



ESGAB ANNUAL REPORT 2022

Fourteenth annual report by the **European Statistical Governance Advisory Board** to the European Parliament and the Council of the European Union on the implementation of the European Statistics Code of Practice by Eurostat and the European Statistical System as a whole



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FOREWORD

As Chair of the European Statistical Governance Advisory Board (ESGAB), I am pleased – together with all ESGAB members – to share with you the *ESGAB Annual Report 2022*, the 14th such report.

The year 2022 brought unexpected and very difficult challenges for Europe. It was dominated by the war in Ukraine, the severe disruptions in energy supplies, the humanitarian crisis and waves of migration, and strong and persistent inflationary pressures.

These developments showed again the importance of reliable official statistics produced by independent statistical authorities that allow the analysis of the economic, humanitarian and social consequences in a timely manner. The urgent information demands of policymakers (and also of society in general) underlined a trend that statisticians have been observing in recent years, namely the need for (almost real-time) data from new sources – often privately held data sources. This is part of a wider development in our societies often referred to as the ‘data revolution’.

This data revolution has been occurring around the world, including in Europe. The demand for statistics is growing ‘exponentially’ in both the public and private sectors. At the same time, there has been extraordinary growth in data generation, especially by private-sector producers, mainly driven by the digitalisation of our societies. These developments create new challenges but also opportunities for official statistics producers, including in the European Statistical System (ESS). To stay relevant in this new data ecosystem and fulfil their public good function, official statistics producers need to be able to meet these new challenges and seize opportunities, as has been very clearly shown in 2022.

To be successful in this new world requires – among several other things – a modern and future-oriented legal basis. Therefore, this year’s ESGAB annual report focuses on the basic European statistical law, Regulation (EC) No 223/2009. The current version has been in force since 2015, when it was last amended, and a further revision is now being planned. In the light of this, ESGAB has thoroughly analysed the current law and makes concrete recommendations on how to enable the ESS to successfully face developing challenges and opportunities. ESGAB also makes recommendations on how to further strengthen in the law the governance framework of European statistics. New and expanding powers and possibilities as recommended in this report require the support of the underlying governance framework. Such an appropriate and robust framework, firmly based on statistical principles of independence, impartiality, objectivity and commitment to quality, is the foundation of a trustworthy and trusted official statistical system.

In addition, ESGAB provides its Opinion on the European Commission’s Commitment on Confidence in Statistics. Such commitments on confidence in support of European statistics are required from the respective political authorities in the Member States and from the European Commission; ESGAB is mandated to monitor the Commission’s commitment.

ESGAB’s work was much facilitated by its secretariat, by Eurostat and by several interview partners who shared their experiences with ESGAB. We thank them all.

Aurel Schubert
European Statistical Governance
Advisory Board Chair

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EXECUTIVE SUMMARY

The speed at which the 'data revolution' is occurring poses an unprecedented challenge to official statistics and European statistics in particular. In the complex new data ecosystem, national statistical institutes (NSIs) and other producers of European statistics face increasing competition in the production and publication of timely and relevant information. New actors, such as private data producers and data scientists, are often perceived as more agile and innovative.

The working methods of the new data producers by and large do not demonstrably adhere to the well-established principles and processes of European statistics for ensuring the reliability and overall quality of published statistics. However, these new data products are being increasingly used, crowding out European statistics as the source of definitive statistical information and creating risks of misinformation and misuse of data, with consequences for the functioning of global and domestic markets, for international collaboration and ultimately for democracies.

In such an environment, in order for European statistics to fulfil their public good function at the service of society as a whole, all those responsible for European statistics should adapt their ways of working to ensure European statistics are fit for the future and are enabled to continue to best fulfil their mission of satisfying the new and evolving information needs of all stakeholders. They should also strengthen the 'brand' of European statistics as principles-based statistics by reinforcing and highlighting their fundamental advantage over other data, which arises from their adherence to statistical principles and ethics and, thus, makes them the ultimate go-to source of independent, impartial and reliable statistical information.

Producers of official statistics, and indeed European statistics, need to adapt to and seize the opportunities of the digital era, but they also need to get the necessary legal mandate, tools and resources to be able to take advantage of these new opportunities. At the same time,

to preserve the trust that the public places in official statistics, it is important to ensure that the necessary changes do not lead to a weakening of the principles governing official statistics, such as professional independence or quality, and that, where needed, adherence to these principles and the governance frameworks that enable them are strengthened. This is necessary to enhance the unique brand of European statistics.

The European Statistical Governance Advisory Board (ESGAB) makes in this annual report concrete recommendations for enhancements to the European statistical law (Regulation (EC) No 223/2009 – henceforth Regulation 223) to enable the European Statistical System (ESS) to adapt its ways of working to successfully address the challenges of the new data ecosystem.

To keep European statistics relevant, accurate, timely and cost-effective, Regulation 223 should provide that Eurostat and EU Member States' producers of European statistics be granted access to privately held data with protective guarantees and safeguards for the owners.

Regulation 223 should recognise that adequate resources, in terms of both staff with relevant skills and new technological systems, are needed to exploit new data sources and impart new capabilities to the producers of European statistics.

Strong and sustained cooperation with academic and research institutions in a variety of disciplines is an important lever for innovation, agility and the development of experimental statistics. An amendment to Regulation 223 should strengthen the possibilities for such collaborations.

In this context, Regulation 223 should provide that academics and researchers can get access to databases created by Eurostat and other official statistics producers that include

private data, albeit under strict rules to ensure confidentiality of statistical units and preserve the trust of private data owners. Moreover, Eurostat should be mandated to set up and host an adequately endowed European Research Institute for Official Statistics (ERIOS), whose research would contribute to the development of state-of-the-art official statistics.

Given advances in technological solutions, Regulation 223 should now make sharing of data in the ESS possible and commonplace. It would do that by providing for the setting up of a new framework, assigning Eurostat as the hub for data sharing within the ESS with proper responsibility and accountability, along with strong safeguards that guarantee statistical confidentiality and prevent possible misuses of the data.

In this annual report, ESGAB also makes concrete recommendations for enhancements to Regulation 223 to enable the ESS to strengthen its brand of principles-based statistics by ensuring that European statistics are the ultimate go-to source of independent, impartial and reliable statistical information.

In preparing this report, ESGAB sought the views of various stakeholders of European statistics, notably as regards the independence of Eurostat. One finding was that today Eurostat generally enjoys a good reputation regarding its independence. To ensure that this is buttressed, a number of legal amendments pertaining to governance are proposed in this report. The ESS governance framework should not only be fit for purpose in good times but also withstand any challenges that might arise in more controversial, difficult circumstances and times.

The EU statistical law should make a clear distinction between the Commission as a political body and Eurostat as the statistical authority of the EU, and clarify that Eurostat is the impartial, objective and professionally independent

statistical authority serving the EU as a whole. The regulation should also make clear that relations between the Commission and Eurostat shall be guided by Eurostat's professional independence and that Eurostat's status within the Commission differs from that of other directorates-general, operating in full compliance with the European Statistics Code of Practice.

Regulation 223 should further strengthen the independence of the Director-General of Eurostat, achieving essential alignment with the relevant provisions in the regulation regarding heads of NSIs.¹ The Director-General of Eurostat should be selected for a fixed, non-renewable term, the selection should be open and transparent, in line with international best practices, and the appointment should be made only on the basis of clear professional criteria, among which statistical reputation and a high level of competence in statistical matters are key.

The Director-General of Eurostat should be responsible and accountable for all statistical activities and for matters regarding internal management and budget execution of Eurostat. Reasons for the early termination of his or her contract (dismissal) should be specified in the regulation and should not compromise his or her professional or scientific independence or internal management responsibilities. Certain of these provisions should also apply to his or her deputy.

Regulation 223 should further provide that the selection and recruitment process for the heads of NSIs satisfies the same provisions as for the Director-General of Eurostat above. The reasons for the dismissal of the heads of NSIs or transfer to another position should be specified in the law and must not include reasons compromising his or her professional or scientific independence or

internal management and budget responsibilities. Dismissal or transfer to another position would have to be made public with a reasoned decision, and ESGAB should be notified.

To strengthen the independence and impartiality not only of heads of NSIs but also of statistical authorities in the ESS in general, independent national bodies that monitor the compliance with the principles of the European Statistics Code of Practice regarding professional independence already referred to in Regulation 223 should be established in all Member States.

With a view to reinforcing Eurostat's role for quality control, Regulation 223 should strengthen its coordination functions vis-à-vis statistical activities of all EU bodies and directorates-general that contribute data that are used for the development and production of European statistics. Moreover, it should be more explicit in providing Eurostat, without caveats and conditions, the responsibility to publicly voice any serious concerns it has regarding quality and, more generally, compliance with the European Statistics Code of Practice.

As the Code of Practice is the key instrument used to assess Member States' compliance on issues of statistical principles with the EU statistical law, the legal status of the principles included in the Code of Practice should be unambiguously spelt out in Regulation 223.

