

# Independence of official statistics – declarative abstraction versus political reality

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## Abstract

Mounting challenges in modern world, comprising conflicts, migrations, environmental disasters, with increasing impact on human lives and sustainable development, require standardized, robust, and reliable evidence base to inform policies tackling the issues, and measure their effectiveness. In modern state systems, the independence of official statistics is thus one of the driving foundations of the democratic political system. Different tools have been put in place to establish and maintain this independency. Fundamental Principles of Official Statistics by the United Nations and European Statistical Code of Practice (CoP) are only two examples of such tools at international or regional levels. Statistical laws or similar legal acts, established by many countries, explicitly or at least implicitly address this independency. Moreover, the issue has been frequently addressed in multitude of academic articles and professional papers in recent decades. While on a declarative level, these tools offer a strong defence against the arbitrariness of political power centres, it is also necessary to ask ourselves, what the real power of these tools is when faced with a concrete situation of political interference with, or influence on official statistics.

In this paper we target a very important stone in the mosaic of professional independence of national statistical organisations (NSO): the issue of dismissal and/or appointment of the head of NSO. This issue is directly addressed in Principle 1 of CoP. However, facing political reality, thus-defended professional independence of NSOs turns out to be more abstract than envisaged in the Principles or the Code.

In the paper we use example of dismissal of Director General of Statistical Office of Republic of Slovenia in May 2020 to discuss the power(lessness) of the declarative acts which are supposed to represent a shield against the arbitrariness of political decision-makers. Dismissal, itself having attracted the interest from the general and professional public, was also discussed at two national court instances. The (national) judgments at both instances appear not to share the declarative and intentional institutional independence of NSO; and may have reinforced the movement set in motion back in 2020, potentially damaging the reputation of and trust in official statistics in Slovenia. While recent Peer Review of Slovenian national statistical system identifies compliance issue with CoP, its impact remains to take effect. We aim to show how it is necessary to direct more efforts to address this immeasurably important question.

**Keywords:** independence of official statistics, fundamental principles of official statistics, code of practice, dismissal

## **1. Introduction**

Evolution of official statistics reflects evolution of related and relevant evolution in societies and economies. Modern world is filled with fast-paced changes, high volumes of data and decisions to be based on evidence. Addressing, reacting and adapting to mounting challenges in modern societies and economies, including environment, require standardized, robust, and reliable evidence base to inform policies tackling the issues, and measure their effectiveness. Strains on providers of evidence, paired with competition vis-à-vis misinformation and fake news, are therefore increasing to keep relevant, timely, accurate, and reliable.

Official statistics serve various users, from governments, public administration and businesses to civil societies and individuals. As such, official statistics is the area considered a public good and as such merits specific and special treatment. In modern state systems, the independence of official statistics is thus one of the driving foundations of the democratic political system. This calls for stronger than ever infrastructure to ensure official statistics remain at the forefront of discussions and decision-making process, providing proper evidence base.

However, reality teaches us a hard lesson. Recent cases in a few European countries show that when it comes to practicing independence of official statistics, despite overall support for strong, reliable, trustworthy official statistics, this can stop at declarative level. We examine the case of dismissal of a director-general of Slovenian national statistical office (NSO) and how (declarative) instruments put in place to maintain independence of official statistics fulfilled (or not) their roles.

The paper does not build on quantitative methodology and overview; rather, it reviews the independence of official statistics (Chapter 2) and discusses the case at hand (Chapter 3) to formulate questions and draft recommendations for ways to enforce the independence of official statistics (Chapter 4).

## **2. Independence of official statistics – what is it?**

Official statistics have evolved throughout the development phases in history into a widespread and complex system. Noting the relevance and public-good nature of official statistics and its interference with modern-state digitalisation, official statistics can be understood as information-producing industry, with its own public informational infrastructure, covering business model of official statistics and other aspects, such as skills and human resources, but notably the question of quality of official statistics, among which the code of practice and placement of official statistics “system” within a wider, regional or global contexts (Radermacher, 2020).

## 2.1 The Fundamental Principles of Official Statistics

At the time of celebrating 30 years of Fundamental Principles of Official Statistics (and ten years since their adoption by the United Nations General Assembly), the founding fathers of the Principles and today's chief statisticians argue of and for their relevance globally, without any limitations to regions or development status of a country where they are to be valid(ated) (United Nations, 2024a).

