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COVER NOTE

from:	Mr Vítor CALDEIRA, President of the European Court of Auditors
date of receipt:	25 September 2012
to:	Mrs Erato KOZAKOU-MARCOULLIS, President of the Council of the European Union
Subject:	Special report No 12/2012: Did the Commission and Eurostat improve the process for producing reliable and credible European statistics?

Sir,

I enclose a copy of special report No 12/2012 entitled "Did the Commission and Eurostat improve the process for producing reliable and credible European statistics?" together with the Commission's replies.

The special report was adopted by the Court at its meeting on 26 June 2012 and is accompanied by the replies from the Commission, which was notified of the preliminary findings on 16 April 2012.

(Complimentary close).

(s.) Vítor CALDEIRA

Encl.: Special report No 12/2012: Did the Commission and Eurostat improve the process for producing reliable and credible European statistics?[1]

[1] In English only. The other languages of this report are available on the European Court of Auditor's website: http://eca.europa.eu/.

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Special Report No 12/2012

(pursuant to Article 287(4), second subparagraph, TFEU)

Did the Commission and Eurostat improve the process for producing reliable and credible European statistics?

together with the Commission's replies

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LIST OF ABBREVIATIONS

AAR	Annual Activity Report
Code of Practice	European Statistics Code of Practice
EDP	Excessive Deficit Procedure
EFTA	European Free Trade Association
ESAC	European Statistical Advisory Committee
ESGAB	European Statistical Governance Advisory Board
ESS	European Statistical System
ESSC	European Statistical System Committee (ESS Committee)
Eurostat	Statistical Office of the European Union
GNI	Gross National Income
IAC	Internal Audit Capability
MEETS	Modernisation of European Enterprise and Trade Statistics
NSI	National Statistical Institute
OLAF	European Anti-fraud Office
QAF	Quality Assurance Framework
SAI	Supreme Audit Institution
SWP	Annual Statistical Work Programme

EXECUTIVE SUMMARY

I. Public confidence in European statistics is essential in a Union where political decisions need to be evidence-based and where an increasing number of decisions are directly triggered by statistical data or by indicators derived from them.

II. The Court assessed whether the Commission and Eurostat have improved the process for producing reliable and credible European statistics. This depends on adherence to the European Statistics Code of Practice which provides the standards for developing, producing and disseminating statistics, and on the implementation of the European statistical programme.

III. The Court's audit found that the European Statistics Code of Practice has only been partly implemented and that full implementation remains a challenge for all those involved both at the European level and within Member States. The Code sets demanding standards but lacks strong verification and enforcement tools.

IV. Sufficiently reliable information on the current state of implementation of the Code throughout the European Statistical System (ESS) is not available. The Commission's recent initiatives to give new momentum to achieving full compliance with the Code go in the right direction but are not sufficient to address all concerns. Ambiguity about the nature of the obligation to adhere to the Code persists. For cases where misrepresentations of data may occur, no appropriate inspection mechanism has yet been proposed. No proposal has been made to develop an independent supervisory function.

V. Flaws in the design of the statistical programme 2008 to 2012 hamper its use as an effective planning, monitoring and accountability tool. Re-prioritisation of statistical activities towards new challenges has been slower than expected. The draft programme 2013 to 2017 provides an opportunity to reengineer the ESS in order to make it more efficient and flexible provided that

it is supplemented by precise targets and milestones laid down in the annual planning and verified in a process of systematic annual reporting.

VI. The Court recommends moving towards a system of European statistics which guarantees professional independence, sufficient resources, and strong supervision including sanctions for cases where quality standards are not respected.

INTRODUCTION

Public trust in European statistics

1. Reliable and credible statistics are vital for the performance of the tasks entrusted to the European Union. Statistics are needed, in almost all areas, for the formulation, application, monitoring and assessment of the policies laid down in the Treaties, and for the collection and allocation of EU funds. More and more European policies are directly based on statistics and statistical indicators are increasingly used as a trigger for policy decisions or sanctions.

2. Public trust in European statistics cannot be taken for granted. Already before the recent turmoil in the global economy a report published by the Commission in April 2008[2] showed that the proportion of citizens who stated that they did not trust economic statistics (45 %) was almost identical to those claiming that they had trust in such statistics (46 %).

3. In 2005 and again in 2010, the European Council endorsed calls for improving quality of European statistics with a view to strengthening the economic governance of the EU[3]. The Council concluded in 2005 *inter alia* that the focus should be on developing the operational capacity, monitoring power, independence and accountability of Eurostat.

The regulatory framework for producing European statistics

4. Article 338 TFEU stipulates that the production of statistics has to conform to impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality. Furthermore, it must not entail excessive burdens on economic operators.

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[2] Special Eurobarometer *"Europeans' knowledge of economic indicators"*, p. 37.

[3] See Presidency Conclusion of the European Council of 22 and 23 March 2005 and Conclusion of the European Council of 28 and 29 October 2010.

5. The Regulation on European statistics[4] provides definitions of the principles laid down in the Treaty and addresses issues of statistical governance as well as the production and dissemination of European statistics.

6. The former Statistical Programme Committee[5] adopted the European Statistics Code of Practice[6] (hereafter "the Code of Practice" or "the Code") on 24 February 2005. The Code further elaborates how European statistics are to be developed, produced and disseminated in conformity with the statistical principles set out in the Regulation on European statistics.

7. The five-year European statistical programme sets priorities and defines the main fields and the objectives for the development, production and dissemination of European statistics. The current 2008 to 2012 programme[7] has planned expenditure of 274 million euro.

The European Statistical System

8. European statistics are developed, produced and disseminated in the framework of the European Statistical System (ESS). The Regulation on

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[4] 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) (OJ L 87, 31.3.2009, p. 164).

[5] The Statistical Programme Committee assisted the Commission in the general coordination of statistical programmes at EU and national level. It ceased to exist in 2009 when the Regulation on European statistics was adopted.

[6] The Code of Practice was never published in the Official Journal. Its most recent version can be found on Eurostat's website http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-32-11-955/EN/KS-32-11-955-EN.PDF

[7] Decision No 1578/2007/EC of the European Parliament and of the Council of 11 December 2007 on the Community Statistical Programme 2008 to 2012 (Text with EEA relevance) (OJ L 344, 28.12.2007, p. 15).

European statistics defines the ESS as a partnership between the Union statistical authority and the National Statistical Institutes (NSIs).

9. The NSIs have responsibility for coordinating all activities at national level for the development, production and dissemination of European statistics. NSIs and other national authorities with responsibility for European statistics may receive grants from the EU budget without prior call for proposals.

10. The European Statistical System Committee (hereafter "the ESS Committee") provides professional guidance to the ESS. Composed of the representatives of the NSIs, it is amongst other things in charge of examining statistical legislation proposed by Eurostat.

Eurostat: The Statistical Office of the European Union

11. The Statistical Office of the European Union (hereafter "Eurostat") operates as the Union statistical authority. Eurostat is based in Luxembourg. It is a Directorate General of the Commission that enjoys "technical autonomy"[8] as regards the choice of scientific techniques, definitions and methodologies. In legal documents, the Union statistical authority is referred to as "the Commission (Eurostat)"[9]. This terminology is meant to clarify that Eurostat has a distinct role to play despite the fact that it is part of the Commission.

12. Eurostat's main role is to process and publish comparable statistical information at European level. Normally Eurostat does not collect data itself. This is done in Member States by their statistical authorities. They verify and analyse national data and send them to Eurostat which consolidates these figures with a view to ensuring that they are comparable.

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[8] Article 5 of the Commission decision 97/281/EC of 21 April 1997 on the role of Eurostat as regards the production of Community statistics (OJ L 112, 29.4.1997, p. 56).

[9] For the definition of "the Commission (Eurostat)" see Article 6 of the Regulation on European statistics.

13. Eurostat's staff numbers have been stable over the last years. As at 1 January 2012, the total number of staff members was 794. Eurostat estimates that, at country level, throughout the ESS as a whole at least 50 000 staff are involved in the production of European statistics.

14. Commitment appropriations available to Eurostat[10] amounted to 92,9 million euro in 2011. The annual average amount over the period 2003 to 2010 was 89,5 million euro with a peak reached in 2005 when 107,2 million euro were available.

AUDIT SCOPE AND APPROACH

15. The overall objective was to assess whether the Commission and Eurostat have improved the process for producing reliable and credible European statistics. This depends on the implementation of the Code of Practice and on the management of the European statistical programme. The audit addressed the following two questions:

(a) Have the Commission and Eurostat taken all steps necessary to fulfil their role in achieving the implementation of the Code of Practice throughout the European Statistical System?

(b) Does Eurostat manage well the multi-annual statistical programme as a tool for improving the production of European statistics?

16. The audit also covered the contributions of the European Statistical Governance Advisory Board (ESGAB)[11] and of the European Statistical

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[10] Hereinafter referred to as "operational credits". Figures do not include administrative expenditure.

[11] Decision No 235/2008/EC of the European Parliament and of the Council of 11 March 2008 establishing the European Statistical Governance Advisory Board (Text with EEA relevance) (OJ L 73, 15.3.2008, p. 17).

Advisory Committee (ESAC)[12] to the process of producing reliable and credible European statistics.

17. The audit focussed on the implementation of the Code of Practice and the management of the European statistical programme in relation to the process of producing European statistics. It did not assess the reliability of specific statistical outputs. Most audit work was carried out between May and December 2011, with some update work performed until June 2012.

18. Audit work included interviews with Eurostat staff, an examination of documentation available at Eurostat and of its replies to a detailed questionnaire, information visits to Eurostat stakeholders within and outside the Commission, observation of meetings of the ESS Committee, and an examination of samples of ex-ante and ex-post controls carried out by Eurostat's unit in charge of financial management in connection with grant payments as well as of a sample of procurement procedures.

OBSERVATIONS

Implementing the European Statistics Code of Practice

19. The audit found that the Code of Practice has only been partly implemented and that full implementation remains a challenge for all those involved both at the European level and within Member States. The Court examined

(a) the steps taken since 2005 and the reasons for delays and setbacks,

(b) whether the current tools for assessing the implementation of the Code are adequate,

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[12] Decision No 234/2008/EC of the European Parliament and the Council of 11 March 2008 establishing the European Statistical Advisory Committee and repealing Council Decision 91/116/EEC (Text with EEA relevance) (OJ L 73, 15.3.2008, p. 13).

(c) whether recent initiatives of the Commission are sufficient and satisfactory.

The actions taken by the Commission and Eurostat since 2005 were not sufficient to achieve full implementation of the Code

The Code of Practice sets demanding standards

20. The Code of Practice[13] sets the standards for developing, producing and disseminating European statistics. The Code was developed in response to a request from the Council in June 2004[14] following problems with the Greek government deficit and debt figures[15].

21. The Code of Practice is meant to ensure that European statistics meet user needs through an efficient production process taking place in a credible institutional environment which guarantees professional independence. It consists of 15 principles covering not only the institutional environment, but also statistical processes and statistical outputs (see ***Box 1***). Each principle has between three and nine good practice indicators to identify to what extent

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[13] The Code was promulgated as a self-regulatory instrument through the Commission recommendation of 25 May 2005 on "the independence, integrity and accountability of the national and Community statistical authorities", COM(2005) 217 final of 25 May 2005. In September 2011, the Code was revised by the ESS Committee. The revised version is published on Eurostat's website but the Commission has not updated its recommendation of 25 May 2005.

[14] "The Council notes that on several occasions the fiscal statistics had been revised after a new government took office. The Council considers that the compilation and reporting of statistics for the European Deficit Procedure must not be vulnerable to political and electoral cycles. (...) The Council considers that integrity, independence and accountability of data compilers, and the transparency of the compilation methods, underpinned by the appropriate institutional arrangements, are crucial to ensure (...) high-quality statistics." (Conclusions of the Economic and Financial Affairs Council of 2 June 2004, Doc. 9779/04 (Presse 172), p. 11)

[15] In April 2004, when a new Greek government took office, it ordered a "fiscal audit" that resulted in significant revisions of Greek government deficit and debt figures going back to 1997. Under this revision, Greece was shown to have been above the 3 % deficit ceiling in 1999.

the principle is being complied with.

Box 1 – Summary of the principles of the Code of Practice	
Code of Practice – 15 Principles	
Institutional environment	**1 Professional Independence** Professional independence ensures credibility
	2 Mandate for data collection Clear mandate laid down by law allowing to collect information
	3 Adequacy of Resources Sufficient resources for meeting statistical requirements
	4 Quality commitment Continuously improve process and product quality
	5 Statistical Confidentiality Guaranteeing the privacy of data providers
	6 Impartiality and objectivity Respect of scientific independence and equal treatment of users
Statistical processes	**7 Sound Methodology** Adequate tools and expertise
	8 Appropriate Statistical Procedures Appropriate procedures applied from data collection to data validation
	9 Non-Excessive Burden on Respondents Monitoring and reducing the response burden
	10 Cost Effectiveness Monitoring the use of resources and introducing improvements
Statistical output	**11 Relevance** Meet the users' needs and monitor user satisfaction
	12 Accuracy and Reliability Accurately and reliably portray reality
	13 Timeliness and Punctuality Standards are met concerning timely publication of statistics
	14 Coherence and Comparability Statistics are consistent internally, over time and comparable between regions and countries
	15 Accessibility and clarity Clear presentation, suitable dissemination and impartial access
Source: European Court of Auditors.	

