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INFORMATION NOTE

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| From: | General Secretariat of the Council |
| To: | Permanent Representatives Committee/Council |
| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 223/2009 on European statistics - Outcome of the European Parliament's first reading and Corrigendum procedure (Strasbourg, 13 March 2024 and 8 October 2024) |

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint Declaration on practical arrangements for the co-decision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this legislative file at first reading.

This file was expected² to undergo the Corrigendum procedure³ in the European Parliament after adoption by the outgoing European Parliament of its position at first reading.

¹ OJ C 145, 30.6.2007, p.5.

² 10819/24 + COR 1.

³ Rule 251, EP Rules of Procedure.

II. VOTES

At its sitting of 13 March 2024, the European Parliament adopted amendment two (without legal linguistic revision) to the Commission proposal and a legislative resolution, constituting the European Parliament's position at first reading. It reflects what had been provisionally agreed between the Institutions.

After finalisation of the adopted text by the legal linguists, the European Parliament approved on 8 October 2024 a corrigendum to the position adopted at first reading.

With this corrigendum, the Council should be able to approve the position of the European Parliament as set out in the Annex⁴ hereto, thus bringing to a close the first reading for both Institutions.

The act would then be adopted in the wording which corresponds to the European Parliament's position.

⁴ The text of the corrigendum is set out in the Annex. It is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol "■" indicates deleted text.

P9_TA(2024)0152

Amending Regulation (EC) No 223/2009 on European statistics

European Parliament legislative resolution of 13 March 2024 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European statistics (COM(2023)0402 – C9-0246/2023 – 2023/0237(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0402),
- having regard to Article 294(2) and Article 338(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0246/2023),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Central Bank of 28 September 2023¹,
- having regard to the provisional agreement approved by the responsible committee under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 21 February 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the report of the Committee on Economic and Monetary Affairs (A9-0386/2023),

¹ OJ C, C/2023/1032, 20.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1032/oj>.

1. Adopts its position at first reading hereinafter set out;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 13 March 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council amending Regulation (EC) No 223/2009 on European statistics

(Text with relevance for the EEA and for Switzerland)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Central Bank⁶,

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

Acting in accordance with the ordinary legislative procedure⁷,

⁶ ***OJ C, C/2023/1032, 20.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1032/oj>.***

⁷ Position of the European Parliament of 13 March 2024

Whereas:

- (1) Regulation (EC) No 223/2009 of the European Parliament and of the Council⁸ establishes the legal framework at Union level for the development, production and dissemination of European statistics.
- (2) Regulation (EC) No 223/2009 was amended by Regulation (EU) 2015/759 of the European Parliament and of the Council⁹ in order to further strengthen the governance of the European Statistical System (ESS), in particular its professional independence. That strengthened governance has proven to be effective.

⁸ 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 (OJ L 87, 31.3.2009, p. 164).

⁹ Regulation (EU) 2015/759 of the European Parliament and of the Council of 29 April 2015 amending Regulation (EC) No 223/2009 on European statistics (OJ L 123, 19.5.2015, p. 90).

- (3) *On 6 March 2023, the European Statistical Governance Advisory Board (ESGAB) published its annual report for 2022. As stated therein, ensuring professional independence is fundamental for providing objective and impartial European statistics and for building public trust in decisions and policies based on them. Therefore, Member States and the Commission are to follow international best practices regarding the selection, appointment and dismissal of the heads of national statistical institutes (NSIs) and the Director-General of the Commission (Eurostat) respectively, on the basis of clear professional criteria such as statistical reputation and a high level of competence in the field of statistics. The reasons for an early termination of the contract are not to compromise the professional independence; they are to be well justified, specified and communicated in an appropriate way, while respecting the rights of the person concerned. Furthermore, the Commission (Eurostat) is to inform ESGAB about any serious concerns it has concerning the implementation of the European Statistics Code of Practice, considering ESGAB's important role as a Union body tasked with providing an independent assessment of the ESS's implementation of the European Statistics Code of Practice and advice on strengthening users' confidence and trust in European statistics.*

- (4) Digital transformation has ushered in radically different realities and created a new environment with new needs for European statistics. Moreover, *recent humanitarian and political events, such as the* ■ *COVID-19 pandemic*, and the energy *and cost-of-living* crisis triggered by the Russia's war of aggression against Ukraine, have amplified the demands and expectations for timelier, more frequent and more detailed European statistics needed to *support* Union decision-making and ensure the best possible Union response to crises.
- (5) *There can be crisis situations in which timely and innovative European statistics are necessary in order to respond to urgent policy needs. For example, the lack of timely data on unit profits and business profits hampers policy-makers in their efforts to comprehensively assess the issue of price surges at a time when research is carried out on the impact of corporate policies as a possible contributor to inflation. It is therefore crucial to establish procedures to respond to urgent policy needs for European statistics.*

- (6) To address growing demands and expectations for timelier, more frequent and more detailed European statistics, as well as for a faster and more coordinated ESS response to urgent statistical demands in times of crisis, it is necessary to amend Regulation (EC) No 223/2009. The purpose of this amending Regulation is to ensure that European statistics remain relevant by taking into account changing and more demanding user needs, in particular by tapping the full potential of digital data sources and technologies and enabling their *use* for European statistics, by making the ESS more agile and able to respond effectively and swiftly to crises, by *allowing* data sharing and by strengthening coordination among ESS partners.
- (7) To reflect current realities and the digital environment in which the ESS operates, new or updated definitions should be introduced into Regulation (EC) No 223/2009 to clarify the concepts of ‘data’, ‘metadata’, ‘data *holder*’, ‘*data source*’, ‘data *access*’ and ‘use for statistical purposes’.

