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THE EUROPEAN UNION**

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from :            Presidency  
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Subject :        Proposal for a Regulation of the European Parliament and of the Council on  
European Statistics  
- Presidency compromise

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Delegations will find attached a Presidency compromise with an explanatory note (annex to annex).

This document will be discussed at the Working Party on Statistics meeting on 1 October 2008.

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*GENERAL OBSERVATION:*

The differences between the last compromise text, as resulted of the WPS Council meeting of June 18<sup>th</sup>, 2008, are in **bold underlined** characters or marked with [...].

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2007/0220 (COD)

Proposal for a  
**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on European Statistics**  
**(Text with EEA relevance)**

**(Text with relevance for the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics)**

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<sup>1</sup>,

After consulting the European Data Protection Supervisor,

Having regard to the opinion of the European Central Bank,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>2</sup>,

Whereas:

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (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 and to better respond to future challenges.
- (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 of the Commission (Eurostat).
- (4) Considering the specificity of the NSIs and the other national authorities responsible in each Member State for developing, producing and disseminating European Statistics, it should be laid down that they may receive grants without a call for proposals in accordance with Article 168(1)(d) of Regulation (EC, Euratom) N° 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) N° 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>1</sup>.
- (4a) **Taking into account the financial burden sharing between the European Union and the Member States budgets relating to the implementation of the statistical program, the Community should also, in accordance with the council Regulation (EC) n° 1605/2002 of 25 June 2002 on the financial regulation applicable to the general budget of the European Communities, make financial contributions to the national authorities to fully cover the incremental costs that the national authorities may incur for the execution of the temporary direct statistical actions decided by the Commission.**

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<sup>1</sup> OJ L 357, 31.12.2002, p.1. Regulation as last amended by Commission Regulation (CE, Euratom) N° 478/2007 of 23 April 2007.

*Observations :*

*Origin EP Amendment.*

*Negotiated the trilogue meeting of September the 16th, 2008.*

*Presidency proposes to accept it along with articles 6.0, 9a, 11, 12.1a, 16 and 17.2 with recitals (8) and (16)*

*To be linked with paragraph 12.1a.(c): “Fully” has been moved from the article to this recital*

- (5) The statistical authorities of the European Free Trade Association Member States of the European Economic Area 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 this Agreement, and in the Agreement between the European Community and the Swiss Confederation on cooperation in the field of statistics, and in particular Article 2 thereof, be closely associated with the reinforced cooperation and coordination.
- (6) Furthermore, it is important to ensure close cooperation and appropriate coordination between the ESS and the European System of Central Banks, notably to foster 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 (ESCB) and the European Central Bank (ECB) annexed to the Treaty.
- (7) 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>1</sup>.
- (8) Consequently, and although [...] **the ESCB members** do not participate in the production of European Statistics pursuant to this Regulation, following an agreement between a national central bank and the Community authority within their respective spheres of competence and without prejudice to national arrangements between the national central bank and the national authority, data produced by the central bank may, however, be used, directly or indirectly, by national authorities and the Community authority for the production of European Statistics.

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<sup>1</sup> OJ L 318, 27.11.1998, p.8.

Similarly, [...] **the ESCB members** may within the sphere of their competences use, directly or indirectly, data produced by the ESS, **as long as the necessity has been justified.**

*Observations :*

*Negotiated the trilogue meeting of September the 16th, 2008.*

*Presidency proposes to accept it along with articles 6.0, 9a, 11, 12.1a, 16 and 17.2 with recitals (4a) and (16)*

*Firstly, this proposal takes on board the text as agreed in the trilogue meeting of September the 16<sup>th</sup>, 2008 (last phrase added at the end of the recital).*

*This is to be linked with paragraph 20.1a : there was a necessity to provide for a justification of the need for data prior to the transmission of these data from the ESS to the ESCB. Before the trilogue, there was an EP amendment setting up a codecision process priori to such transmission.*

*The transmission is enabled in paragraph 20.1a, and the nature of the need itself is further developed in the same paragraph.*

*Secondly, the proposal simplifies the text, replacing the two references to “the ECB and the national central banks” by “the ESCB members”.*

(9) 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>1</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.

**(9a) The development, production and dissemination of European Statistics should conform to international best practice.**

*Observations :*

*Presidency proposes to take this EP text (concerning initial recital (17)), but to move it in another position in the text, as recital 9a. Indeed, it is closely linked with recital 10 (about cooperation with actors in statistics at the international level)*

(10) It is important to ensure close cooperation and appropriate coordination between the ESS and other actors of 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.