22. The European Statistical Governance Advisory Board (ESGAB) is a body of high-level experts tasked to provide an independent overview of Eurostat and of the ESS as a whole as regards the implementation of the Code of Practice (see ***Box 2***). To date, ESGAB focussed on three[16] of the 15 principles

[16] Principles 1, 3 and 4.

of the Code, and reported[17] that whilst progress has been made in implementing the Code, the pace of progress has not met its expectations.

Box 2 – European Statistical Governance Advisory Board (ESGAB)

Assessing the implementation of the Code of Practice

Established in 2009, the main task of ESGAB is to report to the European Parliament and the Council on the implementation of the Code of Practice "insofar as it relates to the Commission (Eurostat)" including an "assessment of the implementation of the Code in the European Statistical System as a whole" (see Article 2 of the Decision establishing ESGAB). ESGAB's role is advisory and it has no supervisory powers.

The seven members of the Board are selected from among experts possessing outstanding competence in the field of statistics. They perform their duties in their personal capacity and shall act independently. ESGAB members receive no remuneration, most of them still being professionally active. Eurostat makes available one full-time Secretary who must act on the instructions of the Board and independently of the Commission. Eurostat has the status of an observer and is usually represented in meetings by its Director General and its Deputy Director General.

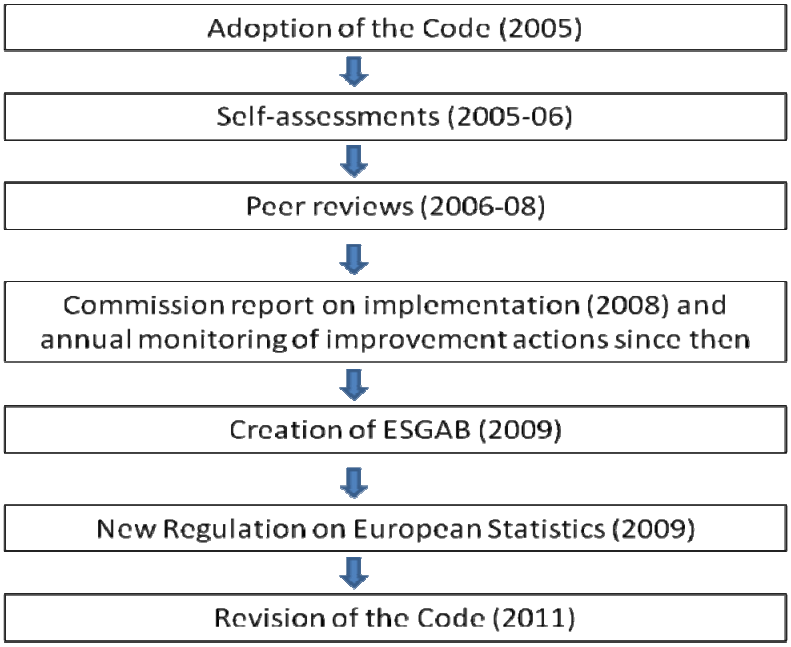
ESGAB met for the first time in March 2009, held six to seven one-day meetings per year and published its most recent annual report in December 2011.

Source: European Court of Auditors.

[17] Third annual report to the European Parliament and the Council on the implementation of the European Statistics Code of Practice by Eurostat and the European Statistical System as a whole by the European Statistical Governance Advisory Board, published on 1 December 2011.

23. In September 2011 the ESS Committee[18] approved limited changes to the Code of Practice. ***Figure 1*** summarizes the history of the Code of Practice.

Figure 1 – History of the Code of Practice



Source: European Court of Auditors.

Delayed action by the Commission to persuade governments to adhere to the Code

24. In May 2005, the Commission recommended[19] Member States to ensure that the principles of the Code are respected by their statistical authorities and to ensure that their statistical services are professionally organised and resourced to produce European statistics in a manner that guarantees independence, integrity and accountability. Furthermore, Member States were

[18] Based on the report of its Task Force "Sponsorship on Quality" co-chaired by Eurostat and Statistics Norway.

[19] COM(2005) 217 final.

invited to provide the information necessary to enable the Commission to monitor adherence to the Code[20].

25. Not until 2011 did the Commission announce [21] that it would propose that Member States should formally commit themselves, based on the Code of Practice, to taking all necessary measures to maintain confidence in their statistics and to monitoring the implementation of the Code through so-called "Commitments on Confidence in Statistics" (see paragraphs 60 to 64).

The Commission's 2008 report did not identify that professional independence was not secured in the ESS as a whole

26. Once the Code of Practice was promulgated, the Commission and Eurostat focussed on promoting its implementation through cooperation with and support to National Statistical Offices (NSIs). To that end Eurostat organised peer reviews which were carried out in the 31 NSIs of the EU Member States and EFTA[22] countries and in Eurostat over the period 2006 to early 2008.

27. These peer reviews were limited to NSIs and their coordinating role within the national statistical systems and focussed on the Code's indicators related to the institutional environment. ***Table 1*** shows the results of these assessments. The peer reviews did not assess whether NSIs complied with the indicators of the Code related to statistical processes. Most of the indicators related to statistical outputs were also not covered. Nevertheless the list of improvement actions in the peer review reports addressed all principles of the Code. Those actions relating to statistical processes and outputs were solely based on the results of the self-assessments carried out by the NSIs.

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[20] Recommendations B., C., and G.

[21] COM(2011) 211 final of 15 April 2011 "Towards robust quality management for European Statistics".

Table 1 - Results of peer review exercise 2006 – early 2008[1]

NSI	Indicators "largely met" or "fully met"	Indicators "partly met"	Indicators "not met"
NSIs with all indicators met			
Austria	35	0	0
Finland	35	0	0
Norway	35	0	0
Sweden	35	0	0
United Kingdom	35	0	0
NSIs with some indicators partly met			
Czech Republic	33	2	0
Denmark	33	2	0
France	33	2	0
Italy	33	2	0
Lithuania	33	2	0
Portugal	33	2	0
Slovakia	33	2	0
Spain	33	2	0
Netherlands	32	3	0
Poland	32	3	0
Slovenia	32	3	0
Switzerland	32	3	0
Germany	31	4	0
Ireland	31	4	0
Hungary	29	6	0
Latvia	29	6	0
Romania	29	6	0
Estonia	26	9	0
Greece	26	9	0
Luxembourg	24	11	0
NSIs with some indicators not met			
Bulgaria	27	7	1
Liechtenstein	27	7	1
Malta	23	11	1
Iceland	28	5	2
Cyprus	25	8	2
Belgium	24	9	2

1 There was no further round of peer reviews since 2008. All 35 indicators examined by peer reviews related to principles 1 to 6 and 15 of the Code (Compliance with principles 7 to 14 of the Code was not covered).

Source: European Court of Auditors on the basis of peer review reports.

[22] The European Free Trade Association (EFTA) is an intergovernmental organisation set up for the promotion of free trade and economic integration to the benefit of its four Member States: Iceland, Liechtenstein, Norway and Switzerland.

28. Based on the results of the peer reviews amongst ESS members, the Commission reported in October 2008 on the implementation of the Code[23], and concluded that the "self-regulatory approach works very well". The report highlighted the need for further action but, with regard to professional independence and objectivity, it stated the following: "Independence from political and other external interference with production and dissemination of European statistics and an objective choice of methods, sources and techniques seem to be ensured in practice across the ESS." However, subsequent events reported by the Commission in January 2010[24] showed that this was not the case.

29. In 2011, ESGAB noted in its annual report with regard to the principle of professional independence "that statistical laws have been modernised and transparency has increased since 2009 in many countries, but that professional independence is not secured in the ESS as a whole." Details from the report underpinning this assessment are in ***Box 3***.

Box 3 – ESGAB findings related to professional independence

"Half of the members of the European Statistical System consider their institutional setting to be free of constraints on the principle of professional independence."

"In four countries - Germany, Greece, Latvia, Switzerland - difficulties were observed in modernising the statistical law or in implementing it."

"ESGAB notes that three countries - Denmark, Poland and Romania - have no concrete plans for modernising their statistical law, even though the current legislation cannot be considered to be fully in compliance with the Code."

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[23] COM(2008) 621 final of 7 October 2008 "2008 Report from the Commission to the European Parliament and the Council on implementation of the Code of Practice".

[24] COM(2010) 1 final of 8 January 2010 "Report on Greek government deficit and debt statistics".

"In eight countries the decision-making process related to resource allocation is seen as a risk to professional independence."

"ESGAB notes that there have been several recent episodes where the Head of the NSI has been changed after an election."

"In eleven countries the rules for appointing and dismissing top management were perceived to be adequate. However, in eight countries ambiguity was observed or the practical implementation is deemed to be unsatisfactory."

Source: ESGAB Annual Report 2011, p. 7 and 8.

Eurostat currently monitors NSIs' reporting on improvement actions without verifying their implementation

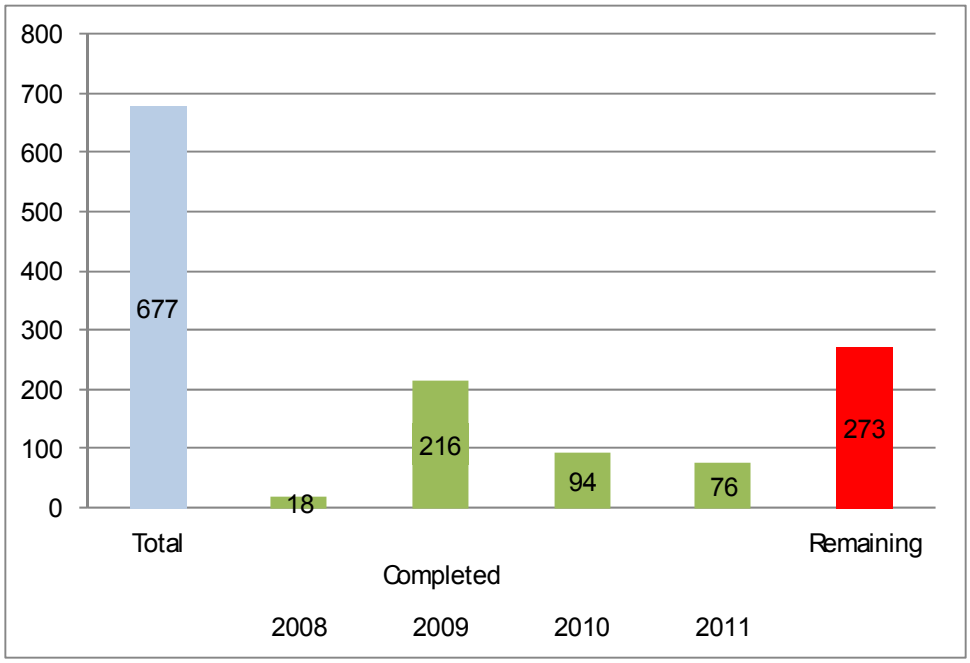
30. After the 2006 to 2008 round of peer reviews, Eurostat monitored the implementation of the improvement actions agreed by NSIs as a follow-up to the peer reviews[25]. Eurostat bases its monitoring on replies of NSIs to annual questionnaires. 191 actions had already been completed when monitoring began in 2008, with 677 actions outstanding. By March 2011[26], 273 actions[27] were not yet completed. ***Figure 2*** shows the progress towards completion of the improvement actions by NSIs.The detailed state of completion is shown in the ***Annex***.

[25] Areas where weaknesses were identified during the peer reviews but without improvement actions are not covered by the Eurostat's monitoring.

[26] See the 2011 Eurostat monitoring report on NSI compliance with the Code of Practice.

[27] Not including two new actions defined in 2011.

Figure 2 – Completion of improvement actions as reported since 2008



Source: Eurostat; the total of remaining actions does not include two new actions defined in 2011.

31. For some of the actions reported as "completed" by NSIs, the actual final outcome is not known to Eurostat, as no further details or explanations were provided. Moreover, NSIs report 116 actions as "ongoing with no specific deadline", which makes it difficult to assess progress.

32. For many NSIs, five years or more have passed since the peer review took place. Conclusions on the current status of implementation of the Code of Practice, based only on reporting the progress of the improvement actions agreed during the peer reviews, are unreliable.

The Commission itself does not yet fully comply with the Code of Practice

33. In its recommendation of 25 May 2005, the Commission undertook to ensure that Eurostat would respect the principles of the Code and that Eurostat would be professionally organised and resourced to produce European

statistics in a manner that guarantees independence, integrity and accountability.

The Commission decision of 1997 on Eurostat's role is not in line with the Code nor with the Regulation on European statistics

34. In April 2011 the Commission announced its intention to amend its Decision of 1997 on Eurostat's role[28]. The decision of 1997 is not fully compliant with the principles introduced by the Code of Practice in 2005. In particular, no reference at all is made to the principle of professional independence (Principle 1 of the Code). The Commission decision grants Eurostat only "technical autonomy". It is silent about the role of the Director General of Eurostat and does not define the meaning of the title "Chief Statistician of the European Union" attributed to him in recent years.

35. Moreover, the Decision of 1997 has not been brought in line with the 2009 Regulation on European statistics. Article 6 of the 2009 Regulation entrusts Eurostat with sole responsibility for developing, producing and disseminating European statistics. In contrast, the Commission Decision stipulates in its Article 6 that the Commission may decide that services other than Eurostat are to participate in the production process for statistics, and in which activities and to what extent. The consequence is that although Eurostat is entrusted with the sole responsibility for producing statistics, other Directorates General are also currently producing them.