- (8) Recent *events such as the COVID-19 pandemic and the energy and cost-of-living crisis triggered by the Russia's war of aggression against Ukraine* demonstrated that *the availability of* timely, reliable and comparable European statistics *is* vital to the effectiveness of public authorities' response to emergency situations. Therefore, it should be possible for the ESS to swiftly initiate coordinated actions if urgent data and statistics needs arise outside the regular planning framework, especially in times of crisis *recognised by Union legal acts, such as Council Implementing Decision (EU) 2018/1993¹⁰, Decision No 1313/2013/EU of the European Parliament and of the Council¹¹, Council Regulation (EU) 2016/369¹², Council Regulation (EU) 2022/2372¹³ and a Regulation establishing a framework of measures related to an internal market emergency and to the resilience of the internal market (Internal Market Emergency and Resilience Act)*. In such a situation, a data holder should, upon request, make data available to an NSI or the Commission (Eurostat) where that NSI or the Commission (Eurostat) demonstrates an exceptional need to use the data requested, in accordance with the rules laid down in *Regulation (EU) 2023/2854 of the European Parliament and of the Council¹⁴*. *The Commission (Eurostat) should be able to undertake urgent statistical actions in close cooperation with the European Statistical System Committee (ESS Committee). NSIs and other national authorities responsible for the development, production and dissemination of European statistics ('other national authorities') should be able to participate in such actions on a voluntary basis.*

¹⁰ *Council Implementing Decision (EU) 2018/1993 of 11 December 2018 on the EU Integrated Political Crisis Response Arrangements (OJ L 320, 17.12.2018, p. 28).*

¹¹ *Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).*

¹² *Council Regulation (EU) 2016/369 of 15 March 2016 on the provision of emergency support within the Union (OJ L 70, 16.3.2016, p. 1).*

¹³ *Council Regulation (EU) 2022/2372 of 24 October 2022 on a framework of measures for ensuring the supply of crisis-relevant medical countermeasures in the event of a public health emergency at Union level (OJ L 314, 6.12.2022, p. 64).*

¹⁴ *Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) (OJ L, 2023/2854, 22.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2854/oj>).*

- (9) Accessing and *using* new data sources, *including big data*, which emerge *from* digital services and the Internet of Things (IoT), is becoming vital for producing timely, suitably frequent and sufficiently detailed European statistics in a more efficient and less costly way. *Such new data sources also constitute an important contribution to building statistical sampling frames for ESS purposes.* Therefore, access to new data sources in general, and in particular to privately held data, for the development and production of European official statistics on a sustainable basis and according to fair, clear, predictable *and proportionate* rules, *in line with the Union's fundamental rights framework*, should be ensured. *Access to privately held data should be ensured in conformity with the principle of cost-effectiveness and is not to entail excessive burdens on economic operators as laid down in Article 338(2) of the Treaty on the Functioning of the European Union (TFEU).*
- (10) *Privately held data refers to the vast amount of data held by private entities obtained as a result of their activity, which could be used by statistical authorities to produce official statistics. It might include data held by civil society organisations, among others. Such data can be key to complementing official statistics and monitoring economic, social, and environmental progress and in particular progress related to the Sustainable Development Goals of the United Nations. The use of such data should therefore be strongly encouraged.*

- (11) Access to new data sources, in particular to privately held data, has been a longstanding request by the ESS, as demonstrated by the ESS position paper on access to privately held data which are of public interest of November 2017, and the ESS position paper on the future Data Act proposal of June 2021.
- (12) The *use* of privately held data and other new data sources should be subject to strict legal, technical and procedural safeguards and guarantees, including applying a high level of security, confidentiality and respect for privacy, as already enshrined in Regulation (EC) No 223/2009. ■ Access to privately held data should be limited to the NSIs, acting on their own or on behalf of *other* national *authorities* of the ESS, and the Commission (Eurostat) only. *The data requested should be strictly necessary for the development, production and dissemination of European statistics and of statistics under development. Such privately held data should be pseudonymised in accordance with Article 89 of Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁵ and Article 13 of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹⁶.*

¹⁵ *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).*

¹⁶ *Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

- (13) Data requests *for privately held data* by the NSIs or the Commission (Eurostat) should be transparent and proportionate in terms of their scope and level of detail. In that connection, it is necessary to specify and explain the purpose of the request, the intended use of the data requested, the frequency with which and deadlines by which the data should be made available as well as the operational arrangements for making them available. *Any processing of data in connection with such data requests should be without prejudice to Directive 2002/58/EC of the European Parliament and of the Council¹⁷, Regulation (EU) 2016/679 and Regulation (EU) 2018/1725, as appropriate. As official statistics are a public good, the access to data should be free of charge. Where data are requested by an NSI, Member States may provide compensation to the private data holder that is limited to the processing service according to the specifications requested, except where national law does not allow NSIs or other national authorities to compensate data holders. Where data are requested by the Commission (Eurostat), it should propose reasonable compensation to the private data holder that is limited to the specific processing service according to the specifications requested.*

