

# Legal framework for European statistics

## The Statistical Law

2010 edition



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## Foreword

The world we live in today is characterised by an ever-increasing need for cooperation and dialogue as the internationalisation and interdependence between business sectors, policies, countries and ultimately — of course — people, become more and more obvious.

In this world, official statistics play a fundamental role. The availability of impartial and objective statistical information is essential for all decision-makers, not least at EU level, where European statistics constitute an essential contribution to building the information capacity required to sustain the EU's strategic objectives and the underlying policies and supporting instruments. European statistics therefore represent a public good providing a basis for the smooth functioning of democracy.

In that sense a well-functioning system for the production of European statistics requires a stable and transparent legal basis which can guarantee the independence, integrity and accountability of statistical authorities. At the same time, the system has to be flexible enough to allow responding to current and future challenges, for example as regards rapidly emerging policy needs, financial constraints, reduction of the burden on respondents and developments in information technology.

Over the past years substantial efforts have been deployed in order to meet these challenges. The adoption of the European Statistics Code of Practice and the setting up of the European Statistical Advisory Committee and the European Statistical Governance Advisory Board can be mentioned as good examples of measures taken in order to promote the common values within the European Statistical System (the ESS) and to enhance trust in European statistics.

The adoption by the European Parliament and by the Council of Regulation (EC) No 223/2009 on European statistics of 11 March 2009 marks another important step on the path to a new and more efficient ESS. This regulation offers opportunities both as regards different forms of cooperation between members of the ESS and beyond, and as regards more flexible ways of producing statistics. The aim of this leaflet is to describe briefly these opportunities.

I am convinced that this regulation will provide a solid frame for the development of the architecture of the ESS which will allow it to continue on the path to successfully meeting the challenges of the future. In particular, it supports the important initiative to improve efficiency and quality in statistical production by a stronger cooperation between all partners of the ESS. This initiative has already taken the form of a proposal on re-engineering the current way of producing statistics, replacing it by an integrated production method that would ensure synergies across all statistical domains <sup>(1)</sup>. Let us together make that vision the priority for the ESS for the years to come.

**Walter Radermacher**

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<sup>(1)</sup> Communication from the Commission to the European Parliament and the Council on the production method of EU statistics: a vision for the next decade, COM(2009) 404 final.





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## Introduction

The new regulation on European statistics, the ‘statistical law’ <sup>(2)</sup>, is a framework regulation, which means that it provides the basic principles and rules for how the European Statistical System (ESS) should function. It gives replies to questions such as who should do what, who decides and how. However, it does not specify which statistics should be produced; this should be laid down in sector-specific legislation.

The new regulation is divided into six chapters representing different building blocks for European statistics and the European Statistical System. The main elements of these building blocks are briefly presented below, with emphasis on the main novelties compared to the previous framework regulation <sup>(3)</sup>. The last chapter, which deals with the applicable comitology procedures <sup>(4)</sup> and repealed acts, is not dealt with specifically.

### Chapter I — General provisions

The first chapter sets the general frame for the cooperation within the ESS as regards European statistics. It specifies what is meant by European statistics and refers to the development, production and dissemination of these statistics on the basis of a statistical programme. European statistics also rely on the independence, integrity and accountability of the statistical authorities.

Furthermore, statistical principles are set out and explained, and, finally, a number of specific terms are defined in order to clarify and simplify their further use in the regulation. For the first time, not only production but also development and dissemination of statistics are defined. In addition, there is now a definition of ‘confidential data’ which was before, in the previous regulation, only a concept used in the enacting articles (provisions on substance). This change is of relevance especially for the provisions on transmission of confidential data and for the chapter on statistical confidentiality.

### Chapter II — Statistical governance


For the first time, the long-since established and gradually developed ESS is legally recognised in EU law in this chapter. Its definition as a partnership between the Commission (Eurostat), the national statistical institutes (NSIs) and all other national authorities responsible for European statistics lays the basis for an enhanced cooperation within the partnership and for a consolidation of all its activities. To this end, a coordinating role as regards all activities for the development, production and dissemination of European statistics is given to the NSIs at national level and to Eurostat at Community level, respectively.

The European Statistical System Committee (the ESS Committee) is established with the overarching task of providing professional guidance to the ESS for European statistics in general.

<sup>(2)</sup> Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics.

<sup>(3)</sup> Council Regulation (EC) No 322/97 on Community statistics.

<sup>(4)</sup> Comitology, or committee, procedures refer to how the Commission exercises the implementing powers it has been given in a legal act by the Parliament and the Council. Basically, it means that the Commission consults and gets a positive opinion from a committee composed of representatives of the Member States before it can adopt the implementing act (in the statistical domain usually a Commission regulation).



The ESS Committee also takes over the specific responsibilities of the Committee on Statistical Confidentiality, which ceases to exist. This means that the ESS Committee will be the cornerstone of the ESS architecture, being involved in issues such as planning and programming, quality and methodology, priority setting and international cooperation.

Furthermore, this chapter confirms the importance attributed within the ESS to the quality of statistics and public trust. Firstly, the European Statistics Code of Practice is recognised and the ESS Committee is entrusted with its revision. Secondly, a separate article is introduced on statistical quality, expressing a commitment by the ESS to monitor the quality of statistics.

Finally, there are several provisions making reference to cooperation with other bodies, both at EU level - especially with the European System of Central Banks (the ESCB) - and at international level.

