rules for the payment of the administrative fine.

**Art 21novies:** An offender who challenges the decision of the competent officer shall submit an application to the court of first instance within 60 days of notification of the decision, failing which the right of appeal shall lapse. Such an appeal shall not suspend enforcement of the decision. The court of first instance shall have full jurisdiction to give a ruling in the first and last instance.

**Art 21decies:** If the offender fails to pay the fine, the decision of the competent officer shall be passed to the authorities responsible for Value Added Tax, Registration and State Property Administration with a view to collection of the amount of the administrative fine. The prosecution to be initiated by those authorities shall take place in accordance with Article 3 of the Law on State Property of 22 December 1949.

**Art 21undecies:** The time limitation for the administrative fine is five years. The period of limitation shall run from the date on which the infringement was committed. However, the time limitation for fines shall be suspended by every act on the part of the authorities or the public prosecutor aimed at proceedings on account of the infringement, including notification by the public prosecutor relating to his decision on whether or not to institute criminal proceedings, and the invitation to the offender to present his defence. The suspension of the period of limitation shall take effect on the date on which the offender is notified of the action. The period of limitation shall recommence after each suspension.

**Art 21duodecies:** In the event of a repeat infringement within two years following a decision imposing an administrative fine, the amounts mentioned in Article 21bis shall be doubled.

**Art 21terdecies:** In the event of the concurrence of multiple infringements referred to in Article 21bis, the amounts of the administrative fines shall be cumulated, with the proviso that the cumulative amount of the fines may not exceed 20,000 euro.

**Art 21 quaterdecies:** The proceeds of the administrative fines due pursuant to Article 21bis shall be allocated to the NSI - National Statistical Institute Fund referred to in item 32-11 of the Organic Law of 27 December 1990 establishing budgetary funds.

## § 5. Penal provisions

**Art. 22:** A fine of between 26 francs and 10,000 euro shall be imposed on: 1° Any person who, being required to supply information pursuant to this law and its implementing decrees, fails to comply with those obligations;

2° Any person who resists the investigation and establishment of infringements referred to in Article 19 or the official enforcement prescribed under Article 20, or who obstructs the action of the persons responsible for the investigation and establishment of infringements or for official enforcement.

3° Any person who uses for purposes not permitted by this law the individual data collected pursuant to this law or the global but confidential data referred to in the second paragraph of Article 2 (c).

4° Any person who fails to comply with the obligations or prohibitions concerning the collection of statistical data, imposed by a legal provision which is directly applicable and is issued by an institution of the European Union.

The penalty shall be doubled and imprisonment for a period ranging from one week to one month may also be ordered if the offence is committed within five years following the date on which a previous conviction on account of any of the offences referred to in this article became irrevocable.

**Art. 23:** The provisions of Book I of the Penal Code, including chapter VII and section 85, shall apply to the offences described in Article 22.