<sup>1</sup> OJ L 332, 30.11.2006, p.21.

**(10a) In order to align concepts and methodologies in statistics, an adequate interdisciplinary cooperation with academic institutions should be developed.**

*Observations:*

*Origin EP Amendment.*

*Presidency proposes to accept a slightly improved version of the original EP amendment.*

- (11) The operation of the ESS also needs to be reviewed as more flexible development, production and dissemination methods of European Statistics as well as a clear priority setting are required in order to reduce the burden on respondents and [...] **ESS members** and improve the availability and timeliness of European Statistics. The 'European Approach to Statistics' is designed to this effect.

*Observations:*

*Origin: EP amendment*

*The only difference with the previous Council text is the replacement of “national statistical authorities” by “ESS members”.*

*Presidency proposes to accept it.*

- (12) 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, from subsets of national contributions and from European statistical surveys or by harmonised concepts or methods, designed specifically.
- (13) In those specific and duly justified cases, a ‘European Approach to Statistics’ that consists of a pragmatic strategy to facilitate the compilation of European statistical aggregates representing EU or euro area as a whole which are of particular importance for Community policies, may be implemented.
- (14) Joint structures, tools and processes could also be established or further developed through collaborative networks, involving national authorities and the Commission (Eurostat) 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 response burdens on economic operators.

- (14a) At the same time, particular attention should be paid to coherent treatment of data collected from several surveys. To this end, interdisciplinary working groups should be set up.
- (15) The proposed improved regulatory environment for European Statistics should in particular respond to the need to minimise the response burdens 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; however, the important role played by the national authorities in minimising burdens on European businesses at national level should also be emphasized.

*Observations :*

*Origin: EP amendment.*

*The only difference with the previous Council's text is the replacement of "business and citizens" by "survey respondents", which the Presidency proposes to accept.*

- (16) In order to enhance trust in European Statistics the **national** statistical authorities **in each Member State and the community statistical authority within the Commission** must 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 on the independence, integrity and accountability of national and Community statistical authorities **on 25 May 2005**<sup>1</sup>. 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.

*Observations :*

*Origin: EP amendment*

*Presidency proposes to accept it along with articles 6.0, 9a, 11, 12.1a, 16 and 17.2 with recitals (4a) and (8)*

*The text better links Article 285(2) of the Treaty with the European Statistics Code of Practice, and better reflects the respective importance of the sources of statistical principles.*

- (17) [...]

*Observations :*

*See newly introduced recital (9a).*

<sup>1</sup> OJ C 172, 12.7.2005, p. 22; COM(2005)0217.

- (18) 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.
- (19) This Regulation 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>1</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>2</sup>.
- (20) 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.
- (21) 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.
- (22) The availability of confidential data for the needs of the European Statistical System is of particular importance in order to maximise the benefits of the data with the aim to increase the quality of European Statistics and to ensure a flexible response to the new emerging Community statistical needs.
- (23) The research community should enjoy a wider access to confidential data used for production, development and dissemination of European Statistics, for analysis in the interest of scientific progress in Europe and 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.

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<sup>1</sup> OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

<sup>2</sup> OJ L 8, 12.1.2001, p. 1.



- (24) The use of confidential data for **[...] purposes that are not exclusively statistical** or for the verification against the statistical units should be strictly prohibited.

*Observations :*

*Origin : EP Amendment*

*Presidency proposes to choose accept the EP text. The list of possible misuses of confidential data in the previous Council's text is too limitative and therefore partial. The EP's formulation reflects better what is intended here : avoiding any risk to mix statistical and non statistical purposes.*

- (25) 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>1</sup> and to Regulation (EC) N°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>2</sup>.
- (26) 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 those objectives.
- (27) 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>3</sup>.
- (28) In particular, power should be conferred on the Commission to adopt measures concerning the quality dimensions of 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.

<sup>1</sup> OJ L 41, 14.2.2003, p. 26.

<sup>2</sup> OJ L 264, 25.9.2006, p. 13.