## Chapter III — Production of European statistics

As regards planning and programming, the essential elements of the previous regulation remain the same, i.e. the development, production and dissemination of European statistics are determined in a multiannual European statistical programme to be decided by the European Parliament and the Council. That programme provides the general framework and the priorities of European statistics for the period covered. The actual implementation of the programme is decided by individual statistical actions. These are decided either by the European Parliament and the Council, by the Commission or by so-called gentlemen's agreements between the national authorities and Eurostat. In this context the regulation puts a clear emphasis on aspects such as cost-effectiveness, priority setting and reduction of response burden, and also on the importance of specifying how the action is to be carried out.

### *Statistics for unexpected needs*

The possibility for the Commission to decide a statistical action is intended for cases where unexpected needs for European statistics arise, which could not be foreseen at the time of adoption of the European statistical programme. This possibility was also foreseen in the previous regulation, but was limited there to a duration of one year. According to the new regulation such an action can include a data collection during a maximum of three reference years and not only from already available sources but also via a European survey. Member States will be fully involved since these actions will require a positive opinion of the ESS Committee (comitology procedure). Coordination with the national authorities is also foreseen, as well as an appropriate co-financing by both national and Community statistical authorities.

### *Flexible tools*

One of the main purposes of the regulation is to find more efficient ways to produce high-quality European statistics, thereby enabling the ESS to meet current and future challenges. This chapter on the production of European statistics therefore provides especially for flexible tools to increase the efficiency of the ESS and to reduce the burden on respondents and on the members of the ESS.



### *Collaborative networks*

The various statistical authorities within the ESS represent a range of specific experiences and expertise, and of different tools and methods. The ESS as a whole could benefit from a more harmonised use of such experiences and work on such tools. Therefore, collaborative networks are meant to enable specialisation on specific issues by some of these authorities. The results and the benefits are to be shared throughout the ESS.

### *European aggregates*

The European approach to statistics is likewise based on concerns related to an efficient production of relevant European statistics and cost-effectiveness. The purpose is to allow timely and high-quality European aggregates to be produced on the basis of the relevant national contributions — which will not always necessarily involve all Member States — or by use of specific production techniques, when this would perhaps otherwise not be possible due to precisely cost-effectiveness reasons or quality or confidentiality reasons. The possibility to coordinate the release and revision of statistics at national and EU levels is also meant to increase the availability and timeliness of European statistics.

## **Chapter IV — Dissemination of European statistics**

This chapter sets out the basic principle that all European statistics produced will be disseminated, with the necessary support for users ensured.


There is also a new provision on public use files containing aggregated non-confidential microdata. These files can be used for instance for teaching purposes.

## **Chapter V — Statistical confidentiality**

A high level of protection of confidential data is essential in order to gain and maintain the confidence of respondents and the public in general. At the same time, detailed and thus confidential data is necessary to ensure the high quality of the statistics produced and disseminated and to allow a flexible response to new statistical needs. Access to confidential data is also important in the interest of scientific progress since access to more detailed data allows researchers to make more in-depth analyses. The provisions of this chapter therefore aim at maintaining a high level of protection while at the same time moving forward by introducing some flexibility.

To begin with, the concept of statistical confidentiality has been specified in the following way. The explicit definition of confidential data referred to in the first chapter is the starting point. The basic rule is then that confidential data shall be protected from disclosure, thus preventing dissemination of statistical results. There are two exceptions to this basic rule, namely that the statistical unit has agreed to such dissemination or that specific conditions allowing dissemination are laid down in an act decided by the European Parliament and the Council (so-called passive confidentiality).

In this context can also be mentioned the objective to harmonise the protection of confidential data among statistical authorities within the ESS by establishing common principles



and guidelines on statistical disclosure control. The Commission is given an implementing power to this effect.

### *Data from public sources*

Furthermore, a separate article lays down that data from public sources are not considered confidential for the purpose of dissemination of statistics obtained from those data. This is meant to allow the dissemination of statistics when they are obtained from data that have already been made available to the public in another source according to national legislation. The purpose of this provision is to increase the availability of European statistics in certain domains, for instance business statistics, where typically the number of statistical units may be low. The risk of a statistical unit being identified and the application of statistical confidentiality in such cases would consequently prevent dissemination, notwithstanding the fact that the same data are already available to the public in other sources, either because the statistical unit has chosen itself to make the data available or because such data have to be made public in accordance with legislation in other domains than statistics (e.g. business registers, annual company accounts, registers for certain authorisations). At the same time, the statistical authority shall have the right to protect its data from access requests from the public and that is why this exception only refers to dissemination of statistics, and not to access to the data from which they have been obtained. It will have to be determined in each specific case that the statistics have been obtained from data from public sources and that they can consequently be safely disseminated.

### *Transmitting confidential data*

This chapter also lays down a more flexible framework for the exchange of confidential data both within the ESS and between the ESS and the ESCB. The provision speaks of transmission from one ESS authority to another or between an ESS authority and an ESCB member without specifying where these authorities are situated, meaning that the transmission can take place between different national authorities or ESCB members in the same Member State or in different Member States or between them and Eurostat, which is an ESS authority. The condition is that such transmission is necessary for the development, production or dissemination of European statistics or for increasing the quality of these statistics. As regards transmission to an ESCB member, this necessity must be justified.

