

**Proposal for a Council Regulation (EC) on Community action in the field of statistics**

(94/C 106/05)

(Text with EEA relevance)

COM(94) 78 final — 94/0026(CNS)

*(Submitted by the Commission on 10 March 1994)*

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 213 thereof,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the European Monetary Institute,

Whereas for the design, implementation, monitoring and assessment of the policies laid down in the Treaty establishing the European Community, the Community must be able to base its decisions on Community statistics which are up-to-date, reliable, pertinent and comparable between Member States;

Whereas to ensure the feasibility, coherence and comparability of Community statistics, collaboration and coordination must be reinforced between those institutions which contribute to the production of such information at both national and Community level;

Whereas these institutions must show the greatest impartiality and professionalism in the production of Community statistics, respecting the same principles of behaviour and professional ethics;

Whereas the Agreement on the European Economic Area provides for the production and dissemination of that statistical information which is necessary for knowing and monitoring all the economic, social and environmental aspects of European integration;

Whereas the UN Economic Commission for Europe adopted a resolution on 15 April 1992 on the fundamental principles of official statistics;

Whereas to prepare and carry out priority Community statistical activities, both medium- and short-term statistical programmes must be implemented which take account of available resources at both national and Community level;

Whereas the specific aspects of the Community statistical organization, which is based on national statistical systems that both underpin it and extend it, require particularly close collaboration within the Statistical Programme Committee, established by Decision 89/382/EEC, Euratom<sup>(1)</sup> in respect of the legal instruments which must be drawn up to guide the operation and development of this organization;

Whereas, in preparing medium- and short-term statistical programmes, the Committees instituted by the Council of the European Union in their given statistical fields must carry out the functions with which they have been entrusted;

Whereas the organization proposed in this Regulation respects the principle of subsidiarity as defined in Article 3b of the Treaty establishing the European Community, since it implements the rules and principles that all the Member States must observe to ensure the comparability of Community statistics and defines the division of responsibility between national and Community statistical authorities with a view to attaining maximum efficiency in carrying out the statistical programme; whereas the objectives of the proposed action cannot be sufficiently achieved by the Member States alone because only the Commission can make proposals and coordinate the harmonization of the statistical information at Community level;

Whereas Community statistics must be given widespread dissemination to satisfy the right to information of all citizens, which is one of the bases of democracy in the Member States;

<sup>(1)</sup> OJ No L 181, 28. 6. 1989, p. 47.

Whereas it is important to protect the confidential information which the national and Community statistical authorities must collect for the production of Community statistics, in order to gain and maintain the confidence of the parties responsible for providing this information; whereas the confidentiality of statistical information must satisfy the same set of principles in all the Member States;

Whereas the specific rules of processing personal data in the framework of implementing the Community statistical program have to be consistent with legislative measures taken at Union level with regard to the processing of personal data and the free movement of such data;

Whereas the Treaty establishing the European Community has conferred certain statistical responsibilities on the European Monetary Institute, which it shall exercise without seeking or taking instructions from Community institutions or bodies, from any government of a Member State, or from any other body; whereas it is important to ensure appropriate coordination between the relevant activities of the institutions at national and Community level which contribute to the production of Community statistics on the one hand, and the activities of the European Monetary Institute on the other;

Whereas the provisions in this Regulation constitute one stage in creating a Community statistical system;

Whereas the following committees have been consulted:

- the Statistical Programme Committee,
- the Committee on Monetary, Financial and Balance of Payments Statistics, established by Decision 91/115/EEC <sup>(1)</sup>,
- the European Advisory Committee for Statistical Information in the Economic and Social Spheres, established by Decision 91/116/EEC <sup>(2)</sup>,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

#### COMMUNITY ACTION IN THE FIELD OF STATISTICS

##### Article 1

##### Objectives and parties responsible for implementation

1. Community action in the field of statistics is designed to produce Community statistics systematically for the formulation, application, monitoring and

assessment of Community policies and to provide these statistics regularly to the Community institutions, governments, social and economic operators, academic circles and the public in general (users).