Commitments on confidence in statistics (CCSs) are important elements in the governance framework of European statistics. Regulation 223 should be amended to strengthen the CCSs to be made by the national or European policy side, specifying the subjects to be covered in the CCSs and the processes of how to arrive at the periodically reviewed, and potentially revised and renewed, CCSs. Based on its task, given in Regulation 223, to monitor the CCS by the European Commission with respect to Eurostat, ESGAB presents in this annual report its Opinion

¹ When referring to the heads of Eurostat and the NSIs, this report follows the current wording of Regulation 223 and uses the expressions 'Director-General of Eurostat' and 'heads of NSIs', respectively.

on this commitment, Commission Decision on Eurostat of 2012, and makes recommendations on how to recast it with a view to be a role model for the entire ESS.

In this context, ESGAB believes it is important to have in the Commission's CCS a clear commitment from the political side of the Commission to take all necessary measures to maintain confidence in European statistics and aim to ensure progress in the implementation of the statistical principles contained in the European Statistics Code of Practice. The special status and independence of Eurostat within the Commission as the EU statistical authority should be clearly stated upfront in the Commission's CCS.

The political side of the Commission should also explicitly declare its commitment to ensuring that Eurostat has the necessary financial support and human resources, as well as the legal support, for Eurostat to meet the challenges ahead.

The Commission's CCS should clarify that the Director-General of Eurostat is also the Chief Statistician of the European Commission. The coordinating function and authority of Eurostat in statistical matters – including for 'other statistics' – within the Commission should be clarified and strengthened, with a view to *inter alia* supporting the quality and reputation of linked European statistics.

Finally, the Commission's CCS should stipulate that, with regard to statistics available to and/or released by Eurostat, the Commission gears towards adherence to the best practice indicated in the European Statistics Code of Practice whereby 'all users have equal access to statistical releases at the same time'.

RECOMMENDATIONS

R1. ESGAB recommends that Regulation 223 provide in its articles that access to privately held data be granted to the producers of European statistics.

R2. ESGAB recommends that Regulation 223 provide in its articles a strong legal mandate for Eurostat to receive access to privately held data strictly for the purpose of producing or validating European statistics. The regulation should provide that Eurostat would have to justify the use of any privately held data, put in place procedures, protocols as well as accountability mechanisms for accessing these data, and ensure the transparency of all the above. The regulation should provide that if NSIs or other European statistics producers are involved in the processing of privately held data accessed by Eurostat, including for the purpose of producing European statistics for their corresponding Member States, Eurostat would have to set up special processes and protocols in an EU space under its responsibility, to preclude any possible misuses of the data.

R3. ESGAB recommends that Regulation 223 provide for access by researchers to databases constituted by Eurostat that include data from private sources. Such access would have to be subject to strict rules of access to address the issue of private data owners' trust and matters of statistical confidentiality. In particular, the private data owners should be informed about the use of their data by researchers and given the opportunity to deny access if it would unduly harm their interests. In addition, the use of microdata from such datasets should be based on the data subjects' consent.

R4. ESGAB recommends that recital 13 of Regulation 223 as in force be strengthened to state that there should be strong, structured and sustained interdisciplinary cooperation with academic and research institutions.

R5. ESGAB recommends that Article 6 of Regulation 223 be amended to provide for Eurostat to be mandated, as well as endowed with adequate resources, to set up and host a European Research Institute for Official Statistics (ERIOS) to advance research relevant for the development of official statistics, focused on the fields of statistics and data sciences. The institute should be mandated to collaborate with academic and other research institutions.

R6. ESGAB recommends that Article 14 of Regulation 223 be amended so that (i) it explicitly states that direct action might involve either the further development of existing statistics through innovative procedures and technologies or the introduction of new statistics, including statistics that might be considered experimental; (ii) item 2(b) regarding conditions for temporary direct statistical action becomes less restrictive; (iii) item 2(c) provides for adequate allocations of resources to Eurostat to cover the full costs and allocations to NSIs and other national statistical authorities; (iv) the regulation provides the possibility for Member States to opt out of an initiative of direct action by supplying a public explanation of their decision; and (v) the regulation provides that any undertaken temporary direct statistical action needs to be assessed after it is completed.

R7. ESGAB recommends that the recitals of Regulation 223 be amended to include that Eurostat, NSIs and other national authorities responsible for the production of European statistics 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.

R8. ESGAB recommends that Regulation 223 be amended to provide for a new framework of sharing the data of individual statistical units within the ESS that would (i) involve Eurostat setting up special processes and protocols in an EU space under Eurostat's responsibility to access the data to be shared, and invite, if and when necessary, other European statistical authorities to participate in the data processing; (ii) provide for access by researchers to microdata in the databases constituted by Eurostat; (iii) have the safeguards to preclude any possible misuses of the data; and (iv) be characterised by full transparency regarding this institutional set-up to render accountability effective and help develop the trust of government and private data owners as well as of statistical units.

R9. ESGAB recommends that Regulation 223 should make a clear distinction between the Commission as a political body and Eurostat as the statistical authority of the EU. Regulation 223 should refer to 'Eurostat' and not to 'Commission [Eurostat]' when designating the EU statistical authority in charge of developing, producing and disseminating European statistics. Regulation 223 should clarify that Eurostat is the impartial, objective and professionally independent statistical authority serving

the EU as a whole. The relations between the Commission and Eurostat shall be guided by Eurostat's professional independence. As such, Eurostat's status within the Commission differs from that of other directorates-general. It operates in full compliance with the European Statistics Code of Practice.

R10. ESGAB recommends that Regulation 223 should strengthen the independence of the Director-General of Eurostat. To this end, Article 6 should achieve essential alignment with the relevant provisions in Article 5a regarding heads of NSIs. It should include the following provisions: (a) the Director-General of Eurostat is selected for a fixed, non-renewable term of 7 years; (b) the selection and the recruitment process shall be open and transparent, in line with international best practices, and the appointment shall be made only on the basis of clear professional criteria, among which statistical reputation and a high level of competence in statistical matters are key; (c) the Director-General of Eurostat shall be responsible and accountable for all statistical activities and for matters regarding internal management and budget execution of Eurostat; (d) reasons for the early termination of the contract (dismissal) of the Director-General of Eurostat shall be specified in the regulation and must not compromise his or her professional or scientific independence or his or her internal management responsibilities outlined in provision (c); (e) provisions (b) and (d) above should also apply to the Deputy Director-General of Eurostat; and (f) the regulation should specify 'including other parts of the Commission' in Article 6a, paragraph 3, after 'Union institutions or bodies'.

R11. ESGAB recommends that in Regulation 223 the provisions for the recruitment and dismissal of heads of NSIs should be strengthened and aligned with those proposed in recommendation 10 above for the Director-General of Eurostat. Article 5a, paragraph 4, should include the following provisions: (a) the selection and recruitment process shall be open and transparent in line with international best practices, and the appointment shall be made only on the basis of clear professional criteria, among which statistical reputation and a high level of competence in statistical matters are key; (b) reasons for the dismissal of the heads of NSIs or their transfer to another position shall be specified in Regulation 223 and must not include reasons compromising his or her professional or scientific independence or his or her internal management responsibilities; (c) national bodies referred to in Article 5a, paragraph 5, of Regulation 223 shall be established in all Member States. Once established, these independent bodies should *inter alia* monitor compliance with the proposed provisions (a) and (b) above on the recruitment and dismissal processes of heads of NSIs; and (d) a reasoned decision for dismissal or transfer shall be made public, and ESGAB shall be notified.

R12. ESGAB recommends that Regulation 223 reinforce the coordination functions of Eurostat. Eurostat shall coordinate statistical activities of all EU bodies and directorates-general that contribute data that are used for the development and production of European statistics, *inter alia* with a view to ensuring consistency and data quality and minimising reporting burden.

R13. ESGAB recommends that Article 12, paragraph 4, be strengthened regarding the quality of national data transmitted to Eurostat by Member States. When assessing the quality of the data transmitted, Eurostat shall make publicly and promptly available any serious concerns it has and disclose any breaches of the European Statistics Code of Practice.

R14. ESGAB recommends that Article 1 of Regulation 223 establish unambiguously the legal status of the European Statistics Code of Practice.

R15. ESGAB recommends that Regulation 223 be amended to strengthen the CCSs to be made by the policy side. To this end, amendments should specify the subjects to be covered in the CCS and the processes of how to arrive at the periodically reviewed, revised and renewed CCSs.

R16. ESGAB recommends the establishment of a new Commission CCS. It should consist of a focused, clear and unambiguous commitment from the political side of the Commission to take all necessary measures to maintain confidence in European statistics (wherever they are produced in the ESS) and aim to ensure progress in the implementation of the statistical principles contained in the European Statistics Code of Practice. In particular, the special status and independence of Eurostat within the Commission as the EU statistical authority should be clearly stated upfront. In addition, it should include a list of specific actions that the political leadership has to undertake to support the implementation of the Code of Practice in the production of European statistics. The CCS should also be very explicit about the conditions that support or manifest the independence of Eurostat and the Director-General of Eurostat (see also recommendations 9 and 10).

R17. ESGAB recommends that the updated Commission CCS include an explicit commitment of the Commission to supply Eurostat with adequate and predictable resources over the medium term, in terms of financing and staffing, so that Eurostat is able to fulfil its tasks. The Commission should commit to providing Eurostat with all allowable flexibility for recruiting staff with appropriate specialist skills in adequate numbers to ensure Eurostat's fulfilment of its mandate, and also to giving the necessary political support to Eurostat to get access to all data needed to produce European statistics, including privately held data.