¹⁷ *Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).*

- (14) When requests *for privately held data are issued*, the NSI or the Commission (Eurostat) should invite the *private* data holder to a dialogue to specify the concrete parameters of data requests *and other specific arrangements, including how* to make data available as well as any organisational and technical measures to protect data confidentiality and trade secrets, with a view to concluding an agreement on those aspects. If no agreement is concluded within three months, *or if the private data holder does not comply with the agreement*, the NSI should have the possibility to *issue a second request to* the private data holder to make data available. If the private data holder intentionally or negligently fails to transmit the data within the *deadline* or transmits incorrect, incomplete or misleading data, the *Member State* or the Commission should *adopt enforcement measures, including* the possibility to *impose* penalties, that should be effective, proportionate and dissuasive, taking into account the nature, gravity, recurrence and duration of the infringement, in view of the public interest pursued. *Maximum amounts for* penalties adopted by the *Commission* should be *established. The Commission can issue guidelines on the calculation of the fines*. All decisions taken by the Commission under this amending Regulation are subject to review by the Court of Justice of the European Union in accordance with the TFEU. The Court of Justice of the European Union should have unlimited jurisdiction in respect of fines adopted by the Commission in accordance with Article 261 TFEU.

- (15) The further integration of statistics and geospatial information should be encouraged to enable a more efficient use of resources and improved integration of data by different public organisations, to produce new statistical outputs, such as spatial analysis, and to improve visualisation and dissemination of data. Such further integration would support decision-making and the monitoring of policy goals at both Union and national level.
- (16) *The Commission (Eurostat), NSIs and other national authorities should strive to provide access to their databases and supporting metadata and other documentation relevant for quality assessment using up-to-date and easy-to-use technologies.*
- (17) *European statistics are also developed, produced and disseminated by the European System of Central Banks (ESCB) but under a separate legal framework, reflecting the ESCB's governance structure. Close cooperation and appropriate coordination is required between the ESS and ESCB, in particular to foster the exchange of data between the two systems exclusively for statistical purposes, in line with Article 338(1) TFEU and Article 5 of Protocol No 4 on the Statute of the European System of Central Banks and of the European Central Bank. Furthermore, Regulation (EC) No 223/2009 should apply without prejudice to Council Regulation (EC) No 2533/98¹⁸.*

¹⁸ *Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank (OJ L 318, 27.11.1998, p. 8).*

- (18) *The exchange of confidential data contributes to enhanced quality of European statistics. The ESS has been working actively on further developing such exchange of data, including by providing for the transmission of confidential data in various sectoral legislation. Those efforts should be pursued. Mutual exchange of confidential data should be allowed both within the ESS and between the ESS and ESCB, where necessary for the efficient development, production and dissemination of European statistics or for increasing the quality of European statistics. Where confidential data have been transmitted to the Commission (Eurostat), the approval of the NSI or other national authority which provided the data should be required.*
- (19) It is necessary to ensure that national public *and semi-public* bodies in charge of administrative data sources, *databases, interoperability systems or data* relevant for the development, production and dissemination of European statistics allow NSIs *and other national* authorities to access, *use* and integrate those data free of charge in time and with sufficient frequency for the *purpose of developing*, producing and *disseminating European* statistics. *Member States should ensure that it is possible to build statistical sampling frames based on relevant administrative data by the NSIs and other national authorities.*

- (20) *The use of multi-source statistics should be further encouraged, with statistics developed or produced on the basis of a variety of data sources, including by means of modelling techniques and other statistical methods or innovative approaches.*
- (21) Where the activities to be carried out under Regulation (EC) No 223/2009 involve the processing of personal data *for official statistical purposes in accordance with the mandate given to the statistical authorities to request personal data pursuant to the specific methodological description for each statistical product*, such processing should comply with relevant Union law on personal data protection, namely Regulations (EU) 2016/679 and (EU) 2018/1725. In accordance with the *principles* set out in those Regulations, such *processing should be subject to appropriate safeguards for the rights and freedoms of the data subject. Those safeguards should ensure that technical and organisational measures are in place, in particular in order to ensure respect for the principle of data minimisation. Those measures might include pseudonymisation.*

- (22) Processing of personal data for the purposes of official statistics by NSIs and other national authorities, which is considered to be in the public interest, should be covered by derogations and subject to appropriate safeguards, in accordance with Regulation (EU) 2016/679. For instance, further processing of personal data for statistical purposes should not be considered to be incompatible with the initial purposes for which they were collected. ***Personal data processed for statistical purposes in the public interest are confidential data and thus are subject to the statistical confidentiality principle, which means that they should only be used for statistical purposes and should never be used for supporting measures or decisions regarding any particular natural person.*** In that context, the particular safeguards, which should be applied when data sharing under Regulation (EC) No 223/2009 requires personal data to be processed, include ***technical and organisational measures such as privacy-enhancing technologies and the respect of*** the principles of purpose limitation, data ***minimisation***, storage limitation and integrity and confidentiality as set out in Regulation (EU) 2016/679 ***and Regulation (EU) 2018/1725 and further elaborated in the European Statistics Code of Practice.*** In that regard, privacy-enhancing technologies that are specifically designed to implement those principles should be used to share data. ***Pursuant to Article 89(2) of Regulation (EU) 2016/679, derogations should be granted by national law to the development, production and dissemination of European statistics by NSIs and other national authorities, under the safeguards laid down therein.***

