



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.3.2007
COM(2007) 76 final

2007/0033 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on quarterly statistics on Community job vacancies

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

In order to satisfy users' demands for job vacancy statistics, Eurostat intends to establish a legal basis for the collection of job vacancy data.

The Commission and the European Central Bank need to receive quarterly data on job vacancies rapidly in order to monitor short-term changes in job vacancies by economic activity. Job vacancies are included in the set of Principal European Economic Indicators (PEEIs) and are needed for the assessment of labour market conditions in the EU / Euro area under the EMU Action Plan.

The development of good quality statistics on job vacancies is firmly fixed as a priority for the Council. The European Council of March 2005 re-launched the Lisbon strategy, calling for action, in particular, to attract more people into the labour market and to create more jobs, thus reinforcing the need for better information on labour demand. A structural indicator of job vacancies has been listed by the Employment Committee to be developed and published as a measure of labour market tightness and skill shortages.

Structural data on job vacancies are required by the Commission in the context of the European Employment Strategy for monitoring and analysis of the level and structure of labour demand and for identifying labour shortages, bottlenecks and mismatches by region, sector of economic activity and occupation as reflected in the Integrated Guidelines for Growth and Jobs (2005-2008), including the Broad Economic Policy Guidelines and the Employment Guidelines.

Furthermore, job vacancy statistics are also collected for national purposes, to help the national authorities to assess and monitor the labour market and as a support in the decision making procedure for labour market policies.

- **General context**

National data on job vacancies and posts occupied have been collected since 2003 under a gentlemen's agreement. Even though this agreement initially proved useful, experience has shown that it is not capable of meeting users' needs. For the quarterly data collection, neither the ECB requirements in terms of coverage, timeliness and harmonisation, nor the Commission's demand for structural data are being satisfied. For the time being only a very limited number of countries are transmitting annual data, with a very heterogeneous level of detail and reduced comparability.

A legal basis provides for a mechanism to achieve a comparable methodological basis for a significant set of short-term and structural statistics within a clear time frame. The development of an appropriate European legal framework was also requested by the Ecofin Council in the Status Report on Information Requirements in EMU of November 2005. In addition, a number of Member States need a legal basis in order to be able to continue with the collection of data on job vacancies.

- **Existing provisions in the area covered by the proposal**

There are no existing provisions in the area covered by the proposal.

- **Consistency with other policies and objectives of the Union**

Not applicable.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

Written consultation and discussions in working groups have been conducted with authorised delegates representing the Member States of the National Statistical System in the Labour Market Working Group meetings held in October 2005 and March 2006.

The proposal for a Regulation was presented to the Statistical Programme Committee (SPC) for an opinion in May 2006. In summary, the SPC expressed its general support for the proposal as regards quarterly statistics. However, Member States had strong reservations about the scope and the level of detail of the annual breakdowns.

Summary of responses and how they have been taken into account

Following the SPC opinion, the Regulation was amended, in particular in relation to the collection of annual structural data, which are now excluded from this legal text. The revised proposal for a Regulation of the EP/Council has the broad support of the Directors-General of the National Statistical Offices and the ECB. All Member States agreed on the importance of having a clear and appropriate legal framework for the collection of quarterly job vacancy data.

The policy need for annual structural job vacancy statistics will continue to be dealt with in the short term on a gentlemen's agreement basis. In the medium term, and based on the experience of the regulation on quarterly data, consideration should be given to the possibility of a new regulation to cope with the demands for annual data.

- **Collection and use of expertise**

Scientific/expertise domains concerned

The national representatives meeting in Eurostat's Labour Market Statistics Working Group and the members of the Task Force on Job Vacancies are experts with knowledge and experience in the field of job vacancies and labour market statistics.

