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Implementation of excessive deficit procedure *

European Parliament amendments adopted on 23 June 2011 to the proposal for a Council regulation amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure (COM(2010)0522 – C7-0396/2010 – 2010/0276(CNS))¹

(Special legislative procedure – consultation)

[Amendment No 2]

AMENDMENTS BY PARLIAMENT*

to the Commission proposal

COUNCIL REGULATION

amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the second subparagraph of Article 126(14) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

¹ The matter was then referred back to committee pursuant to Rule 57(2), second subparagraph (A7-0179/2011).

* Amendments: new or amended text is highlighted in bold italics; deletions are indicated by the symbol ■ .

Having regard to the position of the European Parliament¹,

Having regard to the opinion of the European Central Bank²,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) The coordination of the economic policies of the Member States within the Union, as provided by the Treaty *on the Functioning of the European Union (TFEU)*, should entail compliance with the guiding principles of stable prices, sound public finances and monetary conditions and a sustainable balance of payments.
- (2) The Stability and Growth Pact initially consisted of Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies³, Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁴ and the Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact⁵. Regulations (EC) No 1466/97 and (EC) No 1467/97 were amended in 2005 by Regulations (EC) No 1055/2005 and (EC) No 1056/2005 respectively. In addition, the Council Report of 20 March 2005 on 'Improving the implementation of the Stability and Growth Pact' was adopted.
- (3) The Stability and Growth Pact is based on the objective of sound *and sustainable* government finances as a means of strengthening the conditions for price stability and for strong sustainable growth underpinned by financial stability and conducive to employment creation.
- (4) The common framework for economic governance *needs* to be enhanced, including *improved* budgetary surveillance, in line with the high degree of integration *between* Member States economies within the European Union, and particularly in the euro area.
- (4a) *Achieving and maintaining a dynamic Single Market should be considered an element of the proper and smooth functioning of the economic and monetary union.*
- (4b) *The improved economic governance framework should rely on several inter-linked policies for sustainable growth and jobs, which need to be coherent with each other, in particular a Union strategy for growth and jobs, with particular focus upon development and strengthening of the internal market, fostering international trade and competitiveness, an effective framework for preventing and correcting excessive government deficit (the Stability and Growth Pact), a robust framework for preventing and correcting macro-economic imbalances, minimum requirements for national budgetary frameworks, enhanced financial market regulation and supervision including macro-prudential supervision by the European Systemic Risk*

¹ OJ C

² OJ C 150, 20.5.2011, p. 1.

³ OJ L 209, 2.8.1997, p. 1.

⁴ OJ L 209, 2.8.1997, p. 6.

⁵ OJ C 236, 2.8.1997, p. 1.

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- (4c)** *Achieving and maintaining a dynamic Single Market should be considered an element of the proper and smooth functioning of the economic and monetary union.*
- (4d)** *The Stability and Growth Pact and the complete economic governance framework should complement and support the Union strategy for growth and jobs. Inter-linkages between different strands should not provide for exemptions from the provisions of the Stability and Growth Pact.*
- (4e)** *Strengthening economic governance should include a closer and more timely involvement of the European Parliament and the national parliaments. The competent committee of the European Parliament may offer the opportunity to the Member State concerned by Council recommendation in accordance with Article 126(7) of the Treaty, a notice in accordance with Article 126(9) of the Treaty or a decision taken pursuant to Article 126(11) of the Treaty to participate in an exchange of views.*
- (4f)** *Experience gained and mistakes made during the first decade of functioning of the economic and monetary union show a need for improved economic governance in the Union, which should be built on stronger national ownership of commonly agreed rules and policies and on a more robust surveillance framework at the Union level of national economic policies.*
- (4g)** *The Commission should have a stronger role in the enhanced surveillance procedure. This concerns Member-State-specific assessments, monitoring, including missions, recommendations.*
- (4h)** *The Commission and the Council should when applying this Regulation appropriately take into account all relevant factors and the economic and budgetary situation of the concerned Member States.*
- (5)** *The rules on budgetary discipline should be strengthened in particular by giving a more prominent role to the level and evolution of debt and overall sustainability. Mechanisms to ensure compliance with these rules and their enforcement should also be strengthened.*
- (5a)** *The Commission should have a stronger role in the enhanced surveillance procedure as regards assessments that are specific to each Member State, monitoring, missions, recommendations and warnings.*
- (6)** *Implementing the existing excessive deficit procedure on the basis of both the deficit criterion and the debt criterion requires ■ a numerical benchmark **that takes into account the business cycle** against which to assess whether the ratio of government debt to gross domestic product is sufficiently diminishing and approaching the reference value at a satisfactory pace. **A transition period should be introduced in order to allow Member States subject to an excessive deficit procedure at the date of adoption of this regulation to adapt their policies to the numerical benchmark for debt reduction. This should equally apply to Member States which are subject to an European Union/International Monetary Fund adjustment programme.***