<sup>3</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11)

Since those measures are of general scope and are designed to supplement this Regulation by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

- (29) The measures set out in this Regulation should replace those in Regulation (Euratom, EC) of the European Parliament and of the Council No .../... of ... on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities<sup>1</sup> [COM(2006)477], Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics<sup>2</sup> and Council Decision 89/382/EEC, Euratom of 19 June 1989 establishing a Committee on the Statistical Programmes of the European Communities<sup>3</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>4</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>5</sup> should continue to apply.
- (30) The Statistical Programme Committee has been consulted,

HAVE ADOPTED THIS REGULATION:

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<sup>1</sup> OJ L , , p. .

<sup>2</sup> OJ L 52, 22.2.1997, p. 1. Regulation as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

<sup>3</sup> OJ L 181, 28.6.1989, p. 47.

<sup>4</sup> OJ L 133, 18.5.2002, p. 7. Regulation as last amended by Regulation (EC) No 1104/2006 (OJ L 197, 19.7.2006, p. 3).

<sup>5</sup> OJ L 156, 30.4.2004, p. 1, as corrected by OJ L 202, 7.6.2004, p. 1. Decision as last amended by Decision 2007/439/EC (OJ L 164 , 26/06/2007 P. 0030 - 0031).

# CHAPTER I

## General Provisions

### *Article 1* *European Statistics*

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 European 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 as referred to in Article 9a**. They are implemented according to the provisions of this Regulation.

#### *Observations :*

*Presidency proposes a text built on the last Council's compromise and resulting from the trilogue. The new proposal adds a reference to the European Statistics Code of Practice alongside the principles of Article 285 of the Treaty, similarly to recital 16, resulting from an EP amendment.*

### *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 national or Community authorities, **without prejudice to institutional settings, such as national or Community institutional or budgetary provisions or definition of statistical needs.**

*Observations :*

*Presidency proposes to accept a text built on both the previous Council's text (just reordered) and an EP's amendment (adding the last phrase).*

*This last phrase added take into account subsidiarity.*

- (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; it implies 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; it implies 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.

These statistical principles are further elaborated in the European Statistics Code of Practice as referred to in Article 9a.

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

*Article 3*  
*Definitions*

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) [...]
- (3) '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;
- (4) 'production' means all the activities related to the collection, storage, processing, and analysis necessary to compile statistics;
- (5) 'dissemination' means the activity of making statistics and statistical analysis accessible to users;
- (6) 'data collection' means surveys and all other forms of deriving information from different sources, including administrative sources;
- (7) 'statistical unit' means the basic observation unit, namely a natural person, a household, an economic operator and other undertakings, referred to by the data;
- (8) '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;
- (9) 'use for statistical purposes' means the exclusive use for the development and production of statistical results and analyses;
- (10) 'direct identification' means the identification of a statistical unit from its name or address, or from a publicly accessible identification number;
- (11) 'indirect identification' means the identification of a statistical unit by any other means than by way of direct identification;
- (12) '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 Commission (Eurostat);
- (13) '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 Commission (Eurostat).

## CHAPTER II

### Statistical Governance

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

1. 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 authorities responsible in each Member State (national authorities) for the development, production and dissemination of European Statistics.

#### *Article 5* *National Statistical Institutes and other national authorities*

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 **and thereby acting as the contact point for the Commission (Eurostat) on statistical matters, shall be referred to as ‘the NSI’ in this Regulation.** The Member States shall take the necessary measures to ensure the application of this provision.

*Observations :*

*Presidency proposes to accept this text which builds from an EP amendment and results from the trilogue.*

*The first modification consists in shifting towards a passive formulation to be on line with paragraph 6.0 on the Commission (Eurostat).*

*The second modification (“contact point ...”) comes from the EP amendment.*

2. The Commission (Eurostat) shall maintain and publish on its web site a list of NSIs and other national authorities responsible for the development, production and dissemination of European Statistics as provided by Member States.
3. The NSIs and the other national authorities included in the list referred to in paragraph 2 may receive grants without a call for proposals.

**0. The Community statistical authority, as designated by the Commission for the development, production and dissemination of European Statistics shall be referred to as ‘the Commission (Eurostat)’ in this Regulation.**

*Observations :*

*Origin : Commission compromise proposal to the trilogue.*

*Presidency proposes to accept it along with articles 9a, 11, 12.1a, 16 and 17.2 with recitals (4a), (8) and (16).*

*It's close to previous Council's text, but in a passive form. Besides, "entrusted" is replaced by the stronger "designated", but there's no reference to a Directorate-General in order to respect the autonomy of the Commission regarding its internal organisation.*

1. [...] **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.