Eurostat's independence is less clearly defined than OLAF's

36. The audit compared the status given by the Commission to Eurostat with the status given to the European Anti-fraud Office (OLAF). Like Eurostat, OLAF is a Directorate General of the Commission but under an expectation to act in full independence when performing its tasks.

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[28] OJ L 112, 29.4.97, p. 56.

37. In contrast to the Commission Decision on Eurostat of 1997, the Commission Decision on OLAF of 1999[29] contains detailed provisions to protect the operational independence of the Office and of its Director General, and in particular:

(a) an explicit obligation for the Director General not to seek or take instructions from the Commission, any government or any other institution or body;

(b) a supervisory committee to protect the Office against undue interference;

(c) a renewable fixed-term mandate for the Director General;

(d) a selection process requiring a favourable opinion from the supervisory committee as to the qualification of the short-listed candidates for the post of Director General;

(e) an endorsement by the European Parliament and the Council, before the Commission appoints the Director General.

Practical steps to ensure Eurostat's professional independence were taken but the upcoming new Commission Decision on Eurostat's role should consolidate progress

38. In practice, the Commission has taken steps to better ensure the professional independence of Eurostat. In particular, the current Director General was recruited in 2008 through a procedure open to external candidates. Likewise, the Commission has opened recent recruitment procedures for Eurostat's Directors to external candidates.

39. However, such progress remains fragile as long as it is not clearly laid down in the relevant legal provisions. Unless provided otherwise in its

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[29] Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 20).

upcoming decision on Eurostat's role, the Commission retains the option to fill top management positions (Director General and Directors) at Eurostat by transfer of senior officials from other posts within the Commission without prior publication of the vacancy.

40. In addition, the fact that a significant proportion of Eurostat's operational credits comes through sub-delegations from other Directorates General of the Commission[30] runs counter to Principles 1 (Professional Independence) and 3 (Adequacy of Resources) of the Code of Practice, as it makes Eurostat, in part, financially dependent on other Commission services.

41. In June 2012, a decision was still pending whether Eurostat and/or other Directorates General are tasked with carrying out investigations to establish the existence of misrepresentations of deficit and debt data with a view to imposing fines[31].

Eurostat has not yet overcome problems with its own implementation of the Code

42. From Eurostat's internal reporting to ESGAB, it appears that, as of March 2011, 27 of the 69 improvement actions agreed in the peer review report of 2007[32] were still pending. Details are shown in ***Table 2*** which provides also an

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[30] The share of credits subdelegated by other Directorate Generals of the Commission in the total of commitments made was 24 % in 2011 (27 % in 2010 and 33 % in 2009). More than two thirds of these subdelegated credits came from DG Agriculture and Rural Development.

[31] Article 8 of Regulation (EU) No 1173/2011 of the European Parliament and the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area (OJ L 306, 23.11.2011, p. 1). Fines may amount to up to 0,2 % of the GDP of the Member State concerned.

[32] Report on Peer review on the implementation of the European Statistics Code of Practice in Eurostat, 24-26 October 2007.

overview on the implementation of the recommendations made by ESGAB since 2009.

Table 2 - Eurostat's implementation of improvement actions (as of March 2011)

State of implementation according to Eurostat's reporting	Number of actions agreed under the peer review in 2007	Number of ESGAB's recommendations issued in its 2009 and 2010 reports
Implementation until March 2009		
(1) Actions completed	**35**	
Implementation since April 2009		
Actions terminated		
This action has been completed	3	5
No further work on this issue is planned	3	0
No longer relevant	1	0
(2)Total actions terminated	**7**	**5**
Actions pending		
This work is considered to be ongoing with no specific deadline	10	15
The work is progressing as planned and is not yet due	10	4
There have been delays within Eurostat	3	0
Further progress now depends on authorities outside of Eurostat	2	0
The work has been included in a new action	1	0
Absence of clear statement on the implementation status	1	0
(3) Total actions pending	**27**	**19**
GRAND TOTAL (1+2+3)	**69**	**24**

Source: Information provided by Eurostat to ESGAB.

43. The audit found that Eurostat has difficulties in fully implementing principle 6 of the Code (Impartiality and Objectivity) as regards impartial access to data for users. Exceptions to the application of the Code and the principle of impartiality exist, notably in connection with the Excessive Deficit Procedure

(EDP)[33] where the timing of sharing information within the Commission is not in line with Eurostat's "Protocol on impartial access to Eurostat data for users"[34].

44. With regard to other Commission Directorates General, Eurostat has not yet overcome the problem already described in the peer review report of 2007[35] that these services collect data on their own account when they feel that Eurostat might be unresponsive to their requests. "Lack of coordination between policy DGs and Eurostat on statistical work" was notified by Eurostat and accepted by the Commission central services as a cross-cutting critical risk in 2010 and a number of measures have been launched in 2011 to mitigate it.

Assessing the status of implementation of the Code of Practice across the ESS requires better information

The Regulation on European statistics does not provide for procedures to verify adherence to the Code of Practice

45. The partners in the ESS are expected to cooperate in good faith. The Regulation on European statistics does not provide for procedures to verify adherence to the principles of the Code of Practice. The Excessive Deficit Procedure (EDP) is the only statistical domain where the legislator empowered and obliged Eurostat to perform verification work on-the-spot in Member States[36].

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[33] Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community (OJ L 145, 10.6.2009, p. 1).

[34] Published on Eurostat's website http://epp.eurostat.ec.europa.eu/portal/page/portal/quality/documents/Impartiality_protocol_REV2_FINAL_EN.pdf.

[35] See page 20 of the report on Peer review on the implementation of the European Statistics Code of Practice in Eurostat, 24-26 October 2007.

[36] Related to the quality of gross national income (GNI) figures, Article 6 of Council Regulation (EC, Euratom) No 1287/2003 of 15 July 2003 on the harmonisation of gross national income at market prices (GNI Regulation) (OJ L 181, 19.7.2003,

A comprehensive approach is needed for peer reviews

46. Peer reviews remain the most important tool for independently assessing the status of implementation of the Code by Eurostat and NSIs. Another round of peer reviews is envisaged for 2013 but in June 2012 decisions were still pending on where and how to launch them. These reviews will need to address those principles so far covered only to a limited extent (see ***Table 3***).

p. 1) provides an option for the Commission to carry out "information visits" to Member States as part of its verification work; see paragraphs 2.28. and 2.30 of the Court's 2010 Annual Report.

Table 3 - Coverage of the 15 principles of the Code

Code of Practice Principles adopted in 2005		Self Assessments 2005/06	Peer Reviews 2006-08	Action plans 2007/08	Monitoring of Action plans since 2008	Annual ESGAB assessments since 2009
Institutional environment	1. Professional Independence	✓	✓	✓	✓	✓
	2. Mandate for Data Collection	✓	✓	✓	✓	
	3. Adequacy of Resources	✓	✓	✓	✓	✓
	4. Quality Commitment	✓	✓	✓	✓	✓
	5. Statistical Confidentiality	✓	✓	✓	✓	
	6. Impartiality and Objectivity	✓	✓	✓	✓	
Statistical processes	7. Sound Methodology	✓		✓	✓	
	8. Appropriate Statistical Procedures	✓		✓	✓	
	9. Non-excessive Burden on Respondents	✓		✓	✓	
	10. Cost Effectiveness	✓		✓	✓	
Statistical output	11. Relevance	✓		✓	✓	
	12. Accuracy and Reliability	✓		✓	✓	
	13. Timeliness and Punctuality	✓		✓	✓	
	14. Coherence and Comparability	✓		✓	✓	
	15. Accessibility and Clarity	✓	✓	✓	✓	

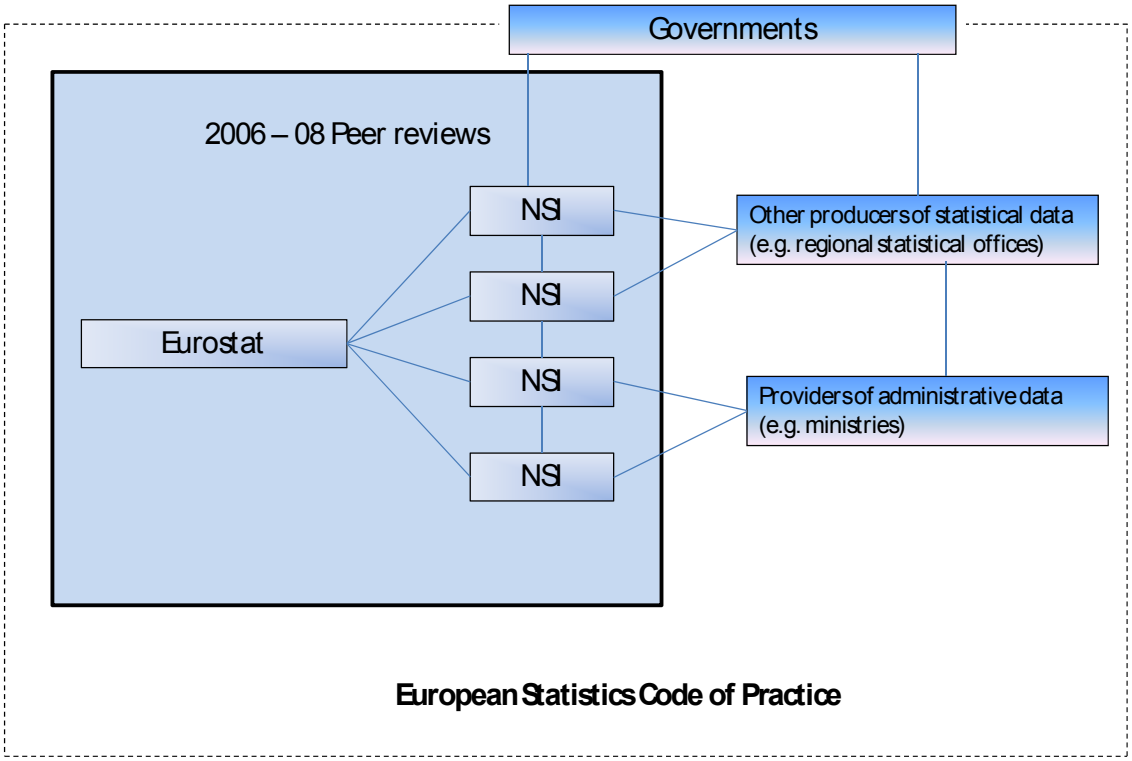
Source: European Court of Auditors. (✓ = covered)

47. The 2006-08 peer reviews followed a common methodology focusing on the 'Institutional environment' part of the Code. Other principles were only covered through self-assessments. In 2011, the Task Force "Sponsorship on Quality" finalised a Quality Assurance Framework (QAF) related to statistical processes and statistical outputs. It identifies possible activities/methods/tools that can provide guidance and evidence for the implementation of the indicators of the Code. The ESS Committee did not yet decide on how to use the QAF.

48. Other statistical producers (e.g. regional statistical offices) or providers of administrative data used for statistical reporting (e.g. ministries of finance) were

not covered by the first round of peer reviews (see ***Figure 3***) and remain to be covered by future reviews.

Figure 3 - Coverage of the 2006-08 peer reviews



Source: European Court of Auditors.

49. Conducting the reviews on a horizontal organisation-wide basis alone does not make it possible to ascertain that systems operate in the same manner in all statistical domains of an NSI. As there are over 100 statistical domains, it will not be possible to cover them all at once. A solution could be rolling peer reviews which each year look into a limited number of specific statistical domains. Although not directly comparable in scope and approach, Eurostat has already some experience with organising rolling reviews in the framework of its evaluation activities.

50. In the first round the peer review teams had three members, normally two from NSIs and one from Eurostat. ESGAB recommended[37] that peer reviews should be carried out "by an autonomous peer-review team" and "that the new set of peer reviews must be more streamlined and standardised than the previous ones". Including peer reviewers not belonging to the ESS would strengthen the independence and credibility of the reviews.

ESGAB obtains information from Member States on a voluntary basis

51. The decision establishing ESGAB does not set out how it is to obtain the factual basis for its annual assessments of the state of implementation of the Code. Taking into account Eurostat's annual monitoring reports, ESGAB has developed its own tools to collect further information. It sent questionnaires to NSIs and stakeholders, invited representatives from the top management of NSIs for brief exchanges of views ("country dialogues"), and wrote letters to national governments to request clarifications regarding their adherence to the Code.

52. ESGAB stressed in its 2011 report that there is a "difficulty in obtaining factual information about how the Code is implemented in practice." Under the present arrangements and given the limited resources (see ***Box 2***) the scope of ESGAB's monitoring will remain clearly limited.

The Commission's recent initiatives go in the right direction but do not address all matters of concern

53. In April 2011, the Commission issued the communication entitled "Towards robust quality management for European Statistics"[38]. The communication was meant to draw the lessons from the financial crisis. The Commission announced its intention to implement "a preventive approach to verifying

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[37] See recommendation 4 of the 2011 annual report.

[38] COM(2011) 211 final.

government finance statistics" and to further strengthen the governance of the ESS through a number of proposals.

The preventive approach to verifying government finance (EDP) statistics was launched in 2011

54. The Regulation on the application of the Protocol on the excessive deficit procedure requires Eurostat to carry out in all Member States regular "dialogue visits", as well as possible "methodological visits". Following the weaknesses identified in Greek government deficit and debt statistics[39], Eurostat's powers were extended in July 2010[40].