- (7) **■** Non-compliance with the numerical benchmark *for debt reduction should not be sufficient for the establishment of an excessive deficit, which should* take into account the whole range of relevant factors covered by the Commission report under Article 126(3) TFEU. *In particular, the assessment of the effect of the cycle and the composition of the stock-flow adjustment on debt developments may be sufficient to exclude the establishment of an excessive deficit on the basis of the debt criterion.*
- (8) In the establishment of the existence of an excessive deficit based on the deficit criterion and the steps leading to it there is a need to take into account the whole range of relevant factors covered by the report under Article 126(3) of the Treaty if the government debt to gross domestic product does not exceed the reference value.
- (8a) *In taking into account systemic pensions reforms among the relevant factors, the central consideration should be whether they enhance the long-term sustainability of the overall pension system, while not increasing risks for the medium-term budgetary position.*
- (9) The Commission report under Article 126(3) of the Treaty should appropriately consider the quality of the national fiscal framework, as it plays a crucial role in supporting fiscal consolidation and sustainable public finances. *This consideration should include the minimum requirements as laid down in Council Directive [on requirements for budgetary frameworks of the Member States] as well as other agreed desirable requirements for fiscal discipline.*
- (10) In order to support the monitoring of compliance with Council recommendations and notices for the correction of situations of excessive deficit, there is a need that these specify annual budgetary targets consistent with the required fiscal improvement in cyclically adjusted terms, net of one-off and temporary measures. *In this context, the 0,5% of GDP annual benchmark should be understood as annual average basis.*
- (11) The assessment of effective action will benefit from taking compliance with general government expenditure targets as a reference in conjunction with the implementation of planned specific revenue measures.
- (12) In assessing the case for an extension of the deadline for correcting the excessive deficit, special consideration should be given to severe economic downturns *for the euro area or the EU as a whole on condition that this does not endanger fiscal sustainability in the medium term.*
- (13) It is appropriate to step up the application of the financial sanctions envisaged by Article 126(11) of the Treaty so that they constitute a real incentive for compliance with the notices under Article 126(9).
- (14) In order to ensure compliance with the fiscal surveillance framework of the Union for participating Member States, rules-based sanctions should be designed on the basis of Article 136 of the Treaty, ensuring fair, timely and effective mechanisms for compliance with the Stability and Growth pact rules.
- (14a) *Fines collected should be assigned to stability mechanisms to provide financial assistance, created by Member States whose currency is the euro in order to safeguard the stability of the euro area as a whole.*

(15) References contained in Regulation (EC) No 1467/97 should take account of the new Article numbering of the Treaty on the Functioning of the European Union and to the replacement of Council Regulation (EC) No **3605/93** by Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community¹.

(16) Regulation (EC) No 1467/97 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1467/97 is amended as follows:

1. Article 1 is replaced by the following:

"Article 1

1. This Regulation sets out the provisions to speed up and clarify the excessive deficit procedure. ***The objective of the excessive deficit procedure is*** to deter excessive government deficits and, if they occur, to further prompt their correction, where compliance with the budgetary discipline is examined on the basis of the government deficit and government debt criteria.

2. For the purpose of this Regulation 'participating Member States' shall mean those Member States whose currency is the euro."

