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)

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.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EC) No 223/2009 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(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.

(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[(8)].

(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

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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[9] plays an important role, in particular through the assistance provided to the Commission in drawing up and implementing work programmes concerning monetary, financial and balance of payments statistics.

(11) International recommendations and best practices should be taken into account in the development, production and dissemination of European statistics.

(12) It is important to ensure close cooperation and appropriate coordination between the ESS and other actors in the international statistical system in order to promote the use of international concepts, classifications and methods, in particular with a view to ensuring more coherence and better comparability between statistics at a global level.

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

(14) The operation of the ESS also needs to be reviewed as more flexible development, production and dissemination methods of European statistics and clear priority-setting are required in order to reduce the burden on respondents and members of the ESS and improve the availability and timeliness of European statistics. A European approach to statistics should be designed to this end.

(15) While European statistics are usually based on national data produced and disseminated by the national statistical authorities of all Member States, they may also be produced from non-published national contributions, subsets of national contributions, specifically designed European statistical surveys or harmonised concepts or methods.

(16) In those specific cases, and where duly justified, it should be possible to implement a European approach to statistics, which consists of a pragmatic strategy to facilitate the compilation of European statistical aggregates, representing the European Union as a whole or the euro area as a whole, which are of particular importance for Community policies.

(17) Joint structures, tools and processes could also be established or further developed through collaborative networks, involving the NSIs or other national authorities and the Community statistical authority and facilitating specialisation by certain Member States in specific statistical activities for the benefit of the ESS as a whole. These collaborative networks between partners of the ESS should aim to avoid duplication of work and therefore increase efficiency and reduce the response burden on economic operators.

(18) At the same time, particular attention should be paid to coherent treatment of data collected from a variety of surveys. To this end, interdisciplinary working groups should be established.

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(19) The improved regulatory environment for European statistics should, in particular, respond to the need to minimise the response burden on survey respondents and contribute to the more general objective of a reduction of administrative burdens arising at European level, in line with the Presidency Conclusions of the European Council of 8 and 9 March 2007. The important role played by the NSIs and other national authorities in minimising burdens on European businesses at national level should, however, also be emphasised.

(20) In order to enhance trust in European statistics, the national statistical authorities should in each Member State, as should the Community statistical authority within the Commission, enjoy professional independence and ensure impartiality and high quality in the production of European statistics, in accordance with the principles laid down in Article 285(2) of the Treaty as well as the principles further elaborated in the European statistics Code of Practice endorsed by the Commission in its Recommendation of 25 May 2005 on the independence, integrity and accountability of the national and Community statistical authorities (incorporating the European statistics Code of Practice). The Fundamental Principles of Official Statistics adopted by the United Nations Economic Commission for Europe on 15 April 1992 and by the United Nations Statistical Commission on 14 April 1994 should also be taken into account.

(21) This Regulation ensures the right to respect for private and family life and to the protection of personal data, as set out in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union[(10)].

(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[(11)] 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[(12)].

(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.

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(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[13] 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[14].

(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[15].

(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[16], Council Regulation (EC) No 322/97[17] and Council Decision 89/382/EEC, Euratom[18]. 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[19] 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[20] should continue to apply.

(33) The Statistical Programme Committee has been consulted,