55. For methodological visits, Eurostat has been given audit-like powers to verify the accounts which underlie the data reported by Member States. However, these powers may only be used in exceptional cases where significant risks or problems with respect to the quality of the data notified by a Member State have been clearly identified. So far, these powers have only been applied for assessing the quality of Greek government deficit and debt statistics.

56. In order to overcome the limitations imposed by the exceptional character of methodological visits, Eurostat launched in 2011 a new type of visits, so-called "upstream dialogue visits" in addition to its "standard dialogue visits". Upstream visits are specifically directed to entities supplying the accounts underlying the data reported by Member States.

57. Eurostat faces the double challenge of increasing both the number and the quality of its dialogue visits. Improving quality will necessarily imply longer visits. ***Table 4*** shows that the number of dialogue visits increased significantly

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[39] Report on Greek government deficit and debt statistics, COM(2010) 1 final.

[40] Council Regulation (EU) No 679/2010 of 26 July 2010 amending Regulation (EC) No 479/2009 as regards the quality of statistical data in the context of the excessive deficit procedure (OJ L 198, 30.7.2010, p. 1).

in 2011. However, at the time of the audit, it was not possible to assess the quality of upstream visits and the cooperation of relevant Member State bodies as the reports on the visits were not yet available.

Table 4 – Eurostat's EDP visits to Member States

Number of "dialogue visits"						
	2006	**2007**	**2008**	**2009**	**2010**	**2011**
Belgium	1 (1 day)		1 (1 day)		1 (1 day)	
Bulgaria			1 (2 days)		1 (2 days)	**1 (4 days)**[3]
Czech republic		1 (2 days)		1 (3 days)		1 (2 days)
Denmark	1 (1 day)		1 (2 days)			1 (2 days)
Germany		1 (1 day)		1 (1 day)		1 (2 days)[4]
Estonia		1 (2 days)		1 (2 days)		1 (2 days)
Ireland	1 (2 days)		1 (2 days)		1 (2 days)	
Greece	1 (1 day) [1]					**1 (3 days)**[3] and 2 (3 and 2 days)
Spain		1 (2 days)		1 (2 days)		1 (2 days)
France	1 (1 day)		1 (1 day)		1 (1 day)	
Italy		1 (2 days)		1 (2 days)		1 (2 days)
Cyprus	1 (1 day)		1 (2 days)		1 (1 day)	
Latvia	1 (2 days)			1 (2 days)		1 (3 days)
Lithuania	1 (2 days)		1 (2 days)		1 (2 days)	
Luxembourg	1 (1 day)			1 (1 day)		1 (1 day)
Hungary	1 (2 days)		1 (2 days)		1 (2 days)	
Malta	1 (1 day)		1 (1 day)		1 (2 days)	
Netherlands		1 (2 days)			1 (1 day)	1 (1 day)
Austria		1 (2 days)		1 (2 days)		
Poland		1 (2 days)		1 (2 days)		1 (2 days)
Portugal	1 (2 days)		1 (2 days)			3 (2, 2 and 2 days)
Romania		1 (2 days)	1 (2 days)		1 (2 days)	**1 (3 days)**[3] and 1 (3 days)
Slovenia	1 (2 days)		1 (2 days)			1 (2 days)
Slovakia		1 (2 days)	1 (2 days)			1 (2 days)
Finland		1 (2 days)			1 (2 days)	1 (2 days)
Sweden		1 (1 day)		1 (2 days)		1 (2 days)
United Kingdom		1 (2 days)[2]		1 (2 days)		1 (3 days)
Total	13 (19 days)	13 (24 days)	13 (23 days)	11 (21 days)	11 (18 days)	21 (44 days) and **3 (10 days)**[3]
Number of "methodological visits"						
Greece	2 (3 and 3 days		2 (2 and 5 days)	1 (3 days)	4 (3, 2, 3 and 22 days)	
Grand Total	15 (25 days)	13 (24 days)	15 (30 days)	12 (24 days)	15 (48 days)	24 (54 days)

[1]The dialogue visit took place on the same day as the methodological visit.
[2]During this visit a joint meeting with the Irish NSI took place.
[3]Upstream dialogue visit.
[4]Standard dialogue visit with an upstream element.

Source: European Court of Auditors based on information provided by Eurostat.

58. Following an internal reorganisation, since 1 January 2012 a Eurostat Directorate with about 50 staff, internally redeployed, has been exclusively

dedicated to government finance statistics. Member States are expected to provide the assistance of experts in national accounting on a voluntary basis[41]. In October 2011, Eurostat had established a list of 30 experts from 12 Member States.

59. Eurostat's current approach is to enhance cooperation not only with NSIs but also with Supreme Audit Institutions (SAIs) in Member States in order to obtain assurance that upstream public finance data (including financial statements) are properly scrutinised before they are used for EDP reporting. The SAIs' Contact Committee has set up a task force to explore the possibilities for cooperation between SAIs, Eurostat and NSIs.

The Commission announced a strengthening of the governance of the European Statistical System

60. The Commission announced in April 2011[42] two major initiatives to strengthen the governance framework of the ESS: a proposal on "targeted amendments" to the Regulation on European statistics and the so-called "Commitments on Confidence in Statistics", a new tool for effective implementation of the Code of Practice. In April 2012, the Commission submitted a legislative proposal to the European Parliament and the Council[43].

61. In its communication the Commission stated that the proposal on targeted amendments to the Regulation on European statistics "will make clear that the principle of professional independence of National Statistical Institutes applies unconditionally." Furthermore, the mandate of statistical authorities for data

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41 Article 12(1) of Regulation (EC) No 479/2009.

42 COM(2011) 211 final.

43 COM(2012) 167 final of 17 April 2012 "Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European statistics".

collection will be enhanced when data are extractable from available administrative records.

62. The announced revision of the Regulation on European statistics will also set up a legal framework for the new "Commitments on Confidence in Statistics" whereby the Member States should "formally commit themselves, based on the Code of Practice, to taking all necessary measures to maintain confidence in their statistics and to monitoring the implementation of the Code." To that end, the Commission planned to draft "an agreed core of basic principles" with a view to incorporating it in the Regulation on European statistics.

63. According to the Commission, the detailed contents of each commitment will be elaborated with the respective Member States. Each Member State would define its own quality assurance and improvement programme, reflecting its progress in implementing the Code of Practice and identifying priority actions needed to ensure proper implementation of the minimum standards.

64. So far, the "Commitments on Confidence in Statistics" have received a cautious endorsement by the Council, welcoming the proposal "in its principle" only, "with the launch of pilot exercises as a first stage"[44].

Further enhancement of the legal framework would help to support full implementation of the Code

65. In 2005 the Code of Practice was conceived as a self-regulatory instrument. Since then numerous references to the Code have been introduced in statistical legislation. The Regulation on European statistics of 2009 stipulates that European statistics are to be developed, produced and

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[44] See the Council conclusions of 20 June 2011 on the Commission communication "Towards robust quality management for European Statistics"; http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/122932.pdf

disseminated “in conformity with” the statistical principles set out in the Treaty “and further elaborated” in the Code of Practice[45]. Nevertheless, there is ambiguity about the nature of obligations arising from the existing regulation with respect to adherence to the Code. This is for example reflected in the recommendation of the Task Force on Strengthening Economic Governance in the EU that the “binding nature of the ‘European statistics code of practice’ should be reinforced”[46]. The amendments to the Regulation on European statistics proposed by the Commission in April 2012 will not resolve the existing ambiguity about the nature of the obligation to adhere to the Code. Whilst the Commission maintains that the Code is a self-regulatory instrument, it proposes to introduce a provision which requires Member States to “take all necessary measures to implement the Code of Practice”[47].

66. Furthermore, the Regulation on European statistics does not provide for a procedure allowing for inspections of statistical production processes from the initial data source to the final outcome, for cases where misrepresentations of data might have occurred. Without such a mechanism[48] it is not possible to act swiftly in such cases. To be credible, an inspection mechanism would also require independent supervision.

67. In its April 2011 communication, the Commission did not address the major issue raised by ESGAB concerning its mandate and the resources at its disposal. In its 2010 report[49] ESGAB had underlined that its legal base should be strengthened in order to provide a possibility to act appropriately if the

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[45] Article 1 and Article 11(1).

[46] Section 2.1.4 of the report of 21 October 2010 which was endorsed by the European Council of 28 and 29 October 2010.

[47] See proposed new Article 11(3).

[48] The Excessive Deficit Procedure (EDP) is currently the only domain with such a mechanism in place.

[49] Recommendation No 10 of ESGAB’s Annual Report 2010.

credibility of the ESS as a whole is at risk. In the 2011 report this point was reiterated[50] and in addition ESGAB stated that its legal basis would benefit from clarification of the expectations set by its founders and the means to achieve them[51]. In future, ESGAB's role should include independently overseeing peer reviews and inspections of statistical production processes.

Managing the multi-annual European statistical programme

68. The reliability and credibility of statistics depend as much on the adherence to and implementation of the Code of Practice, as they depend on the management of the European statistical programme.[52]

69. The European statistical programme provides the framework for the development, production and dissemination of European statistics. The programme decision for the years 2008 to 2012 was adopted in December 2007[53]. It lays down 131 "objectives" and "main initiatives", many of them requiring steady implementation over the entire programme period through annual Statistical Work Programmes (SWPs). ***Figure 4*** shows the set-up for programming the production of European statistics.

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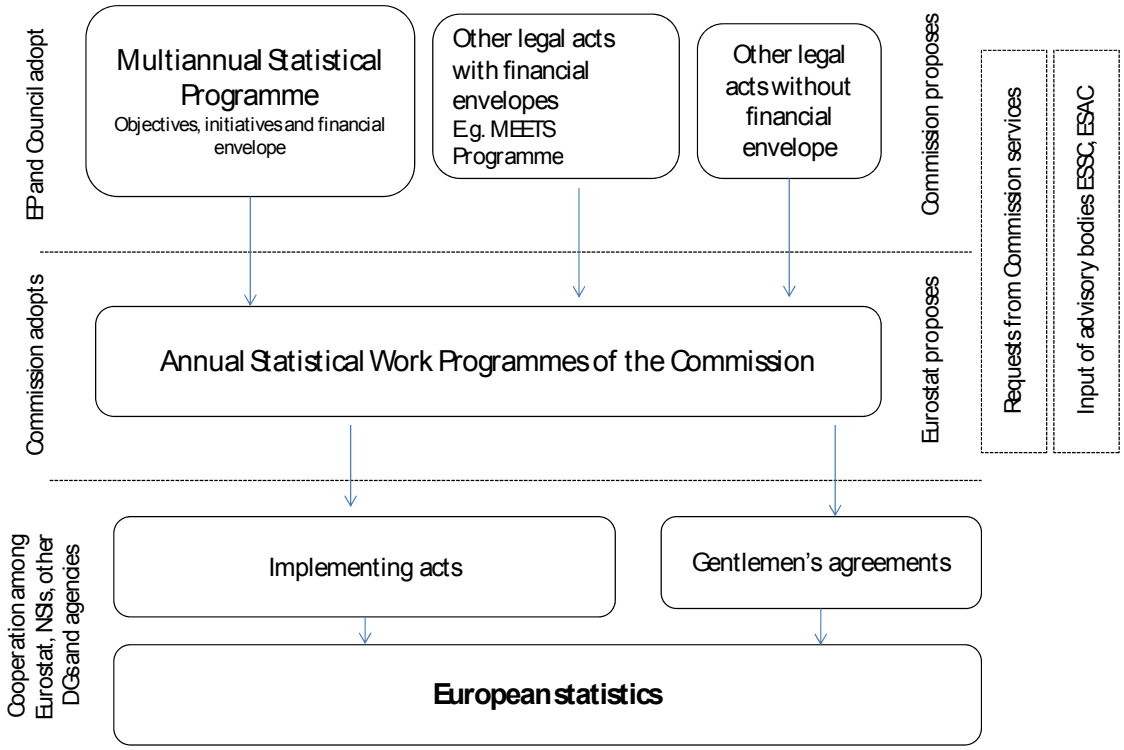
[50] Recommendation No 8 of ESGAB's Annual Report 2011.

[51] In its resolution of 17 June 2010 (P7_TA(2010)0230) on the quality of statistical data in the Union and enhanced auditing powers by the Commission (Eurostat), the European Parliament called on the Commission and the Council "to involve the European Statistical Governance Advisory Board more closely as an independent adviser; the Advisory Board may assist the Commission (Eurostat) during its visits to the Member States" (OJ C 236E, 12.8.2011, p. 76).

[52] Union legal acts also refer to the programme as "the Community Statistical Programme" or "the Union statistical programme".

[53] Decision No 1578/2007/EC (hereinafter referred to as "the decision on the 2008 - 2012 programme").

Figure 4 - Set-up for programming the production of European statistics



Source: European Court of Auditors.

70. The programme 2008 to 2012 has a financial envelope of 274,2 million euro for the five-year period. Most of the financing supports investment and capacity building for new initiatives in Member States. Other legal instruments provide additional funding of actions, for example the regulation on farm structure surveys[54] with a financial envelope of 58,85 million euro for the period 2008 to 2013 and the Programme for the Modernisation of European Enterprise and Trade Statistics (MEETS)[55] with an envelope of 42,5 million euro for the

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[54] Regulation (EC) No 1166/2008 of the European Parliament and of the Council of 19 November 2008 on farm structure surveys and the survey on agricultural production methods and repealing Council Regulation (EEC) No 571/88 (Text with EEA relevance) (OJ L 321, 1.12.2008, p. 14).