2. Article 2 is amended as follows:

(a) in paragraph 1, the first subparagraph is replaced by the following:

"The excess of a government deficit over the reference value shall be considered exceptional, in accordance with the second indent of Article 126 (2) (a) of the Treaty, when resulting from an unusual event outside the control of the Member State concerned and ***with*** a major impact on the financial position of general government, or when resulting from a severe economic downturn.";

(b) the following paragraph **■** is inserted:

"1a. When it exceeds the reference value, the ratio of the government debt to gross domestic product (GDP) is to be considered sufficiently diminishing and approaching the reference value at a satisfactory pace in accordance with Article 126 (2) (b) of the Treaty if the differential with respect to the reference value has ***decreased*** over the previous three years at ***an average*** rate of **■** one-twentieth per year ***as a benchmark, based on the changes over the last three years for which the data is available. The requirement under the debt criterion shall also be considered to be fulfilled if the budgetary forecasts as provided by the Commission indicate that the required reduction in the differential will occur over the three-year period encompassing the two years following the final year***

¹ OJ L 145, 10.6.2009 p. 1.

for which the data is available. For a Member State that is subject to an excessive deficit procedure at [date of adoption of this Regulation - to be inserted] and for a period of three years from the correction of the excessive deficit, the requirement under the debt criterion shall be considered fulfilled if the Member State concerned makes sufficient progress towards compliance as assessed in the Opinion adopted by the Council on its Stability or Convergence Programme.

In implementing the debt adjustment benchmark, account should be taken of the influence of the cycle on the pace of debt reduction."

(c) paragraph 3 is replaced by the following:

"3. The Commission, when preparing a report under Article 126(3) of the Treaty shall take into account all relevant factors as indicated in that Article, *insofar as they significantly affect the assessment of compliance with the deficit and debt criteria by the concerned Member State*. The report shall appropriately reflect:

- *The developments in the medium-term economic position in particular potential growth, including the different contributions provided by labour, capital accumulation and total factor productivity, cyclical developments and the private sector net savings position;*
- *The developments in the medium term budgetary positions (in particular, the record of adjustment towards the medium-term budgetary objective, the level of the primary balance and developments in primary expenditure, both current and capital, the implementation of policies in the context of the prevention and correction of excessive macroeconomic imbalances, the implementation of policies in the context of common growth strategy of the Union and the overall quality of public finances, in particular the effectiveness of national budgetary frameworks)* ;
- The report shall also analyse developments in the medium-term *government* debt position, *its dynamics and sustainability* (in particular, risk factors including the maturity structure and currency denomination of the debt, stock-flow *adjustment and its composition* , accumulated reserves and other *financial* assets; guarantees, notably linked to the financial sector; *and any implicit* liabilities related to ageing and private debt to the extent that it may represent a contingent implicit liability for the government);
- Furthermore, the Commission shall give due *and explicit* consideration to any other factors which, in the opinion of the Member State concerned, are relevant in order to comprehensively assess *compliance with deficit and debt criteria* and which the Member State has put forward to the *Council and the Commission*. In that context, *particular* consideration shall be given to: financial contributions to fostering international solidarity and to achieving *the* Union policy goals; *the debt incurred in the form of bilateral and multilateral support between Member States in the context of safeguarding* financial stability; *the debt related to financial stabilisation operations during major financial disturbances."*

- (d) paragraph 4 is replaced by the following:

"4. The Commission and the Council shall make a balanced overall assessment of all the relevant factors, specifically, the extent to which they affect the assessment of compliance with the deficit and/or the debt criteria as aggravating or mitigating factors. When assessing compliance on the basis of the deficit criterion, if the ratio of the government debt to GDP exceeds the reference value, these factors shall be taken into account in the steps leading to the decision on the existence of an excessive deficit provided for in paragraphs 4, 5 and 6 of Article 126 of the Treaty only if the double condition of the overarching principle — that, before these relevant factors are taken into account, the general government deficit remains close to the reference value and its excess over the reference value is temporary — is fully met.

However, these factors shall be taken into account in the steps leading to the decision on the existence of an excessive deficit when assessing compliance on the basis of the debt criterion."

- (da) paragraph 5 is replaced by the following:

"5. The Commission and the Council, when assessing compliance with the deficit and debt criterion and in the subsequent steps of the excessive deficit procedure, shall give due consideration to the implementation of pension reforms introducing a multi-pillar system that includes a mandatory, fully funded pillar and the net cost of the publicly managed pillar. In particular, consideration shall be given to the features of the overall pension system created by the reform, namely whether it promotes long-term sustainability while not increasing risks for the medium-term budgetary position."