Methodology used

The document has benefited from the work done by the Task Force set up with the aim of establishing a legal basis for job vacancy statistics. In addition, the draft proposal was discussed in Eurostat's Labour Market Statistics Working Group, where additional comments, in particular with regard to burden reduction, i.e. reducing the scope of

economic activities to be covered and introducing the possibility of using additional sources other than a survey to collect job vacancy data, were taken on board. A revised version has been drafted, which includes ways of lightening the burden for businesses and Member States without affecting quality, such as the use of administrative sources and, in specific cases, limiting the scope of economic activities to be covered, excluding agricultural, fishing and forestry activities. As regards other comments received during the process, the majority of them have been taken into consideration and have contributed to clarifying, refining and improving the proposed text.

Main organisations/experts consulted

The experts were from the national Ministries of Labour and/or the national statistical institutes.

Summary of advice received and used

Most of the suggestions concerned definitions to be used, sources and comments on the feasibility of the information requested. The contributions from the experts participating in the Task Force and Working Group are fully reflected in the text of this proposal for a Regulation.

Means used to make the experts' advice publicly available

The minutes containing the results of the experts' discussions in the Working Groups and Task Forces, together with other reference documents, are available on CIRCA, the Communication and Information Resource Centre Administrator of the Commission. The same will be done with any other relevant information that comes to light.

• **Analysis of effects and consequences**

A number of options for job vacancy statistics in Europe have been identified.

Option A: Continuation of the collection of data on job vacancies under the gentlemen's agreement.

Option B: A single EP/Council regulation on Community job vacancy statistics that will establish a common framework for quarterly and annual job vacancy statistics, to be developed in two Commission regulations, with a series of implementing measures specific to needs.

Option C: A single EP/Council regulation on Community quarterly job vacancy statistics and continuation of the collection of data on annual job vacancy statistics under the gentlemen's agreement.

Option D: Two proposals for EP/Council regulations, one for quarterly job vacancy statistics and the other for annual job vacancy statistics. Each of them will be followed by an implementing regulation.

Given the outcome of the consultation, the option preferred by the European Statistical System (ESS) is Option C, namely a single EP/Council regulation on Community quarterly job vacancy statistics to be complemented by annual structural data collected on the basis of a gentlemen's agreement. The adoption of the legal act would guarantee

the production of harmonised and high-quality quarterly statistics needed for comparisons across Member States, ensuring continuity and consistency in quarterly data collection. This solution is efficient, flexible and will be less burdensome than Options B or D. In addition, Option C should lead to speedier adoption of the regulation, given the Member States' commitment as regards quarterly data.

Option A is the current situation. Some minor improvements could still be achieved under the grant policy, but continuing with the voluntary basis will mean accepting the current weakness of these statistics and ignoring users' need for a legal basis. Furthermore, the countries that require a regulation in order to continue the data collections will be permanently excluded from the exercise.

Option B gives a better statistical response to users' needs, including those of the Commission for annual structural data, and would ensure greater consistency between quarterly and yearly statistics. However, taking into account the opinions expressed by Member States, and the complexity and difficulties in implementing this option, reaching agreement on this regulation is likely to be an extremely long and difficult process, and one that is not conducive to securing the rapid adoption of a regulation on quarterly statistics.

Option D would be a suitable approach as it satisfies users' requirements, but it has disadvantages compared with Option C, in particular in terms of efficiency and workload. However, this option should be reconsidered in the medium term, after the experience with quarterly statistics has been evaluated.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The intention of this legal basis is to establish a legal framework to cover current and identifiable future activities in the field of quarterly job vacancy statistics. This includes, in particular, guaranteeing a harmonised data collection to satisfy the demand from users in this area. The proposal for a Regulation respects the principles set out in the European Statistics Code of Practice, in particular the principle of cost-effectiveness, and special measures have been taken to minimise the burden on businesses and National Statistical Offices.

The EP/Council Regulation needs to be complemented by an implementing regulation.

- **Legal basis**

Article 285 provides the legal basis for Community statistics. The Council, acting in accordance with the co-decision procedure, shall adopt measures for the production of statistics where necessary for the performance of the activities of the Community. This article sets out requirements relating to the production of Community statistics and requires conformity to standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

- **Subsidiarity principle**

The objective of the proposed action, namely the production of Community job vacancy statistics, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level on the basis of a Community legal act, because only the Commission can coordinate the necessary harmonisation of statistical information at Community level, while the collection of data and compilation of comparable job vacancy statistics can be organised by the Member States. Consequently, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

In accordance with the principle of proportionality this Regulation confines itself to the minimum required to achieve this objective and does not go beyond what is necessary for that purpose.