2. Community action in the field of statistics shall be implemented by the statistical institutes and the other authorities responsible for producing Community statistics as defined in Article 2 at national level (national authorities) and Community level (Community authority).

3. By Community authority is meant the department laid down in a Commission decision to carry out the statistical tasks delegated to it by the Treaty or secondary legislation.

4. The European Monetary Institute and the national central banks do not participate in Community action in the field of statistics. Article 8 defines the cooperation between the Commission and the European Monetary Institute.

#### Article 2

##### Production of Community statistics

1. Community statistics are quantitative, aggregated and representative information taken from the collection and systematic processing of data, the production of which is provided for in the multiannual Community statistical programme and which are governed by the decision-making procedures defined in this Regulation.

2. To guarantee the comparability of results, Community statistics shall be produced on the basis of uniform standards and, where appropriate, of harmonized methods.

3. The production process for Community statistics shall encompass all the activities necessary for the preparation, collection, storage, processing, compilation, analysis and dissemination of the statistical information.

#### CHAPTER II

#### THE COMMUNITY STATISTICAL PROGRAMME

##### Article 3

##### Decision-making procedure for the multiannual Community statistical programme

1. The Community statistical programme shall define the approaches, the main fields and the objectives of the activities envisaged for a period not exceeding five years, and constitute the framework for the production of all Community statistics; it may be updated periodically.

<sup>(1)</sup> OJ No L 59, 6. 3. 1991, p. 19.

<sup>(2)</sup> OJ No L 59, 6. 3. 1991, p. 21.

2. In accordance with Article 105 (4) of the Treaty establishing the European Community, the European Monetary Institute shall be consulted on the proposal for the Community statistical programme and for its updates. The Commission shall take the requirements of the European Monetary Institute into consideration as far as possible.

3. The Commission shall submit the guidelines for establishing the Community statistical programme for examination by the Statistical Programme Committee (SPC) and, where appropriate, the European Advisory Committee for Statistical Information in the Economic and Social Spheres and the Committee on Monetary, Financial and Balance of Payments Statistics.

#### *Article 4*

##### **Annual Community work programmes**

1. To carry out the multiannual Community statistical programme, annual work programmes shall be drawn up each year.

2. In the first half of each year, the Commission shall present for examination by the SPC the guidelines for implementing the Community statistical programme, particularly the priorities envisaged for the actions to be undertaken. These priorities shall take account of financial constraints at both national and Community level and of the Community legal provisions governing such actions.

The Commission shall pay the utmost attention to the comments from the SPC and take the follow-up action it considers the most appropriate.

### **CHAPTER III IMPLEMENTATION**

#### *Article 5*

##### **Bases for Community statistics**

1. The statistics produced under the Community statistical programme shall be implemented as specific statistical actions, governed by Community provisions or by free cooperation between the Member States and the Commission.

2. Specific statistical actions

- which do not last for more than one year, and
- for which data collection must be from administrative and statistical data already available or which can be supplied by the competent national authorities, or from data which can be collected directly, the additional cost of which at national level is borne by the Community,

shall be laid down by the Commission in accordance with the procedure defined in Article 20 (3).

3. The Commission shall lay down the implementing provisions for the other specific statistical actions in accordance with the procedure defined in Article 20 (2).

#### *Article 6*

##### **Contents of specific actions**

1. When Community statistics are governed by Community provisions, the latter must define the parameters necessary to obtain the quality level required, i.e. the statistical units and group of respondents concerned, the topics to which the survey characteristics relate, survey coverage and frequency.

2. When Community statistics are the product of free cooperation between the Member States and the Commission, no obligation shall arise for the individuals or other statistical units to provide information, unless such an obligation is laid down in national legislation.

#### *Article 7*

##### **Division of responsibilities**

Implementing the specific statistical actions shall come under the responsibility of national authorities unless otherwise stated in the legal provisions governing a particular set of statistics. If national authorities do not accomplish this task, these statistics may be produced by the Community authority with the agreement of the national authority concerned.