R18. ESGAB recommends that the Commission CCS, as currently worded with respect to the Chief Statistician, be revised to clarify that the Director-General of Eurostat is also the Chief Statistician of the European Commission. In parallel, the coordinating function and authority of Eurostat in statistical matters – including for 'other statistics' – within the Commission should be clarified and considerably strengthened, with a view to *inter alia* supporting the quality and reputation of linked European statistics.

R19. ESGAB recommends that the Commission CCS stipulate that, with regard to statistics available to and/or released by Eurostat, the Commission gears towards adherence to the best practice indicated in the European Statistics Code of Practice whereby 'all users have equal access to statistical releases at the same time'.

INTRODUCTION

Data and statistics have long been used to inform decisions. But with the development of internet and IT technologies, and the digitalisation of large parts of daily life, the past two decades have seen 'exponential' growth in data generation and a generalisation of their uses. Data are now a global commodity that is produced, shared, traded and used by a wide range of actors. It has become an essential input in the daily lives and operations of governments, institutions, businesses and individuals.

The speed at which this 'data revolution' is occurring poses an unprecedented challenge to official statistics. In the complex new data ecosystem, national statistical institutes (NSIs) and other producers of official statistics face increasing competition in the production of timely and relevant information. New actors, such as private data producers and data scientists, are often perceived as more agile and innovative. They typically respond quickly to users' demands for more up-to-date and more granular information by mobilising and integrating different data sources and using a range of effective communication and dissemination channels.

The working methods of the new data producers by and large do not demonstrably adhere to the well-established principles and processes of official statistics for ensuring the reliability and overall quality of published statistics. From the validation of the data used in the production and dissemination of statistics to the observance of principles of independence, impartiality, objectivity and statistical confidentiality, to mention just a few, the new actors in the data ecosystem do not seem to apply these in their now ubiquitous data production with the appropriate rigour. This of course raises questions about the adequacy and legitimacy of this new data production as evidence for decision-making. However, given their availability and attractiveness, these new data products are being increasingly used, crowding out official statistics as the source of definitive statistical information and creating risks of misinformation and misuse of data, with consequences for the functioning of global and domestic markets, for international collaboration and ultimately for democracies.

In such an environment, in order for European statistics to fulfil their public good function at the service of society as a whole, all those responsible for European statistics should:

1. **Adapt their ways of working** to ensure European statistics are fit for the future and are enabled to continue to best fulfil their mission of satisfying the new and evolving information needs of all stakeholders.
2. **Strengthen the 'brand' of European statistics** as principles-based statistics by reinforcing and highlighting their fundamental advantage over other data. This advantage arises from their adherence to statistical principles and ethics and, thus, makes European statistics the ultimate go-to source of independent, impartial and reliable statistical information. The value of official statistics, and specifically European statistics, as a source of trustworthy information is no less important in this new data-rich and data-driven world than it was in the past world of rather scarce data.

While the new sources of information can sometimes compete with official statistics, they also open up the possibility of generating new streams of timely and granular statistics in a range of areas where the collection of robust data was previously complex and prohibitive. Producers of official statistics, including European statistics, need to adapt to and seize

the opportunities of the digital era, but they also need to get the necessary tools and resources to be able to take advantage of these new opportunities. Otherwise, European statistics run the risk of losing relevance and seeing their important societal role eroded by the emergence of new and more agile competitors that do not (have to) follow the same ethical principles as official statisticians do. Thus, enabling the adaptability of European statistics is key.

At the same time, to preserve the trust that the public places in official statistics, it is important to ensure that the necessary changes do not lead to a weakening of the principles governing official statistics, such as professional independence or quality, and that, where needed, adherence to these principles and the governance frameworks that enable them are strengthened. Accordingly, the importance of respecting the fundamental principles of official statistics – above all, impartiality and independence from political and private interests – has not diminished. On the contrary, such principles will be a core requirement and asset in the digital age and adherence to them needs to be consolidated and improved further. This is necessary to strengthen the unique brand of European statistics, which will be, besides adaptability, critical to their continuing to serve European society and the global community.

1. UNPRECEDENTED CHALLENGES FOR OFFICIAL STATISTICS CALL FOR A MODERN LEGAL BASIS

1.1. ENABLING THE EUROPEAN STATISTICAL SYSTEM TO ADDRESS CURRENT AND FUTURE CHALLENGES

The assessment of the European Statistical Governance Advisory Board (ESGAB), which has been confirmed *inter alia* by interviews conducted with important stakeholders in preparation for this report, is that the European Statistical System (ESS) has shown considerable agility and professionalism in addressing the challenges of the recent crises. However, it has also shown some limitations and needs improvement.

At the European level, the developments described in this report call for a number of amendments to the European statistical law, which is Regulation (EC) No 223/2009 (amended by Regulation (EU) 2015/759) ⁽²⁾ – henceforth Regulation 223 – which was amended in 2015 and is the current EU legislative text related to the collection, production and dissemination of European statistics. Many of the developments that have occurred since 2015 could not have been foreseen at that time. It is therefore

crucial for the future of European statistics that these are now reflected in the EU statistical law. Otherwise, there is a risk that European statistics will no longer be able to adequately fulfil their crucial public good function in this new world of digitalisation.

There is also the danger that other producers of data will (further) crowd out official European statistics without being subject to the same or similar quality criteria and quality assurance procedures, and in particular standards of independence, impartiality and objectivity, as those mandated in the European Statistics Code of Practice.

Regulation 223 needs to be updated so that statistical authorities producing European statistics are supported by a more modern legislative framework that enables predictable, ethical and sustainable use, reuse and sharing of data from different sources for official statistics while strengthening the governance of the overall system. This year's ESGAB recommendations are formulated in this light. The European Commission is currently in the process of proposing a revision of Regulation 223 to be considered by the EU co-legislators. ESGAB sees its own recommendations as an input into this process.

² Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009, amended by Regulation (EU) 2015/759 of the European Parliament and of the Council of 29 April 2015 (OJ L 87, 31.3.2009, p. 164).

As noted above, great benefits can be expected from making use of the multiple data sources now available. To keep European statistics relevant, accurate, timely and cost-effective, Regulation 223 should grant Eurostat and EU Member States' producers of European statistics access to privately held data while providing legitimate protective guarantees and safeguards for the owners of such data. Accessing and exploiting privately held data will contribute to the response to EU policymakers' and citizens' demands for more timely and granular information and address issues that concern them most in their daily lives and where information is currently lacking.

With respect to private platforms that accumulate large amounts of data and operate not only nationally but increasingly across countries, and in view of increasing EU integration in a multitude of areas, it would be most efficient if Eurostat were the institution that has a strong legal mandate through Regulation 223 to gain access to these private data, with the possibility for NSIs to participate in the processing and use of these data.

Exploiting and integrating new data sources, however, will require new capabilities from the producers of European statistics, including in data science, and the associated resources, in terms of both staff with relevant skills and new technological systems, to effectively turn big data into statistics. Adequate financial resources will need to be secured to finance these investments.

Faced with disruptions in standard collection methods during the COVID-19 crisis, the ESS has shown considerable agility and responsiveness. A number of ESS members quickly availed themselves of alternative data sources to produce established European statistics (e.g. on GDP growth). Some also developed valuable experimental statistics to gather information on key health and social outcomes.

It is important that such initiatives do not remain one-offs but on the contrary are supported by provisions in Regulation 223 that give a strong legal mandate for Eurostat to gain access to privately held data for the purpose of producing and validating European statistics, and by accompanying provisions to foster agility in the ESS. This means including new provisions in the law or modifying existing provisions with a view to more rigorously supporting direct statistical action to further develop existing statistics with innovative procedures and technologies or to introduce new, experimental statistics, including with the use of new data sources.

Strong and sustained cooperation with academic and research institutions in a variety of disciplines is an important lever for innovation, agility and the development of experimental statistics. An amendment to Regulation 223 should strengthen the possibilities for such collaborations. These would help keep up with fast-moving innovations and contribute to responding faster to new statistical demands and measurement challenges.

An important consideration in this respect is that academics and researchers have the possibility to get access to databases that include private data, albeit under strict rules to ensure confidentiality of statistical units and preserve the trust of private data owners.

Another way to reinforce cooperation with academics and researchers and foster innovation and experimentation is for Regulation 223 to mandate Eurostat to set up and host an adequately endowed European Research Institute for Official Statistics (ERIOS). Such an institute, working with academic and other research institutions, could be at the forefront of research in the fields of statistics and data sciences, whose results would contribute to the development of state-of-the-art official statistics.

Beyond collaboration with external stakeholders, there is also scope for increased collaboration within the ESS. This is particularly the case for data sharing in the production of European statistics, especially in areas that are cross-border in nature or affected by globalisation or integration, such as climate change, supply chains, digitalisation, transportation, infectious diseases, financial flows, trade and investment, network industries, health and education services, and migration. Understanding these phenomena requires accessing and processing national data on individual units to develop relevant statistics at the EU and global levels. Until now, the sharing of data in the ESS has encountered significant difficulties due to concerns regarding privacy of individuals and households and protection of sensitive business information.

With advances in technological solutions, Regulation 223 should now make it possible to set up a new, effective framework, assigning Eurostat as the hub for data sharing within the ESS with proper responsibility and accountability, along with strong safeguards that guarantee statistical confidentiality and prevent possible misuses of the data.