[55] Decision No 1297/2008/EC of the European Parliament and of the Council of 16 December 2008 on a Programme for the Modernisation of European Enterprise and Trade Statistics (MEETS) (Text with EEA relevance) (OJ L 340, 19.12.2008, p. 76).

period 2009 to 2013. Nevertheless, the bulk of the cost for producing statistical information has to be borne by Member States[56].

The requirements of the Financial Regulation for quality evaluations were not met for the 2008 to 2012 programme

The lack of an ex-ante evaluation of the 2008-12 programme had a negative impact on its design and makes its monitoring difficult

71. Prospective ("ex-ante") evaluations are essential for the preparation and efficient management of Union programmes. Ex-ante evaluations help to ensure that the delivery of policy objectives will be successful, that the instruments used will be efficient and that reliable evaluation of results based on appropriate indicators will be possible later on[57].

72. Eurostat did not perform an ex-ante evaluation prior to the adoption of the 2008-12 programme. This had a negative impact on the design of the programme and on monitoring its implementation, as no indicators were defined.

73. In June 2010, the Commission reported to the European Parliament and the Council on the mid-term evaluation of the 2008-12 programme[58]. The report stated that "many of the objectives (around 90 %) are on track and likely to be achieved by the end of 2012 although resource constraints in the ESS may render this more difficult than expected". The report did not give a detailed account of progress in achieving the 131 objectives of the programme.

74. Based on Eurostat's replies to a questionnaire, the Court sought to assess the state of implementation of the programme as of July 2011. For 68 of the

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[56] The full cost of producing European statistics is not known (see paragraph 95).

[57] Article 21(1) of the Implementing Rules of the Financial Regulation (FR).

[58] COM(2010) 346 final of 30 June 2010.

131 objectives, the assessment was difficult in the absence of appropriate indicators. Moreover, in most of these cases, objectives are vaguely worded (see ***Box 4***) so that limited activity is sufficient to claim that these objectives have been or are being achieved. The audit found that, even under these favourable assumptions, at least 20 % of the 131 objectives were not likely to be achieved on time.

Box 4 – Examples of vaguely worded objectives

Extracts from Annex I ("Cross cutting issues") and Annex II ("Objectives and actions") of the 2008-12 programme

"reduce the distance between users and producers by improving communication with different groups and networks of users" (objective 13),

"extend the use of ad-hoc modules in Community surveys in specific cases, increasing the responsiveness to new needs" (objective 24),

"the existing lifelong learning statistics framework in terms of quality will be improved" (objective 85),

"the development of the relevant statistics for monitoring food safety will be pursued" (objective 98),

"the visibility of statistics in national and regional development plans will be increased" (objective 127).

Source: Decision on the 2008-12 programme.

The mid-term evaluation did not identify the need for revision of the 2008-12 programme

75. The Commission's mid-term report did not consider whether a revision of the programme was necessary in the light of developments after the adoption of the programme in December 2007, namely:

(a) the financial crisis and the need to shift priority to statistics related to economic and monetary policy, taking into account the impact on NSIs' resources;

(b) the challenge of improving the Greek statistical system and the need to implement a preventive approach to avoid similar cases elsewhere in the ESS;

(c) new political initiatives launched by the Commission, notably the EU 2020 strategy for smart, sustainable and inclusive growth[59];

(d) the new legal framework for cooperation within the ESS provided by the 2009 Regulation on European statistics;

(e) the Commission communication on a new approach for producing European statistics ("a vision for the next decade")[60].

76. As the programme was not revised to take into account these new developments, parts of it have become outdated. There is a gap between actual activities and what has been provided for by the legislator.

Reporting on programme implementation and achievements is unsatisfactory

No further reports on the implementation of the 2008-12 programme before the end of 2013

77. Eurostat confirmed that, apart from the 2010 report on the mid-term evaluation, no other reports exist or will be produced on the implementation of the programme, neither for internal nor for external purposes, before the final evaluation report which is due by the end of 2013.

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[59] COM(2010) 2020 final of 3 March 2010.

[60] COM(2009) 404 final of 10 August 2009.

No consolidated reporting on the implementation of the annual statistical work programmes

78. Given the characteristics of the multiannual programme, Eurostat's main tool to steer statistical activities of the ESS is the annual Statistical Work Programme (SWP) of the Commission. This programme includes a detailed list of policy- and/or expenditure related points for action ("outputs") to be achieved during the year.[61] No systematic information is available as to whether the outputs are delivered.

79. Weaknesses in reporting also hamper ESAC in playing its advisory role in full. ESAC serves as a communication channel for users, respondents and producers of statistics on the objectives and priorities of the Union's statistical information policy (see ***Box 5***). The audit found that ESAC is not yet playing its advisory role in full, in part due to its broad brief covering all statistical areas, its heterogenous composition and the limited availability of some of its members. Eurostat could improve its support to ESAC's functioning through more and better tailored information on the budgetary and financial implications of statistical programming choices and on the implementation of statistical programmes.

Box 5 – European Statistical Advisory Committee (ESAC)

Bringing together users, respondents and producers of statistics

The European Statistical Advisory Committee (ESAC) was set up in June 2009 and has 24 members: twelve members in their personal capacity representing users, respondents or other stakeholders in Union statistics (including the scientific community, the social partners and civil society), eleven members appointed directly

[61] A reference to the multiannual programme was given for each output for the first time in the 2011 SWP. However, as the 2008-12 programme has not been amended to take into account recent developments, such links are difficult to make. As a consequence, in many places, references are made to the "general objectives" of the multiannual programme or to an annex of the multiannual programme which refers to "better regulation" in very general terms.

by the institutions and bodies to which they belong, and the Director General of Eurostat as an ex officio member without a voting right. ESAC meets three times a year for one-day sessions in Brussels. Eurostat provides the secretariat of ESAC.

During its first three years, ESAC issued a contribution to the discussion about the modernisation of structural business statistics, a one page statement entitled "Good decisions need good data, good data require sufficient statistical resources", and, at the request of Eurostat, four opinions related to draft statistical programmes. So far, neither the European Parliament nor the Council made use of the option to request an opinion from ESAC.

In June 2011, ESAC agreed that each member should establish contacts with users in one or two Member States to set up a network of national user representatives.

Source: ECA.

Eurostat has improved management of grants from the programme's financial envelope and has started to tackle weaknesses in procurement

80. The decision on the 2008-2012 programme[62] requires national authorities and Eurostat to strive for a reputation of good management and efficiency in order to strengthen the credibility of statistics.

81. Eurostat uses two main tools to implement the financial envelopes made available under the 2008-12 programme and other programmes: grant agreements and public procurement contracts. ***Figure 5*** shows the respective shares of the two instruments in the total amounts committed over the years 2007 to 2011[63].

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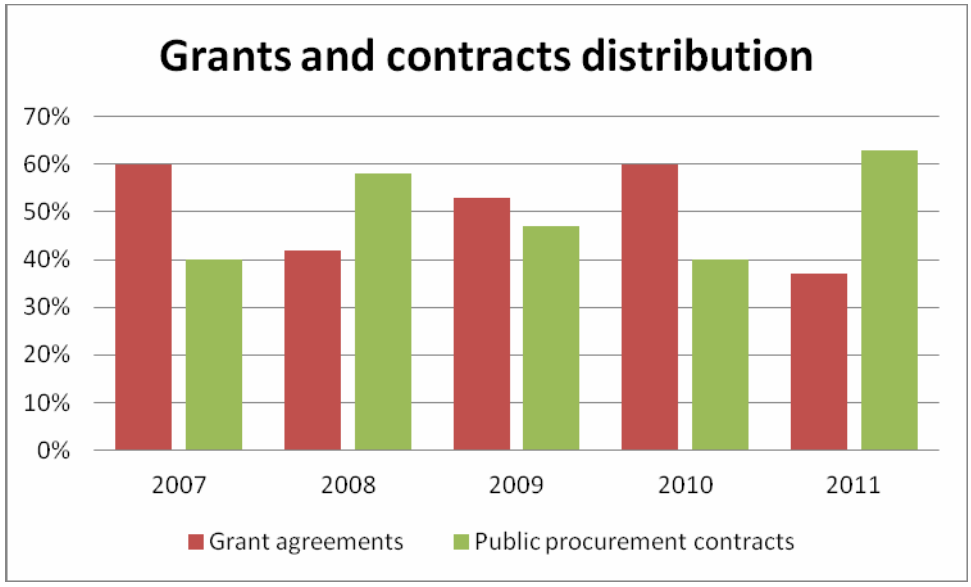
[62] Article 3(b).

[63] In 2011, 172 grant agreements and 312 contracts were signed (283 grant agreements and 320 contracts in 2010).

Figure 5 – Share of grants and contracts in total amounts committed



Source: ECA based on Eurostat data.

Grant management

82. Eurostat gives more than 90 % of its grants to NSIs and other national authorities designated by the Member States.

83. Article 109(2) FR stipulates that grants may not have the purpose or effect of producing a profit for the beneficiary. Therefore, in order to determine the appropriate amount of the final grant payment, Eurostat cannot limit itself to verifying whether the objective of a grant agreement was achieved, but must also verify the resources actually used by the beneficiaries to achieve the objective. This obligation makes the management of grants more cumbersome than the management of procurement contracts. Since 2011, interested beneficiaries are given the possibility to use standard scales of unit costs by staff category to simplify grant management. An alternative approach to consider would be a performance-based system, which relies on agreed

indicators and objectives (outputs and outcomes)[64] without the need to link payments to costs incurred.

A significant risk of overpayments had to be addressed and managed

84. Reservations had to be made concerning Eurostat's grant management in the Annual Activity Reports (AAR) of the Director General of Eurostat for the years 2001 to 2004 and 2006. They concerned the inadequate definition and calculation of eligible costs and the inadequate number of controls carried out, resulting in a significant risk of overpayments. Often, no supporting documents were available for ex-post controls regarding staff costs, equipment costs, consumables and supplies and other direct costs[65].

Efforts to improve financial management of grants produce results

85. In April 2009, Eurostat redefined its control strategy. The approach was to shift emphasis from ex-post controls (after final payments) to ex-ante controls (prior to final payments). The objective was to identify and prevent errors and irregularities before final payments, allowing for immediate correction and avoiding time-consuming recovery actions.

86. Under reinforced ex-ante controls beneficiaries are asked to provide Eurostat with documents supporting a sample of the eligible costs declared.

87. Eurostat's efforts to improve the financial management of grants, including through significantly clearer guidelines for beneficiaries, produce results.

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[64] See section 4.2 of COM(2012) 42 final of 8 February 2012 "A Simplification Agenda for the MFF 2014-2020".

[65] In 2008, the Commissioner in charge of Eurostat informed the Commission on the outcome of fourteen ex-post controls carried out by Eurostat in 2005 and 2006 on cost declarations made by eleven NSIs and three other grant beneficiaries. Out of a total amount of 14 million euro covered by these controls, the eligibility of 6,6 million euro (47,14 %) was questioned by Eurostat. Finally, to settle these cases taking account of outputs and results achieved, flat-rate corrections for 1,3 million euro were made.

Nevertheless, some beneficiaries[66] experienced consistent difficulties in submitting to Eurostat the documentation required to determine whether costs where eligible.

88. The audit examined a sample of reinforced ex-ante controls carried out by Eurostat and found most of them adequate. However, the following shortcomings had not yet been addressed by Eurostat:

(a) The samples selected for verifying the staff cost declared were often not complying with the minimum requirements laid down in Eurostat's own guidelines.

(b) Only in one case verifications were carried out on the spot with a beneficiary to assess its time registration system and supporting documents for staff cost.

(c) The controls were not documented by a check-list which made it difficult to assess their nature and adequacy.

(d) The very low number of payment requests randomly selected by Eurostat for controls[67] makes it difficult to assess the overall risk of error.

Management of procurement procedures

89. Eurostat uses calls for tender mainly for IT procurement and for buying statistical services[68]. Procurement procedures within Eurostat are to a large extent decentralised to operational directorates.

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[66] Since 2009, eight beneficiaries came temporarily under risk-based reinforced ex-ante controls covering most of their payment requests.

[67] Over the period 2009–11 eleven requests under reinforced examination, all dating from 2009.

[68] With regard to statistical services, the Commission decision of 23 July 2003 to internalise tasks to the maximum extent was not fully implemented. Some

90. The Court's audit confirmed major risks reported by Eurostat's Internal Audit Capability (IAC) in February 2011 to management. In its risk analysis, the IAC had identified potentially excessive reliance on third parties and quasi-monopoly situations and weaknesses in the evaluation process, including potential favouritism.

Market concentration and difficulties with selection and award criteria

91. With regard to market concentration, the Court's analysis of Eurostat's follow-up tables on contract awards over the period 2009 to 2011 showed that the top three contractors had obtained 30 % of the total amount awarded through procurement. Market concentration was aggravated by the fact that certain Eurostat units depended to a large extent on the top three contractors. With regard to the procurement process, the Court's audit found inappropriate use of the negotiated procedure and recurrent difficulties in defining and applying selection and award criteria.

92. It was too early for the Court's audit to assess the impact of Eurostat's action plan of March 2011 designed to address the recommendations made in the IAC report. Implementation of some key measures of this action plan only started in January 2012.