There will be an increase in costs, particularly in the initial stage of the implementation and mainly for those countries that are not conducting job vacancy surveys for the time being, or for those that need to adapt their surveys to meet the legal requirements. However, with Community financial support the costs involved could be limited.

With regard to the increase of the burden, the extent of this impact has been limited by careful preparation, respecting the principle of cost efficiency and implementation of the legislative measures, i.e. the use of administrative sources which satisfy quality criteria, exclusion of some economic activities that are marginal and the possibility of having feasibility studies carried out by Member States that have difficulty in providing data for some specific sectors and / or small units.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be appropriate for the following reason(s):

It is generally acknowledged that an EP/Council regulation is appropriate for the majority of statistical activity that requires detailed and uniform application throughout the Community.

A regulation is preferable to a directive as a basic act because, unlike a directive, a regulation lays down the same law throughout the Community, leaving the Member States with no powers to apply it partially or selectively and no choice in the form and methods to be used to attain its objectives. Moreover, a regulation is directly applicable, which means that it does not need to be transposed into national law, thus avoiding the delays associated with transposition of directives into national legislation. It also leads to better and faster legislation.

4) BUDGETARY IMPACT

Financial provisions included in the Regulation should help Member States during the start-up phase to launch new statistics in this area or to complete work already undertaken under the gentlemen's agreement to improve the quality of short-term data collections and to meet users' requirements.

The financing will be covered by the Community Programme for Employment and Social Solidarity – PROGRESS, adopted by Decision 1672/2006 of the European Parliament and of the Council of 24 October 2006. Under Section 1. Employment, the financing of the relevant actions, including statistical actions, has been specifically mentioned, cf. "improving the understanding of the employment situation and prospects, in particular through analysis and studies and the development of statistics and common indicators within the framework of the ESS". The budgetary impact in commitment and payment appropriations related to these actions has been estimated at EUR 4.5 million for the period 2008-2010.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on quarterly statistics on Community job vacancies

(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(1) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee² and to the opinion of the European Central Bank³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty

After consulting the Statistical Programme Committee,

Whereas:

- (1) The Council held in Brussels on 8 December 2003 endorsed in its conclusions⁴ a structural indicator on job vacancies to be developed and published.
- (2) The Action Plan on EMU Statistical Requirements⁵ and the subsequent progress reports⁶ on the implementation of that plan identify as a priority the development of a legal basis covering job vacancy statistics.
- (3) The Employment Committee, established by Council Decision 2000/98/EC⁷, has agreed that an indicator for job vacancies is needed in order to monitor the European Employment Strategy laid down in Council Decision 2005/600/EC of 12 July 2005 on the Guidelines for the employment policies of the Member States⁸.
- (4) Decision 1672/2006/EC of 24 October 2006 the European Parliament and of the Council on a Community Programme for Employment and Social Solidarity –

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ Council conclusions, 15875/03.

⁵ Commission Action Plan on EMU Statistical Requirements, CS/2000/11655

⁶ Status Reports on Information Requirements in EMU; CS/2001/13388, CS/2003/6016 and CS/2005/13894

⁷ OJ L 29 of 4.2.2000, p. 21

⁸ OJ L 205, 6.8.2005, p.21

PROGRESS⁹, provides for the financing of the relevant actions including, as specified therein, the "improving the understanding of the employment situation and prospects, in particular through analysis and studies and the development of statistics and common indicators within the framework of the EES".

