

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 ⁽¹⁾,

Having regard to the opinion of the European Data Protection Supervisor ⁽²⁾,

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

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, 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 ⁽⁴⁾.

(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 ⁽⁵⁾, 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 ⁽⁶⁾ 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 ⁽⁷⁾, 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.

⁽¹⁾ OJ C 291, 5.12.2007, p. 1.

⁽²⁾ OJ C 308, 3.12.2008, p. 1.

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

⁽⁴⁾ OJ L 357, 31.12.2002, p. 1.

⁽⁵⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁶⁾ OJ L 1, 3.1.1994, p. 3.

⁽⁷⁾ OJ L 90, 28.3.2006, p. 2.

- (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 ⁽¹⁾.
- (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 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 ⁽²⁾ 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.
- (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.

⁽¹⁾ OJ L 318, 27.11.1998, p. 8.

⁽²⁾ OJ L 332, 30.11.2006, p. 21.

- (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 ⁽¹⁾.
- (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 ⁽²⁾ 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 ⁽³⁾.
- (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 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 ⁽⁴⁾ 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 ⁽⁵⁾.
- (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 ⁽⁶⁾.
- (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 ⁽⁷⁾, Council Regulation (EC) No 322/97 ⁽⁸⁾ and Council Decision 89/382/EEC, Euratom ⁽⁹⁾. 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 ⁽¹⁰⁾ 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 ⁽¹¹⁾ should continue to apply.
- (33) The Statistical Programme Committee has been consulted,

⁽¹⁾ OJ C 364, 18.12.2000, p. 1.

⁽²⁾ OJ L 281, 23.11.1995, p. 31.

⁽³⁾ OJ L 8, 12.1.2001, p. 1.

⁽⁴⁾ OJ L 41, 14.2.2003, p. 26.

⁽⁵⁾ OJ L 264, 25.9.2006, p. 13.

⁽⁶⁾ OJ L 184, 17.7.1999, p. 23.

⁽⁷⁾ OJ L 304, 14.11.2008, p. 70.

⁽⁸⁾ OJ L 52, 22.2.1997, p. 1.

⁽⁹⁾ OJ L 181, 28.6.1989, p. 47.

⁽¹⁰⁾ OJ L 133, 18.5.2002, p. 7.

⁽¹¹⁾ OJ L 156, 30.4.2004, p. 1; corrected by OJ L 202, 7.6.2004, p. 1.

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;
- (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.

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. '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;
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.

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 (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 6

Commission (Eurostat)

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 7

European Statistical System Committee

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).
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).

Article 11

European statistics Code of Practice

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.

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

Article 12

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 criteria shall apply:

- (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.

*Article 15***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.

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

Article 18

Dissemination measures

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 19

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 NSI or other national authority which provided the data is required.

CHAPTER V

STATISTICAL CONFIDENTIALITY

Article 20

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.
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:

- (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.

Article 22

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.

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 23

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 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).

Article 24

Access to administrative records

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 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.

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

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.

Article 29

Entry into force

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