- (23) To be at the forefront of integrating new technologies and new insights progressively, and thereby ensuring that European statistics continuously stay relevant, ■ rules should be established under which, as part of a collective effort by the ESS, statistics can be developed, *in accordance with users' needs*, in specific areas *in the form of statistics under development or experimental statistics* with the aim of integrating them in the regular production of European statistics. Although not necessarily fulfilling all quality criteria laid down in Article 12(1) of Regulation (EC) No 223/2009, such statistics should be treated as European statistics. *Transparent information on the quality of statistics under development or experimental statistics should accompany their publication.*
- (24) While striving to ■ innovate and develop new statistical outputs, national statistical authorities should take the utmost account of users' needs as expressed, in particular by national statistical user councils *or other appropriate bodies*. At Union level, the European Statistical Advisory Committee (ESAC), established by Decision No 234/2008/EC of the European Parliament and of the Council¹⁹ as the main Union body representing users, respondents and producers of European statistics, is to be informed by the Commission on how it has taken into account the ESAC's opinions, particularly with regard to developing new European statistics.

¹⁹ Decision No 234/2008/EC of the European Parliament and of the Council of 11 March 2008 establishing the European Statistical Advisory Committee and repealing Council Decision 91/116/EEC (OJ L 73, 15.3.2008, p. 13).

- (25) *In order to keep up with the most recent academic trends and to improve the quality of statistical data and methods*, statistical authorities should promote, at both national and European level, strong, structured and sustained interdisciplinary cooperation with academic and research institutions, especially when developing new statistics, testing new methods and technologies and promoting innovation and experimentation. *For the purposes of Regulation (EC) No 223/2009, scientific purposes should cover research activities such as technological development and demonstration, fundamental research or applied research.*
- (26) Given the trust granted to NSIs and their high technical expertise in data *and metadata* management, data quality and data protection, Member States should be encouraged, in accordance with the principle of subsidiarity, to assign to the NSIs *an important role* in the national data governance frameworks including those provided for in *Regulation (EU) 2022/868 of the European Parliament and of the Council*²⁰, with the objective of promoting data *sharing, data* integration and interoperability, metadata description, quality assurance and standard setting. In that regard, NSIs *and other national authorities should be involved* in the initial design, subsequent development and discontinuation of administrative *data sources, databases or interoperability systems*. Such involvement should be reinforced, where appropriate, with a view to ensuring, among other things, consistency and data quality, and with a view to minimising the reporting burden.

²⁰ *Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act) (OJ L 152, 3.6.2022, p. 1).*

- (27) Data *lawfully available to the public that remain* available to the public *pursuant to national or Union law* should not be considered confidential when used for statistical purposes *or for the dissemination of statistics obtained from such data*.
- (28) In the interest of increased timeliness at Union level, the Commission (Eurostat) should be allowed to disseminate Member States' European statistics as soon as they have been published nationally, even if they were published ahead of the deadlines for providing the statistics that are set out in the relevant sectoral Union legislation.
- (29) *Lack of coordination can lead to inefficiencies and inconsistencies and raise issues regarding the quality of European statistics. Union institutions and bodies are to systematically consult the Commission (Eurostat) on statistical methodologies and data quality when developing new statistics in their fields of competence. Coordination should also extend to other statistics that are key to informing policy-makers and citizens, in particular because the quality of such statistics could affect the reputation of European statistics.*

- (30) Since the objective of this Regulation, namely the amendment of the legal framework for developing, producing and disseminating European statistics, cannot be sufficiently achieved by the Member States but can rather, for reasons of consistency and comparability, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (31) In order to ensure uniform conditions for the implementation of Regulation (EC) No 223/2009, implementing powers should be conferred on the Commission in respect of *specifying the urgent* statistical actions *and setting out the procedure for undertaking them*, including the relevant timespan, frequency and quality requirements *to be applied by those Member States participating voluntarily in the urgent statistical action, and for extending those urgent actions, as well as in respect of setting out* the technical aspects of data sharing between the statistical authorities *under that Regulation*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²¹.
- (32) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on **6 September 2023**.
- (33) The ESS Committee was consulted,

HAVE ADOPTED THIS REGULATION:

²¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L55, 28.2.2011, p. 13).

Article 1

Amendments to Regulation (EC) No 223/2009

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

(1) Article 3 is amended as follows:

(a) the following points ■ are inserted:

‘4a. “data” means any digital or non-digital representation of acts, facts *or information and any compilation of such acts, facts or information on the units observed*;

4b. “metadata” means any *information* that defines and describes ■ data and processes ■ ;

4c. “data holder” means a legal or natural person *or any other entity* that has the right, in accordance with applicable Union or national law ■ , *and* the ability ■ to *manage and* make available *data obtained as a result of their activity*;’;

(b) the following points ■ are inserted:

‘5a. “data source” means a source providing data that is relevant *and necessary*, in itself or in combination with data from other sources, for the development and production of statistics, including surveys, censuses, administrative *data* or data made available by data holders on request;