#### *Article 8*

##### **Cooperation between the Commission and the European Monetary Institute**

To guarantee the coherence necessary to produce statistics meeting their respective information requirements, the Commission and the European Monetary Institute shall cooperate closely, taking due account of the principles defined in Article 9. The Committee on Monetary, Financial and Balance of Payments Statistics shall take part, within the limits of its competence, in this process of cooperation.

### **CHAPTER IV PRINCIPLES**

#### *Article 9*

##### **Principles**

1. In order to ensure the best possible quality in both deontological and professional aspects, Community statistics shall be founded on the principles of impartiality,

reliability, pertinence, cost-effectiveness, statistical confidentiality and transparency.

2. For the purposes of this Regulation, these principles are defined as follows:

*impartiality:* Community statistics shall be produced in an objective, scientific and unbiased manner, uninfluenced by any pressure from political or other interest groups, particularly as regards the selection of scientific techniques, definitions and methodologies best suited to the attainment of the objectives laid down in this Regulation. Once the statistics have been compiled, the results shall be made available to all users with a minimum of delay and so as to respect the principle of impartiality in such dissemination;

*reliability:* Community statistics must reflect as faithfully as possible the reality which they are designed to analyse. The users shall be informed of the sources, methods and procedures utilized;

*pertinence:* Community statistics shall cover fields and be produced on a scale in relationship to clearly defined Community requirements and data collection shall be limited to what is necessary for attaining the desired results. National and Community authorities must keep abreast of new demographic, economic, social and environmental developments at all times and propose measures required to analyse important fields and to abandon the production of information which has become of no interest for Community objectives.

*cost-effectiveness:* Community statistics shall be produced by making optimum use of all available resources and minimizing the burden on respondents. The amount of work and the costs which the production of Community statistics imposes on national and Community authorities and are involved in surveys must be in proportion to the importance of the results/benefits sought;

*statistical confidentiality:* Individual data on natural persons and socio-professional operators which are obtained directly for statistical purposes or indirectly from administrative or other sources shall be protected against any non-statistical utilization and unauthorized disclosure;

*transparency:* Parties responsible for providing statistical data shall have the right to be given information on the legal basis, the purposes for which the data are required and the protective measures applied. The authorities responsible for collecting Community statistics shall take every step to supply such information.

3. National and Community statistical authorities shall be bound to respect these principles in implementing Community action in the field of statistics.

## CHAPTER V DISSEMINATION

### Article 10

#### Function

1. Dissemination is taken to mean all ways of making Community statistics which are not subject to statistical confidentiality accessible to users.

2. Community statistical information shall be disseminated so that access to it is simple and impartial throughout the European Community.

### Article 11

#### Cooperation between the national and Community statistical authorities

1. The Community and national statistical institutes shall have access to all the Community statistics available within the national and Community authorities and not subject to statistical confidentiality; they shall be authorized to use these data for dissemination purposes.

2. All the other statistical authorities shall be responsible, in their own spheres of competence, for disseminating the results derived from the data they themselves collect and store.

3. The division of responsibilities between national authorities within each Member State may be arranged out differently depending on the legislation or national practices in effect.

4. The conditions of access for users shall be governed by the tariff policy of each authority and based on mutual information and cooperation between national and Community statistical authorities.

### Article 12

#### Organization of dissemination

All the implementing measures necessary, particularly as regards the organization of dissemination, information and mutual cooperation between the national and Community authorities, shall be laid down by the Commission after consulting the SPC in accordance with the procedure referred to in Article 20 (2).

## CHAPTER VI

## STATISTICAL CONFIDENTIALITY

*Article 13***Definitions**

Community statistical data used by national and Community authorities shall be considered confidential when they allow statistical units to be identified, either directly or indirectly, thereby disclosing individual information, except where these statistical data have been taken from sources available to the public.