### *Scientific purposes*

Finally, as regards access to confidential data for scientific purposes, the Commission is given the competence to establish the modalities, rules and conditions for such access after consulting the ESS Committee (comitology procedure). As expressed in the recitals of the regulation, the intention is to give researchers a wider access to confidential data and to improve the conditions for access without risking the necessary protection.



## Regulation (EC) No 223/2009 of the European Parliament and of the Council

of 11 March 2009

**on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities**

**(Text with relevance for the EEA and for Switzerland)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank <sup>(1)</sup>,

Having regard to the opinion of the European Data Protection Supervisor <sup>(2)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(3)</sup>,

Whereas:

- (1) To ensure the coherence and comparability of European statistics produced in accordance with the principles laid down in Article 285(2) of the Treaty, cooperation and coordination should be reinforced between the authorities that contribute to the development, production and dissemination of European statistics.
- (2) To that effect, the cooperation and coordination of those authorities should be developed in a more systematic and organised manner with full respect to the national and Community powers and institutional arrangements and taking into account the need to revise the existing basic legal framework in order to adapt it to the current reality, to better respond to future challenges, and to ensure a better harmonisation of European statistics.
- (3) It is therefore necessary to consolidate the activities of the European Statistical System (ESS) and to improve its governance, in particular with a view to further clarifying the respective roles of the national statistical institutes (NSIs) and other national authorities, and of the Community statistical authority.
- (4) Because of the specificity of the NSIs and the other national authorities responsible in each Member State for developing, producing and disseminating European statistics,

<sup>(1)</sup> OJ C 291, 5.12.2007, p. 1.

<sup>(2)</sup> OJ C 308, 3.12.2008, p. 1.

<sup>(3)</sup> Opinion of the European Parliament of 19 November 2008 (not yet published in the Official Journal) and Council Decision of 19 February 2009.

they should be able to receive grants without a call for proposals in accordance with Article 168(1)(d) of Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(4)</sup>.

- (5) Taking into account the financial burden-sharing between the budgets of the European Union and the Member States relating to the implementation of the statistical programme, the Community should also, in accordance with Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities <sup>(5)</sup>, make financial contributions to the NSIs and other national authorities in order to cover fully the incremental costs that the NSIs and other national authorities may incur in the execution of the temporary direct statistical actions decided by the Commission.
- (6) The statistical authorities of the Member States of the European Free Trade Association party to the Agreement on the European Economic Area <sup>(6)</sup> and of Switzerland should, as provided respectively for in the Agreement on the European Economic Area, in particular Article 76 thereof and Protocol 30 to that Agreement, and in the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics <sup>(7)</sup>, in particular Article 2 thereof, be closely associated with the reinforced cooperation and coordination.
- (7) Furthermore, it is important to ensure close cooperation and appropriate coordination between the ESS and the European System of Central Banks (ESCB), notably to foster the exchange of confidential data between the two systems for statistical purposes, in the light of Article 285 of the Treaty and of Article 5 of the Protocol (No 18) on the Statute of the European System of Central Banks and the European Central Bank annexed to the Treaty.
- (8) European statistics will thus be developed, produced and disseminated by both the ESS and the ESCB but under separate legal frameworks reflecting their respective governance structures. This Regulation should therefore apply without prejudice to Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank <sup>(8)</sup>.
- (9) Consequently, and although the members of the ESCB do not participate in the production of European statistics pursuant to this Regulation, following an agreement between a national central bank and the Community statistical authority, within their respective spheres of competence and without prejudice to national arrangements between the national central bank and the NSI or other national authorities, data produced by the national central bank may, however, be used, directly or indirectly, by NSIs, other national authorities and the Community statistical authority, for the production of

<sup>(4)</sup> OJ L 357, 31.12.2002, p. 1.

<sup>(5)</sup> OJ L 248, 16.9.2002, p. 1.

<sup>(6)</sup> OJ L 1, 3.1.1994, p. 3.

<sup>(7)</sup> OJ L 90, 28.3.2006, p. 2.

<sup>(8)</sup> OJ L 318, 27.11.1998, p. 8.



European statistics. Similarly, the members of the ESCB may, within their respective spheres of competence, use, directly or indirectly, data produced by the ESS, as long as the necessity has been justified.

- (10) In the general context of the relations between the ESS and the ESCB, the Committee on monetary, financial and balance of payments statistics established by Council Decision 2006/856/EC <sup>(9)</sup> plays an important role, in particular through the assistance provided to the Commission in drawing up and implementing work programmes concerning monetary, financial and balance of payments statistics.
- (11) International recommendations and best practices should be taken into account in the development, production and dissemination of European statistics.
- (12) It is important to ensure close cooperation and appropriate coordination between the ESS and other actors in the international statistical system in order to promote the use of international concepts, classifications and methods, in particular with a view to ensuring more coherence and better comparability between statistics at a global level.
- (13) In order to align concepts and methodologies in statistics, an adequate interdisciplinary cooperation with academic institutions should be developed.
- (14) The operation of the ESS also needs to be reviewed as more flexible development, production and dissemination methods of European statistics and clear priority-setting are required in order to reduce the burden on respondents and members of the ESS and improve the availability and timeliness of European statistics. A European approach to statistics should be designed to this end.
- (15) While European statistics are usually based on national data produced and disseminated by the national statistical authorities of all Member States, they may also be produced from non-published national contributions, subsets of national contributions, specifically designed European statistical surveys or harmonised concepts or methods.
- (16) In those specific cases, and where duly justified, it should be possible to implement a European approach to statistics, which consists of a pragmatic strategy to facilitate the compilation of European statistical aggregates, representing the European Union as a whole or the euro area as a whole, which are of particular importance for Community policies.
- (17) Joint structures, tools and processes could also be established or further developed through collaborative networks, involving the NSIs or other national authorities and the Community statistical authority and facilitating specialisation by certain Member States in specific statistical activities for the benefit of the ESS as a whole. These collaborative networks between partners of the ESS should aim to avoid duplication of work and therefore increase efficiency and reduce the response burden on economic operators.
- (18) At the same time, particular attention should be paid to coherent treatment of data collected from a variety of surveys. To this end, interdisciplinary working groups should be established.

