

10508/97

LIMITE

PUBLIC 8

LEGISLATIVE TRANSPARENCY

STATEMENTS WHICH MAY BE RELEASED TO THE PUBLIC JULY 1997

Annexed to this document is a list of definitive legal acts adopted by the Council in July 1997, together with the statements for the minutes which the Council has decided may be released to the public.

STATEMENTS FOR THE COUNCIL MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
– JULY 1997 –

DEFINITIVE LEGAL ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2023rd Council (Economic and Financial Affairs) on 7 July 1997			
Council Regulation on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies	9257/97 + COR 1 (p), + COR 2 (s), + COR 3 (nl), + COR 4 (e), + COR 5 (f), + COR 6 (d), + COR 7 (f), + REV 2 (i)		
Council Regulation on speeding up and clarifying the implementation of the excessive deficit procedure	9258/97 + COR 1 (en), + COR 2 (s), + COR 3 (nl) + COR 4 (e), + COR 5 (f), + COR 6 (f), + REV 1 (i)	226/97, 227/97, 228/97, 229/97	
2024th Council (General Affairs) on 22 July 1997			
Council Regulation on aid for population policies and programmes in the developing countries	9548/97	230/97, 231/97, 232/97, 233/97, 234/97	

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DEFINITIVE LEGAL ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
2025th Council (Agriculture) on 22 July 1997			
Council Regulations			
– fixing the monthly increases in the intervention price for cereals for the 1997/1998 marketing year	9003/97 + COR 1 (nl)		
– fixing the monthly increases in the intervention price for paddy rice for the 1997/1998 marketing year	9004/97		
– fixing, for the 1997/1998 marketing year, the prices, aids and percentages of aid to be retained in the olive oil sector, together with the maximum guarantee quantity	9007/97		
– fixing the amounts of aid for flax fibre and hemp and the amount withheld to finance measures to promote the use of flax fibre for the 1997/1998 marketing year	9008/97 + COR 1 (fin)		
– fixing the basic price, and the seasonal adjustments to the basic price, for sheepmeat for the 1998 marketing year	9012/97		
– amending Regulation (EEC) No 822/87 on the common organization of the market in wine			
– fixing the guide price for wine for the 1997/1998 wine year	9014/97		
– amending Regulation (EEC) No 2332/92 as regards sparkling wines produced in the Community and Regulation (EEC) No 4252/88 on the preparation and marketing of liqueur wines produced in the Community	9015/97 9016/97		
– fixing, for the 1997 harvest, the premiums for leaf tobacco by group of tobacco varieties	9017/97		

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DEFINITIVE LEGAL ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
(contd) Council Regulations –fixing the amounts of aid for seeds for the 1998/1999 and 1999/2000 marketing years –amending Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops	9018/97 + COR 1 (f,d,nl,en,gr,es,p,fin,s) 9019/97	235/97	
Council Regulation amending Regulation (EEC) No 3650/90 on measures to strengthen the application of the common quality standards for fruit and vegetables in Portugal	9154/97		
Council Regulation derogating from certain provisions in Regulation (EEC) No 1765/92 establishing a support system for producers of certain arable crops	9727/97	236/97	
Directive of the European Parliament and of the Council amending Council Directives 90/387/EEC and 92/44/EEC for the purpose of adaptation to a competitive environment in telecommunications (95/0280(COD))	PE-CONS 3617/97 + COR 1 (fin)	237/97	
Council Regulation amending Regulation (EEC) No 1696/71 on the common organization of the market in hops	9526/97 + COR 1 (s)	238/97, 239/97	UK against
2026th Council (Budget) on 24 July 1997			
Council Decision authorizing Ireland to apply a measure derogating from Article 21 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover tax	7915/97		