The Fundamental Principles of Official Statistics (United Nations, 2014), emphasize the significance of professionalism, impartiality, and transparency in statistical activities. They stress the importance of upholding the autonomy of statistical agencies, free from external interference, to maintain credibility and trust.

Out of ten Principles, the following three are most directly associated with the question of (ensuring) independence of official statistics relevant for the discussion in this paper, i.e., with the focus of unprofessional (political) interference in the leadership of the NSO (United Nations Statistics Division, 2024):

- *Principle 1: Relevance, Impartiality, and Equal Access*, specifically in the aspect of impartiality: *“Impartiality in Official Statistics means that data collection and processing should be free from non-solicited political or other external interferences”*.

With dismissal of director-general not grounded on professional reasons, such an act is seen as political or other external interference.

- *Principle 2: Professional Standards, Scientific Principles, and Professional Ethics*, in the aspect of professional ethics: *“Professional ethics also involve a commitment to transparency in methodology and unbiased reporting, free from external influences. It is about ensuring that statistics are an accurate and fair representation of reality, maintaining the trust and confidence of all stakeholders”*.

Failing to uphold professional ethics by ungrounded dismissal undermines the trust in official statistics.

- *Principle 3: Accountability and Transparency*, related to the aspect of accountability: *“It is about creating a culture of responsibility and responsiveness in Official Statistics”*.

Integral to building and maintaining public trust in statistical system, the violation of the principle by dismissal of head of the NSO breaks the creating of culture of responsibility.

Discussions (e.g., United Nations Statistical Commission, 2024) confirm that principles themselves, being principles, do not offer sufficiently concrete guidance to national authorities on their application. For this reason, various tools, such as Generic Activity Model for Statistical Organisation (GAMSO) (UNECE, 2019), Generic Statistical Business Process Model (GSBPM) (High-Level Group for the Modernization of Statistical Production and Services,

2014), United Nations National Quality Assurance Framework (NQAF) (United Nations, 2019) are designed to steer national efforts into adherence to the Fundamental Principles of Official Statistics. Moreover, code of practice and similar tools are being implemented, notably within the European Statistical System (ESS) to guide, but also monitor compliance of a national statistical system (NSS) with regulatory framework (e.g., Directive 223 within the ESS (European Parliament & Council of the European Union, 2009)).

## **2.2 The European Statistics Code of Practice**

European statistics code of practice (hereinafter CoP) (European Commission, 2017) is a self-monitoring instrument that aims to ensure that European and national statistical authorities are impartial and that their data are credible, objective and reliable. The currently valid version of the code was adopted by the Committee for the European Statistical System on November 16, 2017. The code comprises 16 principles, including on institutional environment. Within the framework of principle 1 (Professional independence), under indicator 1.8, CoP states: *“Procedures for the recruitment and appointment of heads of national statistical offices and Eurostat and, if necessary, statistical heads of other statistical bodies are transparent and based exclusively on the criteria of professional competence. The reasons for the termination of the mandate are specified in detail in the legal framework. Among them, there must be no reasons that can threaten professional or scientific independence”*. CoP therefore requires specific national legal framework to be set in place to ensure its compliance with this principle, hence ensuring independence of official statistics by safeguarding unwarranted dismissal of director-general of NSO.

It is worth noting that measures are proposed for the implementation, monitoring, and enforcement of the CoP, following a gradual approach, through self-assessment and peer review, where the European Commission reports on CoP’s implementation by Member States and Eurostat, and ultimately presents *“a report to the European Parliament and the Council on the progress of the implementation and, where necessary, include appropriate proposals”* (European Commission, 2005).

## **3. Declarative vs. De-facto status of independence**

The Fundamental Principles of Official Statistics, related tools, and guidance collectively uphold the integrity of official statistics, ensuring that they are a valuable and trusted (re)source for informed decision-making and policy formulation at both the national and international levels. Despite, in May 2020 the director-general of NSO in Slovenia was dismissed without prior notification and explanation. This is against the aforementioned Fundamental Principle of Official Statistics, as well as the European CoP, requiring national legal framework to be put in

