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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EC) No 223/2009 on European statistics**

(Text with relevance for the EEA and Switzerland)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

Reliable statistics are becoming increasingly necessary if policymakers, businesses and citizens are to take adequate evidence-based decisions. Therefore, the main concern for all statistical authorities is to ensure that the data produced is of high quality. A European Statistics Code of Practice<sup>1</sup> was agreed in 2005 and the basic legal framework governing the development, production and dissemination of European statistics by the European Statistical System (ESS) was modernised in 2009 through the adoption of Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics<sup>2</sup>.

Recent economic developments have again demonstrated the need to further strengthen the credibility of statistics. Economic-policy instruments and results have been affected — more than ever before — by the mood of global financial markets and the strategies pursued by those involved in them. Statistics have become as credible as the public, notably the financial markets, believes they are. Reliability of statistical data in terms of technical quality-assessment criteria is a pre-requisite in order to ensure the trust of users. But equally important is the credibility of the institutions producing statistics. In this context, the professional independence of statistical authorities must receive particular attention and be guaranteed by law.

The Commission recognised these facts and in its Communication ‘Towards robust quality management for European Statistics’<sup>3</sup> it indicated the need to strengthen the governance of the European Statistical System (ESS) by securing unconditional application of the principle of professional independence of National Statistical Institutes (NSIs), by clarifying their coordinating role in the national statistical systems and by enhancing the use of administrative data for statistical purposes. Furthermore, it was proposed that ‘Commitments on Confidence in Statistics’ (CoC) be established in order to make national governments aware of their role in, and co-responsibility for, ensuring the credibility of official statistics by respecting the independence of NSIs. According to the Communication, all these measures should be introduced by an amendment of Regulation (EC) No 223/2009. Moreover, the European Statistics Code of Practice should be revised accordingly<sup>4</sup>.

The diagnosis included in the above Communication and the improvement actions proposed were supported by the ECOFIN Council (3100th meeting on 20 June 2011). The key relevance of the principle of professional independence of NSIs was also explicitly recognised by the European Parliament and the Council in the legislative ‘six-pack’ on enhanced economic governance which entered into force in December 2011. It specified that the professional independence of national statistical authorities requires, *inter alia*, transparent recruitment and dismissal processes based solely on professional criteria<sup>5</sup>. Moreover, on 13

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<sup>1</sup> Recommendation of the Commission on the independence, integrity and accountability of the national and Community statistical authorities, COM(2005) 217 final, 25.5.2005.

<sup>2</sup> OJ L 87, 31.3.2009, p. 164.

<sup>3</sup> COM(2011) 211 final, 15.4.2011.

<sup>4</sup> A revision of the European Statistics Code of Practice was approved by the European Statistical System Committee on 28 September 2011.

<sup>5</sup> Article 1(14) of Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the

March 2012 the European Parliament adopted a resolution calling on the Commission to rapidly implement measures to improve quality-management and governance in European statistics.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES**

The proposal largely builds on the final conclusions and recommendations of the ESS ‘Task Force on the revision of Regulation (EC) No 223/2009 and on Commitments on Confidence in Statistics’, which met several times between June and October 2011. This Task Force comprised representatives of 14 countries and discussed four main issues set out in the Communication ‘Towards robust quality management for European Statistics’ with respect to strengthening the governance of the European Statistical System: independence of NSIs, their coordinating role in national statistical systems, the use and management of administrative data and ‘Commitments on Confidence in Statistics’.

Furthermore, consultation on the draft proposal has been conducted with the ESS Committee, whose overall mission is to provide the ESS with professional guidance on developing, producing and disseminating European statistics in line with statistical principles.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

The proposal calls for a revision of the current basic legal framework for European statistics, adapting it to meet the policy needs and challenges created for European statistics by recent developments in the global economy. The main goal is to further strengthen governance in the European Statistical System in order to safeguard its high credibility and to respond adequately to data needs resulting from the enhanced economic-policy coordination in the European Union.

In particular, the professional independence of national statistical authorities is of key relevance in this context. The current proposal refers explicitly to the Heads of NSIs as persons whose independence in performing their duties is a pre-condition for establishing the independence of the respective institutions. To that end, it is indispensable that Heads of NSIs have the freedom to decide on processes, statistical methods, standards and procedures, and on the content and timing of statistical releases and publications for all European statistics. They must be also forbidden from seeking, and protected from receiving, instructions from national governments and other institutions. Moreover, Heads of NSIs should be granted considerable autonomy in deciding on the internal management of the statistical office and allowed to publicly comment on the budget allocated to the NSI in the context of statistical tasks to be performed. Furthermore, there must exist transparent and legally-binding rules for the appointment, transfer and dismissal of Heads of NSI, based solely on professional criteria.