STATEMENTS FOR THE COUNCIL MINUTES WHICH MAY BE RELEASED TO THE PUBLIC
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DEFINITIVE LEGAL ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Council Decision authorizing the Federal Republic of Germany to conclude with the Czech Republic an Agreement containing measures derogating from Articles 2 and 3 of the Sixth Directive (77/388/EEC) on the harmonization of the laws of the Member States relating to turnover taxes	8412/97		
Directive of the European Parliament and of the Council amending Directive 93/16/EC to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications (94/0305(COD))	PE-CONS 3615/97 + COR 1 (nl) + COR 2 (fin)	240/97	
Decision of the European Parliament and of the Council establishing a programme of support, including translation, in the field of books and reading (ARIANE) (94/0189(COD))	PE-CONS 3616/97	241/97, 242/97, 243/97	
Decision of the European Parliament and of the Council establishing a Community action programme in the field of cultural heritage (RAPHAEL) (95/0078(COD))	PE-CONS 3620/97 + COR 1 (fin)	244/97, 245/97, 246/97, 247/97	
Directive of the European Parliament and of the Council amending Directives 92/50/EEC, 93/36/EEC and 93/37/EEC concerning the coordination of procedures for the award of public service contracts, public supply contracts and public works contracts respectively	PE-CONS 3618/97	248/97, 249/97, 250/97, 251/97, 252/97	

STATEMENTS FOR THE COUNCIL MINUTES WHICH MAY BE RELEASED TO THE PUBLIC – JULY 1997 –			
DEFINITIVE LEGAL ACTS	TEXTS ADOPTED	STATEMENTS	VOTES
Written procedure completed on 29 July 1997 Adoption in the official languages of the Communities of the European Parliament and of the Council on the maximum design speed of wheeled agricultural or forestry tractors	PE-CONS 3621/97	253/97	F abstention

STATEMENT 226/97

Statement by the Council and the Commission

The Council and the Commission recognize that the interest on the deposits required in application of Article 104c(11) and the amount of the fines imposed according to that Article, constitute other revenue referred to in Article 201 of the Treaty; they state furthermore that this revenue is earmarked for specific expenditure, namely the distribution among Member States concerned in accordance with Article 16 of the Council Regulation on speeding up and clarifying the implementation of the excessive deficit procedure; to this effect a modification to Article 4(2) of the Financial Regulation is necessary.

STATEMENT 227/97

Statement by the Commission

The Commission declares that it will propose that expenditure under the budgetary line that will be created in order to distribute the amount of the interest and the fines be classified as obligatory.

STATEMENT 228/97

Statement by the Council

The Council invites the Commission in cooperation with the national statistical services to present proposals for improved consistency by the beginning of the third stage of EMU in the statistical data of Member States for changes in real GDP, with a view to the application of Article 2 of the Council Regulation on speeding up and clarifying the implementation of the excessive deficit procedure. In order to facilitate the procedures for multilateral surveillance more generally the Council invites the Commission to present proposals aimed at producing harmonized data on real GDP and its major components.

STATEMENT 229/97

Statement by the Austrian delegation

Austria supports the idea underlying the Stability and Growth Pact of attaining objectivity through decisions taken on the basis of consistent data. This holds true also for the necessary harmonization of statistics on real GDP. Austria attaches importance however to this being in accordance with the existing rules and similar procedures it refers in this context to Article 1 of Protocol No 6 on the convergence criteria set out in Article 109j of the Treaty establishing the European Community as regards the comparability of the Member States' consumer price indices. Accordingly, the Commission's proposals should also take account of differing definitions in the individual Member States, thereby avoiding considerable costs to the economy as a result of the collection of additional, wide-ranging data.

STATEMENT 230/97

Statement by the Council and the Commission re Article 9

"The Commission points out that, under the terms of the declaration by the European Parliament, the Council and the Commission of 6 March 1995, legislative acts concerning multiannual programmes not subject to the codecision procedure shall not contain an amount deemed necessary.

Since the Commission proposal regarding the Regulation on aid for population policies and programmes in the developing countries does not provide for the inclusion of a financial reference, this is the sole responsibility of the Council and does not affect the powers of the budgetary authority."

STATEMENT 231/97

Statement by the Council and the Commission re Articles 10 and 12

"In presenting, appraising and evaluating projects, the Commission will take into account the integrated approach to and the logical framework of project cycle management."

STATEMENT 232/97

Statement by the Council and the Commission re Article 11(1)

"The Council states that the geographical committees competent for development are the DCALA, MED and EDF Committees and the Committee set up by the Regulation on cooperation with South Africa."

STATEMENT 233/97

Statement by the Commission re Article 11(2)

"The Commission regrets the fact that on this occasion the Council has amended the Commission proposal, substituting a type III(a) regulatory committee procedure for the type I advisory committee procedure; it believes that the procedure originally proposed or a management committee procedure would be better suited to requirements in this area."