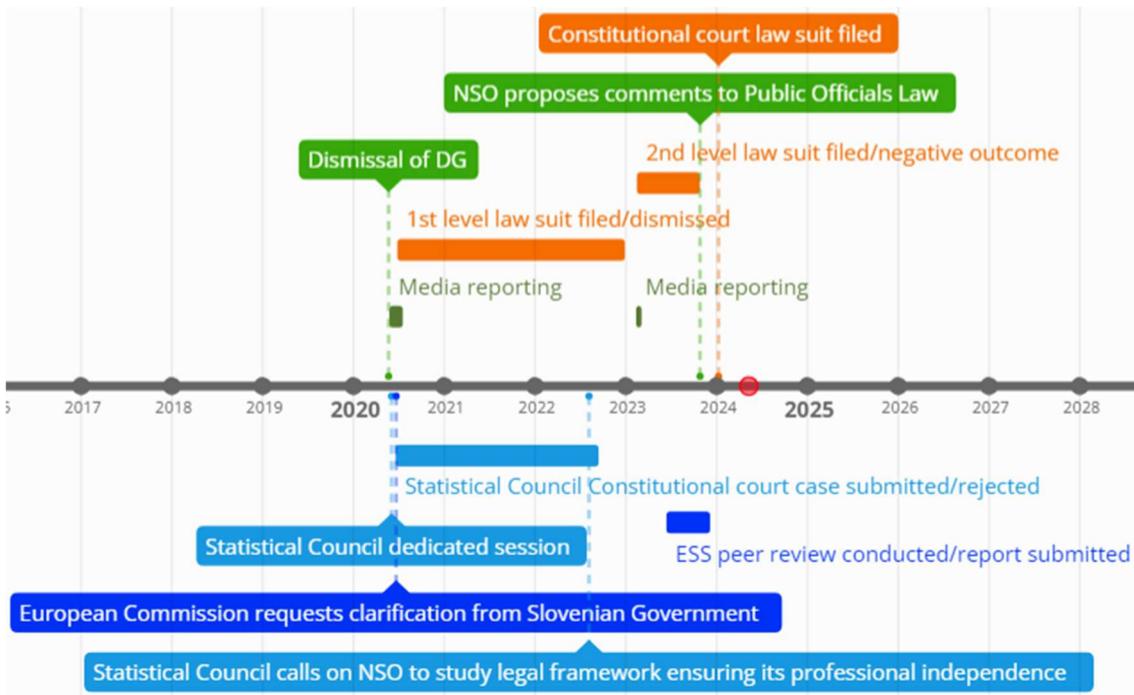
place. On that note, observing the Sustainable Development Goals indicator 17.18.2 *Number of countries that have national statistical legislation that complies with the Fundamental Principles of Official Statistics* (United Nations, 2023), Slovenia, among many other countries, has a value of 1, indicating that national statistical legislation complies with the Principles (in all four available years, 2019-2022). Global picture for 2022, notes, first, that most of the countries do not report this data, and second, that of the 61 countries or areas having reported data, nine reported not being in compliance with the Principles, 37 did comply and 15 had non available responses. Interestingly, while eight countries have indicated a positive movement in the 2019-2022 period, i.e., moving from noncompliance (0) to compliance (1) (Cameroon, Honduras, Kyrgyzstan, Lesotho, Nepal, Peru, Saint Vincent and the Grenadines, Ukraine), seven have indicated that in 2022, contrasted to previous years, their legislations are no longer compliant with the Principles: Belgium, Brazil, Brunei Darussalam, Egypt, Israel, United Kingdom, and Zimbabwe).

### **3.1 The case of Slovenia: dismissal of director-general**

While several of the cases of undue political interference into the nominations, work, and dismissals of heads of NSOs most likely go unnoticed, a few have attracted international community's attention. Declarative support and protests against non-compliance have been issued, for example, the cases of Turkey (ISI and IAOS, 2022), revisiting the Greece (American Statistical Association, 2023) and Fiji (ISI, 2023a) cases, and many more; for example, the International Statistical Institute (ISI) issued over 30 statements following various cases of potential breaches of professional independence of official statistics and non-compliance with the Principles (ISI, 2023b).

This paper focuses on the case of a political dismissal of the director-general of the Statistical Office of the Republic of Slovenia that took place in May 2020. The dismissal and the events that followed can be chronologically summarized in Figure 2.

