

I

(Resolutions, recommendations and opinions)

OPINIONS

EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK

of 14 November 2007

at the request of the Council of the European Union on a proposal for a regulation of the European Parliament and of the Council on European statistics

(CON/2007/35)

(2007/C 291/01)

Introduction and legal basis

On 8 November 2007, the European Central Bank (ECB) received a request from the Council of the European Union for an opinion on a proposal for a regulation of the European Parliament and of the Council on European statistics ⁽¹⁾ (hereinafter the 'proposed regulation').

The ECB's competence to deliver an opinion is based on the first indent of Article 105(4) of the Treaty establishing the European Community. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the ECB, the Governing Council has adopted this opinion.

1. General observations

- 1.1 The ECB welcomes the proposed regulation as it acknowledges the existence of two parallel and complementary regimes for the production of European statistics and at the same time recognises the ESCB's independence in the pursuit of its statistical functions (recitals 7 and 8). The ECB also welcomes the reference, in recital 9, to the important advisory role played by the Committee on monetary, financial and balance of payments statistics (CMFB).
- 1.2 The ECB also notes with satisfaction that the proposed regulation recognises the need for close cooperation between the ESS and the ESCB in the development, production and dissemination of European statistics produced by both systems (Article 8). In this respect, the ECB notes that the requirement for the ESS and the ESCB to cooperate closely, as indicated in recital 6 of the proposed regulation, will operate within the primary law framework applicable to the ESCB under the Treaty. In particular Article 5 of the ESCB Statute provides that, in order to undertake the ESCB's tasks, the ECB, assisted by the national central banks, collects the necessary statistical information either from the competent national authorities or directly from economic agents, and that for these purposes it cooperates with the Community institutions or bodies and with the competent authorities of the Member States.
- 1.3 Furthermore, the ECB welcomes that Article 20(3) of the proposed regulation addresses the issue of the exchange of confidential data, for statistical purposes only, between the ESS and the ESCB. It is widely accepted that an enhanced exchange of confidential information between the ESS and the ESCB is increasingly necessary to ensure the quality and consistency of European statistics, while minimising the burden on respondents. This can be done by asking for the same data only once, and sharing them among the statistical authorities that need them while maintaining strict confidentiality provisions.

⁽¹⁾ COM(2007) 625.

However, the ECB is of the view that, contrary to what is currently stated in Article 20(3), such an exchange should not be made dependent on the enactment of further, sectoral legal acts that would need to explicitly authorise such exchanges of confidential statistical information. In order to ensure an efficient and effective exchange of the necessary statistical information, the legal framework should foresee that such a transmission can take place provided that it is necessary for the efficient development, production or dissemination of European statistics, following the example of Article 20(1) of the proposed regulation which regulates the exchange of confidential statistical information *within* the ESS.

- 1.4 The ECB underlines that it is important to obtain full legal access to all required existing data in order to reduce the burden on respondents. This is also referred to in Article 23 (Access to administrative records) of the proposed regulation. However, the ECB suggests that the legal framework needs to provide for the determination of practical arrangements and 'modalities' for achieving effective access, rather than the 'limits and conditions', as that suggests an unwarranted restriction of such access.
- 1.5 Article 253 of the Treaty provides that regulations adopted jointly by the European Parliament and the Council must refer to any opinions which were required to be obtained pursuant to the Treaty. The ECB would therefore suggest that the recitals to the proposed regulation have regard to this opinion of the ECB.

2. Drafting proposals

Where the ECB's advice would lead to changes in the proposed regulation, drafting proposals are set out in the Annex.

Done at Frankfurt am Main, 14 November 2007.

The Vice-President of the ECB

Lucas D. PAPADEMOS

ANNEX

DRAFTING PROPOSALS

Text proposed by the Commission

Amendments proposed by the ECB ⁽¹⁾

Amendment 1

Article 20 — Transmission of confidential data

1. Transmission between the national authorities and between the national authorities and the Commission (Eurostat), of confidential data may take place provided that this transmission is necessary for the development, production and dissemination of European Statistics. Any further transmission must be explicitly authorised by the national authority that collected the data.
2. National rules on statistical confidentiality may not be invoked to prevent the transmission of confidential data where an act of Community law provides for the transmission of such data.
3. The exchange of confidential data for statistical purposes between the ESS and the ESCB may take place where deemed necessary for the development, production and dissemination of European or ESCB Statistics and if explicitly provided for in Community law.
4. The protection measures provided for in this Regulation shall apply to all confidential data transmitted within the ESS and between the ESS and the ESCB.

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- ~~3-2.~~ ~~The exchange of confidential data for statistical purposes between the~~ **Transmission from an ESS statistical authority to and the an ESCB central bank of confidential data** may take place ~~where deemed~~ **provided that this transmission is** necessary for the **efficient** development, production ~~and~~ or dissemination of European or ESCB statistics **referred to in Article 285 of the Treaty and Article 5 of the Statute of the ESCB and the ECB and if explicitly provided for in Community law.**
- ~~2-3.~~ National rules on statistical confidentiality may not be invoked to prevent the transmission of confidential data **under paragraphs 1 and 2**, where an act of Community law provides for the transmission of such data.
4. **If confidential data are transmitted by an ESCB central bank to an ESS statistical authority in accordance with Council Regulation (EC) No 2533/98 of 23 November 1998 concerning the collection of statistical information by the European Central Bank ⁽²⁾, these data shall be used exclusively for the development, production or dissemination of European statistics referred to in Article 285 of the Treaty and Article 5 of the Statute of the ESCB and the ECB.**
5. **Without prejudice to paragraph 2**, [a]ny further transmission of confidential data outside the ESS must be explicitly authorised by the national authority that collected the data.
- ~~4-6.~~ The protection measures provided for in this Regulation shall apply to all confidential data transmitted within the ESS and between the **ESS statistical authorities** and the **ESCB central banks**.

Justification — See paragraph 1.3 of the opinion

Amendment 2

Article 23 — Access to administrative records

In order to reduce the burden on respondents, the national authorities and the Commission (Eurostat) shall have access to administrative data sources, each in the fields of activity of their own public administrations, to the extent that these data are necessary for the development, production and dissemination of European Statistics.

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⁽¹⁾ Bold in the body of the text indicates where the ECB proposes inserting new text. Strikethrough in the body of the text indicates where the ECB proposes deleting the text.

⁽²⁾ OJ L 318, 27.11.1998, p. 8.

The practical arrangements and the limits and conditions for achieving effective access shall be determined where necessary by each Member State and the Commission in their respective spheres of competence.

The practical arrangements and ~~the limits and conditions~~ **modalities** for achieving effective access shall be determined where necessary by each Member State and the Commission in their respective spheres of competence.

Justification — See paragraph 1.4 of the opinion

Amendment 3

Having regard to the proposal from the Commission,
After consulting the European Data Protection Supervisor,

Having regard to the proposal from the Commission,
Having regard to the opinion of the European Central Bank,
After consulting the European Data Protection Supervisor,

Justification — See paragraph 1.5 of the opinion
