

## APPENDIX 2

### Reasoned opinion of the Riksdag

First, the Riksdag would like to express its appreciation of the efforts to ensure that official statistics provided within the EU are reliable, topical and of high quality, so that decision-makers, companies and the public can make correct decisions which are based on facts.

However, the Riksdag notes that it has been proposed that the Harmonised European Time Use Survey (HETUS), which is currently conducted on the basis of an informal agreement and is thus voluntary for the member states, should become compulsory for the member states, without any specific reasons from the Commission regarding the need for this action.

Furthermore, the Riksdag would like to stress the meaning of the formulation "only if and in so far as" in Article 5 of the Treaty on European Union. According to this Article, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the member states, and can therefore, by reason of the scale or effects of the proposed action, be better achieved at Union level. According to the Riksdag, the words "only if and in so far as" should be considered to mean that the subsidiarity check includes a proportionality criterion and that, consequently, the proposed action may not go beyond what is necessary to achieve the desired objectives. In a judgment from 2002, the European Court of Justice (now the Court of Justice of the European Union) stated the following regarding whether a directive had been adopted with regard to the principle of subsidiarity, after first finding that the objectives of the planned action could be better achieved at Community level: "Secondly, it may be noted that the scope of the action taken by the Community in the present case also meets the requirements of the principle of subsidiarity in that it – as stated in points 122-141 of the present judgment – does not go beyond what is necessary to achieve the desired objectives."

Judgment of the European Court of Justice of 10 December 2002 in Case C-491/01, British American Tobacco (Investments) Ltd and Imperial Tobacco Limited, REG 2002, pp. I-11453.

In the light of this, the Riksdag has examined whether the proposal is compatible with the principle of proportionality, in particular, the parts of the proposal dealing with empowering the Commission to adopt delegated acts in order to amend the specific topics listed in Annex I, and implementing acts with the purpose of specifying technical details in individual sets of data.

In the current proposal, the Commission is empowered to adopt both delegated acts and implementing acts within a number of different areas. Among other things, the Commission is empowered to adopt delegated acts in order to amend the specific topics to be included in the data samples. This also applies in order to establish or adapt a multiannual rolling planning for eight years in order to collect the data covered by the regulation, which, to the Riksdag, seems like a long period.

The extent to which delegated acts and implementing acts are used appears inappropriate, as the proposal entails that the Commission is given a legislative role, where it, in an unpredictable way, can come to affect the future formulation and contents of the regulation in a way that, in many respects, would normally be the task of legislators or a court. The Riksdag therefore considers that the regulation, in its current wording, and in particular the part of the proposal that deals with empowering the Commission to adopt delegated acts in order to amend the specific topics listed in Annex I and implementing acts for the purpose of specifying technical items in the individual data sets, goes beyond what is necessary to achieve the desired objectives, and is thus not compatible with the principle of subsidiarity.

# Statement by the Committee on Finance 2016/17:FiU18

## EU proposal on European statistics relating to persons and households

### Summary

The Committee proposes that the Riksdag submit a reasoned opinion on the Proposal from the Commission for a regulation establishing a common framework for European statistics relating to persons and households, based on data at individual level collected from samples. In the view of the Committee, the proposal in its current form is not compatible with the principle of subsidiarity.

#### *The examined proposal*

Proposal from the Commission for a regulation of the European Parliament and of the Council establishing a common framework for European statistics relating to persons and households, based on data at individual level collected from samples, COM(2016) 551.

### **The position of the Committee**

First, the Committee would like to express its appreciation of the efforts to ensure that official statistics provided within the EU are reliable, topical and of high quality, so that decision-makers, companies and the public can make correct decisions which are based on facts.

However, the Committee notes that it has been proposed that the Harmonised European Time Use Survey (HETUS), which is currently conducted on the basis of an informal agreement and is thus voluntary for the member states, should become compulsory for the member states, without any specific reasons from the Commission on the need for this action.

Furthermore, the Committee would like to stress the meaning of the formulation “only if and in so far as” in Article 5 of the Treaty on European Union. According to this Article, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the member states, and can therefore, by reason of the scale or effects of the proposed action, be better achieved at Union level. According to the Committee on the Constitution (Committee report 2010:11: KU18 p. 9 ff.), the words “only if and in so far as” should be considered to mean that the subsidiarity check includes a proportionality criterion and that, consequently, the proposed action may not go beyond what is necessary to achieve the desired objectives. In this context, the Committee on the Constitution has, among other things, referred to a judgment from 2002<sup>1</sup> in which the European Court of Justice (now the Court of Justice of the European Union) stated the following regarding whether a directive had been adopted with regard to the principle of subsidiarity, after first finding that the objectives of the planned action could be better achieved at Community level: “Secondly, it may be noted that the scope of the action taken by the Community in the present case also meets the requirements of the principle of subsidiarity in that it – as stated in points 122-141 of the present judgment – does not go beyond what is necessary to achieve the desired objectives.”

In the light of this, the Committee has examined whether the proposal is compatible with the principle of proportionality, in particular, the parts of the proposal dealing with empowering the Commission to adopt delegated acts in order to amend the specific topics listed in Annex 1, and implementing acts with the purpose of specifying technical details in individual data sets.

In the current proposal, the Commission is empowered to adopt both delegated acts and implementing acts within a number of different areas. Among other things, the Commission is empowered to adopt delegated acts in order to amend the specific topics to be covered in the data samples. This also applies in order to establish or adapt a multiannual rolling

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<sup>1</sup> Judgment of the European Court of Justice of 10 December 2002 in Case C-491/01, British American Tobacco (Investments) Ltd and Imperial Tobacco Limited, REG 2002, pp. I-11453.

planning for eight years in order to collect the data covered by the regulation. In the opinion of the Committee, this seems like a long period.

The extent to which delegated acts and implementing acts are used appears inappropriate, as the proposal entails that the Commission is given a legislative role, where it, in an unpredictable way, can come to influence the future formulation and contents of the regulation in a way that, in many respects, would normally be the task of legislators or a court. The Committee thus considers that the regulation, in its current wording, and in particular the part of the proposal that deals with empowering the Commission to adopt delegated acts in order to amend the specific topics listed in Annex I and implementing acts for the purpose of specifying technical items in the individual data sets, goes beyond what is necessary to achieve the desired objectives, and is thus not compatible with the principle of subsidiarity.