However, Heads of NSIs should not only enjoy broad autonomy, they should also be accountable for the results the NSIs provide both in terms of statistical output and budget execution. Accordingly, they should present an annual report on the statistical activities and the financial situation of the respective authority.

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surveillance of budgetary positions and the surveillance and coordination of economic policies; OJ L 306, 23.11.2011, p. 12.

As stipulated by the Commission in its Communication ‘Towards robust quality management for European Statistics’, the proposal for an amendment of Regulation (EC) No 223/2009 also includes the establishment of ‘Commitments on Confidence in Statistics’. These declarations of respect of the European Statistics Code of Practice, and notably of the principle of independence of NSIs, aim at strengthening statistical governance in the EU and safeguarding the credibility of European statistics. According to the proposal, they should be signed by the governments of all Member States and counter-signed by the Commission, both at the highest applicable level. Each CoC is intended to be drafted individually by the Member State concerned and to contain country-specific improvement actions. The actual implementation of these actions would be monitored by Eurostat as part of the already established regular assessment of Member States’ compliance with the European Statistics Code of Practice.

The coordinating role of NSIs in the national statistical systems is clarified by the proposal to amend Article 5(1) of Regulation (EC) No 223/2009. Explicit references to institutions and functions to be coordinated have been added.

Another amendment clarifying the role of the NSIs is the new Article 17a on the access to, use and integration of administrative records, which replaces the current Article 24. Its primary aim is to establish a legal framework for more extensive use of administrative data sources for the production of European statistics without increasing the burden on respondents, NSIs and other national authorities. According to the proposal, NSIs should be involved, to the extent necessary, in decisions on the design, development and discontinuation of administrative records which could be used in the production of statistical data. They should also coordinate relevant standardisation activities and receive metadata on administrative data extracted for statistical purposes. Free and timely access to administrative records should be granted to NSIs, other national authorities and Eurostat, but only within their own respective public administrative system and to the extent necessary for the development, production and dissemination of European statistics.

The amendment to Article 6 of Regulation (EC) No 223/2009 incorporates the need to adequately secure the independent position of Eurostat at Union level in the same way as is proposed for NSIs at national level. It is crucial for the credibility of the entire European Statistical System and was strongly emphasised by a vast majority of the Member States in the preceding stakeholder consultation.

Moreover, in order to simplify budget planning for statistical activities and to make it more stable, the programming period of the European statistical programme was brought into line with the Union’s multi-annual financial framework.

Finally, the proposed amendment of Regulation (EC) No 223/2009 takes account of the necessary adjustments to the Lisbon Treaty as regards granting the Commission delegated and implementing powers.

#### **4. BUDGETARY IMPLICATION**

The proposal is expected to have no resource impact within the ESS. On the contrary, it is meant to simplify and improve coordination and collaboration within the system, thus ultimately leading to more efficient production of European statistics and to a reduced burden on respondents.

The human resources required within the Commission will be met by staff from the Directorate General who are already assigned to management of the legal act concerned and/or have been redeployed within the Directorate General.

**5. OPTIONAL ELEMENTS**

None.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Statistical System (the ESS), as a partnership, has in general successfully consolidated its activities to ensure the development, production and dissemination of high-quality European statistics, including by improving the governance of the system.
- (2) Some weaknesses have, however, recently been identified, in particular with regard to the statistical quality-management framework.
- (3) The Commission suggested action to address these weaknesses in its Communication of 15 April 2011 to the European Parliament and the Council ‘Towards robust quality management for European Statistics’<sup>6</sup>. In particular, it suggested a targeted amendment of Regulation (EC) No 223/2009 of the European Parliament and the Council of 11 March 2009 on European statistics<sup>7</sup>.
- (4) In its conclusions of 20 June 2011, the ECOFIN Council welcomed the Commission’s initiative and stressed the importance of continuously improving the governance and efficiency of the ESS.
- (5) In addition, the impact on the statistical domain of recent developments in the context of the economic-governance framework of the Union should be taken into account, in

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<sup>6</sup> COM(2011) 211 final.