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<sup>(9)</sup> OJ L 332, 30.11.2006, p. 21.

- (19) The improved regulatory environment for European statistics should, in particular, respond to the need to minimise the response burden on survey respondents and contribute to the more general objective of a reduction of administrative burdens arising at European level, in line with the Presidency Conclusions of the European Council of 8 and 9 March 2007. The important role played by the NSIs and other national authorities in minimising burdens on European businesses at national level should, however, also be emphasised.
- (20) In order to enhance trust in European statistics, the national statistical authorities should in each Member State, as should the Community statistical authority within the Commission, enjoy professional independence and ensure impartiality and high quality in the production of European statistics, in accordance with the principles laid down in Article 285(2) of the Treaty as well as the principles further elaborated in the European statistics Code of Practice endorsed by the Commission in its Recommendation of 25 May 2005 on the independence, integrity and accountability of the national and Community statistical authorities (incorporating the European statistics Code of Practice). The Fundamental Principles of Official Statistics adopted by the United Nations Economic Commission for Europe on 15 April 1992 and by the United Nations Statistical Commission on 14 April 1994 should also be taken into account.
- (21) This Regulation ensures the right to respect for private and family life and to the protection of personal data, as set out in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union <sup>(10)</sup>.
- (22) This Regulation also ensures the protection of individuals as regards the processing of personal data and specifies, as far as European statistics are concerned, the rules laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data <sup>(11)</sup> and in Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data <sup>(12)</sup>.
- (23) The confidential information which the national and Community statistical authorities collect for the production of European statistics should be protected, in order to gain and maintain the confidence of the parties responsible for providing that information. The confidentiality of data should satisfy the same principles in all the Member States.
- (24) For that purpose, it is necessary to establish common principles and guidelines ensuring the confidentiality of data used for the production of European statistics and the access to those confidential data with due account for technical developments and the requirements of users in a democratic society.
- (25) The availability of confidential data for the needs of the ESS is of particular importance in order to maximise the benefits of the data with the aim of increasing the quality of

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<sup>(10)</sup> OJ C 364, 18.12.2000, p. 1.

<sup>(11)</sup> OJ L 281, 23.11.1995, p. 31.

<sup>(12)</sup> OJ L 8, 12.1.2001, p. 1.





European statistics and to ensure a flexible response to the newly emerging Community statistical needs.

- (26) The research community should enjoy wider access to confidential data used for the development, production and dissemination of European statistics, for analysis in the interest of scientific progress in Europe. Access to confidential data by researchers for scientific purposes should therefore be improved without compromising the high level of protection that confidential statistical data require.
- (27) The use of confidential data for purposes that are not exclusively statistical, such as administrative, legal or tax purposes, or for the verification against the statistical units should be strictly prohibited.
- (28) This Regulation should apply without prejudice to Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information <sup>(13)</sup> and to Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies <sup>(14)</sup>.
- (29) Since the objective of this Regulation, namely the establishment of a legal framework for the development, production and dissemination of European statistics, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective, and is therefore without prejudice to national modalities, roles, and conditions specific to national statistics.
- (30) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(15)</sup>.
- (31) In particular, the Commission should be empowered to adopt measures concerning the quality criteria for European statistics and to establish the modalities, rules and conditions under which access can be given to confidential data for scientific purposes at Community level. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (32) The measures set out in this Regulation should replace those in Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council <sup>(16)</sup>, Council Regulation

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<sup>(13)</sup> OJ L 41, 14.2.2003, p. 26.

<sup>(14)</sup> OJ L 264, 25.9.2006, p. 13.

<sup>(15)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(16)</sup> OJ L 304, 14.11.2008, p. 70.

(EC) No 322/97 <sup>(17)</sup> and Council Decision 89/382/EEC, Euratom <sup>(18)</sup>. Those acts should therefore be repealed. The implementing measures set out in Commission Regulation (EC) No 831/2002 of 17 May 2002 implementing Council Regulation (EC) No 322/97 on Community Statistics, concerning access to confidential data for scientific purposes <sup>(19)</sup> and Commission Decision 2004/452/EC of 29 April 2004 laying down a list of bodies whose researchers may access confidential data for scientific purposes <sup>(20)</sup> should continue to apply.

(33) The Statistical Programme Committee has been consulted,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1* **Subject matter and scope**

This Regulation establishes a legal framework for the development, production and dissemination of European statistics.