- (5) Data on job vacancies broken down by economic activity, among other characteristics, are required by the Commission in the framework of the European Employment Strategy for monitoring and analysis of the level and structure of labour demand.
- (6) Rapid quarterly data on job vacancies are required by the Commission and by the European Central Bank for monitoring short-term changes in job vacancies. Seasonally-adjusted job vacancy data facilitate the interpretation of quarterly changes.
- (7) Data provided on job vacancies should be relevant including completeness, accurate including coverage, timely, coherent, comparable and readily accessible by users.
- (8) The benefits of collecting, at Community level, complete data on all segments of the economy should be balanced against the reporting possibilities of and the response burden on small and medium-sized enterprises in particular.
- (9) For determining the scope of the statistics to be compiled and the level of detail required by economic activity, it is necessary to apply the version of the common classification system for economic activities in the Community, NACE, that is currently in force.
- (10) Since the objectives of the proposed action, namely the production of Community job vacancy statistics, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.
- (11) In the production and dissemination of Community statistics under this Regulation, the national and Community statistical authorities should take account of the principles set out in the European Statistics Code of Practice, which was adopted by the Statistical Programme Committee¹⁰ on 24 February 2005 and attached to the Recommendation of the Commission on the independence, integrity and accountability of the national and Community statistical authorities¹¹.
- (12) Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics¹² provides the general framework and applies therefore to the production of job vacancy statistics.

⁹ OJ L 315, 15.11.2006, p. 1

¹⁰ OJ L 181, 28.6.1989, p. 47

¹¹ OJ C 172, 12.07.2005, p. 22

¹² OJ L 52, 22.2.1997, p. 1

- (13) The measures necessary for the implementation of this Regulation should 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 Commission¹³.
- (14) In particular, the Commission should be empowered to adopt the implementing measures as regards the domains referred to in Articles 2, 4, 6, 7 and 8 of this Regulation. Since these are measures of general scope designed to amend or delete non-essential elements of this Regulation, or to supplement this Regulation by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EEC,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1. This Regulation lays down the requirements for the regular quarterly production of statistics on Community job vacancies.
2. Each Member State shall submit to the Commission (Eurostat) data on job vacancies at least for business units with one employee or more.

Subject to paragraphs 3 and 4, the statistics shall cover all economic activities defined by the common classification system for economic activities in the Community (NACE) in force, except for the activities of households as employers and the activities of extraterritorial organizations and bodies.

The data shall be broken down by economic activity, according to the NACE in force at section level.

3. The coverage of agriculture, forestry and fishing activities, as defined by the NACE in force, shall be optional for those Member States for which these activities are not relevant in terms of the share of total employment.

The threshold linked to the relevance of the share referred to in the first subparagraph shall be determined in accordance with the procedure referred to in Article 11(2). If necessary and appropriate, the feasibility studies under Article 8 shall be taken into account.

4. The coverage of public administration and defence, compulsory social security, education, human health and social work, arts, entertainments and recreation and activities of memberships organisations, repair of computers and personal and household goods and other personal service activities, as defined by the NACE in force, within the scope of this Regulation, and of units with less than 10 employees shall be determined taking into account the feasibility studies defined in Article 8.

¹³ OJ L 184, 17.7.1999, p. 23, Decision as last amended by Council Decision No 2006/512/EC of 17 July 2006, OJ L 200 of 22.7.2006, p.11

Article 2

Job vacancies

For the purposes of this Regulation, a job vacancy is a paid post either newly created or unoccupied or about to become vacant, for which the employer

- a) is taking active steps and is prepared to take more steps to find a suitable candidate from outside the enterprise concerned, and
- b) intends to fill it either immediately or within a specified period of time;

The concepts 'active steps to find a suitable candidate' and the 'specific period of time' shall be defined in accordance with the procedure referred to in Article 11(2).

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

1. An 'occupied post' means a paid post within the organisation to which an employee has been assigned.
2. Metadata means the explanations needed to interpret the changes in the data arising from either methodological or technical changes.
3. Back data means the historical data covering the specifications given in Article 1.

Article 4

Reference dates and technical specifications

1. Member States shall compile the quarterly data with reference to specific reference dates which shall be determined in accordance with the procedure referred to in Article 11(2).
2. Member States shall provide data on occupied posts in order to standardise job vacancy data for comparative purposes.
3. Member States shall be required to apply seasonal adjustment procedures to the quarterly job vacancy data. The seasonal adjustment procedures required shall be determined in accordance with the procedure referred to in Article 11(3).

