

# A modern legal basis for European statistics

Position paper by the Austrian social partners



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## 1. Preliminary remarks

The relevance of official statistics is now an indisputable fact in Europe, especially when it comes to their importance in the political decision-making process. However, the degree of their importance and their effects in daily administrative events is still underestimated, as we will explain here. Their task is not just to deliver objective, quantified foundations for political scrutiny. In addition, statistics directly become the basis for political and administrative decisions in the European Union as in the Member States. Examples of the direct operative importance of statistical results include the following:

- The level of gross national product (GNP) determines the budget constraint that the Commission has to keep.
- The level of the gross national income of each Member State has a direct bearing on the level of one of the national contribution payments ("fourth source of own resources") to Brussels.
- The VAT base is likewise derived from national account results and also directly determines the level of national contribution payments ("third source").
- Within the framework of the EU Structural Funds, regional growth programmes are encouraged and incentives provided in order to create jobs. With the help of statistical estimators, the set targets convergence, regional competitiveness, employment and European territorial cooperation are established, measured and the level of monetary benefits to the regions affected is determined by these estimators.
- The "Maastricht criteria" are the benchmark for whether the Stability and Growth Pact is adhered to and whether the prerequisites are fulfilled for Member States to enter the Eurozone.
- As part of the Lisbon Strategy, the structural indicators measure for example progress in the following four policy areas of the European Union: employment, innovation, economic reform and social cohesion. As the EC Commission explicitly states, we should therefore monitor progress towards the professed goals and when implementing the policy as well as evaluate the effectiveness of the policy.

To be able to do justice to this operational importance we need to achieve widespread harmonisation, which should be guaranteed by rules of law.

The far-reaching legalisation of official statistics in the European Union determines not only the activities of the Commission's Statistical Office, Eurostat, but also dominates the work of the National Statistical Institutes. For example, over 90% of the work programme of Statistics Austria is characterised by European rules of law, which therefore decide on the necessary budget resources and burdens on enterprises subject to registration and households to a large degree.

The Regulation on Community Statistics represents the European Statistical System's "constitution" and defines Eurostat's work. The revised form of the regulation on Community Statistics should be viewed as an important guiding force that goes far beyond the "statistical/technical" aspect; it regulates above all access to statistical information and

therefore bears significant responsibility for the distribution of power between the Commission, its Member States and citizens.

## 2. New legal framework for Community statistics

The European Commission presented a proposal for a regulation on European statistics on 16 October 2007 in COM(2007)625 final (hereinafter: Community Statistics Regulation). This proposal pursues the following objectives:

- New impetus through revision of the 10-year-old legal basis (Regulation 322/97),
- Need to consolidate the European Statistical System (ESS) in Community law
- Definition of the responsibilities and principles of the ESS (in particular with regard to *Statistical Governance*)
- Better coordination of the ESS by Eurostat
- Increase in ESS efficiency
- Manage increasing information needs
- Balance between scientific interest in statistical information for analytical purposes and confidentiality
- Consolidation of a number of separate texts of statistical legislation (*Better Regulation*).

The discussion on a new “constitution” for statistics in the EU has entered a new, decisive phase with the presentation of a Community Statistics Regulation. The proposal replaces a number of preceding documents like the working group draft (so-called Budapest draft), which was drawn up in conjunction with the Member States and enjoys their broad approval.

The social partners are putting together the key matters of concern for a new Community law for statistics so they are prepared for the discussion expected in the coming months<sup>1</sup>.

## 3. Demands by the social partners vis-à-vis the new Community Statistics Regulation

### 3.1 Basic remarks

The social partners expressly welcome the proposal, which attempts to create the necessary balance between a flexible legal basis and legal certainty for all those concerned. The professional independence of the Statistical Office of the European Communities (Eurostat) as well as equipping it with a kind of veto right over other Commission authorities represent significant progress.<sup>2</sup>

The social partners vigorously call for the express incorporation of a duty to publish all statistical results that Eurostat has at its disposal. Greater stress should be placed in future on the “Code of Practice for Statistical Governance” by including it in the legal text.

The social partners take a critical view of the following points:

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<sup>1</sup> Corresponding amendments for treatment in the European Parliament are being drawn up separately on the basis of this paper.

<sup>2</sup> The proposal stipulates that other Commission authorities should consult Eurostat in case of statistical work. The recommendations of Eurostat should be taken into account.

- The lack of separation from the other Commission authorities and Eurostat's weak coordinating function within the Commission.
- As the main beneficiary of Community statistics is predominantly the European Commission, there is little concern for the needs of other European institutions. This is evident in particular in the "European Approach to Statistics" provided for in the proposal and the "temporary direct statistical actions of the Commission (Eurostat)".
- The proposal does not take the matters of concern of science and research into enough consideration, even though they are essential for the preparation of political decision-making bases.
- The proposal still fails to resolve a fair number of the problems that have existed since the ESS was implemented, like the system's lack of coherence and effectiveness caused by the way in which the separate sections work at Eurostat, which is too isolated.
- Unfortunately, the idea of creating only one European body responsible for statistical matters has not been implemented.

The social partners consider the following improvements to be of particular importance:

### **3.2 Eurostat's role**

Unlike the working group draft (so-called Budapest draft) - which was drawn up in conjunction with the Member States - the Commission proposal leaves the exact definition of "Eurostat" open, for the text only mentions the term "Commission (Eurostat)". In connection with confidentiality provisions in particular, it is particularly important that only Eurostat employees have access to individual records, not other Commission authorities, which the wording would allow. The need for such differentiated protection, namely that statistical information remains exclusively with Eurostat, becomes clear against the background of other Commission tasks - like for instance the monitoring of antitrust rules.