STATEMENT 234/97

Statement by the Commission re Articles 10(3) and 12(3)

"The Commission regrets that, in addition to the procedures provided for by the Commission to ensure transparency and coordination (Committee for projects exceeding a threshold of ECU 2 million, exchange of views on the general guidelines, submission of an annual report), the Council has imposed two additional requirements: the Committee must be informed ex ante of projects of less than ECU 2 million in value one week before the decision is taken and the Member States must be supplied with ex post information concerning all the projects within one month of the decision.

The Commission states that the multiplicity of information mechanisms far exceeds what may be considered necessary for ensuring adequate transparency and what is justified in accordance with the human resources available.

When the Commission is granted powers without the Committee's intervention, it exercises them in accordance with the existing rules governing transparency. It considers that no additional condition should be imposed which exceeds the framework laid down by Council Decision 87/373/EEC of 13 July 1987. The Commission therefore cannot support this amendment."

STATEMENT 235/97

Commission statement concerning the question of individual penalties:

"The Commission will consider, in the framework of the implementation of Article 2(7) third subparagraph, the possibility of taking into account, if necessary, objective references to a fixed period other than that referred to in Article 2(3) of Regulation (EEC) No 1765/92."

STATEMENT 236/97

Statement by the Commission

"With regard to the amendment adopted by the European Parliament in its Opinion, for the use of voluntarily set aside land for the ecological cultivation of fodder legumes, the Commission states that it cannot accept it, but is willing to study the possible advantages brought about by set-aside for the environment, with reference to the guidelines adopted in its "Agenda 2000"."

STATEMENT 237/97

Statement by the Commission

"The Commission states that, in verifying the full and timely transposition of Community telecommunications directives into national law, it will take particular care to ensure that the arrangements put in place by the Member States in relation to the costing and financing of universal service do not limit access to the relevant markets."

STATEMENT 238/97

Statement by the Commission

"Within the framework of the annual report referred to in Article 11, the particular case of the producers referred to in Article 12(3)(b) will be the subject of a specific examination based on information to be supplied to the Commission by the Member States concerned."

STATEMENT 239/97

Statement by the German delegation

"The German delegation starts from the assumption that, in the event of deterioration in the market situation in the hops sector, the measures provided for by the common organization of market in this sector will be taken. Such measures may in particular consist in modulating aid or limiting production."

STATEMENT 240/97

COMMISSION STATEMENT

re recital 7b (new)

The Commission stresses that the need to establish the equivalence of diplomas awarded to doctors outside the European Union is one of the relevant problems to be tackled.

STATEMENT 241/97

STATEMENT BY THE COMMISSION

Re Article 5

(Committee procedure)

"In compliance with interinstitutional procedures and agreements, the Commission will inform the Committee for the ARIANE Decision, as regards the financial support to be supplied by the Community, of all projects which it intends to finance under this Decision."

STATEMENT 242/97

STATEMENT BY THE EUROPEAN PARLIAMENT

Re Article 5

(Committee procedure)

"The European Parliament, while noting that Article 5(3) of the ARIANE programme does not allow the Committee to take a decision on the selection of individual projects, is not opposed to the Committee being informed of all the projects which the Commission intends to finance.

The Parliament wishes to receive the same information from the Commission."

STATEMENT 243/97

STATEMENT BY THE COMMISSION

"The Commission takes the view that the assessment report which it is required to submit to the European Parliament, the Council and the Committee of the Regions, two years after the programme has been in operation and within the six months following that period (Article 8), will be submitted to the Committee provided for in Article 5 of the Decision beyond the scope of any so-called "committee procedures" as defined in the Council Decision of 13 July 1987. These procedures apply only where the Commission exercises implementing powers in order to adopt binding legal acts. This interpretation is clear from the terms of both the Council Decision of 13 July 1987 and Article 145, third indent, of the Treaty. In this particular case, the assessment report on the results achieved by the ARIANE programme does not constitute "draft measures" for adoption. It would, moreover, be inconsistent for the Council to take an advance decision, via the Management Committee procedure, on a report which the Commission is required to refer to it on the basis of its own institutional powers."

STATEMENT 244/97

STATEMENT BY THE COMMISSION

Re Article 5

(Committee procedure)

"In compliance with interinstitutional procedures and agreements, the Commission will inform the Committee of the RAPHAEL Decision, as regards the financial support to be supplied by the Community, of all projects which it intends to finance under this Decision."