Fostering competition under the best-value-for-money procedure

93. To foster competition, Eurostat decided that it will no longer systematically announce a maximum budget in tender specifications. From 2012, this has only been allowed as an exception to be duly justified. However, Eurostat has maintained the use of minimal thresholds for the quality component of award criteria under the best-value-for-money procedure. Such minimal thresholds weaken price competition, in particular when the weighting of quality and price

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Eurostat units continue to rely on external service providers for data management and collection tasks.

criteria is set at 70:30 which is most frequently the case in Eurostat's procurement procedures.

Re-prioritisation within the ESS is behind schedule and hampered by the absence of reliable information on cost

The consequences of the financial and debt crisis make re-prioritisation even more important

94. NSIs and the ESS as a whole have to tackle the consequences of the financial crisis, which sometimes involve severe budget cuts. This often requires a change of priorities. There are now difficult trade-offs to be made between maintaining or increasing the quality of existing statistical products, responding to requests for statistics in new domains and the need to invest in measures to increase productivity in the longer term. The choices made can have an impact on statistical innovation which may suffer as a result.

The full cost of producing European statistics is not known

95. Article 6(1) of the decision on the 2008-12 programme required the Commission to provide a preliminary analysis of the financial burden-sharing between Union and Member State budgets. Due to a lack of appropriate data, this analysis was limited to the general conclusion that grants from the EU budget were relatively small compared to the total annual expenditure of Member States caused by the production of European statistics[69].

[69] As a rule, co-funding from the Union budget is not possible for contributions of NSIs to the production of European statistics when these contributions are required by European statistical legislation.

Reprioritisation was behind schedule

96. The audit found that Eurostat was behind schedule with the re-prioritisation exercise[70]. Although required under Article 6(3) of the decision, the Commission did not report on the outcome of reprioritisation in its mid-term evaluation. Such reporting should have included estimations of costs and burdens for statistical projects and fields covered by the 2008-12 programme, as well as an assessment of emerging statistical needs, in particular for new Union policies.

The 2010 strategy-driven approach produces limited results so far

97. Because of the lack of progress with establishing a systematic measurement of cost and the difficult situation of the ESS members in the context of budget cuts, Eurostat proposed a new strategy-driven approach for re-prioritisation to the ESS Committee in November 2010. Its implementation (essentially through identifying "negative priorities"[71] on an annual basis) has produced limited results so far.

98. The list of negative priorities for 2011 consisted almost exclusively of new actions to be postponed. For the 2012 work programme, practical consequences of the new approach were assessed as "limited" according to a report submitted to the ESS Committee in May 2011. This points to a need for additional efforts to encourage statistical innovation, for example by proposing to users to phase out statistics which have become less relevant in exchange for new statistics.

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[70] Set out in detail in section 3.7. ("The balance of costs and benefits") of Annex I of the 2008-12 programme.

[71] "Negative priorities" include repealing existing legal requirements for producing statistics, stopping a voluntary data collection based on a gentlemen's agreement amongst Eurostat and NSIs and reviewing areas for simplification.

99. When invited by Eurostat to issue an opinion on the draft programme for 2012, ESAC stated[72] that it encounters some difficulty in determining priorities because of the fact that the budgetary consequences of different decisions are hard to assess due to the different methodologies used to calculate costs in the Member States, the lack of financial information and, in some cases, the problems of differentiating between the European and national shares in the costs of producing statistics. These are all important elements required for Eurostat's strategy.

The design of the draft 2013 to 2017 programme has improved but successful implementation depends on better annual planning and reporting

100. In late 2011 the Commission adopted the draft statistical programme 2013-17 as a proposal for a regulation of the European Parliament and of the Council[73].

101. In comparison to the programme currently in force, the proposal provides a clearer hierarchy of priorities and a more flexible structure. The draft programme sets out an ambitious infrastructure of statistical information and has a strong focus on implementing new methods for producing European statistics.

102. The annex to the programme ("Statistical Infrastructure and objectives of the European Statistical Programme 2013-17") provides objectives together with implementation actions which can serve as indicators. Most of these 104 indicators are useful for achieving measurable progress provided that they are

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[72] Opinion on the Draft Commission Annual Statistical Programme 2012 of 28 March 2011.

[73] COM(2011) 928 final of 21 December 2011 "Proposal for a Regulation of the European Parliament and of the Council on the European statistical programme 2013-17". No explanation is provided why a regulation is proposed instead of a decision.

supplemented by precise targets and milestones laid down in the annual planning and verified in a process of systematic annual reporting.

103. From 2014, the programme will include objectives in the area of enterprise and trade statistics and a separate programme for the modernisation of European enterprise and trade statistics will no longer be necessary[74].

104. The implementation of the programme is to be covered from two different multiannual financial frameworks (for the years 2007 to 2013 and 2014 to 2020) for a total of 299,4 million euro. Options to better synchronise the multiannual statistical programme with the multiannual financial planning were not considered during the ex-ante evaluation and the impact assessment of the programme.

105. 146,6 million euro are allocated to the objective “Implement the new method of production of European statistics”. No further details are provided on the breakdown of this amount nor with regard to the role of “non-profit-making organisations” eligible for grants[75] which have as their primary objectives and activities the promotion and support of the implementation of the Code of Practice and of new methods of production of European statistics aiming at efficiency gains and quality improvements at European level.

CONCLUSIONS AND RECOMMENDATIONS

106. Statistics are essential for Europe’s democratic process and good governance. Public confidence in European statistics is crucial in a Union where political decisions need to be evidence-based and where an increasing number of decisions are directly triggered by statistical data or by indicators derived from them.

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[74] The current MEETS programme will end on 31 December 2013.

[75] Article 11(3) of the proposal for a regulation.

107. The European Union, its Member States, and their statistical authorities must conform with the obligations set out in Article 338 TFEU on impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality in the production of statistics. Since 2005 considerable efforts have been made to enhance the European Statistical System. However, the move towards a better quality framework for European statistics is slow, is not yet completed, and remains a challenge for all those involved.

Recommendation 1
The European Union, its Member States, and their statistical authorities share a common responsibility for maintaining trust in Europe's democratic process. They should strengthen the system of European statistics to ensure professional independence, sufficient resources, effective supervision, with sanctions and swift improvement measures for cases where quality standards are not respected.

108. The audit found that the European Statistics Code of Practice has only been partly implemented and that full implementation remains a challenge for all those involved both at the European level and within Member States. The Code sets demanding standards but lacks strong verification and enforcement tools. The Commission did not involve national governments in the responsibility of respecting and applying the Code. It has not yet taken all steps required to guarantee its own full adherence to the Code. Better information on the current state of implementation of the Code throughout the European Statistical System (ESS) is required. The Commission's recent initiatives to give new momentum to achieving full adherence to the Code go in the right direction but not far enough to address all concerns. Ambiguity about the nature of the obligation to adhere to the Code persists, no inspection mechanism is proposed for cases where misrepresentations of data might have occurred and no proposal is made to develop an independent supervisory function.

Recommendation 2

In order to achieve full implementation of the European Statistics Code of Practice the Commission should:

(a) propose amendments to the regulatory framework for the production of European statistics that provide a sound basis for review, enforcement and, in appropriate cases, verification and inspection covering the institutional environment of statistical production, the statistical processes and the statistical output both at EU and national level;

(b) take the necessary steps to ensure legal certainty about the nature of the obligation to adhere to the Code of Practice;

(c) propose, in relation to (a) and (b), to develop a supervisory function to oversee reviews, verifications and inspections, for example by extending the current remit of the European Statistical Governance Advisory Board (ESGAB);

(d) enhance the professional independence of the Chief Statistician of the European Union by appointing her/him for a fixed-term mandate after having received a favourable opinion from ESGAB and an endorsement by the European Parliament and the Council;

(e) bring its internal decision on Eurostat's role in line with the requirements of the Code of Practice, enable Eurostat to apply its protocol on impartial access to data without restriction and phase out the mechanism of sub-delegated operational credits for statistical production which makes Eurostat, in part, financially dependent on other Commission services;

(f) launch the new round of peer reviews in the European Statistical System, envisaged by the Commission for 2013, covering compliance with all principles of the Code of Practice and including a strong external element to allow for independent assessments and comparable results;

(g) consider introducing rolling peer reviews for the most important statistical domains covering the entire production chain including providers of administrative data.

109. Flaws in the design of the statistical programme 2008 to 2012 hamper its use as an effective planning, monitoring and accountability tool for improving the production of European statistics. Eurostat's grant management improved but weaknesses in procurement persist. Reprioritisation of statistical activities towards new challenges was slower than expected. The draft programme 2013-17 provides an opportunity to reengineer the ESS in order to make it more efficient and flexible.

Recommendation 3

In order to fully exploit the potential of the upcoming European statistical programme for the years 2013 to 2017 Eurostat should:

(a) supplement the implementation actions included in the European statistical programme by precise targets and milestones to be (re)defined each year in the annual statistical programmes and followed up through a process of systematic and consolidated annual reporting to the European Parliament and the Council;

(b) use the option of revising the programme once its implementation is under way in case of major developments, also considering whether the programme should be prolonged to synchronise it with the multiannual financial framework 2014 to 2020;

(c) ensure a systematic review of statistical priorities, notably through regular assessments of the relevance of statistical outputs and of costs and burdens for the ESS and its members and for respondents;

(d) encourage, in the context of reprioritisation, where appropriate, statistical innovation, for example by phasing out existing statistical products in exchange for new ones;

(e) improve its support to ESAC's functioning through more and better tailored information on the budgetary and financial implications of statistical programming choices and on the implementation of statistical programmes;

(f) simplify and improve the efficiency of the financial management of grants by resorting to standard scales of unit costs for staff and to lump sums for data sets provided through surveys. In this context, it should explore the option of a performance-based system of grant management, which relies on agreed indicators and objectives;

(g) enhance competition in procurement procedures, notably by giving more weight to the price criterion in best-value-for-money procedures and avoiding minimum thresholds that weaken price competition.

This Report was adopted by Chamber IV, headed by Mr Louis GALEA, Member of the Court of Auditors, in Luxembourg at its meeting of 26 June 2012.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President

Annex

Status of improvement actions recommended in the peer reviews (situation as at March 2011)

Principle		Number of Peer Reviews Improvement Actions					Number of Outstanding Peer Reviews Improvement Actions (March 2011)							New actions (defined in 2011)	Total remaining actions
		Total	Completed				Further progress outside of the NSI	No further work is planned	Progressing and not yet due	Delays within the NSI	Ongoing - no specific deadline	Included in a new action	Total		
			Feb-08	May-09	Mar-10	Mar-11						(a)	(b)	(c)	(b-a+c)
1	Professional Independence	34	1	9	4	7	6	1	1	2	3	0	13	0	13
2	Mandate for data collection	25	1	8	2	3	3	0	2	0	6	0	11	0	11
3	Adequacy of resources	48	1	18	12	2	4	0	4	1	6	0	15	0	15
4	Quality commitment	103	1	28	8	13	3	1	22	12	12	3	53	4	54
5	Statistical confidentiality	43	2	19	4	6	0	1	2	1	8	0	12	0	12
6	Impartiality and objectivity	46	2	16	9	6	1	0	2	3	7	0	13	0	13
7	Sound methodology	46	3	15	6	5	1	0	4	2	9	1	17	1	17
8	Appropriate statistical procedures	40	2	10	6	4	0	0	11	1	6	0	18	0	18
9	Non-excessive burden on respondents	54	0	16	6	3	3	0	7	1	17	1	29	1	29
10	Cost effectiveness	48	0	16	7	6	3	0	7	3	6	0	19	1	20
11	Relevance	27	1	11	7	4	0	0	2	0	2	0	4	0	4
12	Accuracy and reliability	35	1	7	7	4	0	0	4	3	7	2	16	1	15
13	Timeliness and punctuality	14	0	5	2	3	1	0	0	0	3	0	4	1	5
14	Coherence and compatibility	33	1	9	4	4	1	1	3	2	7	1	15	2	16
15	Accessibility and clarity	81	2	29	10	6	1	0	9	4	17	3	34	2	33
	TOTAL	677	18	216	94	76	27	4	80	35	116	11	273	13	275
	(%)	*100%*	*3%*	*32%*	*14%*	*11%*	*4%*	*1%*	*12%*	*5%*	*17%*	*2%*	40%		

Source: ESGAB Annual Report 2011.

REPLIES OF THE COMMISSION TO THE SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS

"DID THE COMMISSION AND EUROSTAT IMPROVE THE PROCESS FOR PRODUCING RELIABLE AND CREDIBLE EUROPEAN STATISTICS?"

EXECUTIVE SUMMARY

II. Article 338 of the Treaty on the functioning of the European Union provides a general legal basis for European statistics. According to Regulation N°223/2009, European statistics are collectively produced by Eurostat and the national statistical authorities in the framework of the European statistical system, which is a partnership operating in conformity with the subsidiarity principle.

III. The Commission agrees with the Court that the Code of Practice provides the ESS with an ambitious framework for the production of high quality statistics on Europe. The Commission also recognises that the European Statistics Code of Practice represents a challenge for the ESS as a whole and continues to support the ESS in its efforts to fully implement the Code.

