REGULATION (EC, EURATOM) No 1101/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 October 2008

on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities

(Codified version)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 187 thereof,

Having regard to the proposal from the Commission,

Acting in accordance with the procedure laid down in Article 251 of the Treaty [1],

Whereas:

(1) Council Regulation (Euratom, EEC) No 1588/90 of 11 June 1990 on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities [2] has been substantially amended several times [3]. In the interests of clarity and rationality the said Regulation should be codified.

(2) To enable it to carry out the duties entrusted to it by the Treaties, the Commission must have full and reliable information. With a view to efficient management, the Statistical Office of the European Communities, hereinafter referred to as 'Eurostat', should be able to obtain all the national statistical information necessary in order to prepare Community statistics and carry out the necessary analyses.

(3) Article 10 of the EC Treaty and Article 192 of the Euratom Treaty require Member States to facilitate the achievement of the Community's tasks. This obligation extends to providing all the requisite information. Moreover, the absence of confidential statistical data constitutes for Eurostat a considerable loss of information at Community level and makes it difficult to prepare statistics and carry out analyses on the Community.

(4) Member States have no further cause to invoke provisions on statistical confidentiality, since it is established that Eurostat offers the same data confidentiality guarantees as the national statistical institutes. These guarantees are already to some extent enshrined in the Community Treaties, notably in Article 287 of the EC Treaty, Article 194(1) of the Euratom Treaty, and Article 17 of Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 laying down the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities [4], and can be backed up by appropriate measures under this Regulation.

(5) Any violation of statistical confidentiality protected by this Regulation should be dealt with effectively, whoever the offender may be.

(6) Any infringement of the rules binding officials and other servants working for Eurostat, whether committed wilfully or through negligence, renders them liable to disciplinary sanctions and, if appropriate, legal penalties for violation of professional secrecy, pursuant to the combined provisions of Articles 12 and 18 of the Protocol on the Privileges and Immunities of the European Communities.

(7) This Regulation applies only to the transmission to Eurostat of statistical data which, in the national statistical institutes' field of competence, are covered by statistical confidentiality, and does not affect special national or Community provisions relating to the transmission of other types of information to the Commission.

(8) This Regulation is to be adopted without prejudice to Article 296(1)(a) of the EC Treaty, under which no Member State is required to supply information the disclosure of which it considers contrary to the essential interests of its security.

(9) Implementation of the provisions contained in this Regulation, and in particular those designed to ensure the protection of confidential statistical data transmitted to Eurostat, will require human, technical and financial resources.

[1] Opinion of the European Parliament of 14.12.2006 (OJ C 317 E, 23.12.2006, p. 600) and Council Decision of 25 September 2008.

[2] OJ L 151, 15.6.1990, p. 1.

[3] See Annex I.

[4] OJ L 56, 4.3.1968, p. 1.

(10) The measures necessary for the implementation of this Regulation shall be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ([1]),

HAVE ADOPTED THIS REGULATION:

Article 1

1. The purpose of this Regulation is:

(a) to authorise national authorities to transmit confidential statistical data to the Statistical Office of the European Communities (hereinafter referred to as Eurostat);

(b) to provide a guarantee that the Commission will take all necessary measures to ensure the confidentiality of data thus transmitted.

2. This Regulation shall apply to statistical confidentiality only. It shall not affect special, Community or national provisions safeguarding confidentiality other than statistical confidentiality.

Article 2

For the purposes of this Regulation, the terms given below are defined as follows:

(a) confidential statistical data: data defined in Article 13 of Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics ([2]);

(b) national authorities: national statistical institutes and other national bodies responsible for the collection and use of statistics for the Communities;

(c) information on the private lives of natural persons: information on the private and family lives of natural persons as defined by national legislation or practices in the various Member States;

(d) use for statistical purposes: use exclusively for the compilation of statistical tables or for statistical economic analyses; may not be used for administrative, legal or tax purposes or for verification against the units surveyed;

(e) statistical unit: basic unit covered by statistical data transmitted to Eurostat;

(f) direct identification: identification of a statistical unit from its name or address, or from an officially allocated and published identification number;

(g) indirect identification: possibility of deducing the identity of a statistical unit other than from the information mentioned in point (f);

(h) officials of Eurostat: officials of the Communities, within the meaning of Article 1 of the Staff Regulations of Officials of the European Communities, working at Eurostat;

(i) other staff of Eurostat: servants of the Communities, within the meaning of Articles 2 to 5 of the Conditions of Employment of Other Servants of the European Communities, working at Eurostat;

(j) dissemination: supply of data in any form whatever: publications, access to databases, microfiches, telephone communications, etc.