5b. “data access” means the processing by a national statistical institute *or other national authorities or by* the Commission (Eurostat) of data that have been provided *or made available* by a █ data holder, in accordance with specific technical, legal or organisational requirements █ ;’;

(c) point 8 is replaced by the following:

‘8. “use for statistical purposes” means the exclusive use for the development, *production and dissemination* of statistical results and analyses *by statistical authorities*, including for █ research and scientific activities, or the establishment of sampling frames; █ ’;

█

(2) the following article is inserted:

‘Article 16a

Statistical response to *urgent policy needs in crisis situations*

1. The Commission (Eurostat) shall examine *crisis situations and may* undertake *urgent statistical actions* as appropriate, subject to the procedures set out in this Article, where both of the following conditions are met:

(a) it is *strictly* necessary to respond to urgent *policy* needs which arise from *the crisis situation concerned* following the activation of *established* emergency mechanisms in accordance with Union legal acts, such as *Council Implementing Decision (EU) 2018/1993* or other Union emergency legal acts*;

■

- (b) those urgent *policy* needs cannot be met under the European statistical programme.
2. The *urgent* statistical actions referred to in paragraph 1 shall be carried out by the Commission (Eurostat) at Union level *in close cooperation with the NSIs and other national authorities*, and may include:
- (a) producing European statistics on the basis of new data *sources or data* collections, *taking into account the burden on respondents and the cost effectiveness for the Member States*;
 - (b) providing new statistical indicators and insights on the basis of existing data;
 - (c) developing ■ methodological guidelines ■ to ensure that statistics across *the* Member States *affected by the crisis situation* are comparable and consistent;
 - (d) other coordinated action at Union level that aims to provide a timely and relevant statistical response to the specific situation.

3. When assessing the need for **urgent** statistical actions referred to in paragraph 1, the Commission (Eurostat) shall promptly inform and consult the ESS Committee and **duly** take into account its professional guidance. ***Urgent statistical actions to be undertaken are subject to prior examination by the ESS Committee. To that end, the Commission (Eurostat) shall provide the ESS Committee with thorough information on the actions to be undertaken, their justification on a cost-effectiveness basis, the means and timetables for achieving them, the assessment of the response burden on survey respondents and the financial contribution of the Union to cover the incremental costs incurred by the NSIs and other national authorities.***
4. **Member States** may decide, separately and on a voluntary basis, to participate in **the urgent** statistical actions referred to in paragraph 1. ***Those urgent statistical actions shall be relevant and shall cover the urgent policy needs which arise from the crisis situation in the Union.*** When participating in **urgent** statistical actions, **Member States** shall comply with the **agreed** common timespan, frequency and quality requirements for the national data to be provided to the Commission (Eurostat).

5. The Commission may, by way of implementing acts, *specify the urgent* statistical actions referred to in paragraph 1 of this Article and set out the procedure for undertaking them, including the relevant timespan, frequency and quality requirements to be applied by the *Member States* participating *voluntarily* in the *urgent* statistical action. Those implementing acts shall *be* adopted in accordance with the examination procedure referred to in Article 27(2).

*Without prejudice to the prerogatives of the budgetary authority, a financial contribution shall be made available from the Single Market Programme established by Regulation (EU) 2021/690 of the European Parliament and of the Council** and in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council*** to the NSIs and other national authorities referred to in the list established pursuant to Article 5(2) of this Regulation to cover the incremental costs incurred from the implementation of such urgent statistical actions. In addition, those NSIs and other national authorities may apply for support from other applicable financial programmes of the Union in accordance with the rules of such programmes. Member States may also apply for support from the Technical Support Instrument established by Regulation (EU) 2021/240 of the European Parliament and of the Council****. The amount of the financial contribution under this subparagraph shall be established in accordance with the rules of the relevant funding programme, subject to the availability of funding, in particular in accordance with the rules of the European statistical programme.*

6. Implementing acts adopted under paragraph 5 of this Article shall remain in force for a period *no longer than the duration of the crisis situation concerned, and in any event* no longer than 12 months. *In duly justified cases, that period may be extended by way of an implementing act for an additional 12-month period. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 27(2).*

* *Council Implementing Decision (EU) 2018/1993 of 11 December 2018 on the EU Integrated Political Crisis Response Arrangements (OJ L 320, 17.12.2018, p. 28).*

** *Regulation (EU) 2021/690 of the European Parliament and of the Council of 28 April 2021 establishing a programme for the internal market, competitiveness of enterprises, including small and medium-sized enterprises, the area of plants, animals, food and feed, and European statistics (Single Market Programme) and repealing Regulations (EU) No 99/2013, (EU) No 1287/2013, (EU) No 254/2014 and (EU) No 652/2014 (OJ L 153, 3.5.2021, p. 1).*

*** *Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).*

**** *Regulation (EU) 2021/240 of the European Parliament and of the Council of 10 February 2021 establishing a Technical Support Instrument (OJ L 57, 18.2.2021, p. 1).’;*

(3) ■ Article 17a ■ is replaced by the following:

‘Article 17a

Access to and *use* and integration of administrative *data* for the development, *production and dissemination* of European statistics