<sup>7</sup> OJ L 87, 31.3.2009, p. 164.

particular aspects related to statistical independence such as transparent recruitment and dismissal processes, budgetary allocations and pre-release calendars, as laid down in Regulation (EU) No 1175/2011 of the European Parliament and the Council of 16 November 2011 amending Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies<sup>8</sup>, as well as those related to the requirement for bodies in charge of monitoring the implementation of national fiscal rules to enjoy functional autonomy, as laid down in Regulation (EU) No .../...of the European Parliament and the Council on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area.

- (6) Those aspects should not remain limited to the statistics produced for the purposes of the fiscal-surveillance system and the excessive-deficit procedure but should apply to all European statistics developed, produced and disseminated by the ESS.
- (7) Moreover, the adequacy of resources attributed on an annual or a multiannual basis and available to meet statistical needs is a necessary condition for the professional independence of statistical authorities.
- (8) To that effect, the professional independence of statistical authorities should be strengthened and minimum standards should be enforced, in particular as regards the heads of national statistical institutes (NSIs), to whom specific guarantees should be provided in terms of the performance of statistical tasks, organisational management and resource allocation.
- (9) Furthermore, the coordinating role already attributed to the NSIs should be clarified as regards its scope, so as to achieve more efficient coordination of statistical activities at national level, including quality management.
- (10) In order to reduce the burden on statistical authorities and respondents, the NSIs and other national authorities should be able to access and use administrative records, including those filled electronically, promptly and free-of-charge, as well as to integrate these records with statistics.
- (11) The NSIs should furthermore be consulted at an early stage on the design of new administrative records that could provide data for statistical purposes and on planned changes to, or cessation of, existing administrative sources. They should also receive relevant metadata from the owners of administrative data and coordinate standardisation activities concerning administrative records that are relevant for statistical data production.
- (12) The confidentiality of data obtained from administrative records should be protected under the common principles and guidelines applicable to all confidential data used for the production of European statistics. Quality-assessment frameworks applicable to these data should also be established.
- (13) The quality of European statistics could be strengthened and the confidence of users reinforced, by involving national governments in the responsibility of applying the European Statistics Code of Practice. To this end, a 'Commitment on Confidence in

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<sup>8</sup> OJ L 306, 23.11.2011, p. 12.

Statistics' should be established in each Member State and include specific undertakings by its government to implement the Code and national quality-assurance frameworks, including self-assessments and improvement actions.

- (14) As the production of European statistics must be based on long-term operational and financial planning in order to ensure a high degree of independence, the European statistical programme should cover the same period as the multiannual financial framework.
- (15) Regulation (EC) No 223/2009 confers powers on the Commission to implement some of the provisions of that Regulation; as a consequence of the entry into force of the Lisbon Treaty, the powers conferred under this Regulation upon the Commission need to be aligned to Articles 290 and 291 of the Treaty.
- (16) The Commission should have the power to adopt delegated acts in accordance with Article 290 of the Treaty in order to supplement or amend certain non-essential elements of Regulation (EC) No 223/2009 so as to specify quality requirements, such as target values and minimum standards for the statistical production, when sectoral statistical legislation does not provide for these. The Commission should ensure that these delegated acts do not impose a significant additional administrative burden on the Member States and on the respondent units.
- (17) It is of particular importance that the Commission carry out the appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure simultaneous, timely and appropriate submission of the relevant documents to the European Parliament and Council.
- (18) There is a need for uniform conditions for implementing access to confidential data for scientific purposes. Implementing powers should be conferred on the Commission with a view to establishing the arrangements, rules and conditions governing such access at Union level, in accordance with the examination procedure laid down in Article 5 of Regulation (EU) No 182/2011 of the European Parliament and the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers<sup>9</sup>.
- (19) Since the objective of this Regulation cannot be sufficiently achieved by the Member States and can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. 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.
- (20) The European Statistical System Committee has been consulted,

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<sup>9</sup> OJ L 55, 28.2.2011, p. 13.



HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 223/2009 is amended as follows:

(1) In Article 2(1), point (a) is replaced by the following:

‘(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 Union or national authorities;’

(2) In Article 5, paragraph 1 is replaced by the following:

‘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 in this regard as the sole contact point for the Commission (Eurostat) on statistical matters.

The coordinating responsibility of the NSI shall cover all other national authorities responsible for the development, production and dissemination of European statistics. The NSI shall, in particular, be responsible at national level for coordinating statistical programming and reporting, quality monitoring, methodology, data transmission and communication on ESS statistical actions.’

