

CODE of good practice and conduct when processing personal data for historical purposes

Part I – General Principles

Section 1. Purposes and scope of application

1. These rules are designed to ensure that personal data acquired through free historical research, exercising the right to study and information, and accessing records and documents, is utilized with respect for the rights, basic liberties and dignity of the persons concerned, with particular reference to the right to confidentiality and the right to personal identity.

2. This code gives instructions for the processing of personal data for historical purposes, with regard to the documents stored in the archives of public authorities and public bodies and in private archives that have been declared to be of significant historical interest. The code applies for all personal data processing conducted by users for historical purposes in any way, regardless of whether it has been signed.

3. This code also contains guiding principles for the conduct of persons who for historical purposes process personal data stored in public archives and in private archives that have been declared to be of significant historical interest. In particular:

a) For archivists, it establishes rules on appropriate conduct and equal opportunities for users, regardless of their nationality, status or educational background.

b) For users, it specifies the restrictions that apply during collection, utilization and disclosure of the data in the documents.

4. The archive supervisory authority will accept notifications from owners, possessors and holders of private archives that have not been declared to be of significant historical interest and of individual documents of historical interest that they intend to apply this code as applicable in their case.

Section 2. Definitions

1. When implementing this code, the definitions and instructions given in the Italian personal data processing regulations, and in particular the provisions given in the preamble, must be noted. Furthermore, the following definitions shall apply for the same purposes:

a) "Archivist": any natural person, legal person, body or association that is responsible for controlling, acquiring, handling, preserving, restoring and managing public archives containing historical, current or deposited materials, private archives that have been declared to be of significant historical interest, and private archives as described in Section 1, paragraph 4 above.

b) "User": anyone who accesses or asks to access documents containing personal data for historical purposes, including for journalistic reasons or the occasional publication of articles, essays and other expressions of thought.

c) "Document": any written, oral or other form of record that contains personal data.

Part II – Rules of conduct for archivists and lawfulness of the associated processing

Section 3. General rules of conduct

1. When processing personal data and the documents in which they are contained, archivists must adopt the most suitable methods, in compliance with the law and regulations, to ensure respect for the rights, basic liberties and dignity of the data subjects.
2. Archivists of public bodies or institutions must do their utmost to ensure full compliance, also by third parties with whom they come into contact for reasons related to their position or work, with the legal and regulatory provisions for archives, and in particular with the requirements specified in sections 21 and 21ii of Decree of the President of the Italian Republic no. 1409 of 30 September 1963, as amended by Italian Legislative Decree no. 281 of 30 July 1999, by section 7 of the same Legislative Decree (no. 281) and by subsequent modifications and additions.
3. Persons who conduct archive work in public bodies must process personal data in a principled, correct, impartial, honest and diligent manner, as required by their profession and their status or position. They must comply with the principle of transparency in administrative activities in their work.
4. The personal data processed for historical purposes can undergo further use for the same purposes and as a general rule they are subject to the same regulations regardless of the document in which they are found or the place in which they are stored, without prejudice to the restrictions and protection in place for certain categories of data and processing.

Section 4. Storage and protection

1. Archivists must:
 - a) Aid the recovery, acquisition and protection of documents. To this end, they must work in compliance with the generally accepted and shared principles, methodological criteria and procedures of their profession, ensuring that they also systematically and continually update their historical, administrative and technological knowledge.
 - b) Protect the integrity of the archives and the authenticity of the documents (also those of an electronic or multimedia nature). They must act to ensure that they are preserved permanently, especially those containing data that are at risk of being deleted, dispersed or altered.
 - c) Ensure that reproductions of documents conform with the originals and prevent any direct attempts to manipulate, conceal or distort facts, accounts, documents and data.
 - d) Ensure compliance with the safety measures required by section 15 of Italian law no. 675 of 31 December 1996 and Decree of the President of the Italian Republic no. 318 of 28 July 1999 as amended, by implementing suitable measures to prevent destruction, dispersion and unauthorized access to documents, and taking special precautions if there are any specific risks, for example by only allowing the consultation of copies of certain documents and storing the originals in safes or secure filing cabinets.

Section 5. Communication and utilization

1. Archives must be organized in a way that ensures free utilization of the sources.
2. Archivists must promote the broadest possible access to the archives and, in compliance with the applicable regulations, encourage research and information provision, as well as assisting with the tracing of sources.
3. Archivists must inform researchers of any documents that have been temporarily removed from files because they are not available for consultation.

4. If data are being gathered systematically by an archive in partnership with other public or private entities in order to produce databases of entire archival collections, the facility involved must sign a special agreement establishing the methods for utilization and forms of protection for the data subjects, in compliance with legal provisions, in particular in terms of the relationship between the data handler, the responsible person and the data processors, as well as the relationships with external figures who are interested in accessing the data.

Section 6. Confidentiality requirement

1. Archivists must:

a) Not use information that is not available to users or has not been made public and that they gain access to as part of their work, confidentially or otherwise, for the purposes of their own research, for their own private interests or in order to make a profit. If archivists conduct research for reasons that are personal or that in any case do not fall within the scope of their professional activities, they are subject to the same rules and limitations as all other users.

b) Preserve the confidentiality of news and information regarding personal data of which they become aware while doing their jobs.

2. Archivists must comply with these confidentiality requirements even after they finishing serving in their roles.

Section 7. Updating data

1. Archivists must help interested parties to exercise their right to make updates, corrections and additions to data, ensuring that they are preserved by applying methods to guarantee that the original sources are distinguished from the subsequently acquired documentation.

2. In application of section 13 of Italian law no. 675/1996, upon receipt of general requests for access to a wide range of data or documents, archivists must provide appropriate search tools and sources, and give the applicants suitable instructions for easy consultation of the materials.