Article 3

1. The national authorities shall be authorised to transmit confidential statistical data to Eurostat.

2. National rules on statistical confidentiality may not be invoked to prevent the transmission of confidential statistical data to Eurostat where an act of Community law governing a Community statistic provides for the transmission of such data.

3. Transmission to Eurostat of confidential statistical data, within the meaning of paragraph 2, shall be carried out in such a way that statistical units cannot be directly identified. This does not preclude the admissibility of more far-reaching transmission rules in accordance with the legislation of the Member States.

4. National authorities shall not be obliged to transmit information on the private lives of natural persons to Eurostat if the information transmitted could enable those persons to be identified either directly or indirectly.

Article 4

1. The Commission shall take all the necessary regulatory, administrative, technical and organisational measures to ensure the confidentiality of statistical data transmitted by the competent departments of Member States to Eurostat in accordance with Article 3.

2. The Commission shall establish the procedures for transmitting confidential statistical data to Eurostat and the principles for protection of such data in accordance with the procedure referred to in Article 7(2).

([1]) OJ L 184, 17.7.1999, p. 23.
([2]) OJ L 52, 22.2.1997, p. 1.

Article 5

1. The Commission shall instruct the Director-General of Eurostat to ensure the protection of data transmitted to Eurostat by the national authorities of the Member States. It shall establish the arrangements for the internal organisation of Eurostat in order to ensure such protection, after consulting the Committee referred to in Article 7(1).

2. Confidential statistical data transmitted to Eurostat shall be accessible only to officials of Eurostat and may be used by them exclusively for statistical purposes.

3. However, the Commission may grant access to confidential statistical data to other staff of Eurostat and other natural persons working on the premises of Eurostat under contract, in special cases and exclusively for statistical purposes. The procedures for such access shall be determined by the Commission in accordance with the procedure referred to in Article 7(2).

4. Confidential statistical data in Eurostat's possession may be disseminated only when combined with other data in a form which ensures that statistical units cannot be identified either directly or indirectly.

5. Officials and other staff of Eurostat and other natural persons working on the premises of Eurostat under contract may not use or distribute these data for purposes other than those laid down in this Regulation. This prohibition shall continue to apply following transfer, termination of service or retirement.

6. The protection measures referred to in paragraphs 1 to 5 shall apply to:

(a) all confidential statistical data the transmission of which to Eurostat is covered by an act of Community law governing a Community statistic;

(b) all confidential statistical data transmitted voluntarily by Member States to Eurostat.

Article 6

Member States shall, before 1 January 1992, take appropriate measures to curb any violations of the obligation to maintain the secrecy of confidential statistical data transmitted in accordance with Article 3. These measures shall concern at least violations committed in the territory of the Member State concerned, by officials or other staff of Eurostat and by the other natural persons working under contract on the premises of Eurostat.

Member States shall inform the Commission without delay of the measures taken. The Commission shall pass on this information to the other Member States.

Article 7

1. The Commission shall be assisted by a Committee on Statistical Confidentiality, hereinafter referred to as 'the Committee'.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

Article 8

The Committee shall examine questions raised by its chairman, either on his own initiative or at the request of the representative of a Member State, relating to the implementation of this Regulation.

Article 9

Regulation (Euratom, EEC) No 1588/90, as amended by the regulations set out in Annex I, is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

Article 10

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Strasbourg, 22 October 2008.

For the European Parliament	*For the Council*
The President	*The President*
H.-G. PÖTTERING	J.-P. JOUYET

ANNEX I

Repealed Regulation with its successive amendments

Council Regulation (Euratom, EEC) No 1588/90 (OJ L 151, 15.6.1990, p. 1).	
Council Regulation (EC) No 322/97 (OJ L 52, 22.2.1997, p. 1).	Only Article 21(2)
Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).	Only Annex II, point 4

ANNEX II

CORRELATION TABLE

Regulation (Euratom, EEC) No 1588/90	This Regulation
Article 1(1) first and second indents	Article 1(1)(a) and (b)
Article 1(2)	Article 1(2)
Article 2(1) to (10)	Article 2(a) to (j)
Article 3(1)	Article 3(1)
Article 3(2)	Article 3(2)
Article 3(3) first subparagraph	—
Article 3(3) second subparagraph	Article 3(3)
Article 3(4)	Article 3(4)
Article 4(1)	Article 4(1)
Article 4(2)	Article 5(6)
Article 4(3)	Article 4(2)
Article 5(1) to (5)	Article 5(1) to (5)
Article 6	Article 6
Article 7(1) and (2)	Article 7(1) and (2)
Article 7(3)	—
Article 8	Article 8
—	Article 9
Article 9	Article 10
—	Annex I
—	Annex II