IV. Eurostat collects annual information on progress with the implementation of the Code in Member States and will continue to enhance and exploit this information in order to identify progress and areas of difficulty, also through the peer reviews exercise, in line with the recommendations made by the Court. The Communication (2011)211 was issued to support the implementation of the Code. The Commitments on Confidence in Statistics will provide an important mechanism for involving Member State governments directly and targeting the high-priority actions which are required for implementing the Code. Elements of the Code are included in the Statistical Law, as adopted in 2009 and proposed to be amended in 2012. These elements are, respectively will be, legally binding. Statistical principles are included in the Treaty and in the sectoral statistical legislation for all statistical domains.

V. The Community Statistical Programme (CSP) 2008-2012 has been designed, based on the lessons learned from the previous multiannual programme and its evaluations. The shortcomings seen in the design of the CSP 2008-2012 by the Court were addressed by Eurostat in the design of the European Statistical Programme (ESP) 2013-2017, which will also allow setting more precise targets and milestones, a better planning and monitoring for accountability purposes. The reprioritisation of activities is advancing as of 2010 in the context of the new strategy-driven priority setting approach and Eurostat intends to reinforce this approach for the next five year programme.

VI. In the Commission's view, the Code of Practice contains the necessary elements of a system which aims to ensure reliable and credible European statistics. The recent initiatives developed by the Commission and proposals already made, as announced in COM(2011)211, allow to strengthen the enforcement of the principles of this tool, designed to be a self-regulatory instrument in the context of the European Statistical System, functioning in line with the principle of partnership between its members foreseen by R 223/2009 on European Statistics.

OBSERVATIONS

19. After the publication of the 2008 Report from the Commission to the European Parliament and the Council, the Commission began annual monitoring of the peer review improvement actions identified in the peer review reports to achieve full compliance with the Code of Practice. Many actions have already been achieved, while others are under way. Following the results of the annual monitoring exercise in 2012, the Commission will publish a full list of the remaining actions and the schedule for their implementation. In addition, Commission Communication (2011) 211 was

issued to reinforce the implementation of the Code and refers to the strengthening of the principle on professional independence as part of the revision of Regulation 223/2009.

23. In 2011 the ESS Committee Task Force "Sponsorship on Quality" proposed a number of changes to the Code of Practice. This Task Force comprised ten Member States and was chaired jointly by Statistics Norway and Eurostat. The changes to the Code of Practice made in 2011 were limited to those which were considered necessary to ensure the standards in the Code continue to reflect the needs of the European Statistical System, and to maintain continuity with the previous version of the Code.

25. The new Commitments on Confidence in Statistics will provide a way of formally committing national governments to adhere to the Code. They will be signed by the government at the highest level and will identify actions within the governments' responsibility aimed at improving compliance with the Code along with the deadlines for their implementation.

28. The peer reviews involved two experts from NSIs and one expert from Eurostat following a common methodology for conducting the peer reviews. Conclusions were based on the interviews with stakeholders and the documentation provided. The peer review teams had no mandate to demand access to specific information from government departments.

As the Court notes in paragraph 54, in 2010 Commission Regulation 679/2010 introduced audit-like powers for the Commission in the context of the excessive deficit procedure.

31. In its annual monitoring report presented to the European Statistical System Committee in November 2011, Eurostat commented that it was not always clear if actions recorded as "on-going" had been completed. Eurostat also concluded that national statistical offices should provide some details of the final outcome of any completed actions. These changes were implemented in the 2012 monitoring exercise.

32. The list of peer review improvement actions included tasks which could be achieved over short-, medium- and long-term time scales. The annual monitoring continues to track these actions and for the 2011 and 2012 annual monitoring exercises, national statistical offices were asked to identify any new actions launched to improve compliance with the Code of Practice. Several new improvement actions were reported in both exercises by NSIs, related to the different principles of the Code. In addition, national statistical offices also provide annual information on the extent to which the Code has been extended to other national data providers.

34. A new Decision on Eurostat is expected to be adopted by the Commission during the first semester. It will bring the status of Eurostat in line with the European Statistics Code of Practice as reviewed and updated by the European Statistical System Committee (ESSC) on 28 September 2011. The Decision addresses professional independence with respect to Eurostat and refers in particular to the status and functional responsibilities of the Director General, notably in his/her capacity as Chief Statistician.

35. One of the objectives of the new Commission Decision on Eurostat is to re-define the role and the responsibilities of Eurostat within the internal organisation of the Commission in line with Regulation (EC) No 223/2009 taking also into account the amending proposal adopted by the Commission on 17 April 2012 (COM(2012)167).

36. Eurostat is a Directorate-General of the Commission under the political responsibility of a Commissioner, as defined in the working arrangements between the Commissioner, his cabinet and Eurostat. However, the new Commission Decision on Eurostat ensures that the Director-General of Eurostat has the sole responsibility for deciding on statistical methods, standards and procedures,

and on the content and timing of statistical releases and acts independently when carrying out statistical tasks.

37. The new Commission Decision on Eurostat has been drawn up taking into account the Commission Decision on OLAF although it will not replicate it. However, it addresses the professional independence of Eurostat and of its Director General.

38. The Commission is already bound under the Staff Regulations to ensure that the procedures for recruitment of the Director General are transparent in accordance with the Staff Regulations. This obligation is also emphasised in the new Decision.

39. The current Staff Regulations provide for an appropriate legal framework to ensure that EU staff members are selected and appointed on the basis of merit. This is in particular reflected in Articles 27 - 29 of the Staff Regulations, which also guarantee that the process is transparent.

40. The Commission considers that sub-delegations of appropriations to Eurostat by other Directorates General do not run counter to the principles of Professional independence and adequacy of resources. Indeed, statistical actions may be decided by the European Parliament and the Council, when appropriate with a specific financial envelope or within the framework of policy oriented programmes. This allows adapting the financial resources to specific statistical needs. The Financial Regulation allows such sub-delegations and rules ensure accountability and transparency.

41. The new Decision on Eurostat addresses the specific role of Eurostat in the quality management of Excessive Deficit Procedure data and Government Finance Statistics elaborated in the "Six Pack".

The delegated act on investigations and fines for misrepresentation of statistics specifies the tasks for Eurostat. Eurostat will have the overall responsibility for the investigations.

43. Special data release arrangements are in place for handling administrative data relating to the release of statistics on the excessive deficit procedure, own resources and remunerations and pensions which do not comply with Principle 6 of the Code of Practice. The Commission will examine what further action is required in order to enable Eurostat to comply fully with the impartiality requirements of the Code of Practice.

44. Action is already under way in order to enhance the coordination between policy DGs and Eurostat on statistical work. Since mid-November 2011, a new field in the Agenda Planning display screen requires all DGs and Services introducing new items in Agenda Planning to indicate whether an AP item has statistical aspects, a joint note issued by the Secretary General and the Director General of Eurostat informed the policy DGs about the need to consult Eurostat at an early stage when proposing new legal instruments with statistical aspects; the SG officers responsible for Inter-Service Consultations and Impact Assessments will continue to be involved, in the early identification of areas where information and involvement by Eurostat could be necessary; the new Commission Decision on the role of Eurostat further clarifies the already established coordinating role of Eurostat by making explicit the obligation of all Directorates-General and Services to closely associate Eurostat at an early stage on all initiatives with statistical aspects. Furthermore, the Internal Audit Service is currently carrying out a Commission-wide audit which may result in identifying recommendations to further strengthen this role.

46. The implementation of the next round of peer reviews is closely linked to the review arrangements required for the Commitments on Confidence in Statistics which are now being signed with Member States. The arrangements for the peer reviews, including the scope, composition, and testing, are expected to be endorsed by the ESS Committee in November 2012.

47. The Task Force "Sponsorship on Quality" comprising the Commission and Member States and referred to in the response to paragraph 23 has developed a Quality Assurance Framework (QAF) which is being further enhanced and is due to be published in 2012. The QAF will be used to guide Eurostat and national statistical offices on what methods and tools could be put in place to implement the Code of Practice. The guidance will serve as useful planning, monitoring and training material for statistical offices and will be a key reference document for peer reviewers when undertaking peer reviews.

48. See the reply to Paragraph 46 above.

49. The scope of future peer reviews will take into account the resources and powers available to the Commission. Peer reviews of individual statistical domains in each NSI are not economically practical for all statistical processes. However, the Commission could identify a statistical process to be reviewed in a particular Member State if there is a justified concern over the quality of data and if the Member State is willing to take part in such a review.

50. See the reply to Paragraph 46 above.

56. Upstream dialogue visits are procedures included in the risk assessment as foreseen by Regulation (EC) 479/2009.

57. Dates and findings of dialogue visits and of methodological visits are published on Eurostat's website, dates and findings of upstream dialogue visits will be published as well.

61-63: In its proposal for a Regulation amending Regulation No 223/2009 on European statistics (COM(2012)167 final) adopted on 17 April 2012 the Commission set out provisions strengthening the professional independence of National Statistical Institutes (see in particular Article 5a of the proposal) as well as their mandate for the use of administrative records for statistical purposes (see Article 17a of the proposal). This proposal also contains a legal basis for the Commitments on Confidence in Statistics. Member States are proposed to be requested to sign and implement such a Commitment, which the Commission would counter-sign. In this way it will ascertain that the level of ambition of the Commitment, in particular of the identified improvement actions, is high enough.

64. The pilot exercise requested by the Council proved to be successful already in terms of participating countries. As of April 2012 one Member State has already signed and partly implemented the Commitment, and in six other Member States the respective work started leading to a different level of progress achieved. The workshop to be held in May 2012 was expected to give another important impetus to implementation of this initiative even though its legal basis is not adopted at this stage.

65. Since its introduction in 2005 the Code of Practice has remained unequivocally a self-regulatory instrument which sets the standards for the development, production and dissemination of European statistics. The Commitments on Confidence in Statistics, to be signed by Member States, identify specific actions required in order to address particular standards in the Code, thereby making certain aspects of the Code more binding.

66. In addition to the specific audit-like powers granted to Eurostat in relation to Excessive Deficit Procedure data (Council Regulation (EC) No 479/2009), powers have been granted to the Commission to investigate cases of misrepresentations of general government deficit and debt data, as a result of intent or serious negligence (Regulation (EU) No 1173/2011). However, inspection mechanisms are not suitable to all statistical areas and therefore cannot be generalised.

67. ESGAB's recommendations are valuable and carried out if the Commission shares their view and has the resources to implement them.

While acknowledging that some aspects of the operational framework of ESGAB needs further clarification or precision, at the moment the Commission does not see an urgent need to propose an update to Decision No 235/2008/EC of the European Parliament and of the Council of 11 March 2008 establishing the European Statistical Governance Advisory Board. This is because ESGAB currently operates in a very efficient way and fulfils its role very well even within the existing framework. The line was put forward in the COM(2011)211: "Having assessed the role and effectiveness of ESGAB, the Commission looks forward to continuing its cooperation with this Board, from which it has benefited since it was set up in 2009. The Commission expects ESGAB to benefit from reinforced implementation and monitoring of the Code of Practice. In line with the Decision establishing ESGAB, the Commission will take stock of experience and make further proposals on the functioning of this Board, if need be."

72. Although no ex-ante evaluation for the Community Statistical Programme 2008-2012 was prepared, the proposal for a Decision of the European Parliament and of the Council on the Community Statistical Programme 2008 to 2012 was a continuation of the previous programme (CSP 2003-2007) and was based on the evaluations and lessons learned from it.

73. The report, COM (2010)346 on the mid-term evaluation of the Community Statistical Programme 2008-2012, was only a summary of the work performed in the framework of the mid-term evaluation.

74. The objectives of a five year programme need to be precise but at the same time broad enough to allow for flexibility throughout the programming period.

75. The evaluation report addressed the key elements for the second half of the programme, which the Court mentions, but a revision of the programme was not envisaged due to the length of the process for adopting the revised programme decision (co-decision).

(a) Although not covered by a revision of the CSP 2008-2012 the important developments, which took place after the adoption of the five year programme, mentioned by the Court were addressed by Eurostat in practice through the 2012 reorganisation and a redeployment of about 50 staff related to the creation of a Directorate exclusively dedicated to government finance statistics.

(b) See the reply to paragraph 75 (a).

(c) Actions related to these initiatives are also performed based on appropriations sub-delegated by other Directorates General.

76. The revision of the current five year programme would not have been meaningful having regard to the duration of the procedure to revise the CSP Decision. Although not accompanied by a revision of the CSP 2008-2012, all concerns raised by the Court under paragraph 75 a) to e) were addressed by appropriate action, as reflected in the annual Statistical Work Programmes. The evaluation of whether a revision of the CSP would be meaningful is also a political decision, not only a management decision.

77. For the current programme no other reports will be produced apart from those legally required: one on the mid-term evaluation and the final evaluation report. Those reports guarantee that the reporting requirements imposed by the Decision No 1578/2007/EC on the Community Statistical Programme 2008 to 2012 will be fully met. Nevertheless, going beyond the current legal obligation, in order to have more frequent monitoring reports for the next European Statistical Programme 2013-2017, the connection between the five year programme and the annual programmes will be substantially strengthened, linking the outputs of the annual work programmes to the objectives of the five year programme. This will facilitate the monitoring of the implementation of the objectives

of the ESP 2013-2017. With the alignment of the annual Statistical Work Programmes with the Management Plans, the achievements of ESP 2013-2017 will also be better reflected in the Annual Activity Reports.

78. Although no systematic reporting on the delivery of the outputs of the annual Statistical Work Programmes was done in the beginning of the CSP 2008-2012, the monitoring of different outputs of the annual work programmes was regularly performed at different levels of management. Furthermore, from 2012 onwards a greater synergy between the annual work programmes and the management plans is possible and every output/action of the annual work programme is monitored twice a year, allowing for systematic reporting. This will also allow better reflecting the achievements of the annual work programmes in the AAR reporting.