1.1.1. ACCESS OF THE EUROPEAN STATISTICAL SYSTEM TO PRIVATELY HELD DATA

R1. ESGAB recommends that Regulation 223 provide in its articles that access to privately held data be granted to the producers of European statistics.

R2. ESGAB recommends that Regulation 223 provide in its articles a strong legal mandate for Eurostat to receive access to privately held data strictly for the purpose of producing or validating European statistics. The regulation should provide that Eurostat would have to justify the use of any privately held data, put in place procedures, protocols as well as accountability mechanisms for accessing these data, and ensure the transparency of all the above. The regulation should provide that if NSIs or other European statistics producers are involved in the processing of privately held data accessed by Eurostat, including for the purpose of producing European statistics for their corresponding Member States, Eurostat would have to set up special processes and protocols in an EU space under its responsibility, to preclude any possible misuses of the data.

R3. ESGAB recommends that Regulation 223 provide for access by researchers to databases constituted by Eurostat that include data from private sources. Such access would have to be subject to strict rules of access to address the issue of private data owners' trust and matters of statistical confidentiality. In particular, the private data owners should be informed about the use of their data by researchers and given the opportunity to deny access if it would unduly harm their interests. In addition, the use of microdata from such datasets should be based on the data subjects' consent.

Privately held data have become an increasingly rich depository of information about social, economic and environmental developments. As these are subject matters of European statistics (and official statistics more generally), and with a view to keeping European statistics relevant, accurate, timely and cost-effective, a permanent path for access to privately held data should be granted for the production of European statistics. Given the inherent incompleteness of data sourced at the level of Member States and the varying degrees of access to source data by Member States' European statistics producers, this path should take into account the existing statistical needs and anticipate the future needs of the EU single market and increased EU integration in a multitude of areas, such as the financial sector, the digital single market, energy, defence, transportation, the network industries, and higher education. The amendment of Regulation 223 should enshrine this path for access to privately held data in European law.

Regulation 223 should provide in its articles for access to privately held data for any producers of European statistics, whether at the Member State level or at the level of Eurostat. In this context, it is important to note that the processing of a large number of privately held data, including the associated microdata, requires new capabilities from the producers of European statistics and associated resources, in terms both of staff and technological resources. The need for adequate capabilities and resources to process and protect the accessed privately held data could be specified in the recitals of the amended regulation. The policy authorities and the statistical producers have shared responsibilities on these matters.

Regulation 223 should also provide in its articles for a leading role by Eurostat. Private platforms accumulating large amounts of data operate not only nationally but increasingly across countries. It would therefore be appropriate for Eurostat to have a strong legal mandate to receive access to these private data. This would enable efficiency

gains, reductions in respondent burden and improvements in the harmonisation, accuracy and reliability of European statistics. The leading role of Eurostat would also contribute to it keeping pace with and anticipating the development of the EU single market.

Mandating Eurostat with the responsibility and accountability for the access and use of privately held data would be a proper and legitimate vehicle for accessing this type of data sustainably and on a mass scale.

Eurostat would have to be accountable and guarantee that the private data are used only for statistical purposes and do not end up in any way or form in the hands of market competitors or governmental or non-governmental entities. Eurostat would have to be mandated by law to create special and explicit arrangements and protocols to guarantee that this commitment holds.

The set-up at EU level would help to avoid national specificities that might apply to the accessibility of data in any country. This set-up would address the problematic issue addressed below of data transfers between Member States' European statistics producers.

If NSIs or other European statistics producers are involved in the processing of privately held data accessed by Eurostat, including for the purpose of producing European statistics for their corresponding Member States, Eurostat would have to set up special processes and protocols in an EU space under Eurostat's responsibility, to preclude any and all of the possible misuses of the data.

Eurostat would have to provide justification for the use of privately held data, for example if this would result in notable savings compared with the use of other data sources (e.g. survey data, administrative data), directly or indirectly via intra-EU uniform standards; increased harmonisation; or improvements in the quality of European statistics.

This approach of having Eurostat take the lead would not prohibit other agreements at national level, between NSIs or other national producers of European statistics and private platforms holding private data, being made.

When accessing privately held data, access to identifiable microdata is also important, allowing linking and integration. Moreover, private data are often considered to be business secrets, and even important for the national interest. Taking the above into account, data use solely for statistical purposes and data protection are absolutely fundamental principles that have to be observed. Earning the trust of private data owners, based on which they may provide access to their data, would depend on accountability and transparency. Consequently, there is a need for transparency of the procedures, protocols and accountability set-ups in place. Full transparency of this institutional set-up would be key to rendering accountability effective, which in turn would help develop the trust of private data owners, who could otherwise be reticent about their data being shared with others.

Researchers' access to microdata of European statistics is very important as microdata are key to analysing and deriving evidence-based policies. Such access in the case of privately held data, including microdata included therein, might have to be subject to even stricter rules of access than those currently in place for Eurostat data, and this strictness would have to be provided for in Regulation 223. For example, to address the issue of private data owners' trust, any provision by Eurostat of these data to researchers might have to be approved by the original data owners. Moreover, the further use of any microdata from such datasets would have to be permitted by data subjects' consent, when applicable, or take into consideration the data subjects' interests and welfare when consent is not required.

1.1.2. COOPERATION OF THE EUROPEAN STATISTICAL SYSTEM WITH RESEARCH

R4. ESGAB recommends that recital 13 of Regulation 223 as in force be strengthened to state that there should be strong, structured and sustained interdisciplinary cooperation with academic and research institutions.

R5. ESGAB recommends that Article 6 of Regulation 223 be amended to provide for Eurostat to be mandated, as well as endowed with adequate resources, to set up and host a European Research Institute for Official Statistics (ERIOS) to advance research relevant for the development of official statistics, focused on the fields of statistics and data sciences. The institute should be mandated to collaborate with academic and other research institutions.

For the ESS, outreach to, and increased interaction with, academia and research institutions is particularly important to keep track of and evolve apace with rapid methodological innovations, such as in the area of digital data and methods. In addition, systematic cooperation with academia would not only foster the exchange of ideas, methods and models in joint research and development projects, but also improve the attractiveness of the ESS as an employer and ease access to highly educated professionals.

In this context, recital 13 of Regulation 223, which states that there should be ‘adequate interdisciplinary cooperation with academic and research institutions’, should be strengthened to state that there should be ‘strong, structured and sustained interdisciplinary cooperation with academic and research institutions, especially in the fields of statistics and data sciences’.

More importantly, an article should be introduced in Regulation 223 so that Eurostat is not only mandated but also endowed with adequate resources to set up and host a European Research Institute for Official Statistics (ERIOS) to advance research relevant to official statistics, focused on the fields of statistics and data sciences, with the goal of using its results for the development of official statistics that keep pace with the newest developments in these fields. The institute would explicitly be expected and mandated to collaborate with academic and other research institutions. This mandate could be enshrined with an amendment to Article 6 of the regulation.

In the amended regulation, Eurostat should also be mandated and provided the funds to collaborate, with appropriate flexibility, with members of the academic and research community with skills that may not be available within Eurostat. All confidentiality requirements applicable to Eurostat staff would need to be legally extended to such external collaborators.

1.1.3. ENHANCE THE AGILITY OF THE EUROPEAN STATISTICAL SYSTEM AND ENCOURAGE EXPERIMENTAL STATISTICS

R6. ESGAB recommends that Article 14 of Regulation 223 be amended so that (i) it explicitly states that direct action might involve either the further development of existing statistics through innovative procedures and technologies or the introduction of new statistics, including statistics that might be considered experimental; (ii) item 2(b) regarding conditions for temporary direct statistical action becomes less restrictive; (iii) item 2(c) provides for adequate allocations of resources to Eurostat to cover the full costs and allocations to NSIs and other national statistical authorities; (iv) the regulation provides the possibility for Member States to opt out of an initiative of direct action by supplying a public explanation of their decision; and (v) the regulation provides that any undertaken temporary direct statistical action needs to be assessed after it is completed.

Challenges posed by new or fast-evolving phenomena (globalisation, automation, digitalisation, migration, epidemic diseases, climate issues, intellectual output and property, inequalities, inflation/deflation, etc.) or by the availability of new data sources (such as big data / privately held data) create a need for the ESS to be quicker to take action to address new statistical measurement and output challenges, on the basis of appropriate and open methodological reflections. There is a need for concrete steps, beyond the generic references to a European approach to statistics in the recitals of Regulation 223, to be provided for in the articles of the regulation.

Conditions to facilitate agility and experimental statistics include cooperation with academia and other research institutions to keep track of fast-moving methodological innovations and foster the exchange of ideas, methods and models in joint research and development projects in general throughout the ESS, spearheaded by a European Research Institute for Official Statistics (ERIOS) to be set up by Eurostat (see above).

It is also very important to include text in the amended Regulation 223 that mandates more agility in response to new data demands and measurement challenges/opportunities and at the same time (i) enables Eurostat to ask Member States and the private sector for what is necessary to achieve that goal and (ii) removes impediments to that capacity. Provisions for Eurostat to have access to private data (see above) and the initiation by Eurostat of experimental statistics would be essential. This requires amending the existing Article 14 of the regulation regarding temporary direct statistical action, as it is currently too restrictive. For example, at present it requires that 'the data are already available or accessible within the NSIs and other national authorities responsible, or can be obtained directly, using the appropriate samples for the observation of the statistical population at EU level with the adequate coordination with the NSIs and other national authorities'. Such restrictiveness undermines the agility of Eurostat and the ESS.