Article 5

Sources

1. Member States shall produce the data using business surveys. Other sources, such as administrative data, can be used provided that these are appropriate in terms of quality, in accordance with Article 7.

2. Member States may supplement the sources referred in paragraph 1 with reliable statistical estimation procedures.
3. European sample schemes shall be established and coordinated by the Commission (Eurostat) in order to produce Community estimates where national sample schemes do not meet the Community requirements with regard to quarterly data collection. The details of the schemes, their approval and implementation shall be specified by the procedure laid down in Article 11(3).

Member States may opt to take part in Community sample schemes when such schemes create possibilities for substantial reductions in the cost of the statistical system or the burden on business entailed in meeting the Community requirement.

Article 6

Data transmission

1. Member States shall transmit the data and metadata to the Commission (Eurostat) in a format and within transmission deadlines which shall be determined in accordance with the procedure referred to in Article 11(2). Any revision of quarterly data for previous quarters shall be transmitted at the same time.
2. Member States shall also transmit back data for at least the four quarters previous to the quarter to be supplied in the first data delivery. The totals shall be delivered not later than with the first data transmission, and the breakdowns not more than one year thereafter. Where necessary, back data may be based on 'best estimates'.

Article 7

Quality

1. The statistical quality of data, in particular their relevance including completeness, accuracy including coverage, timeliness, coherence, comparability and accessibility, shall be a fundamental objective and shall be pursued in close cooperation between the Member States and the Commission (Eurostat).

The transmitted current data and back data shall satisfy quality criteria to be defined under the procedure referred to in Article 11(2).

2. Member States shall provide quality reports to the Commission (Eurostat). The timing, frequency and content of the quality reports and the deadlines for submitting the reports shall be determined in accordance with the procedure referred to in Article 11(2).

Article 8

Feasibility studies

1. The Commission (Eurostat) shall set out the appropriate framework for the establishment of a series of feasibility studies in accordance with the procedure referred to in Article 11(2). These studies shall be undertaken by the Member States that have difficulties in providing data for:

a) units with less than 10 employees; and/or

b) the following activities:

- i) agriculture, forestry and fishing activities,
- ii) public administration and defence; compulsory social security,
- iii) education,
- iv) human health and social work,
- v) arts, entertainments and recreation, and
- vi) activities of memberships organisations, repair of computers and personal and household goods and other personal service activities

- 2. The Member States undertaking feasibility studies shall submit a report on the results of those studies within 12 months after the entry into force of the Commission implementing measures referred to in paragraph 1.
- 3. Measures adopted pursuant to the results of the feasibility studies shall respect the principle of cost-effectiveness, as defined in Article 10 of Regulation (EC) No 322/97, including minimisation of the burden on respondents.
- 4. The implementation of measures adopted pursuant to the results of the feasibility studies shall it make possible for data to be transmitted by the first quarter of 2011.

Article 9

Financing

- 1. For the first three years of data collection Member States may receive a financial contribution from the Community towards the cost of the work involved.
- 2. The amount of the appropriations allocated annually for the financial contribution referred to in paragraph 1 shall be fixed as part of the annual budgetary procedures.
- 3. The budget authority shall grant the appropriations available for each year.

Article 10

Implementing measures

The measures necessary for the implementation of this Regulation shall be adopted in accordance with Article 11.

Article 11

Committee

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

2. Where reference is made to this paragraph, the regulatory procedure with scrutiny laid down in Article 5a (1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
3. Where reference is made to this paragraph, the regulatory procedure laid down in Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 12

Report on implementation

Within two years of the entry into force of this Regulation and every three years thereafter, the Commission shall submit a report to the European Parliament and the Council on the implementation of this Regulation. This report shall assess the quality of the statistics provided by Member States and shall identify areas for potential improvement.

Article 13

Entry into force

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

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President