■

1. National public *and semi-public* bodies *under national law* in charge of administrative data sources, *databases, interoperability systems or data* relevant *and necessary* for the development, production and dissemination of European statistics shall allow the NSIs and other national authorities ■ to access, *use* and integrate, free of charge, those data and the relevant metadata, in *a* timely manner and with sufficient frequency *and granularity for the purpose of developing, producing and disseminating European statistics.*
2. *The NSIs and the Commission (Eurostat) shall be consulted on, and involved in, the initial design, subsequent development and discontinuation of administrative data sources, databases or interoperability systems built up and maintained by other bodies, thus facilitating the further use of those data sources, databases or interoperability systems for the purpose of producing European statistics. They shall also be involved in the standardisation activities concerning administrative data sources, databases or interoperability systems that are relevant for the production of European statistics.*

- 2a. For the purposes of this Regulation, the Commission (Eurostat) shall be allowed, upon request, to access, *use* and integrate in a timely manner relevant data and metadata from databases and interoperability systems maintained by Union bodies and agencies, and without prejudice to the Union acts establishing those databases and interoperability systems, ***including the central repository for reporting and statistics (CRRS) established by Regulation (EU) 2019/817 of the European Parliament and of the Council****. For that purpose, the Commission (Eurostat) shall cooperate with the relevant Union bodies and agencies to specify the customised data and metadata required, the operational arrangements for data *use* and the necessary physical and logical safeguards. ***Where data and metadata needed for European statistics are only available in databases and interoperability systems maintained by Union bodies and agencies, the Commission (Eurostat) may, upon request, share those data with the relevant NSIs or other national authorities responsible for the development, production and dissemination of European statistics, without prejudice to the Union acts establishing those databases and interoperability systems.***
3. ***Access by, and the involvement of, the NSIs, other national authorities and the Commission (Eurostat) pursuant to paragraphs 1, 2 and 2a shall be limited to administrative data sources, databases or interoperability systems within their own respective public administrative system.***
4. ***Administrative data sources, databases or interoperability systems made available by their owners to the NSIs, other national authorities and the Commission (Eurostat) in order to be used for the production of European statistics shall be accompanied by relevant metadata.***

5. The NSIs, *other national authorities and bodies referred to in paragraph 1* shall establish the necessary cooperation mechanisms *in accordance with national specificities*. Those mechanisms shall also provide the possibility for the NSIs to perform data quality checks and build statistical frames based on *the* relevant administrative *data accessed*.

* *Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA (OJ L 135, 22.5.2019, p. 27).’;*

(4) the following articles are inserted:

‘Article 17b

Obligation of private data holders to make data available for developing, *producing and disseminating* European statistics

1. Without prejudice to reporting obligations, *data collections or any data access* laid down in sectoral statistical legislation of the Union *or* to the obligation for data holders to make data available on the basis of an exceptional need in accordance with *Regulation (EU) 2023/2854 of the European Parliament and the Council**, an NSI or the Commission (Eurostat) may request a private data holder to make data and the relevant metadata available *free of charge where the data requested are strictly necessary* for the development, *production and dissemination* of European statistics *and cannot be obtained by other means* or their reuse will result in a considerable reduction in the response burden on data holders and other businesses. *Such data collections or data access may be included by the Commission in the annual work programme.*
2. As coordinator of the national statistical system, an NSI may submit a request for data to a private data holder on behalf of any other national authority, where the data requested are necessary for European statistics developed, *produced and disseminated* by that *other national authority. The NSI and the other national authorities of a Member State shall cooperate in order to avoid excessive burden on private data holders.*

3. The NSIs and the Commission (Eurostat) shall cooperate and assist each other in order to avoid excessive ***burden*** on private data holders and to determine who is to submit requests for data. In particular, the request for data shall be submitted to a private data holder by the ***NSI unless the Commission (Eurostat) and the NSIs concerned agree that the request by the Commission (Eurostat)*** is more efficient, for instance in the case of private data holders operating on a Union-wide scale.
4. The Commission (Eurostat) may, in agreement with the NSIs, set up a secure infrastructure, ***to be used on a voluntary basis***, to facilitate the further sharing with the NSIs ***and the other national authorities*** of data that have been accessed in accordance with paragraph 3.

The secure infrastructure referred to in the first subparagraph shall be based on technologies that are specifically designed to comply with Regulations (EU) 2016/679 of the European Parliament and of the Council** and (EU) 2018/1725 of the European Parliament and of the Council.***

5. ***Where data requested by an NSI under paragraph 1 require a specific processing service, Member States may provide compensation to the private data holder for that specific processing service, except where national law prevents the NSI or other national authorities responsible for the production of statistics from compensating data holders. Where data are requested by the Commission (Eurostat) for efficiency reasons pursuant to paragraph 3, and a specific processing service is needed, the Commission (Eurostat) shall propose reasonable compensation to the private data holder for that specific processing service.***

6. This Article shall not apply to microenterprises or small enterprises as defined in Article 2 of the Annex to Commission Recommendation 2003/361/EC****, *except in duly justified cases where the data held by such microenterprises or small enterprises are of specific interest for official statistics because of the nature and volume of those data at national level.*

Article 17c

Requests for data and arrangements for making data available for the development, *production and dissemination* of European statistics

1. When requesting data in accordance with Article 17b, the NSIs or the Commission (Eurostat) shall:
 - (a) specify what data *and metadata* are required;
 - (b) *specify* the statistical need for which the data are requested in accordance with Article 17b(1);
 - (c) specify the frequency with which and the deadlines by which the data are to be made available;
 - (d) specify the operational arrangements for making the data available.