### **3.3 Publication duty**

The regulation should expressly contain the provision that all European statistics results should be released in full as soon as they are available and on an impartial basis.

Whilst the proposal contains a separate chapter on the release and dissemination of statistics, there is no express obligation that statistical results have to be released in principle and with immediate effect. This obligation is the logical prerequisite for the equal treatment of all users as it corresponds to international standards in force today.

### **3.4 More efficient operation of the ESS**

The European Commission's proposal does not provide for any special instruments to eliminate the ineffectiveness of the ESS that exists at present - and eliminate the unnecessary burden on respondents caused by this.

The main criticism is the way in which legal bases come about for individual statistics, for there are scarcely any statistical cross-divisional approaches, which results in several working groups dealing with the same topic from perspectives that are often only slightly different. This is evinced e.g. by the concept of individual household income from the national accounts and the EU survey on Income and Living Conditions (EU-SILC), which can cause problems due to non-

standard definitions and individual traits in their overall interpretation and when comparing them (survey population with/without collective households; imputed rents and transfers between households taken into account differently and much more). As a result, characteristics are repeatedly collected or calculated without consideration for how they are connected with each other, with no attempt to make a conceptual comparison. These problems could be limited or solved through greater interdisciplinary cooperation as well as harmonised definitions and concepts within the statistical system, as the opinion delivered by the European Advisory Committee on Statistical Information in the Economic and Social Spheres (CEIES) on Eurostat's statistical work programme for 2008 also argued.

### 3.5 The ESS and the Code of Practice

- The Code of Practice should be included in the regulation in order to underline its importance. It is not clear at all why the proposal stipulates that a "Code of Practice for developing, producing and disseminating European Statistics" should be drawn up if this already exists.<sup>3</sup> One possible motive could be the introduction of a weaker code, which should be rejected.
- The working group draft on a Community Statistics Regulation provided for a strong ESS committee - what remains now is a "simple" comitology committee. As a countermove to this, the so-called Partnership Group was also created. The social partners call for the creation of one single body at any rate.
- The application of the code in the Member States and by Eurostat should be reviewed by the new European Statistical Governance Advisory Board<sup>4</sup>.

### 3.6. The European Approach to Statistics

The so-called European Approach to Statistics should be restricted to a few individual cases that are justified. This approach means that only those data needed for the purposes of Community statistics should be supplied only in that range to Eurostat irrespective of whether national statistics can also be produced with this range of data.

The following arguments, which CEIES has also supported in its opinion on Eurostat's statistical work programme for 2008, oppose this:

- Devaluation of the national statistical systems to pure data suppliers because national results are no longer attainable.
- Two-tier society within the ESS: on the one hand the large Member States, whose results are important for European aggregates and therefore also receive corresponding resources; on the other hand the smaller Member States, where the availability or quality of results are second-rate from the viewpoint of the European Approach.
- By definition, European aggregates cannot be regionalised, which means that the analytical potential of these data would be reduced. Whilst data would be available for larger Member States, you would scarcely know anything more about the smaller Member States, meaning that differences would no longer be discernible and it would therefore no longer be possible for policies to react to these differences.

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<sup>3</sup> Published in the Recommendation of the Commission on the independence, integrity and accountability of the national and Community statistical authorities, COM(2005)0217 final.

<sup>4</sup> Proposed by the Commission in COM(2006)0199 final.

The proposed provision contains only declarations of intent, which is why we reject it. If this approach is to be controlled by the regulation, the prerequisites for its application need to be established in a clear and specific way.

### **3.7 Taking into account the matters of concern of empirically oriented sciences when drawing up statistics and in the work programme**

When it comes to the interests of science, it is not just about access to individual data given consideration in the proposal. Empirically oriented science needs statistical data for analytical purposes in order to be able to draw up decision-making bases for politicians and the public. European statistics must not be restricted to supplying politicians with basic data that can be implemented directly as part of ex-post monitoring without paying attention to common methods. The scientific nature of statistics and their role as the basis for scientific research on data need to come more to the fore again.

We need to pay more attention to the needs of science (e.g. for long, consistent time series). For example, we need to see to it that revisions necessitated through adjustments in methodology (like e.g. those of value added in the insurance business) should be carried out in principle over longer periods. Without enough long, consistent time series, the national income and expenditure account loses a lot of meaningfulness due to the structural faults that arise for modelling. The models will lose relevance to economic policy advice and analysis in future due to insufficient empirical backing. Long, consistent time series need to be provided each time methodology is changed and not just in case of "large revisions".

Reorientation of the Statistical System should therefore be supported. As important as the function to provide data for scrutinising and evaluating national and European institutions is, further analytical objectives should be viewed as equally relevant.

## **4. Summary**

The opinion of the social partners should help to develop a modern European regulation in the area of European statistics that creates the necessary balance between a flexible legal basis and legal certainty for all those concerned. Only in this way can a more user-friendly system be developed for European statistics that is associated with justifiable costs for state budgets and does not burden companies and households excessively. In conclusion, the aim must be to create a consistent and coherent statistical system.

In addition, the new Community Statistics Regulation must ensure "equal treatment on information" and allow European citizens as well as institutions access to statistical information, making it easier on the whole. Comprehensive and fair access to data is a prerequisite for the functioning of democracy in Europe.