*Observations :*

*Origin : EP amendment*

*Presidency proposes to accept the text, in which "Director General" is no longer quoted to be in line with paragraph 6.0.*

2. Without prejudice to Article 5 of the Protocol on the Statute of the European System of Central Banks (ESCB) and the European Central Bank (ECB), 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 response burden. To that end, [...] **the Commission (Eurostat)** may invite any institution or body of the Community to consult and cooperate with it for the purpose of developing methods and systems for statistical purposes in their respective field of competence; any of these Institutions and bodies which may propose to produce statistics shall consult with the Commission (Eurostat) and take into account any recommendation that it may make to this effect.

*Observations :*

*Origin : EP amendment*

*Presidency proposes to accept the text, in which "Director General" is no longer quoted to be in line with paragraph 6.0.*

*Article 6a*  
**European Statistical System Committee**

*Observations :*  
*Origin : EP Amendment*  
*Presidency proposes to accept it for better regulation.*

1. [...] **The European Statistical System (ESS)** Committee, referred to in article 27, shall provide professional guidance to the ESS for developing, producing and disseminating European Statistics in line with the statistical principles.

*Observations :*  
*Origin : EP Amendment*  
*Presidency proposes to accept it for better regulation.*

2. The ESS Committee shall be composed of the [...] **representatives** of the NSIs (**national specialists for statistics**). It shall be chaired [...] **by the Commission (Eurostat)**.

*Observations:*  
*Origin : EP amendment.*  
*Presidency proposes to accept the EP amendment.*  
*The modification in brackets is an acceptable precision. Besides, “Heads” has been replaced by “representatives” and “Director-General” by the “Commission(Eurostat)” for subsidiarity and autonomy reasons.*

3. The ESS Committee shall adopt its rules of procedure, [...] **which shall reflect its tasks.**

*Observations:*  
*Presidency proposes to accept this EP amendment. It's a better formulation.*

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 reporting burden on survey respondents;
  - (b) proposed developments and priorities in the European Statistical Programme;
  - (c) initiatives to bring into practice reprioritization and reduction of response burden;
  - (d) issues concerning statistical confidentiality;



- (e) **the** further development of the Code of Practice [...] **attached to** the Recommendation of the Commission of 25 May 2005 on the independence, integrity and accountability of the national and Community statistical authorities<sup>1</sup>;

*Observations :*

*Presidency proposes to accept this EP amendment.*

- (f) any other questions, 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.

*Observations :*

*Presidency proposes to accept this text built on an EP amendment. To be in line with a article 6a.2, a chair is not a Chairperson.*

#### *Article 7 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 8 Cooperation with the ESCB*

To minimise 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 laid down in this Regulation.

#### *Article 9 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).

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<sup>1</sup> OJ C 172, 12.7.2005, p. 22; COM(2005)0217

*Article 9a*  
*European Statistics Code of Practice*

1. A European Statistics 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 and best international statistical practice.
2. The Code [...] **has been** established and shall be reviewed and updated as necessary **by the ESS Committee**. The Commission **shall publish amendments thereto**.

*Observations :*

*Origin : EP Amendment.*

*Presidency proposes to accept it along with articles 6.0, 11, 12.1a, 16 and 17.2 with recitals (4a), (8) and (16).*

*The text reflects the real situation : the code has been already established. Furthermore, the role of the ESS committee is being stated.*

*Article 10*  
*Statistical quality*

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 dimensions shall apply:

*Observations :*

*Presidency proposes a more complete version, including development, production and dissemination, because the quality dimensions apply to all three domains, and because in other parts of the texts (like article 1) there is a clear reference to all of the three.*

- (a) 'relevance' refers to the degree to which statistics meet current and potential needs of the users.
- (b) 'accuracy' refers to the closeness of estimates to the unknown true values;
- (c) 'timeliness' refers to the time lag between the availability of the information and the event or phenomenon it describes;

- (d) 'punctuality' refers to the time lag between the date of the release of the data and the target date when it should have been delivered;
- (e) 'accessibility' and 'clarity' refer to the conditions and modalities by which users can obtain, use and interpret data;
- (f) 'comparability' refers to the measurement of the impact of differences in applied statistical concepts and measurement tools and procedures when statistics are compared between geographical areas, sectoral domains or over time;
- (g) 'coherence' refers to the adequacy of the data to be reliably combined in different ways and for various uses.