■

2. Requests for data as referred to in paragraph 1 shall *follow the principle of data minimisation and be proportionate to the statistical need in terms of the level of detail and volume of the data and the frequency with which the data are to be made available. Such requests shall concern in principle non-personal data and, only in specific circumstances, personal data from personal data categories specified in sectoral legislation.*
3. Following a request for data as referred to in paragraph 1, a dialogue shall take place between the *NSI, the other national authority* or the Commission (Eurostat) and the private data holder concerned to discuss *and agree on the measures needed for making data available* for the *development, production and dissemination of European statistics*, with the aim of concluding an agreement ■ .
4. If an agreement as referred to in paragraph 3 is not concluded within three months following the notification of the request for data referred to in paragraph 1 *or if the agreement is not fulfilled by the private data holder:*

- (a) *when the NSI has requested the data, it may issue a second request to the private data holder to make the data available within a specific deadline and the private data holder shall then make the relevant data available within that deadline;*
- (b) *when the Commission (Eurostat) has requested the data, it may adopt a decision to require the private data holder to make the data available within a period no shorter than 15 calendar days and the private data holder shall then make the relevant data available to the Commission (Eurostat) within the deadline specified therein.*

Paragraph 1 shall apply to a decision as referred to in point (b) of the first subparagraph of this paragraph. Such decision shall take into account issues on which views may have converged during the dialogue with the private data holder. It shall also indicate the deadline for the private data holder to submit its reply, the deadline for the private data holder to make the data available, the fines provided for under paragraph 6 that may be applied if the data are not provided in time, and the means of redress against the decision.

5. *Member States shall take appropriate measures to ensure the effective enforcement of the requests referred to in paragraph 4, point (a).*
6. The █ Commission shall take appropriate measures to ensure the effective enforcement of the decisions adopted in accordance with paragraph 4, *point (b)*. Those measures may include the adoption of fines where the private data holder intentionally or negligently fails to supply the data requested by a decision as referred to in paragraph 4, point (b), within the *deadline* or supplies incorrect, incomplete or misleading data. In fixing the amount of the fines, █ the Commission shall take into account the nature, gravity, duration and recurrence of the infringement.
7. *The Commission may adopt decisions imposing fines within one year following the deadline for the submission of data laid down in its decision under paragraph 4, point (b), where the private data holder fails to submit any data or within one year of the submission of incorrect, incomplete or misleading data. Fines may reach up to EUR 25 000 and, in the event of recurrence within three years, up to EUR 50 000. The power of the Commission to enforce decisions imposing a fine shall be subject to a limitation period of five years from the date on which the decision becomes final. Before adopting a decision pursuant to paragraph 6, the Commission shall give the private data holder the opportunity to be heard on the preliminary findings of the Commission and the measures that the Commission could take on the basis of those preliminary findings.*

Article 17d

Review of decisions imposing fines by the Court of Justice of the European Union

In accordance with Article 261 of the Treaty on the Functioning of the European Union, the Court of Justice of the European Union shall have unlimited jurisdiction to review decisions by which the Commission has imposed fines. It may cancel, reduce or increase the fine imposed.

Article 17e

Obligations of NSIs, *other national authorities* and the Commission (Eurostat) in *using* data made available *by private data holders* for development, *production and dissemination* of European statistics

1. The NSIs and the Commission (Eurostat) shall use data made available in accordance with Article 17b for the development, *production and dissemination* of European statistics:
 - (a) exclusively for statistical purposes;
 - (b) in conformity with the *statistical* principles *set out in Article 2(1)*; and
 - (c) *in compliance* with the obligation not to share the data *outside the ESS* unless the private data holder has agreed *to the sharing of those data*.

2. *The NSIs and the Commission (Eurostat) shall put in place appropriate safeguards relating to the processing of personal data for statistical purposes in accordance with Article 89 of Regulation (EU) 2016/679 and Article 13 of Regulation (EU) 2018/1725, in particular in order to ensure compliance with the principle that data are to be pseudonymised.*
3. The NSIs and the Commission (Eurostat) shall:
- (a) take appropriate measures to protect statistical confidentiality and trade secrets
■ ;
 - (b) implement, insofar as the processing of personal data is necessary, technical and organisational measures which safeguard the rights and freedoms of data subjects.
4. Paragraphs 1 and 3 of this Article shall apply to *any other national authority* that has received data following a request submitted on its behalf by a NSI in accordance with Article 17b(2).
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Non-confidential data sharing in the ESS *and between the ESS and the ESCB*

1. ***Non-confidential*** data shall be shared, *if necessary and if available in an aggregated form, upon request* between NSIs, *at their own initiative or on behalf of any other national authority*, and between NSIs and the Commission (Eurostat) exclusively for statistical purposes and for improving the quality of European statistics.
2. *The sharing of non-confidential data, including data made available by private data holders, shall take place between the ESS and a member of the ESCB upon request, if necessary and if available in an aggregated form, in areas of shared responsibility or common interest and where the data are used exclusively for statistical purposes and for improving the quality of European statistics developed and produced by that member of the ESCB.*
3. ■ The Commission (Eurostat) shall set up a secure infrastructure to facilitate data sharing under this Article, *and* the NSIs, and when relevant the ***other national authorities, or members of the ESCB***, may use that secure data sharing infrastructure *on a voluntary basis*.