3. If someone claims an interest and, pursuant to section 13, paragraph 3 of Italian law no. 675/1996, asks to exercise a right with regard to personal data concerning deceased persons and very old documents, the time that has passed will be taken into account when assessing the person's interest.

Section 8. Oral sources

1. Interviewees must have explicitly given their consent for data from oral sources to be processed. This may be done verbally and with the utilization of a simplified notification that must at least give details of the identity and work done by the interviewer and the purposes of the data collection.

2. Archives that acquire oral sources must ask the interviewer for a written declaration stating that the purposes of the interview were expressed and that the interviewees gave their consent.

Part III – Rules of conduct for the users and conditions to ensure the lawfulness of the associated processing

Section 9. General rules of conduct

1. When accessing sources and studying, researching and expressing thoughts, users that are processing personal data in accordance with the law and regulations

must adopt the most suitable methods to promote respect for the rights, basic liberties and dignity of the persons concerned.

2. In application of the principle mentioned in paragraph 1, users will utilize documents under their own responsibility and must adhere to the purposes pursued and outlined in the research project description, in compliance with the principles of appropriateness and indispensability provided for by section 7 of Italian Legislative Decree no. 281 of 30 July 1999.

Section 10. Access to public archives

1. Access to public archives is free. All users have the right to access the archives with equal rights and obligations.

2. In accordance with the laws in force, this does not apply to documents of a confidential nature regarding the domestic and foreign policy of the State, which can be consulted fifty years after their date of creation, and those containing the types of data described in sections 22 and 24 of Italian law no. 675/1996, which become available for free consultation forty years after their date of creation. The time period is seventy years if the data can reveal details of a person's state of health or sex life, or confidential family relationships.

3. The authorization to consult documents mentioned in paragraph 2 can be granted by the Italian Ministry of the Interior before the end of the allocated time period, once it has heard the opinion of the relevant Record Office manager or archive supervisor and the committee set up within the Ministry of the Interior for matters regarding the consultation of confidential archive records, in accordance with the procedure laid down by sections 8 and 9 of Italian Legislative Decree no. 281/1999.

4. When requesting authorization to consult the documents mentioned in paragraph 2 before the end of the allocated time period, applicants must present the body that stores them with a research project description that explains the aims of the research and the planned disclosure methods for the data from the confidential sources that are the subject of the authorization request. The applicant may also present any other useful documents.

5. The authorization for consultation mentioned in paragraph 3 must be granted in the same circumstances to any other applicants. Assessment of whether the circumstances are the same will be based on the research project description mentioned in paragraph 4.

6. The authorization to consult documents before the end of the allocated time period mentioned in paragraph 3 may contain restrictions designed to allow communication of the data without prejudice to the rights, liberties and dignity of the persons concerned.

7. Depending on the research objectives that can be inferred from the project description, the restrictions may also involve the obligation to refrain from disclosing the names of the people, to only use the initials of the names of the data subjects, to obscure the names in a database, to temporarily remove individual documents from files or to refrain from reproducing documents. There is a particular focus on the principle of appropriateness and the disclosure of facts or circumstances that can make it easy to identify the interested parties.

8. The authorization mentioned in paragraph 3 is personal and the authorized party cannot delegate other people to conduct the subsequent data processing. The documents will remain of a confidential nature and will not be available for use by other persons without the appropriate authorization.

Section 11. Disclosure

1. While it must be within the bounds of the right to confidentiality, personal identity and dignity of the persons concerned, the user's output is part of the constitutionally guaranteed freedom of speech and expression of thought.
2. When referring to people's state of health, users must refrain from publishing analytical data of a strictly clinical nature and describing the sexual habits of persons that are identified or could be identified.
3. The private affairs of people who are famous or have served in public roles must remain confidential if the news or data have no relevance to their positions or their public lives.
4. In application of the provisions of section 7, paragraph 2 of Italian Legislative Decree no. 281/1999, when disclosing data, the user must consider the principle of appropriateness, with a particular focus on the individual items of personal data in the documents, rather than the documents as a whole. Users can disclose personal data if they are relevant and indispensable for the research and if they are not prejudicial to the dignity and confidentiality of people.
5. Users are not obliged to provide the notification described in section 10, paragraph 3 of Italian law no. 675/1996 if by doing so they would have to use plainly disproportionate means.
6. Users must only use the data elaborated and copies of documents that contain personal data and require authorization prior to access for the purposes of their research. They must ensure that no third parties can gain access to them.

Section 12. Application of the code

1. The public and private entities that are obliged to implement this code, including scientific and professional associations, must use the methods and forms provided for by their internal systems to ensure that as many people are informed and made aware of it as possible and to guarantee compliance with it.
2. In the archives of public bodies and private archives that have been declared to be of significant historical interest, the supervisory authority must promote awareness and implementation of the code.

Section 13. Infringement of the conduct rules

1. In public archives, the ruling authorities must take the disciplinary measures provided for by their internal systems.
2. The societies and associations that are obliged to implement this code must adopt appropriate measures in accordance with their internal systems and regulations in the event of infringement of the code. This action will come over and above any legal measures taken.
3. The bodies responsible for the granting of authorization to consult confidential documents before the end of the legally established period must be informed of any infringements of the regulations of this code by users. These violations will be taken into account when granting or denying authorization. In accordance with its internal system, the authority in charge may also temporarily exclude persons responsible for infringements of the rules in this code from the study rooms. In addition, such persons may be denied further authorizations to consult confidential documents.
4. In addition to the legal requirements for public servants to report crimes, the entities mentioned in paragraphs 1 and 2 may inform the relevant authorities of any infringements of the conduct rules so that the applicable action and disciplinary measures may be taken.

Reggio Emilia,

Signature

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