Figure 2: In nearly four years, the legal case of dismissal of the director-general of Slovenian Statistical Office still remains open; no concrete action taken by the Statistical Office



It is noteworthy to add that:

- No prior communication from the Prime minister or the Government to the director-general has been established. A formal note sent to director-general of his dismissal via post followed the correspondence session of the Government on the eve of dismissal, in effect no formal note received by the dismissed directors on the day of its effect.
- No explanation whatsoever was provided for the grounds of dismissal. In subsequent appearance at a national television, ungrounded hints at uncooperativeness were aired by the Prime minister, unequivocally rejected by various journalists investigating the case.
- The lawsuit filed against the Government's decision took two and a half years to reject the case at the first-level (Administrative) court. Legal specialists in Slovenia did not see proper grounding of that decision. A higher-level (Supreme) court suit went on and in October 2023 the court ruled that National Statistics Act (lex specialis) is to be used for cases of dismissal of director-general of NSO for professional reasons, while Civil Servants Act (lex generis) to be applied for political discretion of dismissal of director-general. The case, including a request for compliance check with the European regulation, is now at Constitutional Court of Slovenia.

- Statistical Council of Slovenia initiated several actions and only after Peer review report came in, more than three years after the dismissal, NSO started commenting on the legal framework of Civil Servants Law.

If we read the judgment of both the Administrative Court and the Supreme Court, it is clear that the court did not recognize the privileged status of the statistical office from the point of view of ensuring political independence. From the point of view of us "defenders" of the political independence of this institution, it is somehow self-evident that the statistical office, despite its formal status as a government service, should be understood as a public service, i.e., a service that serves broader social interests, rather than a government service. Government authorities should be recognized as only one of the users of this service. On the other hand, both judgments, with their legal argumentation, quite clearly take a distinctly statist point of view, where the office is simply understood as one of the government departments, and therefore the discretion of the prime minister, that in the first year of the government he can replace the head of the statistical office without providing reasons, should not be questioned. Moreover, the judgment argues that the legal provisions of the two laws, the National Statistics Act and the Civil Servants Act, which refer to the dismissal of the head, are not mutually exclusive. The National Statistics Act is supposed to regulate dismissal for culpable reasons, while the Civil Servants Act regulates dismissal for non-guilty or political reasons. The interpretation of this argument by us, legal laymen, would be that the law on statistics is allowed to regulate the reasons for guilty dismissal, but it cannot serve as a shield against political dismissal.

Therefore, until the legal framework in the Republic of Slovenia changes, we are in a situation where the non-guilty dismissal of the general director, which before the end of the mandate can be purely an act of political arbitrariness, is legally permissible and acceptable. But what does such a position mean in contrast to the provisions of the CoP? Here we mainly mean the opposite of the above-mentioned provisions from indicator 1.8. Perhaps some legal argumentation would claim that we are not facing a collision here, but viewed only through the eyes of an official statistician, it seems quite clear that the current "de-iure" situation is clearly in conflict with the provisions of the CoP and the Principles. In other words, the act of political dismissal clearly violated one of the key provisions of the CoP.

### **3.2 Peer review of Slovenian Statistical System**

Aiming at assessing compliance of ESS members with the CoP, a new round of peer review took place in the time period 2021-2023, the third round of such an exercise, following previous rounds in 2006-2008 and 2013-2015. Slovenian Statistical System was assessed by the team

of four statistical experts (both from inside and outside the ESS), which visited Slovenia in June 2023.

As can be seen from the report (Krištof et al., 2023), the dismissal of the director general was considered during the discussion of the first principle of the CoP, stating: *Statistical laws are laws that specifically provide, at national level, the necessary guarantees for the functioning of statistical authorities in a country, in particular with regard to the principle of professional independence. For these guarantees to remain effective, it should be clear that such legislation prevails over any possible contradicting provisions that may be found in other national legislation. However, the question of the articulation between the National Statistics Act and other national legislation in Slovenia remains unclear, notably concerning the issue of the dismissal of the Director General of the Statistical Office of the Republic of Slovenia. Clarification on the reasons for the dismissal of the Director General has become even more important in light of the events of 2020, when the Director General was dismissed without explanation, in accordance with the Public Employees Act, while the National Statistics Act foresees the possibility of dismissing the Director General only if the government establishes that "important disturbances in the operation of the office have occurred due to inadequate organisational solutions".*

A crucial part of the peer review report are the (future-oriented) recommendations, aiming to further improve the NSS. In the case of Slovenia, the peer review team identified one compliance-relevant and fourteen improvement-related recommendations. The compliance-relevant one related to the problematic dismissal in 2020. Concerning this issue, the recommendations of the peer review team was: *"The Statistical Office of the Republic of Slovenia should clarify the legal status of the National Statistics Act as lex specialis, especially concerning the reasons for the dismissal of the Director General of the Statistical Office of the Republic of Slovenia"*.