At the same time, the amended regulation should provide for adequate EU resources to carry out any necessary direct statistical action to produce what is effectively an EU-level public good. The current regulation refers to 'the Union mak[ing] financial contributions to the NSIs and other national authorities to cover the incremental costs incurred by them'. The EU may need to provide more resources than this to offer a clear incentive and the means to Member States' statistical authorities to participate in implementing the direct statistical action (reflecting not just 'incremental costs'). Very importantly, it will

also need to cover the potentially significant fixed costs and the variable costs of direct statistical action incurred at the level of Eurostat. Furthermore, the regulation should be explicit that direct action would often involve 'either the further development of existing statistics through innovative procedures and technologies or the introduction of new statistics, including statistics that might be considered experimental'. Finally, the regulation should provide the possibility for Member States to opt out of the initiative by providing a public explanation for their decision.

In addition, any undertaken temporary direct statistical action would need to be assessed thoroughly after it is completed to check whether it achieved its objectives and provided benefits commensurate with the resources that were invested in it. Proper assessment would facilitate judgement on whether the statistical activity ought to become permanent and the derivation of lessons to be applied in other temporary direct statistical actions in the future.

1.1.4. ENHANCE DIGITAL DISSEMINATION AND COMMUNICATION BY THE EUROPEAN STATISTICAL SYSTEM

R7. ESGAB recommends that the recitals of Regulation 223 be amended to include that Eurostat, NSIs and other national authorities responsible for the production of European statistics 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.

Eurostat, NSIs and other producers of European statistics should further improve their communication and dissemination, especially given the increasingly ubiquitous and effortless availability of alternative sources of quantitative

or statistics like information for users that are usually of unverified quality. Regulation 223 is currently silent on this issue. In view of this, the recitals of Regulation 223 should be amended to include that Eurostat, NSIs and other national authorities responsible for the production of European statistics shall strive to provide access to their databases, supporting metadata and other documentation relevant to quality assessment using up-to-date and easy-to-use technologies. Besides the fact that such actions would be in keeping with the principles in the European Statistics Code of Practice and in particular principle 15 on 'Accessibility and Clarity', another reason is that it would promote a fundamental advantage of official statistics over the alternative sources of quantitative information that are increasingly available en masse to users.

1.1.5. FOSTER DATA SHARING IN THE EUROPEAN STATISTICAL SYSTEM

R8. ESGAB recommends that Regulation 223 be amended to provide for a new framework of sharing the data of individual statistical units within the ESS that would (i) involve Eurostat setting up special processes and protocols in an EU space under Eurostat's responsibility to access the data to be shared, and invite, if and when necessary, other European statistical authorities to participate in the data processing; (ii) provide for access by researchers to microdata in the databases constituted by Eurostat; (iii) have the safeguards to preclude any possible misuses of the data; and (iv) be characterised by full transparency regarding this institutional set-up to render accountability effective and help develop the trust of government and private data owners as well as of statistical units.

There is a need to transition from data transfers – which have themselves been challenging – to data sharing within the ESS. As with access to privately held data as discussed above, data sharing within the ESS for the production of European statistics is essential for these statistics to be, and especially remain, relevant, harmonised, accurate, timely and cost-effective and to minimise burden on respondents. This is specifically so in the context of the existing and future development of the EU single market and EU integration in general, and the incompleteness of data sourced at the level of Member States. Thus, data sharing within the ESS would have salutary effects on evidence-based policymaking and the functioning of the EU over a very broad range of issues.

Yet the idea of a Member State's NSI or other national statistical authority sharing the data of its statistical units with other statistical producers outside the Member State poses some significant challenges. There are understandable concerns when data are shared across 'national borders' about the preservation of the privacy of individuals/households and the preservation of sensitive economic information of businesses (business secrets), which can be of 'national interest' and potentially even have national security implications. Thus, it seems that a simple legal amendment of Regulation 223 to provide for the possibility of data sharing within the ESS is not likely to be effective. There is instead a need for a new framework.

To solve the conundrum described above, the new framework must assign responsibility and accountability to one institution as the 'hub in the spoked wheel' of data sharing in the ESS. Regulation 223 should be amended to provide for such a new framework, which would position Eurostat as the 'hub' that would set up special processes and protocols in an EU space, under Eurostat's responsibility, to access data to be shared by Member States' statistical authorities, and invite, if and when necessary, other such statistical authorities to participate in the processing and use of data.

Such a new framework would be based on Eurostat being the institution with a strong legal mandate to receive and provide access to these data via the 'spokes' connecting it to the Member States' statistical authorities. The mandate provided to Eurostat to organise and carry out this type of data sharing on a mass scale would also have to explicitly make Eurostat accountable for ensuring that the shared data are used only for statistical purposes. Eurostat would have to be mandated in the amended regulation to create special and explicit arrangements and protocols to guarantee that this commitment holds.

The system to be set up would require new capabilities from Eurostat as well as from the producers of European statistics and, thus, there would be a need for the associated resources, both in terms of staff and technological resources. The need for adequate capabilities and resources to process and protect the data shared within the ESS should be taken up in the recitals of the amended regulation.

A system thus set up would at the same time have to preclude any and all of the possible misuses of the data, whether from participating statistical authorities, from Member State and EU policy bodies and actors, or from researchers having access to microdata. Full transparency regarding this institutional set-up would be key to rendering accountability effective, which in turn would help to develop and maintain the trust of private, official statistical and governmental data owners who would otherwise be reticent about their data being shared with others. It would also help to develop and maintain the trust of statistical units whose data are being shared.

1.2. A MODERN GOVERNANCE FRAMEWORK FOR THE EUROPEAN STATISTICAL SYSTEM

Making the ESS more agile and innovative, making use of new data sources, investing more in experimental statistics, using new technological and data science approaches and improving the timeliness and granularity of European statistics while at the same time fully safeguarding statistical confidentiality and privacy will all contribute to better satisfying users' information needs now and in the future. However, as these adaptations take place, it is essential that the public has absolute confidence and trust in the system's capacity to continue to deliver the highest statistical quality. The independence, integrity and accountability of the EU statistical and national statistical authorities are key to guaranteeing trustworthy, impartial, objective and high-quality European statistics.

In preparing this annual report, ESGAB sought the views of various stakeholders of European statistics, notably as regards the independence of Eurostat. One finding was that today Eurostat generally enjoys a good reputation regarding its independence. To ensure that this is buttressed, a number of amendments to provisions in Regulation 223 pertaining to governance are proposed in this report. The ESS governance framework should not only be fit for purpose in 'smooth', good times but also withstand any challenges that might arise in more controversial, difficult circumstances and times.

ESGAB recommendations emphasise the need to strengthen the safeguards against political influence on Eurostat and the entire ESS. The proposed amendments to Regulation 223

highlighted above to adapt to the fast-evolving digital age, together with the need to empower Eurostat to provide effective solutions, would become more legitimate, acceptable and effective if they were accompanied by amendments regarding the independence of Eurostat and its head from the policy/political side of the Commission (and any other policy institutions). Similarly, legal amendments to enhance the independence of the heads of NSIs (and thus of the NSIs themselves) would be another important condition to support some of the proposals above, such as data sharing within the ESS, and foster trust in the whole system.

In addition, to strengthen the 'brand' of principles-based European statistics and reinforce their difference from the quantitative information that is inundating society and that does not meet the quality standards of official statistics, European statistics have to reinforce what renders them **the** source of information users can trust. They have to consolidate and further improve their reputation of being produced in a completely independent manner with unassailable impartiality and objectivity.

Reinforcing the conditions that ensure adherence to the fundamental principles regarding the institutional environment / governance of European statistics is of course essential for reasons besides the advantage it provides to European statistics in competing with new data sources. There are weaknesses that have been evident even after the previous amendment of Regulation 223, in 2015, that need to be addressed, and ESGAB has on various occasions drawn attention to them.

In this context, ESGAB underlines the importance of reinforcing the existing provisions in Regulation 223 on the institutional environment / governance, as any doubt on such matters can severely harm users' confidence in European statistics. Thus, ESGAB recommendations especially emphasise the professional independence of Eurostat and NSIs and other aspects of statistical governance and institutional environments of producers of European statistics, building on improvements and addressing problems that have been observed over recent years.

ESGAB recommendations also emphasise the need to strive for the highest statistical quality within the ESS, with Eurostat's responsibility for reporting on the quality of Member States' European statistics further strengthened in Regulation 223, and with even greater prominence and legal certainty given to the need to adhere to the European Statistics Code of Practice. Indeed, the key quality framework for European statistics is the Code of Practice. To emphasise its relevance and support its effective implementation throughout the EU, ESGAB recommends that the Code of Practice should be firmly rooted in Regulation 223.

Eurostat should also have a clear capacity to coordinate EU bodies and other directorates-general that contribute data to European statistics.

Finally, there is an urgent need to amend Regulation 223 to strengthen the Commitments on Confidence in Statistics (CCSs) to be made on the policy side.