*Article 14***Data flow between national and Community statistical authorities (cooperation)**

1. Transmission by the competent national authority to other national authorities, or to the Community authority defined in Article 1 (3), of confidential data which do not allow direct identification shall be permissible barring any provision to the contrary laid down in the act of Community law governing the Community statistic for which the data concerned have been collected, and to the extent that this transmission is necessary for the production of specific Community statistics.

2. Confidential statistical data, transmission of which is covered by an act of Community law governing a Community statistic, shall be transmitted by the national authorities pursuant to 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<sup>(1)</sup>.

*Article 15***Use of confidential data**

Confidential data collected exclusively for statistical purposes shall be used by national and Community authorities exclusively for statistical purposes.

*Article 16***Access to administrative data and use of these data**

The national and Community authorities shall have access, in their own spheres of competence, to extracts from the administrative registers covering the fields of activity of their public administrations to the extent that these data are necessary for the production of Community statistics, thereby avoiding putting the response burden on the units surveyed.

<sup>(1)</sup> OJ No L 151, 15. 6. 1990, p. 1.

*Article 17***Access for scientific purposes and other statistical purposes**

Access to confidential data which do not allow direct identification may be granted to scientific research institutes, researchers and authorities responsible for the production of statistics other than Community statistics if, under national legislation, the same standard of protection against non-statistical use and any disclosure is ensured in compliance with the measures laid down in Article 18.

*Article 18***Protective measures**

1. All regulatory, administrative, technical and organizational measures shall be taken at national and Community level to ensure the physical and logical protection of confidential data and to ensure that no illegal disclosure shall occur when Community statistics are disseminated.

2. The members of the national and Community statistical authorities having access to data subject to Community legislation which imposes statistical confidentiality shall be subject to this ruling, even after the cessation of their functions.

*Article 19***Committee on Statistical Confidentiality**

All the measures necessary for the implementation of this chapter, particularly those designed to ensure that all the national and Community authorities apply the same standards for avoiding disclosure of confidential Community statistical data, shall be laid down in accordance with the procedure defined in Article 21 (2).

## CHAPTER VII

## FINAL PROVISIONS

*Article 20***Functioning of the Statistical Programme Committee**

1. The Commission shall be assisted by the Statistical Programme Committee established by Article 1 of Decision 89/382/EEC, Euratom.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty establishing the European Community in the case of decisions which the Council of

the European Union is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if they are not in accordance with the opinion of the Committee, these measures shall be communicated by the Commission to the Council of the European Union forthwith.

In that event:

- the Commission shall defer application of the measures which it has decided for a period of three months from the date of referral to the Council of the European Union;
- the Council of the European Union, acting by a qualified majority, may take a different decision within the time limit referred to in the previous indent.

3. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty establishing the European Community in the case of decisions which the Council of the European Union is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council of the European Union a proposal relating to the measures to be taken. The Council of the European Union shall act by a qualified majority.

If on the expiry of a period of three months from the date of referral the Council of the European Union has not acted, the proposed measures shall be adopted by the Commission.

#### *Article 21*

##### **Functioning of the Committee on Statistical Confidentiality**

1. The Commission shall be assisted by the Committee on Statistical Confidentiality established pursuant to Article 7 of Regulation (Euratom, EEC) No 1588/90.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty establishing the European Community in the case of decisions which the Council of the European Union is required to adopt on a proposal from the Commission. The votes of the Member states within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if they are not in accordance with the opinion of the Committee, these measures shall be communicated by the Commission to the Council of the European Union forthwith.

In that event:

- the Commission shall defer application of the measures it has decided for a period of three months from the date of referral to the Council of the European Union;
- the Council of the European Union, acting by a qualified majority, may take a different decision within the period specified in the previous indent.

#### *Article 22*

##### **Repealing provision**

Article 2 (1) of Regulation (Euratom, EEC) No 1588/90 is hereby repealed.

#### *Article 23*

##### **Entry into force**

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

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