2. In applying the quality dimensions 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. Such 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 11*  
*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 by the European Parliament and the Council. **Its impact and cost effectiveness shall be assessed, involving independent experts.**

*Observations :*

*Origin: EP amendment modified in the trilogue.*

*Presidency proposes to accept it along with articles 6.0, 9a, 12.1a, 16 and 17.2 with recitals (4a), (8) and (16).*

- 1a. [...] **The European Statistical Programme shall lay down priorities concerning the needs for information for the purpose of carrying out** the activities of the Community. **Needs should 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.**

*Observations :*

*Presidency proposes a text essentially built on an EP amendment. Even though the text is reordered, all the provisions are the same as in the previous Council's version.*

- 1b. **The Commission shall introduce initiatives to set priorities and reduce the burden on respondents for all or part of the European Statistical Programme**

*Observations :*

*Origin EP Amendment.*

*Presidency proposes to accept it.*

- 2a. The Commission shall submit [...] **the draft** European Statistical Programme to the ESS Committee for prior examination.

*Observations :*

*Origin EP amendment slightly modified to be more precise.*

*Presidency proposes to accept this text, which better respects the legal procedures of EU regulations. “Draft” replaces “outlines” in the previous Council’s text.*

2. 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 12*

*Implementation of the European Statistical Programme*

1. The European Statistical Programme shall be implemented by individual statistical actions which shall be decided either:
- (a) by the European Parliament and the Council; or
  - (b) **by the Commission**, in specific and duly justified cases, [...] in particular to meet unexpected needs, in accordance with the provisions in paragraph 1a; or
  - (c) by means of agreement between the national authorities and the Commission (Eurostat) within their respective spheres of competence. These agreements shall be in writing.
- 1a. 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 foresee data collection covering more than [...] **three** reference years;

*Observations :*

*Origin EP Amendment, negotiated in the trilogue.*

*Presidency proposes to accept it along with articles 6.0, 9a, 11, 16 and 17.2 with recitals (4a), (8) and (16).*

- (b) the data are already available or accessible within the 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 national authorities;
- (c) The Community shall, in accordance with Council Regulation (EC) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, make financial contributions to the national authorities to [...] cover the [...] **incremental** costs incurred by them.

*Observations :*

*Origin : EP amendment negotiated during the trilogue.*

*Presidency proposes to accept it along with articles 6.0, 9a, 11, 16 and 17.2 with recitals (4a), (8) and (16).*

2. In pursuing an action referred to in paragraphs 1(a) and 1(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;
  - (d) the ways the actions is carried out, including its duration and the role of the Commission and the national authorities.

*Article 13  
Collaborative networks*

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.

*Observations :*

*Origin: EP Amendment*

*Presidency proposes to accept it.*

The outcome of these 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 14*

*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 response burden on **the** respondents and the burden on national authorities **on the basis of a cost-benefit analysis**

*Observations :*

*Origin : EP amendment, improved*

*The Presidency proposes to accept this formulation very close to the previous Council's text.*

- 1a. The cases where the European approach to statistics is relevant include:
  - (a) the production of European Statistics by use of:
    - non-published national contributions or national contributions from a subset of Member States;
    - specifically designed survey schemes;
    - 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.
2. Measures to implement the European Approach to Statistics shall be carried out with full involvement of Member States. **These** measures [...] shall be laid down in the individual statistical actions referred to in Article 12(1).

Observations :

*Origin : Council and EP texts improved*

*Presidency proposes to accept it.*

- 2a. If necessary, a coordinated release and revision policy shall be established in cooperation with Member States.

*Article 15*

*[...]*

Observations :

*Article included in Article 12.1a.*

*Article 16*

*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. This work programme shall be based on the European Statistical Programme. This work programme shall indicate in particular:

Observations :

*Origin : Council and EP texts, as negotiated during the trilogue.*

*Presidency proposes to accept it along with articles 6.0, 9a, 11, 12.1a and 17.2 with recitals (4a), (8) and (16).*

- (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;
- (a1) initiatives regarding [...]prioritization and **the** reduction of the response burden;

Observations :

*Origin : EP amendment*

*Presidency proposes to accept this better formulation.*

- (b) the procedures and any legal instruments envisaged by the Commission for implementation of the programme.