1.2.1. STRENGTHEN THE INDEPENDENCE OF EUROSTAT AND ITS DIRECTOR-GENERAL

R9. ESGAB recommends that Regulation 223 should make a clear distinction between the Commission as a political body and Eurostat as the statistical authority of the EU. Regulation 223 should refer to 'Eurostat' and not to 'Commission (Eurostat)' when designating the EU statistical authority in charge of developing, producing and disseminating European statistics. Regulation 223 should clarify that Eurostat is the impartial, objective and professionally independent statistical authority serving the EU as a whole. The relations between the Commission and Eurostat shall be guided by Eurostat's professional independence. As such, Eurostat's status within the Commission differs from that of other directorates-general. It operates in full compliance with the European Statistics Code of Practice.

As the independent statistical authority of the EU, Eurostat's purpose is to be of service to the EU as a whole by developing, producing and disseminating European statistics, which are an EU-level public good, acting with independence, impartiality and objectivity. Thus, Eurostat is in equal service to all branches of EU governance and to all EU citizens. This important point needs to be provided for explicitly in the articles of the European statistical law (Regulation 223). Eurostat should not be involved in implementing the political guidelines of any policy, regulatory or administrative departments and bodies, as this would create risks for the implementation of the European Statistics Code of Practice.

In practice, the above means that, while Eurostat is a directorate-general of the European Commission, its status should differ in fundamental ways from that of other directorates-general. This would be consistent with best practices for the status of NSIs vis-à-vis other parts of the executive branch of government in Member States. The relations between the rest of the Commission and Eurostat ought to be based on respect of the professional independence of Eurostat with regard to all activities that affect directly or indirectly the development, production and dissemination of European statistics. This should be provided for explicitly in the articles of the European statistical law. This approach to Eurostat's status would bear out ESGAB's advice in its 2021 report that 'Eurostat should be a role model in the ESS'.

The recommendation above also implies that Eurostat should be committed to providing all users with equal access to statistical releases at exactly the same time. This would make Eurostat's practice consistent with the first best practice provided in the Code of Practice under the principle of 'Impartiality and Objectivity': 'All users have equal access to statistical releases at the same time.' This has been repeatedly pointed out as an area in need of improvement in past ESGAB reports.

Among the conditions that would support the independence of Eurostat would be the Commission undertaking medium-term commitments to provide adequate resources to Eurostat and the ESS to be able to make high-quality statistics available, following a proposal by Eurostat. To ensure appropriate checks and balances, these commitments could usefully be presented by the Commissioner for discussion in the relevant committee of the European Parliament and reviewed every 3 years, with ESGAB providing public comments on these commitments.

To ensure Eurostat’s fulfilment of its mandate, especially in the context of the important needs identified elsewhere in the ESGAB recommendations, Eurostat should be provided with all allowable flexibility for recruiting staff with appropriate specialist skills in adequate numbers.

ESGAB notes that currently in Regulation 223 Eurostat is mentioned 41 times, and in 34 of these instances it is referred to as ‘Commission (Eurostat)’. Where the regulation only mentions the Commission, it discusses actions that involve Eurostat at least in part. Even if not intended, this gives rise to the impression that Eurostat is an appendage of the Commission and subject to the Commission’s political will. It would thus be appropriate that Regulation 223 should refer to ‘Eurostat’ and not to ‘Commission (Eurostat)’ when designating the EU statistical authority in charge of developing, producing and disseminating European statistics.

ESGAB is of the opinion that the European statistical law – as well as other documents, such as the CCS – can be further improved to avoid any conflation of statistical aspects with political and administrative aspects, to support trust in European statistics.

In this context, ESGAB welcomes the 24 November 2022 revision of the document ‘Practical arrangements governing working relations between Commissioner Gentiloni, his cabinet and Eurostat’. However, this positive development does not affect ESGAB’s assessment that progress needs to be made in the areas presented in this report.

R10. ESGAB recommends that Regulation 223 should strengthen the independence of the Director-General of Eurostat. To this end, Article 6 should achieve essential alignment with the relevant provisions in Article 5a regarding heads of NSIs. It should include the following provisions: (a) the Director-General of Eurostat is selected for a fixed, non-renewable term of 7 years; (b) the selection and the recruitment process shall be open and transparent, in line with international best practices, and the appointment shall be made only on the basis of clear professional criteria, among which statistical reputation and a high level of competence in statistical matters are key; (c) the Director-General of Eurostat shall be responsible and accountable for all statistical activities and for matters regarding internal management and budget execution of Eurostat; (d) reasons for the early termination of the contract (dismissal) of the Director-General of Eurostat shall be specified in the regulation and must not compromise his or her professional or scientific independence or his or her internal management responsibilities outlined in provision (c); (e) provisions (b) and (d) above should also apply to the Deputy Director-General of Eurostat; and (f) the regulation should specify ‘including other parts of the Commission’ in Article 6a, paragraph 3, after ‘Union institutions or bodies’.

Currently, the provisions in EU law for the Director-General of Eurostat are lagging behind those for heads of NSIs. This gives rise to a negative demonstration effect regarding the institutional environment for statistical authorities throughout the EU. Moreover, it is not consistent with maximising trust in Eurostat's independence and impartiality and thus trust in European statistics. Therefore, ESGAB urges that the European statistical law (Regulation 223) be amended in its article regarding the Director-General of Eurostat to bring about essential alignment between that and the provisions in Article 5 regarding the heads of NSIs.

ESGAB strongly believes that dependence of the Director-General of Eurostat on the political sphere must be avoided. A non-transparent recruitment process and the risk of dismissal are approaches that can be used to affect the professional independence and the impartiality and objectivity of the Director-General of Eurostat.

Therefore, the recruitment process should be strengthened, fully transparent and based on open competition. The selection and appointment process should be in line with international best practices and made only on the basis of clear professional and managerial criteria, among which statistical reputation and a high level of competence in statistical matters are key.

Implicit pressure on the independence and impartiality of the Director-General of Eurostat can also arise from an interest on his or her part in extending his or her contract. Therefore, ESGAB is of the view that the contract should not be renewable and should have a definite length of, say, 7 years.

ESGAB is also of the view that, to strengthen the independence of the Director-General of Eurostat, it is important that, beyond acting independently in ensuring the production of European statistics as currently stated in Article 6, he or she should have sole

responsibility and be accountable for all Eurostat statistical activities, management matters and budget execution.

The dismissal process, which would also include transfer to another position within the Commission, should also be transparent. The reasons for the contract termination need to be based on professional criteria only, which need to be specified in Regulation 223. They should not include reasons that compromise his or her professional or scientific independence or his or her responsibilities regarding internal management and budget execution of Eurostat.

It is important for the independence and impartiality of the Director-General of Eurostat that he or she operate under conditions of transparency and free flow of information with various parts of EU governance as well as the EU's citizens. These constitute 'checks and balances' that are essential for trust in European statistics.

In this context, the annual report published by the Director-General of Eurostat that is currently envisaged in Regulation 223 should be presented by him or her to the European Parliament in a hearing accessible to the public. The report should specifically address issues of implementation of Eurostat's work programme, issues of Eurostat's work with other producers of official statistics at EU level and Member State level, issues of institutional framework and environment, including budgetary allocation and implementation as well as staffing within Eurostat. If the Director-General of Eurostat considers that a measure taken by the Commission or anyone else calls his or her independence into question, he or she should immediately inform the European Parliament and ESGAB. Consistent with the spirit of principles 1.6 and 6.8 of the Code of Practice, the Director-General of Eurostat should also be able to communicate independently and separately from the Commission on statistical matters.

1.2.2. STRENGTHEN THE INDEPENDENCE OF THE HEADS OF NATIONAL STATISTICAL INSTITUTES

R11. ESGAB recommends that in Regulation 223 the provisions for the recruitment and dismissal of heads of NSIs should be strengthened and aligned with those proposed in recommendation 10 above for the Director-General of Eurostat. Article 5a, paragraph 4, should include the following provisions: (a) the selection and recruitment process shall be open and transparent in line with international best practices, and the appointment shall be made only on the basis of clear professional criteria, among which statistical reputation and a high level of competence in statistical matters are key; (b) reasons for the dismissal of the heads of NSIs or their transfer to another position shall be specified in Regulation 223 and must not include reasons compromising his or her professional or scientific independence or his or her internal management responsibilities; (c) national bodies referred to in Article 5a, paragraph 5, of Regulation 223 shall be established in all Member States. Once established, these independent bodies should *inter alia* monitor compliance with the proposed provisions (a) and (b) above on the recruitment and dismissal processes of heads of NSIs; and (d) a reasoned decision for dismissal or transfer shall be made public, and ESGAB shall be notified.

ESGAB is of the opinion that while progress was achieved in the most recent revision of Regulation 223 regarding strengthening the independence of the heads of NSIs, developments since then point to the need to further strengthen the provisions of the law.

At the same time, provisions for the heads of NSIs should be essentially aligned with those provisions proposed in recommendation 10 above for the Director-General of Eurostat.

ESGAB recommends strengthening the wording in the law regarding the selection and recruitment process for the heads of NSIs, emphasising open competition and transparency in line with international best practices, and specifying the need for selection and appointment to be made only on the basis of clear professional criteria, among which statistical reputation and a high level of competence in statistical matters are key.

To strengthen the independence of the heads of NSIs, the reasons for the dismissal of heads of NSIs or their transfer to another position should be specified in the law. These reasons must not include reasons compromising his or her professional or scientific independence or his or her internal management and budget responsibilities. The responsibilities regarding NSI management and budget are already provided for in Regulation 223, and the regulation should further protect that mandate along the lines proposed here.