STATEMENT 245/97

STATEMENT BY THE EUROPEAN PARLIAMENT

Re Article 5

(Committee procedure)

"The European Parliament, while noting that Article 7(3) of the RAPHAEL programme does not allow the Committee to take a decision on the selection of individual projects, is not opposed to the Committee being informed of all the projects which the Commission intends to finance.

The Parliament wishes to receive the same information from the Commission."

STATEMENT 246/97

STATEMENT BY THE COMMISSION

"Having regard to the Council Decision of 30 June 1997 on the future of cultural cooperation in Europe and the European Parliament's calls for a framework instrument on culture to be set up, the Commission, without prejudice to its right of initiative, confirms its intention to present a proposal for a comprehensive programme as soon as possible in order to ensure the continuity and further development of the Community's cultural operations.

The Commission will be entering into broad-based consultations with all the parties concerned and to this end will organize meetings with the European institutions and the relevant organizations."

STATEMENT 247/97

STATEMENT BY THE COMMISSION

"The Commission takes the view that the evaluation report which it is required to submit to the European Parliament and the Council after the programme has been in operation for two years and six months, and within six months of the end of that period (Article 10), will be submitted to the Committee provided for in Article 7 of the Decision beyond the scope of any so-called "committee procedures" as defined in the Council Decision of 13 July 1987. Those procedures apply only where the Commission exercises implementing powers in order to adopt binding legal acts. This interpretation is clear from the terms of both the Council Decision of 13 July 1987 and the third indent of Article 145 of the Treaty. In this particular case, the evaluation report on the results achieved by the RAPHAEL programme does not constitute "draft measures" for adoption. It would, moreover, be inconsistent for the Council to take an advance decision, via the management committee procedure, on a report which the Commission is required to refer to it on the basis of its own institutional powers."

STATEMENT 248/97

Statement by the Council and the Commission

"The Council and the Commission, referring to the Commission Recommendation of 12 May 1995 on payment periods in commercial transactions, invite the Member States to take the necessary legal and practical steps to ensure that contractual payment periods are complied with and that better payment periods are achieved in the context of public procurement."

STATEMENT 249/97

Statement by the Council and the Commission

"The Council and the Commission would point out that a party to the Government Procurement Agreement must not grant the national treatment provided for in Article III(1) of the agreement to contracts for products or services which do not fall within the scope of the Agreement."

STATEMENT 250/97

Statement by the Council and the Commission

Statement on Article 23(2) of Directive 92/50/EEC, Article 15(2) of Directive 93/36/EEC and Article 18(2) of Directive 93/37/EEC

"The Council and the Commission would point out that, when tenders are submitted, confidentiality of data must be guaranteed up to the date set for the opening of tenders.

The guarantee of confidentiality exists beyond doubt when tenders are submitted in writing directly or by mail.

The same applies to tenders presented on diskette or on any other medium and submitted under cover directly or by mail.

The Council and the Commission consider that it is technically possible to ensure at least an equivalent level of confidentiality using electronic means, in particular electronic mail, for the submission of tenders.

Tenders submitted by telephone are not permitted."

STATEMENT 251/97

Statement by the German delegation

"The German delegation supports the agreement reached through political compromise as a significant move to strengthen the internal market. However, the statement of the Council and the Commission on the national treatment provided for in Article III(1) of the Agreement must, subject to the provisions of Community law, not affect traditional principles of liberal commercial policy as reflected in national legislation on the award of contracts."

STATEMENT 252/97

Statement by the Greek delegation

"The Greek delegation would point out that, in the absence of a definition of the concept of abnormally low tender contained in the Directives relating to public contracts (Directives 93/36/EEC, 93/37/EEC, 93/38/EEC and 92/50/EEC), Member States retain the option of determining in their national rules the criteria for defining such a concept. These criteria must, of course, be consistent with Community law. It will notify the Commission of any definition it may adopt in this connection."

"The Commission accepts the content of this statement which it regards as being consistent with Community law on the matter."

STATEMENT 253

"The Council requests the Commission to consider extending the Community type-approval system for agricultural and forestry tractors to trailers and tractors with a maximum design speed of more than 40 km/h and establishing for such vehicles the necessary safety and environmental protection requirements and, if necessary, to submit proposals at the earliest opportunity."