## CHAPTER IV

### Dissemination of European Statistics

#### Article 17 Dissemination measures

1. The dissemination of European Statistics shall be undertaken in full compliance with the statistical principles as set out in Article 2[.], particularly in respect of protecting statistical confidentiality and ensuring equality of access as required under the principle of impartiality.

*Observations :*

*Origin : EP amendment.*

*Presidency proposes to accept it.*

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.

*Observations :*

*Resulting from the trilogue negotiation*

*Presidency proposes to accept it along with articles 6.0, 9a, 11, 12.1a and 16 with recitals (4a), (8) and (16).*

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 [...].

*Observations :*

*Origin : EP amendment.*

*Presidency proposes to accept it because of its better formulation.*

#### Article 18 Public Use Files

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.

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

# CHAPTER V

## Statistical Confidentiality

### Article 19 Protection of confidential data

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.**

*Observations :*

*Origin : EP amendment.*

*Presidency proposes to accept it.*

2. Confidential data obtained exclusively for the production of European Statistics shall be used by 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 national authorities and the Commission (Eurostat) in the following exceptional cases:
  - (a) where specific conditions and modalities are determined by an act of the European Parliament and of the Council acting in accordance with the procedure laid down in Article 251 of the Treaty. These results shall be 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, 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).

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. These 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 national authorities having access to confidential data shall be subject to compliance with such confidentiality, even after cessation of their functions.

*Article 20*  
*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 [...] or for increasing the quality of European Statistics.

*Observations :*

*Origin: EP amendment*

*Presidency proposes to accept this modification avoiding to repeat “European Statistics”.*

- 1a. 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.
- 1b. Any **further** transmission beyond the first transmission must be explicitly authorized by the authority that collected the data.

*Observations :*

*Origin: EP amendment*

*Presidency proposes to accept this modification.*

2. National rules on statistical confidentiality may not be invoked to prevent the transmission of confidential data under paragraphs 1 and 1a where an act of the European Parliament and of the Council acting in accordance with the procedure laid down in Article 251 of the Treaty provides for the transmission of such data.
3. Confidential data transmitted according to the provisions of this Article shall be used exclusively for statistical purposes and only accessible to staff working in statistical activities within their specific domain of work.
4. 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.

*Observations :*  
*Origin: EP amendment*  
*Presidency proposes to accept this formulation.*

*Article 21*  
*Protection of confidential data in the Commission (Eurostat)*

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 **and may be used by them exclusively for statistical purposes.**

*Observations :*  
*Origin: EP amendment*  
*Presidency proposes to accept this formulation.*

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.

*Article 22*  
*Access to confidential data for scientific purposes*

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 national authorities in their respective sphere of competence. If the data have been transmitted to the Commission (Eurostat) the approval of the national authority which provided the data is required.

The modalities, rules and conditions for access at Community level shall be established by the Commission. Such 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).

*Article 23*  
*Access to administrative records*

In order to reduce the burden on respondents, the 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 limits and conditions** for achieving effective access shall be determined where necessary by each Member State and the Commission in their respective spheres of competence.

<p><i>Observations :</i> <i>Origin: EP amendment</i> <i>Presidency proposes to accept this formulation.</i></p>
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*Article 24*  
*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 these data.

*Article 25*

[...]

Observations :

*Text already been introduced in article 19 paragraph 3(b).*

*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, the procedure laid down in 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 three months.

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

### *Article 28 Repeal*

1. Regulation (Euratom, EC) [*of the European Parliament and of the Council No .../... of ... on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities [COM(2006)477]*] is 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 27 of this Regulation.
2. Regulation (EC) No 322/97 is repealed.  
References to the repealed Regulation shall be construed as references to this Regulation.
3. Decision 89/382/EEC, Euratom is repealed.

References to the Committee shall be construed as references to the ESS Committee established by Article 27 of this Regulation.

*Article 29*  
*Entry into force*

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

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

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*

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EXPLANATORY NOTE

**Background**

The ECON Commission of the European Parliament (EP) adopted its final report on September 9, 2008. On the basis of the document n°10991/08 of June 18th established by the Slovenian Presidency, the French Presidency prepared a trilogue concerning in particular the three still open articles: articles 6, 6a and 12. This informal trilogue took place on September 16th and was based on the final report of ECON Commission and the compromise text established by the Slovenian Presidency. It led to an agreement between the Presidency, the European Parliament and the Commission on the most sensible points of the text (see below). The other modifications of the Slovenian compromise text, as felt as less important, are to be examined.