Transparency regarding any dismissal or transfer to another position of the head of an NSI would have to be ensured by making public a reasoned decision, and ESGAB would also have to be notified.

ESGAB is strongly of the view that national bodies referred to in Article 5a, paragraph 5, of Regulation 223 should be established in all Member States. This would be an important step in strengthening the independence and impartiality not only of heads of NSIs but also of statistical authorities in the ESS in general. These independent national bodies would monitor compliance with the principles of the European Statistics Code of Practice regarding professional independence and the

institutional environment. This would naturally involve monitoring *inter alia* the implementation of the provisions proposed here regarding the recruitment and dismissal processes of the heads of NSIs.

1.2.3. STRENGTHEN EUROSTAT'S ROLE FOR QUALITY CONTROL

R12. ESGAB recommends that Regulation 223 reinforce the coordination functions of Eurostat. Eurostat shall coordinate statistical activities of all EU bodies and directorates-general that contribute data that are used for the development and production of European statistics, *inter alia* with a view to ensuring consistency and data quality and minimising reporting burden.

ESGAB considers that Eurostat should have greater authority to coordinate the statistical activities undertaken by EU bodies and other directorates-general of the Commission that contribute data used for the production of European statistics. Lacking coordination by Eurostat may lead to inefficiencies and inconsistencies and raise issues of quality. The Director-General of Eurostat should have a more prominent role in coordinating all statistical activities of other EU bodies and directorates-general that lead to the production of European statistics. Coordination should also extend to 'other statistics' that are key to informing policymakers and citizens, in particular because the quality of such statistics could affect the reputation of European statistics.

EU bodies and directorates-general should also systematically consult Eurostat on statistical methodologies and data quality when developing new statistics in their fields of competence.

R13. ESGAB recommends that Article 12, paragraph 4, be strengthened regarding the quality of national data transmitted to Eurostat by Member States. When assessing the quality of the data transmitted, Eurostat shall make publicly and promptly available any serious concerns it has and disclose any breaches of the European Statistics Code of Practice.

Regulation 223 should be more explicit in providing Eurostat, without caveats or conditions, the responsibility to publicly voice any serious concerns it has regarding quality and, more generally, compliance with the Code of Practice. This would help address potential transparency issues regarding the quality and reliability of European statistics, and thus lead to greater trust in these statistics and strengthen the independence and accountability of Eurostat.

1.2.4. CLARIFY THE LEGAL STATUS OF THE EUROPEAN STATISTICS CODE OF PRACTICE

R14. ESGAB recommends that Article 1 of Regulation 223 establish unambiguously the legal status of the European Statistics Code of Practice.

Currently, Regulation 223 refers to the European Statistics Code of Practice in various places (e.g. Articles 1 and 2, and most notably

Article 11). However, ESGAB considers that the relationship between Regulation 223 and the Code of Practice should be established more firmly. For instance, Article 2 provides only a partial description of the statistical principles governing the development, production and dissemination of European statistics, noting that 'these principles are further elaborated in the Code of Practice in accordance with Article 11'. However, Article 11 does not provide a list of the principles contained in the Code of Practice (taking into account that the list can be reviewed and amended by the ESS Committee).

As the Code of Practice is the key instrument used to assess Member States' compliance around issues of statistical principles with the EU statistical law (Regulation 223), it is important that the legal status of the principles included in the Code of Practice is unambiguously spelt out in Regulation 223. This would not only significantly strengthen the implementation of the Code of Practice in the EU and thus trust in European statistics, but also provide stronger incentives to agencies across the EU producing statistics and their staff to apply statistical principles in their work and also help to protect them from legal action for following the principles in the Code of Practice – a troubling occurrence that ESGAB has highlighted several times in recent years.

1.2.5. STRENGTHEN POLITICAL COMMITMENTS ON CONFIDENCE IN STATISTICS

R15. ESGAB recommends that Regulation 223 be amended to strengthen the CCSs to be made by the policy side. To this end, amendments should specify the subjects to be covered in the CCS and the processes of how to arrive at the periodically reviewed, revised and renewed CCSs.

The implementation of the CCS provision of Regulation 223, Article 11, has varied across Member States, and questions have been raised about the effectiveness of the provision. Regulation 223 needs to be amended to clarify that the CCSs should be submitted by the policy side and not the statistical side. The amendment should also list the topics to be covered in the CCSs and describe the processes to be used to arrive at the periodically reviewed, revised and renewed CCSs.

2. A STRONGER COMMITMENT ON CONFIDENCE IN STATISTICS BY THE POLITICAL LEADERSHIP OF THE EUROPEAN COMMISSION – ESGAB OPINION

An important role in the context of the ESS governance framework is played by the Commitments on Confidence in Statistics (CCSs) that were introduced with the revision of Regulation 223 in 2015 (Article 11) by Regulation (EU) 2015/759. These CCSs are intended to commit the political authorities of the respective countries and the EU to undertake specific policy commitments to improve or maintain, as necessary, the conditions for the implementation of the European Statistics Code of Practice. Statistical authorities cannot do it alone, as several of the principles of the Code of Practice require support and undertakings by the competent political authorities.

In its 2021 annual report, ESGAB underlined that the amendment of Regulation 223 in 2015 strengthened the legal environment and the professional independence of statistical authorities and of Eurostat, notably after the introduction of the concept of the CCS³.

However, ESGAB also noted that there was still room for improvement to strengthen Eurostat's professional independence, in particular to serve as a role model in the ESS and beyond. An appropriately formulated CCS on the part of the political side of the European Commission is key in this and would also be consistent with EU law.

Article 11, paragraph 3, of Regulation 223, as amended in 2015 by Regulation (EU) 2015/759, states that 'Member States and the Commission shall take all the necessary measures to maintain confidence in European statistics. To this effect, "Commitments on Confidence in Statistics" (the Commitments) by Member States and by the Commission shall further aim to ensure public trust in European statistics and progress in the implementation of the statistical principles contained in the Code of Practice. The Commitments shall include specific policy commitments to improve or maintain, as necessary, the conditions for the implementation of the Code of Practice and shall be published with a citizen's summary.' In addition, recital 17 of Regulation 223 states

³ ESGAB, *ESGAB Annual Report 2021*, Publications Office of the European Union, Luxembourg, Chapter 4, p. 22.

that the Commitments 'should include specific undertakings by the government of that Member State to improve or maintain the conditions for the implementation of the Code of Practice'.

ESGAB's responsibility to regularly monitor the Commission's CCS and for communicating its Opinion to the European Parliament and the Council stems from Article 11, paragraph 5, of Regulation 223.

The Commission has used Commission Decision 2012/504/EU of 17 September 2012 ⁽⁴⁾ on Eurostat as its CCS.

ESGAB issued an Opinion on 8 June 2018 with regard to that CCS, in which it welcomed a number of positive results but also urged Eurostat and the Commission to swiftly implement some improvements outlined in 13 recommendations ⁽⁵⁾.

For ESGAB's current Opinion, the Commission confirmed that Commission Decision 2012/504/EU remains the key commitment of the Commission to support confidence in European statistics developed, produced and disseminated by Eurostat.

ESGAB has reviewed the Commission's CCS and makes several recommendations to significantly recast it along the lines of what is required in the 2015 amendment of Regulation 223, with a view to strengthening the current CCS and supporting Eurostat's role as a model for the whole ESS.

2.1. A RENEWED COMMITMENT TO MAINTAIN TRUST IN EUROPEAN STATISTICS AND AFFIRM THE INDEPENDENCE OF EUROSTAT

It is important to have a clear commitment from the political side of the Commission to take all necessary measures to maintain public confidence in European statistics, and aim to ensure progress in the implementation of the statistical principles contained in the Code of Practice. The special status and independence of Eurostat within the Commission as the EU statistical authority should be clearly stated upfront in the Commission's CCS.

R16. ESGAB recommends the establishment of a new Commission CCS. It should consist of a focused, clear and unambiguous commitment from the political side of the Commission to take all necessary measures to maintain public confidence in European statistics (wherever they are produced in the ESS) and aim to ensure progress in the implementation of the statistical principles contained in the European Statistics Code of Practice. In particular, the special status and independence of Eurostat within the Commission as the EU statistical authority should be clearly stated upfront. In addition, it should include a list of specific actions that the political leadership has to undertake to support the implementation of the Code of Practice in the production of European statistics. The CCS should also be very explicit about the conditions that support or manifest the independence of Eurostat and the Director-General of Eurostat (see also recommendations 9 and 10).

⁴ Commission Decision of 17 September 2012 on Eurostat (2012/504/EU) (OJ L 251, 18.9.2012, p. 49).

⁵ ESGAB, Opinion of the European Statistical Governance Advisory Board (ESGAB), concerning the implementation of the Commission's Commitment on Confidence (Commission Decision 2012/504/EU on Eurostat), Rome, 2018.

The Commission CCS should be explicit about the conditions that support the independence of Eurostat and its Director-General and list the specific actions that the Commission leadership commits to undertake to put these conditions in place. In this context, the Commission should reconsider the pre-release access to statistics it requires, commit to supplying Eurostat with adequate and predictable resources over the medium term, provide Eurostat with all allowable flexibility for recruiting staff with appropriate specialist skills in adequate numbers, strengthen the coordinating function of Eurostat in statistical matters – including for ‘other statistics’ – within the Commission and provide political support to Eurostat’s access to privately held data.