In compliance with the principle of subsidiarity and in accordance with the independence, integrity and accountability of the national and the Community authorities, European statistics are relevant statistics necessary for the performance of the activities of the Community. European statistics are determined in the European statistical programme. They shall be developed, produced and disseminated in conformity with the statistical principles as set out in Article 285(2) of the Treaty and further elaborated in the European statistics Code of Practice in accordance with Article 11. They shall be implemented in accordance with this Regulation.

#### *Article 2* **Statistical principles**

1. The development, production and dissemination of European statistics shall be governed by the following statistical principles:

- (a) “professional independence”, meaning that statistics must be developed, produced and disseminated in an independent manner, particularly as regards the selection of techniques, definitions, methodologies and sources to be used, and the timing and content of all forms of dissemination, free from any pressures from political or interest groups or from Community or national authorities, without prejudice to institutional settings, such as Community or national institutional or budgetary provisions or definitions of statistical needs;

<sup>(17)</sup> OJ L 52, 22.2.1997, p. 1.

<sup>(18)</sup> OJ L 181, 28.6.1989, p. 47.

<sup>(19)</sup> OJ L 133, 18.5.2002, p. 7.

<sup>(20)</sup> OJ L 156, 30.4.2004, p. 1; corrected by OJ L 202, 7.6.2004, p. 1.



- (b) “impartiality”, meaning that statistics must be developed, produced and disseminated in a neutral manner, and that all users must be given equal treatment;
- (c) “objectivity”, meaning that statistics must be developed, produced and disseminated in a systematic, reliable and unbiased manner; it implies the use of professional and ethical standards, and that the policies and practices followed are transparent to users and survey respondents;
- (d) “reliability”, meaning that statistics must measure as faithfully, accurately and consistently as possible the reality that they are designed to represent and implying that scientific criteria are used for the selection of sources, methods and procedures;
- (e) “statistical confidentiality”, meaning the protection of confidential data related to single statistical units which are obtained directly for statistical purposes or indirectly from administrative or other sources and implying the prohibition of use for non-statistical purposes of the data obtained and of their unlawful disclosure;
- (f) “cost effectiveness”, meaning that the costs of producing statistics must be in proportion to the importance of the results and the benefits sought, that resources must be optimally used and the response burden minimised. The information requested shall, where possible, be readily extractable from available records or sources.

The statistical principles set out in this paragraph are further elaborated in the Code of Practice in accordance with Article 11.

2. The development, production and dissemination of European statistics shall take into account international recommendations and best practice.

For the purposes of this Regulation, the following definitions shall apply:

- 1. “statistics” means quantitative and qualitative, aggregated and representative information characterising a collective phenomenon in a considered population;
- 2. “development” means the activities aiming at setting up, strengthening and improving the statistical methods, standards and procedures used for the production and dissemination of statistics as well as at designing new statistics and indicators;
- 3. “production” means all the activities related to the collection, storage, processing, and analysis necessary for compiling statistics;

### *Article 3* **Definitions**

4. “dissemination” means the activity of making statistics and statistical analysis accessible to users;
5. “data collection” means surveys and all other methods of deriving information from different sources, including administrative sources;
6. “statistical unit” means the basic observation unit, namely a natural person, a household, an economic operator and other undertakings, referred to by the data;
7. “confidential data” means data which allow statistical units to be identified, either directly or indirectly, thereby disclosing individual information. To determine whether a statistical unit is identifiable, account shall be taken of all relevant means that might reasonably be used by a third party to identify the statistical unit;
8. “use for statistical purposes” means the exclusive use for the development and production of statistical results and analyses;
9. “direct identification” means the identification of a statistical unit from its name or address, or from a publicly accessible identification number;
10. “indirect identification” means the identification of a statistical unit by any other means than by way of direct identification;
11. “officials of the Commission (Eurostat)” means the officials of the Communities, within the meaning of Article 1 of the Staff Regulations of Officials of the European Communities, working at the Community statistical authority;
12. “other staff of the Commission (Eurostat)” means the servants of the Communities, within the meaning of Articles 2 to 5 of the Conditions of Employment of Other Servants of the European Communities, working at the Community statistical authority.

## CHAPTER II STATISTICAL GOVERNANCE

### *Article 4* **The European Statistical System**

The European Statistical System (ESS) is the partnership between the Community statistical authority, which is the Commission (Eurostat), and the national statistical institutes (NSIs) and other national authorities responsible in each Member State for the development, production and dissemination of European statistics.



1. The national statistical authority designated by each Member State as the body having the responsibility for coordinating all activities at national level for the development, production and dissemination of European statistics (the NSI) shall act as the contact point for the Commission (Eurostat) on statistical matters. The Member States shall take the necessary measures to ensure the application of this provision.

2. The Commission (Eurostat) shall maintain and publish on its website a list of NSIs and other national authorities responsible for the development, production and dissemination of European statistics as designated by Member States.

3. The NSIs and the other national authorities included in the list referred to in paragraph 2 of this Article may receive grants without a call for proposals, in accordance with Article 168(1)(d) of Regulation (EC, Euratom) No 2342/2002.

*Article 5*  
**National statistical  
institutes and other  
national authorities**

1. The Community statistical authority, as designated by the Commission to develop, produce and disseminate European statistics, shall be referred to as “the Commission (Eurostat)” in this Regulation.