**The next steps**

This text presents the state of art after negotiations and will be discussed at the Council Working Group on Statistics (WGS) on October 1st. The European Parliament and the Presidency agreed on the fact that a first lecture agreement could be reached before the end of this year. This implies a political agreement by the EFC on October the 23rd, then by the ECOFIN Council in November. The European Parliament foresees a plenary vote in the week of 22 October. Presidency invites all Member States to keep in mind this consideration of quite tight schedule when establishing their positions on the articles of the text.

**General Introduction**

The text annexed to this document updates the last Council compromise text (June 18th) with the usual revision marks, taking into account the present state of negotiations. The Member States are asked to give their opinion on this new redaction.

Presidency would like to propose to WGS participants to give a joint opinion on the following articles negotiated on September 16th, in the trilogue: articles 6.0, 9a (and recital 16), articles 11 and 16, article 12.1a (and recital 4a), article 17.2 and article 20.1a (and recital 8) because they are part of a single negotiation. These points are detailed below.

On the other hand, Presidency wishes to collect Member States' opinions on the numerous less important modifications. In case of problems with proposed formulations, Member States are asked to give Presidency a clear mandate for a possible second trilogue.

The modifications have been brought aiming at retaining a wording as concise and precise as possible.

When the text differs from the last Council compromise text, Presidency systematically inserted an explanatory note.

### **The most important points as resulting from the trilogue of 16 September**

#### *ESS Committee (Art. 6a.2)*

The unicity and the dual role (comitology and consultation) of the ESS Committee are points for which the European Parliament and the Council spontaneously met an agreement. The ESS Committee is composed by NSI's representatives who are "national specialists for statistics" (EP amendment).

NSI are (article 5.1) the bodies designated by the Member States having the responsibility for coordinating all activities at national level for the development, production and dissemination of European Statistics.

#### *Eurostat (Art. 6.0)*

In article 6.0, Eurostat's role and definition has been changed and a passive form is used. The same passive form is used in article 5.1 for the NSI's designation.

#### *The European Statistics Code of Practice (Art. 9a)*

The European Parliament has accepted the Council's proposition of creating a specific article for the European Statistics Code of Practice. The Council's text has been improved to take into account the fact the Code already exists and therefore can't be created. The role of the ESS Committee has been made more explicit.

*The European Statistical Program (Art. 11)*

A sentence has been added at the end of the paragraph to assess the impact and the cost effectiveness of the European Statistical Program. A draft program will be submitted to the ESS Committee before the beginning of the legal procedure.

*The temporary direct statistical actions (Art. 12.1a and recital (4a))*

The redaction of article 12.1a of the last Council's compromise text has not been kept by the European Parliament, which considers it's not in accordance with Council Regulation (EC) n° 1605/2002 of 25 June 2002 on the financial regulation applicable to the general budget of the European Communities. The article has been kept, but the word "fully" has been deleted.

However, the intention expressed by the previous writing has been taken into account in a new recital (4a), which expresses the idea of a complete coverage of additional costs.

The maximum duration of temporary direct statistical actions has been fixed to three years.

The annual work program of the Commission (Art. 16)

This program shall be submitted to the ESS Committee and the Commission shall take the utmost account of its comments.

*Dissemination measures (Art. 17.2)*

An EP amendment modifying this article has been withdrawn and the last compromise text has been kept.

*Confidential data transmission from an ESS member to an ESBC member (Art. 20.1a and 20.3 and recital (8))*

At the end of recital (8), a condition concerning the transmission of confidential data between ESS and the ESCB has been added: it is needed to justify the necessity of this transfer. This addition is made in order to avoid a reference to a co-decision act for each data transfer.

The other points

For some articles, the Slovenian Compromise text has been unchanged and therefore no revision marks appear : Articles 2 (1)b, e, f , 2(2), 3(6), 3(8), 5(2), 7, 8, 9, 10(3), 11(2), 13, paragraph 2, 14(1a)b, 16(a), 18, 21(2), 22, 27(1) and recital 6, 10 , 13, 18, 20, 21, 22, 23, 28

For the other points, comments are made which explain the origin of the new text and the reason of the proposed modification. Some modifications take on board EP proposals, the other wordings are based on a compromise between Council text and EP text.

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