ESGAB notes that the Commission’s decision vis-à-vis Eurostat was adopted in 2012, thus several years before the legal obligation to produce CCSs was established by the amended EU statistical law in 2015. Over the past 10 years, other statistical legal acts have been adopted or amended. As a result, several references in this decision on Eurostat are outdated and should be corrected to ensure alignment with the current legal framework.

In addition, the 2012 Commission decision on Eurostat provides a legal basis with respect to the definition of the roles and responsibilities of Eurostat and its Director-General within the Commission⁶ but does not explicitly refer to the establishment of a CCS from the political side of the Commission. However, what is needed is a commitment by the political side of the Commission rather than the statistical side (Eurostat)⁷.

Only in recital 4 of the Commission’s decision is there a reference to the fact that the decision should be regarded as ‘a renewed commitment from the Commission on confidence in European statistics developed, produced and disseminated by Eurostat’. However, there is no such reference in the articles of the decision⁸. In contrast, Article 11(3) of Regulation 223 explicitly requires the Commission (and the respective governments in the Member States) to make CCSs to ensure full trust in European statistics. Thus, ESGAB is of the view that there is a need for a clear declaration of the commitment of the political leadership of the Commission, making it the ‘subject matter’ of an updated decision that would serve as a CCS.

Moreover, the decision on Eurostat does not sufficiently emphasise the independence of Eurostat, as it is presented as just another service of the Commission⁹. As currently drafted, the decision does not fully exclude the possibility that the Director-General of Eurostat may (have to) take instructions from the Commission¹⁰. In ESGAB’s view, this may cast some doubt among the general public on the commitment of the political side of the Commission to respect and support the independence, impartiality and objectivity of the EU official statistical authority and of its Director-General. Therefore, a clearer, unambiguous declaration emphasising the commitment of the political leadership of the Commission is necessary.

⁶ Recital 17 of the decision notes, ‘It is therefore necessary to further define and clarify Eurostat’s role and responsibilities within the Commission’, and Article 1, ‘Subject matter’, states, ‘This Decision defines the **role and responsibilities of Eurostat** within the internal organisation of the Commission, as regards the development, production and dissemination of statistics’.

⁷ The Commission’s decision has an article entitled ‘Tasks of Eurostat’ (Article 6), but it has no article on the tasks of the political leadership of the Commission in supporting and ensuring Eurostat’s independence, impartiality and objectivity or in the implementation of the other principles set out in the Code of Practice.

⁸ There is only a broad reference in Article 10 of the decision to Article 11 of Regulation 223, which commits Eurostat to producing European statistics in accordance with the principles in the Code of Practice.

⁹ In Article 3 of the decision, where Eurostat is introduced, there is no mention of its independence. Instead, it is asserted upfront that it is simply ‘a service of the Commission, headed by a Director-General’.

¹⁰ Article 7 of the decision states that ‘the Director-General of Eurostat shall act in an independent manner; he or she shall neither seek nor take instructions from the Union institutions or bodies, from any government of a Member State, or from any other institution, body, office or entity’. However, given that Eurostat is considered the same institution as the Commission, it is not clear that the Director-General of Eurostat is not to take instructions from the Commissioner under whose responsibility Eurostat is placed, or other high officials of the Commission.

Furthermore, the decision on Eurostat does not provide specific actions that the political leadership of the Commission will undertake to support the implementation by Eurostat, and in general by the ESS, of the European Statistics Code of Practice in the production of European statistics, as required in Regulation 223 in Article 11, paragraph 3, which calls for 'specific policy commitments'.

In ESGAB's view, the CCS should aim to be a living document in the sense that, at least in part, it is specific to a period of time and include concrete actions that the Commission leadership intends to undertake to support the implementation of the Code of Practice in the production of European statistics. It should also be very explicit about the conditions that support or manifest the independence of Eurostat and its Director-General. Such conditions are discussed in this annual report under recommendations 9 and 10 and their explanations above. ESGAB urges the Commission to incorporate them into its new CCS. In addition, ESGAB is of the view that, given the rapid developments in the area of data and statistics, this CCS should be regularly reviewed and potentially updated.

As ESGAB has often emphasised, Eurostat's institutional environment should constitute a positive role model for the entire ESS. To play such a role for the Member States' political authorities that are also supposed to observe Regulation 223, Article 11, ESGAB considers that the current CCS document provided by the Commission should be recast.

As European statistics produced by Eurostat are mostly derived from statistics produced by Member States' statistical authorities, increasing confidence in the European statistics 'of Eurostat' de facto requires increasing confidence in the European statistics of each Member State. This implies that the Commission should commit in its CCS to tasks and actions that support the implementation of the Code of Practice principles everywhere in the EU.

2.2. PROVIDING POLITICAL SUPPORT AND ADEQUATE RESOURCES TO EUROSTAT TO MEET THE CHALLENGES AHEAD

R17. ESGAB recommends that the updated Commission CCS include an explicit commitment of the Commission to supply Eurostat with adequate and predictable resources over the medium term, in terms of financing and staffing, so that Eurostat is able to fulfil its tasks. The Commission should commit to providing Eurostat with all allowable flexibility for recruiting staff with appropriate specialist skills in adequate numbers to ensure Eurostat's fulfilment of its mandate, and also to giving the necessary political support to Eurostat in order to get access to all data needed to produce European statistics, including privately held data.

As discussed in Chapter 1, over the past decade the environment of statistics has changed radically, notably due to digitalisation and the emergence of new data sources, as well as the emergence of new technologies and methodologies. These developments will require adequate financial and human resources for Eurostat, as well as legal possibilities to access these new data sources to cope with and benefit from these changes. Given that Eurostat is bound by the budgetary framework and recruitment rules of the European Commission, the political side of the Commission should explicitly declare its commitment to ensure the necessary financial support and human resources, as well as the legal support for Eurostat to meet the challenges ahead. A particularly important challenge for Eurostat at present is to ensure sustainable access to privately held data for the production of European statistics. For this, strong legal support from the Commission is needed.

2.3. REINFORCING THE COORDINATING ROLE OF THE DIRECTOR-GENERAL OF EUROSTAT

R18. ESGAB recommends that the Commission CCS, as currently worded with respect to the Chief Statistician, be revised to clarify that the Director-General of Eurostat is also the Chief Statistician of the European Commission. In parallel, the coordinating function and authority of Eurostat in statistical matters – including for ‘other statistics’ – within the Commission should be clarified and considerably strengthened, with a view to *inter alia* supporting the quality and reputation of linked European statistics.

In the current decision on Eurostat, the notion of a ‘Chief Statistician’ is introduced. The notion of ‘Chief Statistician’ does not appear in the EU statistical law (Regulation 223) and it is not clear to ESGAB why a distinction between the Director-General of Eurostat and the Chief Statistician is made. In fact, ESGAB considers that the current wording would allow for the theoretical possibility of two different officials for these two positions, which would be inappropriate from the point of view of statistical principles.

In addition, ESGAB observes that more and more policy and public interest statistics are produced by Commission services other than Eurostat. As these ‘other statistics’ are not European statistics, they are not subject to the strict quality criteria of the European Statistics Code of Practice. Nevertheless, reputational risks might arise for Eurostat and European statistics. In addition, the lack of methodological standardisation of such datasets often does not allow for – analytically important – linkages with

other statistics, including European statistics. Finally, some of these datasets may now or in the future constitute data sources for European statistics or may acquire the status of European statistics themselves.

Coordination by Eurostat of statistical activities of EU bodies and directorates-general that produce ‘other statistics’, as well as early involvement by Eurostat and use of its expertise, would be important. Such efforts could make a difference and much enhance the value of such datasets and the quality of, and thus confidence and trust in, these datasets. EU bodies and directorates-general should also systematically consult Eurostat on statistical methodologies and data quality when developing new statistics and should take into account any recommendations by Eurostat. In addition, Eurostat should carry out a labelling process for these ‘other statistics’ based on the quality criteria in the European Statistics Code of Practice.

2.4. PROVIDING ALL USERS WITH EQUAL ACCESS TO STATISTICAL INFORMATION

R19. ESGAB recommends that the Commission CCS stipulate that, with regard to statistics available to and/or released by Eurostat, the Commission gears towards adherence to the best practice indicated in the European Statistics Code of Practice whereby ‘all users have equal access to statistical releases at the same time’.

An important aspect of the relationship between (the political side of) the Commission and Eurostat is the question of pre-release access to certain statistics by some members of the

Commission. In this respect, ESGAB reiterates its previous recommendations on this subject, most recently Recommendation 2021/4, that this practice should be critically evaluated, whether it is in conformity with best practice, as indicated in the European Statistics Code of Practice, principle 6.7, on 'Impartiality and Objectivity', and in support of Eurostat's position as standard-bearer for the ESS. ESGAB notes that such best practice, where 'all users have equal access to statistical releases at the same time', has already been adopted by many NSIs in the ESS.

Finally, ESGAB welcomes the revised 'Practical arrangements governing working relations between Commissioner Gentiloni, his cabinet and Eurostat', as published on 24 November 2022, where several formulations were amended to avoid certain impressions of the conflation of the statistical and political aspects. However, the positive changes to this document do not affect ESGAB's assessment of the current Commission CCS and the resulting recommendations.

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