2. At Community level, the Commission (Eurostat) shall ensure the production of European statistics according to established rules and statistical principles. In this respect, it shall have the sole responsibility for deciding on processes, statistical methods, standards and procedures, and on the content and timing of statistical releases.

3. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks (ESCB) and the European Central Bank, the Commission (Eurostat) shall coordinate the statistical activities of the institutions and bodies of the Community, in particular with a view to ensuring consistency and quality of the data and minimising reporting burden. To that end, the Commission (Eurostat) may invite any institution or body of the Community to consult or cooperate with it for the purpose of developing methods and systems for statistical purposes in their respective field of competence. Any of those institutions or bodies which propose to produce statistics shall consult the Commission (Eurostat) and take into account any recommendation that it may make to this effect.

*Article 6*  
**Commission  
(Eurostat)**

1. The European Statistical System Committee (ESS Committee) is hereby established. It shall provide professional guidance to the ESS for developing, producing and disseminating European statistics in line with the statistical principles set out in Article 2(1).

*Article 7*  
**European  
Statistical System  
Committee**

2. The ESS Committee shall be composed of the representatives of the NSIs who are national specialists for statistics. It shall be chaired by the Commission (Eurostat).
3. The ESS Committee shall adopt its rules of procedure, which shall reflect its tasks.
4. The ESS Committee shall be consulted by the Commission in regard to:
  - (a) the measures which the Commission intends to take for the development, production and dissemination of European statistics, their justification on a cost-effectiveness basis, the means and timetables for achieving them, the response burden on survey respondents;
  - (b) proposed developments and priorities in the European statistical programme;
  - (c) initiatives to bring into practice the reprioritisation and reduction of the response burden;
  - (d) issues concerning statistical confidentiality;
  - (e) the further development of the Code of Practice; and
  - (f) any other question, in particular issues of methodology, arising from the establishment or implementation of statistical programmes that are raised by its Chair, either on its own initiative or at the request of a Member State.

*Article 8*  
**Cooperation  
 with other bodies**

The European Statistical Advisory Committee and the European Statistical Governance Advisory Board shall be consulted in accordance with their respective competence.

*Article 9*  
**Cooperation with  
 the ESCB**

To minimise the reporting burden and guarantee the coherence necessary to produce European statistics, the ESS and the ESCB shall cooperate closely, while complying with the statistical principles as set out in Article 2(1).

*Article 10*  
**International  
 cooperation**

Without prejudice to the position and the role of individual Member States, the position of the ESS as regards issues of particular relevance to European statistics at international level as well as the specific arrangements for representation in the international statistical bodies shall be prepared by the ESS Committee and coordinated by the Commission (Eurostat).



1. The Code of Practice shall aim at ensuring public trust in European statistics by establishing how European statistics are to be developed, produced and disseminated in conformity with the statistical principles as set out in Article 2(1) and best international statistical practice.

*Article 11*  
**European statistics  
Code of Practice**

2. The Code of Practice shall be reviewed and updated as necessary by the ESS Committee. The Commission shall publish amendments thereto.

1. To guarantee the quality of results, European statistics shall be developed, produced and disseminated on the basis of uniform standards and of harmonised methods. In this respect, the following quality criteria shall apply:

*Article 12*  
**Statistical quality**

- (a) “relevance”, which refers to the degree to which statistics meet current and potential needs of the users;
- (b) “accuracy”, which refers to the closeness of estimates to the unknown true values;
- (c) “timeliness”, which refers to the period between the availability of the information and the event or phenomenon it describes;
- (d) “punctuality”, which refers to the delay between the date of the release of the data and the target date (the date by which the data should have been delivered);
- (e) “accessibility” and “clarity”, which refer to the conditions and modalities by which users can obtain, use and interpret data;
- (f) “comparability”, which refers to the measurement of the impact of differences in applied statistical concepts, measurement tools and procedures where statistics are compared between geographical areas, sectoral domains or over time;
- (g) “coherence”, which refers to the adequacy of the data to be reliably combined in different ways and for various uses.

2. In applying the quality criteria laid down in paragraph 1 of this Article to the data covered by sectoral legislation in specific statistical domains, the modalities, structure and periodicity of quality reports provided for in sectoral legislation shall be defined by the Commission in accordance with the regulatory procedure referred to in Article 27(2).

Specific quality requirements, such as target values and minimum standards for the statistical production, may be laid down in sectoral legislation. Where sectoral legislation does not so provide, measures may be adopted by the Commission. Those measures, designed to

amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(3).

3. Member States shall provide the Commission (Eurostat) with reports on the quality of the data transmitted. The Commission (Eurostat) shall assess the quality of data transmitted and shall prepare and publish reports on the quality of European statistics.

## CHAPTER III

### PRODUCTION OF EUROPEAN STATISTICS

#### *Article 13*

#### **European statistical programme**

1. The European statistical programme shall provide the framework for the development, production and dissemination of European statistics, the main fields and the objectives of the actions envisaged for a period not exceeding five years. It shall be decided upon by the European Parliament and the Council. Its impact and cost effectiveness shall be assessed, involving independent experts.

2. The European statistical programme shall lay down priorities concerning the needs for information for the purpose of carrying out the activities of the Community. Those needs shall be weighed against the resources needed at Community and national level to provide the required statistics, and also against the response burden and the respondent's associated costs.