(3) The following Article 5a is inserted:

*Article 5a*  
**Heads of NSIs**

1. Within their national statistical system, the heads of NSIs shall have the sole responsibility for deciding on processes, statistical methods, standards and procedures, and on the content and timing of statistical releases and publications for all European statistics. They shall be empowered to decide on all matters regarding the internal management of the NSI. They shall coordinate the statistical activities of all national authorities that contribute to the development, production and dissemination of European statistics. When carrying out these tasks, the heads of NSIs shall act in an independent manner; they shall neither seek nor take instructions from any government or other institution, body, office or entity; they shall refrain from any action incompatible with the performance of these tasks.

2. The procedures for recruitment, transfer and dismissal of heads of NSIs shall be transparent and based on professional criteria only.

3. The heads of NSIs shall be accountable for the statistical activities and budget execution of the NSI; they shall publish an annual report and may express comments on budget allocation issues related to the statistical activities of the NSI.

4. The heads of NSIs shall represent their national statistical systems within the ESS.’

(4) In Article 6, paragraph 2 is replaced by the following:

‘2. At Union level, the Commission (Eurostat) shall act independently in ensuring 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.’

(5) In Article 11, the following paragraph 3 is added:

‘3. Member States shall take all necessary measures to implement the Code of Practice in order to maintain confidence in their statistics. To this effect, each Member State, represented by its government, shall sign and implement a ‘Commitment on Confidence in Statistics’ whereby specific policy commitments are made to implement the Code and to establish a national quality assurance framework, including self-assessments and improvement actions. The Commitment shall be counter-signed by the Commission.

These commitments shall be regularly monitored by the Commission on the basis of annual reports sent by Member States. The Commission shall report to the European Parliament and the Council on the implementation of these commitments within 3 years of the entry into force of this Regulation.’

(6) In Article 12(2), the second sub-paragraph is replaced by the following:

‘Specific quality requirements, such as target values and minimum standards for the production of statistics, may be laid down in sectoral legislation. Where sectoral legislation does not so provide, the Commission may adopt, by means of delegated acts in accordance with Article 26a, such specific quality requirements.’

(7) In Article 13, paragraph 1 is replaced by the following:

‘1. The European statistical programme shall provide the framework for the development, production and dissemination of European statistics, setting out the main fields and the objectives of the actions envisaged for a period corresponding to that of the multiannual financial framework. It shall be decided upon by the European Parliament and the Council. Its impact and cost effectiveness shall be assessed with input from independent experts.’

(8) The following Article 17a is inserted:

*‘Article 17a*

**Access, use and integration of administrative records**

‘1. In order to reduce the burden on respondents, the NSIs, other national authorities as referred to in Article 4 and the Commission (Eurostat) shall have the right to access and use, promptly and free of charge, all administrative records and to integrate these administrative records with statistics, to the extent necessary for the development, production and dissemination of European statistics.

2. The NSIs and the Commission (Eurostat) shall be consulted on and involved in the initial design, subsequent development and discontinuation of administrative records built up and maintained by other bodies, thus facilitating the further use of these records for statistical purposes. They shall have the right to coordinate standardisation activities concerning administrative records relevant for statistical data production.

3. Access by and involvement of the NSIs, other national authorities and the Commission (Eurostat) pursuant to paragraphs 1 and 2 shall be limited to administrative records within their own respective public administrative system.

4. The NSIs shall receive relevant metadata from the owners of administrative records used for statistical purposes.

5. The NSIs and owners of administrative records shall establish the necessary cooperation mechanisms.’

(9) In Article 23, the second sub-paragraph is replaced by the following:

‘The arrangements, rules and conditions for access at Union level shall be established in accordance with the examination procedure referred to in Article 27(2).’

(10) Article 24 is deleted.

(11) The following Article 26a is inserted:

*Article 26a*  
**Exercise of delegated powers**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Article 12(2) shall be conferred on the Commission for a period of 5 years from the entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 12(2) may be revoked at any time by the European Parliament or by the Council.

A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 12(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.’

(12) Article 27 is replaced by the following:

‘Article 27  
**Committee**

1. The Commission shall be assisted by the European Statistical System Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 of the European Parliament and the Council laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers shall apply.’.

*Article 2*

**Entry into force**

This Regulation shall enter into force on the twentieth 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, 17.4.2012

*For the European Parliament  
The President*

*For the Council  
The President*