The recommendation correctly recognizes that, at the national level, the only effective measure that could provide a better defence against political arbitrariness in the future is the revision of the national statistics law. The latter should more clearly and precisely determine the circumstances in which the replacement of the director-general is permissible, or in other words, it should more explicitly prohibit no-fault dismissal and thus clearly establish a lex-specialis relationship to the general law on civil servants. Here, of course, it is necessary to be cognizant that such a change in legislation is inevitably a long and demanding process. It is also necessary to have in mind that there is no guarantee that, even with the changed statistical legislation, in some new political circumstances, the power of political would not prevail over the provisions of this law.

If the guidelines for improvements at the national level are, at least theoretically, fairly clear, things may be a bit more unclear at the European, or international levels. Are the provisions of the CoP or the Principles, and the warnings and recommendations of peer reviews sufficient, or can we do more?

#### 4. What's next?

Instead of conclusion, where we could confirm that declarative independence of official statistics does not fully, and correctly reflect the factual status in Slovenia, and possibly with various degree in some other countries, let us dwell on the question of what this actually means. What is the actual impact on official statistics, on the society, individuals, economy?

Discussions in recent years have addressed the issues of evolving nature of official statistics, considering for example data governance, data stewardship, or other similar set-ups of the role of official statistics in a wider space of public domain(s), e.g., MacFeely (2016), Radermacher (2020), United Nations (2024a), United Nations Statistics Division (2024). Although addressing the issues and challenges faced by official statistics differently, the central role of official statistics is unmistakably identified in these discussions. To that end, the trust in official statistics and its produced statistics, such as the inflation, public debt, gross domestic product, are vital for proper functioning of the state, civil society, and economy.

We have seen that existing tools, codes, principles do not ensure their full implementation and enforcement. Therefore, a more rigorous approach is to be implemented if we are to take the question of professional independence of official statistics, trust in official statistics, and fight against misinformation seriously. The following areas are listed as recommendations to national and international communities to enforce compliance with relevant official statistics principles and standards.

- Develop a **maturity model of official statistics**. While certain elements of the Principles or CoP (or other tools) may be more implemented than others, it is a holistic and gradual (and granular) approach that truly measures the full question of the status of official statistics in a given country. Different aspects of the Principles, for example, could be classified into distinct (value) categories based on their foundational roles and cascading effects on each other, to develop benchmarks at different levels of compliance of national official statistics systems with the Principles. Such a maturity model could serve as a monitoring tool for national and international review and guide improvements. Independence, for example, would be identified as one of the relevant

categories and assessed using the maturity model. Such a metric would also serve the purpose of continuous improvement and more targeted actions to ensure compliance.

- Establish an **international review board** to monitor and support national authorities in their compliance with the Principles. While this year's United Nations Statistical Commission (2024) did bring such a proposal (United Nations, 2024a; United Nations Statistics Division, 2024) to the debate, it was surprisingly quickly dismissed as seen as "international policing". Inclusive dialogue is necessary to build advocacy and case for a collaborative approach.
- **Enhance capacity and raise awareness** on the importance of the Principles and independence of official statistics across a range of stakeholders: official statisticians, politicians and decision makers, general public and civil society, at both national and international levels. Clearly presenting the benefits of compliance, and scenarios or case studies of non-compliance and assess their impact on development, rule of law, human rights and other aspects of our lives will support building the case for strong compliance.
- Liaise with other international statistical institutes, e.g., ISI, Eurostat etc. to build a **case database** to record and monitor cases of potential breaches in the Principles. Such a database can be used for also formulating new guidance and assessing effectiveness, considering also various national circumstances, of actions aimed at ensuring compliance with the Principles.
- **Enforce national legislation**, also through regional (e.g., where it can be done, such as in Europe), to be compliant with the Principles. Enforcement mechanisms need to be carefully designed with significant political support and advocacy activities.

Elaborations and further development of these points stretch beyond the scope of this paper, and also span various stakeholders' engagements at international forum. They aim to signal that significant efforts are needed to address and ensure independence of official statistics.

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