3. The Commission shall introduce initiatives to set priorities and reduce the response burden for all or part of the European statistical programme.

4. The Commission shall submit the draft European statistical programme to the ESS Committee for prior examination.

5. For each European statistical programme, the Commission shall, after consulting the ESS Committee, present an intermediate progress report and a final evaluation report and shall submit them to the European Parliament and to the Council.

#### *Article 14*

#### **Implementation of the European statistical programme**

1. The European statistical programme shall be implemented by individual statistical actions which shall be decided:

- (a) by the European Parliament and the Council;
- (b) by the Commission, in specific and duly justified cases, in particular to meet unexpected needs, in accordance with the provisions in paragraph 2; or





(c) by means of agreement between the NSIs or other national authorities and the Commission (Eurostat), within their respective spheres of competence. Such agreements shall be in writing.

2. The Commission may decide on a temporary direct statistical action in accordance with the regulatory procedure referred to in Article 27(2) provided that:

- (a) the action does not provide for data collection covering more than three reference years;
- (b) the data are already available or accessible within the NSIs and other national authorities responsible, or can be obtained directly, using the appropriate samples for the observation of the statistical population at European level with the adequate coordination with the NSIs and other national authorities; and
- (c) the Community shall, in accordance with Regulation (EC, Euratom) No 1605/2002 make financial contributions to the NSIs and other national authorities to cover the incremental costs incurred by them.

3. In putting forward an action to be decided under paragraph 1(a) or (b), the Commission shall provide information on:

- (a) the reasons justifying the action, notably in the light of the aims of the Community policy concerned;
- (b) the objectives for the action and the expected results;
- (c) a cost-effectiveness analysis, including an assessment of the burden on respondents and of the production costs; and
- (d) the ways in which the action is to be carried out, including its duration and the role of the Commission and the Member States.

In the individual statistical actions, synergies shall be developed, when possible, within the ESS through collaborative networks, by the sharing of expertise and results or by fostering specialisation on specific tasks. To this end, an adequate financial structure shall be developed.

*Article 15*  
**Collaborative  
networks**

The outcome of those actions, such as joint structures, tools, processes and methods shall be made available throughout the ESS. The initiatives for the creation of collaborative networks as well as the outcomes shall be examined by the ESS Committee.

*Article 16*  
**European approach  
 to statistics**

1. In specific and duly justified cases and within the framework of the European statistical programme, the European approach to statistics aims at:

- (a) maximising the availability of statistical aggregates at European level and improving the timeliness of European statistics;
- (b) reducing the burden on the respondents, the NSIs and other national authorities based on a cost-effectiveness analysis.

2. The cases where the European approach to statistics is relevant include:

- (a) the production of European statistics by use of:
  - (i) non-published national contributions or national contributions from a subset of Member States;
  - (ii) specifically designed survey schemes;
  - (iii) partial information by modelling techniques;
- (b) the dissemination of statistical aggregates at European level by applying specific statistical disclosure control techniques without national dissemination provisions being impaired.

3. Measures to implement the European approach to statistics shall be carried out with the full involvement of Member States. The measures for the implementation of the European approach to statistics shall be laid down in the individual statistical actions referred to in Article 14(1).

4. If necessary, a coordinated release and revision policy shall be established in cooperation with Member States.

*Article 17*  
**Annual work  
 programme**

Each year, before the end of May, the Commission shall submit to the ESS Committee its work programme for the following year. The Commission shall take the utmost account of the comments of the ESS Committee. That work programme shall be based on the European statistical programme and shall indicate, in particular:

- (a) the actions which the Commission considers to have priority, bearing in mind Community policy needs and both national and Community financial constraints as well as the response burden;
- (b) initiatives regarding the review of priorities and the reduction of the response burden; and
- (c) the procedures and any legal instruments envisaged by the Commission for implementation of the programme.



## CHAPTER IV

## DISSEMINATION OF EUROPEAN STATISTICS

1. The dissemination of European statistics shall be undertaken in full compliance with the statistical principles, as set out in Article 2(1), particularly in respect of protecting statistical confidentiality and ensuring equality of access as required under the principle of impartiality.
2. The dissemination of European statistics shall be carried out by the Commission (Eurostat), the NSIs and other national authorities, within their respective spheres of competence.
3. Member States and the Commission, within their respective spheres of competence, shall provide the necessary support to ensure equality of access to European statistics for all users.

*Article 18*  
**Dissemination  
measures**

Data on individual statistical units may be disseminated in the form of a public use file consisting of anonymised records which have been prepared in such a way that the statistical unit cannot be identified, either directly or indirectly, when account is taken of all relevant means that might reasonably be used by a third party.

*Article 19*  
**Public use files**

If the data have been transmitted to the Commission (Eurostat) the explicit approval of the NSI or other national authority which provided the data is required.

## CHAPTER V

## STATISTICAL CONFIDENTIALITY

1. The following rules and measures shall apply to ensure that confidential data are exclusively used for statistical purposes and to prevent their unlawful disclosure.
2. Confidential data obtained exclusively for the production of European statistics shall be used by the NSIs and other national authorities and by the Commission (Eurostat) exclusively for statistical purposes unless the statistical unit has unambiguously given its consent to the use for any other purposes.
3. Statistical results which may make it possible to identify a statistical unit may be disseminated by the NSIs and other national authorities and the Commission (Eurostat) in the following exceptional cases:

*Article 20*  
**Protection  
of confidential data**

- (a) where specific conditions and modalities are determined by an act of the European Parliament and of the Council acting in accordance with Article 251 of the Treaty and the statistical results are amended in such a way that their dissemination does not prejudice statistical confidentiality whenever the statistical unit has so requested; or
- (b) where the statistical unit has unambiguously agreed to the disclosure of data.

