

EUROPEAN PARLIAMENT

2004



2009

Committee on Economic and Monetary Affairs

2005/0032(COD)

18.9.2007

*****II**

DRAFT RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a regulation of the European Parliament and of the Council establishing a common framework for business registers for statistical purposes and repealing Council Regulation (EEC) No 2186/93
(7656/5/2007 – C6-0218/2007 – 2005/0032(COD))

Committee on Economic and Monetary Affairs

Rapporteur: Hans-Peter Martin

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council common position for adopting a regulation of the European Parliament and of the Council establishing a common framework for business registers for statistical purposes and repealing Council Regulation (EEC) No 218/93 (7656/5/07 – C6-0218/2007 – 2005/0032(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (7656/5/07 – C6-0218/2007),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2005)0112),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Economic and Monetary Affairs (A6-0000/2007),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and Commission.

Council common position

Amendments by Parliament

Amendment 1
Article 11, paragraph 3

3. In order to ensure that the data transmitted under this Article is used exclusively for statistical purposes, the ***purpose, scope***, format, security and confidentiality measures, and procedure for the transmission of data on individual units to the Commission (Eurostat) and for the transmission of data on the multinational enterprise groups to the appropriate national authorities shall be adopted in accordance with the regulatory procedure referred to in Article 16(2).

3. In order to ensure that the data transmitted under this Article is used exclusively for statistical purposes, the format, security and confidentiality measures, and procedure for the transmission of data on individual units to the Commission (Eurostat) and for the transmission of data on the multinational enterprise groups to the appropriate national authorities shall be adopted in accordance with the regulatory procedure referred to in Article 16(2).

¹ *Texts adopted*, 1.6.2006, P6_TA(2006)0229.

Justification

The inclusion of the two words would allow the Commission to determine the "purpose" and "scope" of the transmission of data provided for in these articles and in the annex. It would thus permit the Commission to modify the obligations of the Member states, the authorities and central banks concerned as well as the Commission under Articles 11 and 12 and the annex. These obligations are elements of the basic act. Modifying them in one direction or another would affect political choices made in the basic act.

Amendment 2 Article 12, paragraph 2

2. In order to ensure that the data transmitted under this Article is used exclusively for statistical purposes, the ***purpose, scope***, format, security and confidentiality measures, and procedure for the transmission of data on the multinational enterprise groups to the national central banks and the European Central Bank shall be adopted in accordance with the regulatory procedure referred to in Article 16(2).

2. In order to ensure that the data transmitted under this Article is used exclusively for statistical purposes, the format, security and confidentiality measures, and procedure for the transmission of data on the multinational enterprise groups to the national central banks and the European Central Bank shall be adopted in accordance with the regulatory procedure referred to in Article 16(2).

Justification

The inclusion of the two words would allow the Commission to determine the "purpose" and "scope" of the transmission of data provided for in these articles and in the annex. It would thus permit the Commission to modify the obligations of the Member states, the authorities and central banks concerned as well as the Commission under Articles 11 and 12 and the annex. These obligations are elements of the basic act. Modifying them in one direction or another would affect political choices made in the basic act.

EXPLANATORY STATEMENT

„Red tape“ is a common expression in the English language, but not a household word in other languages. Unfortunately. Because this term would, in the eyes of the rapporteur and the majority of the peoples of the Member States of the European Union, apply to a very broad spectrum of legislative actions the EU institutions have undertaken for a long time. The overregulation and ever new bureaucratic initiatives serve primarily the well fed body of Brussels based bureaucrats whose pension averages 5509 Euros. These enormous privileges lead to a momentum that innumerable individuals involved have a strong tendency to create more and more regulations in order to justify their work place instead of contributing significantly to the reduction of the bureaucratic burden.

This fundamental problem has to be addressed when dealing with the issue involving this report. The Regulation on business registers (Council Regulation (EEC) No 2186/93), which compiles statistics on businesses operating in the European Union, namely data on their number, type, size structure and other characteristics, was said to aim providing reliable statistical data for EU policy makers.

The objective of the Commission proposal of 5 April 2005 was to update the regulation in order to take into account new requirements stemming from the ongoing globalisation process and the further integration of the Internal Market.

On 1 June 2006 the European Parliament supported the core of the Commission proposal in its first reading, subject to 22 amendments focusing on the issue of the administrative burden, a clarification of the terms and conditions under which confidential data can be transmitted and, finally, a series of amendments of a technical and editorial nature.

The Council endorsed all 22 amendments of Parliament in its Common Position of 21 May 2007.

But now there is a remaining issue. Because only a few weeks after the first reading of Parliament, on 17 July 2006, the Council Decision 2006/512/EC amended the Council Decision 1999/468/EC of 28 June 1999, laying down the procedures for the exercise of implementing powers conferred on the Commission and introducing a new procedure named "regulatory procedure with scrutiny" (Article 5a).

This new "regulatory procedure with scrutiny" has now to be used to adopt measures of general scope which seek to amend non-essential elements of a basic instrument adopted in accordance with the procedure referred to in Article 251 of the Treaty, inter alia by deleting some of those elements or by supplementing the instrument by the addition of new non-essential elements.

As a consequence, a second reading of Parliament has become unavoidable, creating new red tape. Because in order to incorporate the new comitology provisions into the draft regulation, the Council had to attribute the specific powers conferred to the Commission to the two types of regulatory procedures: the one with scrutiny and the one without scrutiny.

In line with the assessment of Parliament and the Commission respectively, the Council

conferred measures of general scope designed to amend non-essential elements of the regulation to the Commission, thereby using the procedure with scrutiny, as laid down in Article 5a of Council Decision 1999/468/EC. In the case of the Regulation on business registers, the new procedure consequently applies:

- to the update the list of registers characteristics in the Annex, their definitions and their continuity rules,
- to the decision on the coverage of the smallest enterprises and all resident enterprise groups,
- to the establishment of common quality standards,
- to the content and periodicity of the quality reports, and, finally,
- to the adoption of the rules for updating registers.

These points are all uncontroversial. However, in respect of the powers concerning the transmission of data, a legal problem has appeared. These powers would be covered by the regulatory procedure without scrutiny according to Council. Parliament could accept this, if only the Council had not included in its common Position the two words "purpose" and "scope" in Articles 11(2) and 12(3).

After an assessment, the legal service of the European Parliament came to the conclusion that the incorporation of these two words in the powers would allow the Commission to "modify the obligations of the Member states, the authorities and central banks concerned as well as the Commission under Articles 11 and 12 and the annex. These obligations are elements of the basic act. Modifying them in one direction or another may affect political choices made in the basic act. Those obligations can nevertheless reasonably be considered to be non essential. For a power permitting such a modification the regulatory procedure with scrutiny is compulsory." The other elements of these powers do not allow for such modifications.

In other words, if the Council had insisted on the inclusion of these two words, the regulatory procedure with scrutiny would have to apply to the transmission of data.

But now, a majority of Member States is willing to delete the two words. This would remove the last obstacle to a second reading agreement with Parliament.

Your rapporteur therefore suggests deleting the two words in the draft regulation, but wants to point out that the whole procedure has not only taken a lot of time but also was a costly affair.

At the end of the day, the rapporteur finds it impossible to justify all the extra cost involved for the tax payer and renews his appeal to the EU institutions to come forward with much less costly and much more efficient procedures. In addition, these procedures are unnecessarily complicated and hinder the minimum of transparency and accessibility to the legislative process a common citizen should be entitled to.