79. The Commission agrees with ECA's assessment that ESAC is a heterogeneous body. The Committee has had difficulties in finding common positions and in being concrete on what its needs are. It has been unable to guide Eurostat so that the latter can provide documents which are better tailored to its needs.

81. Grant agreements and public procurement contracts are the two main tools provided by the Financial Regulation in support to programmes implementation.

82. In accordance with Regulation (EC) No 223/2009 on European Statistics, NSIs and other national authorities designated by the Member States may receive grants without call for proposals, in line 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 European Communities.

83. Simplification of grant management is a priority for the Commission. The proposal for a Regulation of the European Parliament and of the Council on the European Statistical Programme 2013-2017 specifies that lump sums, when appropriate, may be used for statistical actions based on surveys. In addition current initiatives to reduce the risk of errors by using standard scales of unit costs will be further developed. This will be supplemented by additional simplification measures based on the relevant provisions that the revised Financial Regulation may offer from 2013 onwards.

84. Corrective actions have already been agreed upon and are being implemented both in the area of financial management of grants and the execution of controls.

As the majority of costs reported by beneficiaries concern staff costs a simplification of the way of declaring costs has been put under way. Audited scales of unit costs have been introduced to report on staff costs and are already used by a number of beneficiaries of ESTAT.

In terms of controls, further enhancements have been adopted. In particular, in addition to mandatory ex-ante controls implemented in accordance with the FR and covering 100 % of financial transactions, additional risk based controls are performed on ex-ante as well as on ex-post level.

87. Same comment as for paragraph 83.

88. The Commission agrees with the comments made by the Court, concerning the need to consolidate the procedure for performing reinforced ex-ante controls performed on a sample of transactions. The procedure has been revised based on the comments made by the Court.

(d) The Commission agrees with the Court on the need to assess the overall risk of error, and produced guidelines to its services for this purpose. As a follow-up, such an assessment has been reported by Eurostat in its 2011 Annual Activity Report.

90. The Commission underlines that the 2011 report of the Internal Audit Unit of Eurostat on procurement identified potential risks, without having singled out any occurrence of the risk of favouritism in Eurostat environment.

91. The Commission agrees with the Court on the need to further address market concentration. Following Eurostat's IAC report on procurement, actions plan to address market concentration as well as to tackle difficulties with selection and award criteria are timely being implemented as described in reply to paragraph 92 below.

92. The Commission underlines that the action plan designed by Eurostat as soon as the IAC Report had been finalised had been delivered in accordance with the planning, in particular: the standard tender specifications and guidelines to the drafters have been revised to take into account the audit recommendations. They are applicable from January 2012, and more than 50 staff members have been trained on them. A specific additional internal training course on the evaluation process has been designed; focussing on weaknesses identified by the auditors and on selection and award criteria, and has been delivered to 97 staff members. This training has been made mandatory for the chairmen of evaluation committee. A specific report has been provided in February 2012 to the management of the DG to further address the risk of potentially excessive reliance on third parties and quasi-monopoly situations. The publicity on calls for tender of Eurostat has been improved with a direct access from the internet home page (better visibility). The IAC will perform a follow-up audit in due time.

93. The Commission is of the opinion that using minimal thresholds for the quality component of award criteria under the best-value-for-money procedure is an appropriate way to guarantee quality, for services requiring a high level of technical expertise. Nevertheless, the Commission acknowledges the legitimate concern of the Court to avoid a weakening of price competition. Eurostat will reflect on those objectives.

94. Promoting statistical innovation through projects aiming at efficiency gains on the long term, implementing COM(2009)404, is one of Eurostat's priorities as a reply to MSs budget cuts.

96. From the beginning of the CSP, considerable work has been undertaken by Eurostat to perform in due time the cost-effectiveness analysis of the fields of the programme, as required by the CSP (evidence-based approach).

Despite efforts made, no harmonised method for measuring costs and burden within the ESS in a systematic way was established so far. The work on such a method would be perceived as even more burdensome by the producers of statistics for the future, in the context of scarce resources.

The lack of progress with establishing a systematic measurement and the difficult situation of the ESS members in the context of budget cuts related to the financial and economic crisis, triggered the establishment of the strategy-driven priority setting approach in 2010. This approach takes also into account the consideration of costs/burden as the information gathered so far on this subject, although not in a systematic way allows formulating statements as what are the greatest centres of costs and burden in the production of European statistics. The strategy has already brought results. The Commission considers, therefore, that it is not behind schedule with the reprioritisation exercise and that no additional, systematic measurement of costs and burden is needed to achieve this goal.

97. The new priority setting mechanism has already produced results and Eurostat steps up efforts to improve the effectiveness of the mechanism for the future. In particular, Eurostat has decided that, the burden on businesses imposed by the Intrastat Regulation will be reduced. This will be done through the implementation of the Single Market Statistics Project.

98. The identification of negative priorities follows a three-fold approach. Each year proposals are made to repeal/modify existing legal acts; stop voluntary data collections based on gentlemen agreements and make proposals for areas under review for simplification. The Commission agrees with the Court, as to the need for additional efforts to encourage statistical innovation, where relevant, by proposing to users to phase out statistics which become less relevant in exchange for new statistics. This concern is taken into account in the priority setting mechanism, in the framework of which Eurostat is currently aiming at reducing the burden stemming from the Intrastat Regulation (see also the reply to Paragraph 97).

99. Currently, Eurostat does not have harmonised, complete information about these budgetary and financial consequences in the Member States. Therefore Eurostat has proposed a strategy-driven approach for priority setting: the chosen approach constitutes an annual review of all existing requirements for statistics in terms of their relevance so that sufficient resources would be freed up to satisfy new important needs.

104. It was not possible to synchronise the period of the European Statistical Programme 2013-17 with that of the next multiannual financial frameworks as Regulation (EC) N°223/2009 provides that the programme should cover a period not exceeding five years.

However, in the recently adopted proposal to amend (EC) N°223/2009, it is proposed that in the future the programme will cover a period corresponding to that of the multiannual financial framework.

CONCLUSIONS AND RECOMMENDATIONS

107. The Commission would like to recall the ESS is in charge of producing high quality statistics on Europe. As all production systems, reengineering to improve quality takes time. The Commission therefore cannot share the Court's opinion that this move towards better quality is slow.

Recommendation 1

The Commission agrees with the Court's observation that the European Union, its Member States, and their statistical authorities share a common responsibility for maintaining trust in Europe's democratic process. The Commission, for its part will continue to do what it can to strengthen the system of European statistics. However, ensuring professional independence, sufficient resources, effective supervision, with sanctions and swift improvement measures for cases where quality standards are not respected is a common responsibility of all actors involved.

108. The Commission recognises that the European Statistics Code of Practice represents a challenge for the ESS as a whole and continues to support Eurostat in its efforts to fully implement the Code. Eurostat also collects annual information on progress with the implementation of the Code in Member States and will continue to enhance and exploit this information in order to identify progress and areas of difficulty, also through the peer reviews exercise. The Communication (2011)211 was issued to support the implementation of the Code. The Commitments on Confidence in Statistics will provide an important mechanism for involving Member State governments directly and targeting the high-priority actions which are required for implementing the Code. Elements of the Code are included in the Statistical Law, as adopted in

2009 and proposed to be amended in 2012. These elements are, respectively will be, legally binding. Statistical principles are included in the Treaty and in the sectoral statistical legislation for all statistical domains.

Recommendation 2

In relation to Recommendation 2 made by the Court, the Commission's position is as follows:

(a) The initiatives announced in COM(2011)211, mainly, the proposal for an amendment of Regulation (EC) No 223/2009 on European statistics, the forthcoming revision of Decision 97/281/EC on the role of Eurostat, the revised Code of Practice as approved in September 2011 are in Commission's view the necessary and sufficient conditions to ensure a sound basis for review and enforcement covering the institutional environment of statistical production, the statistical processes and the statistical output both at EU and national level. In the context of a system based mainly on a self-regulatory approach and also considering the resource constraints, Eurostat's mandate for on-site data verification granted by the legislator is limited to the specific domain of government finance statistics where Eurostat was granted audit-like and investigation powers to assess the quality of statistics;

(b) The Commission is of the view that the self-regulatory nature of the Code of Practice is clear. Elements of the Code are included in the Statistical Law, as adopted in 2009 and proposed to be amended in 2012. These elements are, respectively will be, legally binding;

(c) The Commission welcomes the Court's recommendation to extend ESGAB's remit to supervising or overseeing peer reviews, within the frame of the Board's current legal basis. Overseeing verifications and inspections does not fall within the current Board's legal base;

(d) The Commission agrees with the Court as to the need to clarify the professional independence of the Chief Statistician of the European Union. To this end, the new Commission Decision on Eurostat ensures that the Director-General of Eurostat has the sole responsibility for deciding on statistical methods, standards and procedures, and on the content and timing of statistical releases and acts independently when carrying out statistical tasks. An appropriate legal framework and necessary safeguards exist to ensure that appointment and dismissal procedures are transparent, ensuring full compliance with the principle of independence as foreseen in Regulation No 223/2009 in this respect;

(e) The new Decision on the role of Eurostat brings its status in line with the European Statistics Code of Practice, as reviewed and updated by the ESSC in September 2011. The Commission will also examine what further action is required in order to enable Eurostat to comply fully with the impartiality requirements of the Code of Practice. Concerning the phasing out of sub delegation of credits for statistical production, the Commission considers that it does not run counter to the principles of Professional independence and adequacy of resources. Indeed, statistical actions may be decided by the European Parliament and the Council, when appropriate with a specific financial envelope or within the framework of policy oriented programmes. This allows adapting the financial resources to specific statistical needs. The Financial Regulation allows such sub-delegations and rules ensure accountability and transparency;

(f) The implementation of the next round of peer reviews is closely linked to the review arrangements required for the Commitments on Confidence in Statistics which are now being signed with Member States. It is expected that the peer reviews will cover all the principles of the Code of Practice, apart from those covered by the Commitments on Confidence relating to the

institutional environment. The arrangements for the peer reviews, including the scope, composition, and testing, are expected to be endorsed by the ESS Committee in November 2012;

(g) The scope of future peer reviews will be determined in 2012 and will take into account the resources and powers available to the Commission. Peer reviews of individual statistical domains in each NSI are not economically practical for all statistical processes. However, an individual statistical domain could have a peer review if there is a justified concern over the quality of data and if the Member State is willing to take part in such a review.

109. The shortcomings seen in the design of the CSP 2008-2012 by the Court were addressed by Eurostat in the design of the ESP 2013-2017. The reprioritisation of activities is advancing as of 2010 in the context of the new strategy-driven priority setting approach and will be reinforced for the next five year programme. As regards procurement, the Commission underlines that the action plan designed by Eurostat in relation to the IAC Report on procurement in Eurostat has been delivered so far in accordance with the planning.

Recommendation 3

In relation to Recommendation 3 made by the Court, the Commission's position is as follows:

(a) The Commission accepts the recommendation to supplement the implementation actions included in the European statistical programme by precise targets and milestones to be (re)defined each year in the annual statistical programmes. However, the Commission is of the opinion that, given the greater synergy foreseen between the ESP 2013-2017 and the annual Statistical Work Programmes, as well as between the annual Statistical Work Programmes and the Management Plans, the regular reporting on the main outputs done in the framework of the Annual Activity Reports is sufficient for accountability purposes. Moreover specific reporting is foreseen by sectoral legislation when required by the legislator;

(b) The forthcoming ESP 2013-2017 was conceived as a flexible framework, and the Commission will use the option of revising the programme once its implementation is under way in case of major developments, also considering whether the programme should be prolonged to synchronise it with the multiannual financial framework 2014 to 2020;

(c) The Commission will ensure a systematic review of statistical priorities. However, the Commission considers that the information gathered on relevance of statistical outputs, costs and burden so far is sufficient to effectively underpin the new strategy-driven priority setting mechanism and that no regular assessments of the costs and burdens for the ESS and its member and for the respondents are necessary for the purposes of the reprioritisation process;

(d) The Commission will encourage, in the context of reprioritisation, statistical innovation, for example by phasing out existing statistical products in exchange for new ones. However, the Commission would like to recall that statistical innovation is not a goal in itself, but it should help to improve efficiency and effectiveness of the production processes;

(e) The Commission appreciates ESAC's involvement in the work programme cycle and will ensure that ESAC has adequate information to fulfil its role;

(f) The Commission agrees with the Court’s recommendation to simplify and improve the efficiency of financial management of grants and reminds that it is a priority for the Commission. In the field of statistics, the proposal for a Regulation of the European Parliament and of the Council on the European Statistical Programme 2013-2017 specifies that lump sums may be used for statistical actions based on surveys. In addition current initiatives to reduce the risk of errors by using standard scales of unit costs will be further developed. This will be supplemented by

additional simplification measures based on the relevant provisions that the revised Financial Regulation may offer from 2013 onwards;

(g) The Commission acknowledges the legitimate concern of the Court to avoid a weakening of price competition and will reflect on the best ways to enhance competition in procurement procedures, taking due account of the need to ensure high quality services from suppliers in order to support Eurostat in fulfilling its mission to produce high quality statistics. The objective could be reached by adapting the existing threshold and ratio for selecting the economically most advantageous tender.