4. Within their respective spheres of competence, the NSIs and other national authorities and the Commission (Eurostat) shall take all necessary regulatory, administrative, technical and organisational measures to ensure the physical and logical protection of confidential data (statistical disclosure control).

The NSIs and other national authorities and the Commission (Eurostat) shall take all necessary measures to ensure the harmonisation of principles and guidelines as regards the physical and logical protection of confidential data. Those measures shall be adopted by the Commission in accordance with the regulatory procedure referred to in Article 27(2).

5. Officials and other staff of the NSIs and other national authorities having access to confidential data shall be subject to compliance with such confidentiality, even after cessation of their functions.

#### *Article 21* **Transmission of confidential data**

1. Transmission of confidential data from an ESS authority, as referred to in Article 4, that collected the data to another ESS authority may take place provided that this transmission is necessary for the efficient development, production and dissemination of European statistics or for increasing the quality of European statistics.

2. Transmission of confidential data between an ESS authority that collected the data and an ESCB member may take place provided that this transmission is necessary for the efficient development, production and dissemination of European statistics or for increasing the quality of European statistics, within the respective spheres of competence of the ESS and the ESCB, and that this necessity has been justified.

3. Any further transmission beyond the first transmission shall require the explicit authorisation of the authority that collected the data.

4. National rules on statistical confidentiality shall not be invoked to prevent the transmission of confidential data under paragraphs 1 and 2 where an act of the European Parliament and of the Council acting in accordance with Article 251 of the Treaty provides for the transmission of such data.



5. Confidential data transmitted in accordance with this Article shall be used exclusively for statistical purposes and only accessible to staff working in statistical activities within their specific domain of work.

6. The provisions on statistical confidentiality provided for in this Regulation shall apply to all confidential data transmitted within the ESS and between the ESS and the ESCB.

1. Confidential data shall be accessible, subject to the exceptions laid down in paragraph 2, only to officials of the Commission (Eurostat) within their specific domain of work.

2. The Commission (Eurostat) may in exceptional cases grant access to confidential data to its other staff and to other natural persons working for the Commission (Eurostat) under contract within their specific domain of work.

3. Persons having access to confidential data shall use these data exclusively for statistical purposes. They shall be subject to this restriction even after cessation of their functions.

Access to confidential data which only allow for indirect identification of the statistical units may be granted to researchers carrying out statistical analyses for scientific purposes by the Commission (Eurostat) or by the NSIs or other national authorities, within their respective spheres of competence. If the data have been transmitted to the Commission (Eurostat) the approval of the NSI or other national authority which provided the data is required.

The modalities, rules and conditions for access at Community level shall be established by the Commission. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27(3).

In order to reduce the burden on respondents, the NSIs and other national authorities and the Commission (Eurostat) shall have access to administrative data sources, from within their respective public administrative system, to the extent that these data are necessary for the development, production and dissemination of European statistics.

The practical arrangements and the conditions for achieving effective access shall be determined where necessary by each Member State and the Commission, within their respective spheres of competence.

#### *Article 22*

### **Protection of confidential data in the Commission (Eurostat)**

#### *Article 23*

### **Access to confidential data for scientific purposes**

#### *Article 24*

### **Access to administrative records**

*Article 25*  
**Data from public sources**

Data obtained from sources lawfully available to the public and which remain available to the public according to national legislation shall not be considered confidential for the purpose of dissemination of statistics obtained from those data.

*Article 26*  
**Violation of statistical confidentiality**

Member States and the Commission shall take appropriate measures to prevent and sanction any violations of statistical confidentiality.

## CHAPTER VI

### FINAL PROVISIONS

*Article 27*  
**Committee**

1. The Commission shall be assisted by the ESS Committee.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

*Article 28*  
**Repeal**

1. Regulation (EC, Euratom) No 1101/2008 is hereby repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

References to the Committee on Statistical Confidentiality established under the repealed Regulation shall be construed as references to the ESS Committee established by Article 7 of this Regulation.

2. Regulation (EC) No 322/97 is hereby repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

3. Decision 89/382/EEC, Euratom is hereby repealed.

References to the Statistical Programme Committee shall be construed as references to the ESS Committee established by Article 7 of this Regulation.



This Regulation shall enter into force on the day following its publication in the Official Journal of the European Union.

*Article 29*  
**Entry into force**

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 11 March 2009.

For the European Parliament

The President

H.-G. Pöttering

For the Council

The President

A. Vondra





European Commission

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## Legal framework for European statistics

### The Statistical Law

The European Statistical System (ESS) has to provide policy makers as well as the general public within the European Union with high quality statistics. A basic legal framework, taking the form of a Regulation on European statistics, has been established in order to ensure the efficient functioning of the ESS for that purpose. The aim of this publication is to describe the main components of that legal framework, also emphasising some tools which are of particular importance for the response of the ESS to future challenges. The full text of the Regulation is also included, and this publication is therefore also meant to provide the reader with a useful reference document in a convenient format.

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