4. The Commission shall, by means of implementing acts, set out the technical aspects of data sharing between the statistical authorities referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).

* *Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to and use of data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) (OJ L, 2023/2854, 22.12.2023, ELI: <http://data.europa.eu/eli/reg/2023/2854/oj>).*

** *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).*

*** *Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

**** Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36). ’;

(5) the following chapter is inserted:

‘CHAPTER IIIa

DEVELOPMENT OF EUROPEAN STATISTICS

Article 17g

Statistics under development

1. The NSIs, the other national authorities and the Commission (Eurostat) shall endeavour to continuously innovate and develop new statistical outputs and insights on the basis of all available data sources and to use state-of-the-art technologies, with the aim of integrating them in the regular production of European statistics. ***For that purpose, the Commission (Eurostat) may initiate, in close cooperation with the ESS Committee, the development of new statistical outputs and insights across the ESS. Those statistical outputs and insights may be included in the annual work programme and implemented through individual statistical actions referred to in Article 14(1).***

2. ■ Statistics under development shall not be required to fulfil all the quality criteria laid down in Article 12(1).
3. The Commission (Eurostat) **may** disseminate European statistics under development with the agreement of the NSIs ***or other national authorities*** and shall explicitly indicate that those statistics are under development. ***NSIs and other national authorities may also disseminate European statistics under development produced by them.***

■ ’;

(6) in Article 18, the following paragraph is added:

- ‘4. The Commission (Eurostat) may ***disseminate*** European statistics ***already*** published at national level by the Member States ahead of the deadlines set out in the relevant sectoral legislation ■ , provided that such statistics comply with the relevant definitions and classification. ■ ’;

(7) *in Article 21, paragraphs 1 and 2 are replaced by the following:*

- ‘1. Transmission of confidential data from an ESS authority, as referred to in Article 4, that collected the data to another ESS authority shall be allowed, provided that the transmission is necessary for the efficient development, production and dissemination of European statistics or for increasing the quality of European statistics. If the data have been transmitted to the Commission (Eurostat), the approval of the NSI or other national authority which provided the data is required.*
- 2. Transmission of confidential data between an ESS authority that collected the data and an ESCB member shall be allowed, provided that the transmission is necessary for the efficient development, production and dissemination of European statistics or for increasing the quality of European statistics, within the respective spheres of competence of the ESS and the ESCB, and that that necessity has been justified. If the data have been transmitted to the Commission (Eurostat), the approval of the NSI or other national authority which provided the data is required.’;*

(8) *Article 23 is replaced by the following:*

‘Article 23

Access to confidential data for research purposes

Access to confidential data, including data made available by private data holders, which only allow for the indirect identification of the statistical units may be granted to researchers carrying out statistical analyses for scientific purposes by the Commission (Eurostat) or by the NSIs or other national authorities, within their respective spheres of competence. If the data have been transmitted to the Commission (Eurostat), the approval of the NSI or other national authority which provided the data is required.

The Commission shall establish, by means of implementing acts, the arrangements, rules and conditions for access at Union level. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).

For the purposes of this Regulation, research purposes shall cover research activities such as technological development and demonstration, fundamental research and applied research.’;

(9) Article 25 is replaced by the following:

‘Article 25

Publicly available data

Data *lawfully available to the public that remain* available to the public *pursuant to national or Union law* shall not be considered confidential when used for statistical purposes *or for the dissemination of statistics obtained from such data. Such data shall include in particular data on key attributes of individual companies as listed in Commission Implementing Regulation (EU) 2023/138*^{*}.

^{*} *Commission Implementing Regulation (EU) 2023/138 of 21 December 2022 laying down a list of specific high-value datasets and the arrangements for their publication and re-use (OJ L 19, 20.1.2023, p. 43).*⁹;

(10) the following article is inserted in Chapter VI:

‘Article 26a

Contribution to ■ national data governance frameworks

1. In compliance with the principle of subsidiarity, the NSIs may assume at national level functions as laid down in the national data governance frameworks with the goal of promoting data integration and interoperability, metadata description, quality assurance and standard setting, *data sharing and re-use of data*, as well as other tasks and functions laid down in Regulation (EU) 2022/868 of the European Parliament and of the Council*.
2. The performance of functions referred to in paragraph 1 of this Article by the NSIs shall be compatible with the *exercise of the statistical functions performed in conformity with the* statistical principles set out in Article 2(1). ■

* Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act) (OJ L 152, 3.6.2022, p. 1).’;

(11) the following article is inserted:

‘Article 27a

Evaluation and review

By ... [five years from the date of entry into force of this amending Regulation], the Commission shall carry out an evaluation of this Regulation and submit a report on its main findings to the European Parliament and to the Council. That evaluation shall assess, in particular:

- (a) the statistical response to a crisis situation under Article 16a;
- (b) the obligation of *private* data holders to allow their data to be *used* for European statistics in accordance with Articles 17b, 17c, 17d and 17e;
- (c) the data sharing in the ESS under Article 17f;
- (d) the development of European statistics under Chapter IIIa.’

Article 2

Entry into force

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

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

Done at ...,

For the European Parliament

For the Council

The President The President