- (db) paragraph 6 is replaced by the following:

"6. If the Council, on the basis of the proposal of the Commission, has decided, on the basis of Article 126(6) TFEU, that an excessive deficit exists in a Member State, the Council and the Commission shall take into account the relevant factors referred to in paragraph 3, as they affect the situation of the concerned Member State, also in the subsequent procedural steps of Article 126 TFEU, including as specified in Articles 3(5) and 5(2) of this Regulation, in particular in establishing a deadline for the correction of the excessive deficit and eventually extending it. However, those relevant factors shall not be taken into account for the decision of the Council under Article 126(12) TFEU on the abrogation of some or all of its decisions under paragraphs 6 to 9 and 11 of Article 126 TFEU."

- (e) paragraph 7 is replaced by the following:

"7. In the case of Member States where the excess of the deficit *over the reference value* reflects the implementation of a pension reform introducing a multi-pillar system that includes a mandatory, fully funded pillar, the Commission and the Council shall also consider the cost of the reform ■ when assessing developments of deficit ■ figures in *excessive deficit procedure as long as the deficit does not significantly exceed a level that can* be considered ■ close to the

reference value ***and the debt ratio does not exceed the reference value on condition that overall fiscal sustainability is maintained.*** The net cost shall be taken into account also for the decision of the Council under Article 126(12) TFEU on the abrogation of some or all of its decisions under paragraphs 6 to 9 and 11 of Article 126 TFEU, if the deficit has declined substantially and continuously and has reached a level that comes close to the reference value ***.***".

2a. *The following section is inserted:*

"SECTION 1a

ECONOMIC DIALOGUE

Article 2a

1. ***In order to enhance the dialogue between the Union institutions, in particular the European Parliament, the Council and the Commission and to ensure greater transparency and accountability, the competent committee of the European Parliament may invite the President of the Council, the Commission and, where appropriate, the President of the Eurogroup to appear before the committee to discuss Council recommendation based on Article 126(7) TFEU and notice under Article 126(9) TFEU and decisions taken pursuant to Article 126(6) and (11) TFEU.***

The competent committee of the European Parliament may offer the opportunity to the Member State concerned by such recommendation, notice and decisions to participate in an exchange of views.

2. ***The Commission and the Council shall regularly inform the European Parliament of the application of this Regulation."***

3. Article 3 is amended as follows:

- (a) paragraph 2 is replaced by the following:

"2. Taking fully into account the opinion referred to in paragraph 1, the Commission, if it considers that an excessive deficit exists, shall address an opinion and a proposal to the Council in accordance with Article 126(5) and (6) of the TFEU and shall inform the European Parliament."

- (b) In paragraph 3, the reference to 'Article 4(2) and (3) of Regulation (EC) No 3605/93' is replaced by the reference to 'Article 3(2) and (3) of Regulation (EC) No 479/2009'.

- (c) paragraph 4 is replaced by the following:

"4. The Council recommendation made in accordance with Article 126(7) TFEU shall establish a deadline of ***no longer than six months for effective action to be taken by the Member State concerned. ***When warranted by the seriousness of the situation, the deadline for effective action may be three months.*** The Council recommendation shall also establish a deadline for the correction of the excessive deficit, which should be completed in the year following its identification unless there are special circumstances. In *its* recommendation, the Council shall request***

that the Member State achieves annual budgetary targets which, on the basis of the forecast underpinning the recommendation, are consistent with a minimum annual improvement of at least 0,5 % of GDP as a benchmark, in its cyclically adjusted balance net of one-off and temporary measures, in order to ensure the correction of the excessive deficit within the deadline set in the recommendation.";

- (d) the following paragraph ■ is inserted:

"4a. Within the deadline ■ provided for in paragraph 4, the Member State concerned shall report to the Commission and the Council on action taken in response to the Council recommendation under Article 126(7) TFEU. The report shall include the targets for ■ government expenditure *and revenue* and for the discretionary measures on *both the expenditure and* the revenue side consistent with the Council recommendation under Article 126(7) TFEU, as well as information on the measures taken and the nature of those envisaged to achieve the targets. The report shall be made public.";

- (e) paragraph 5 is replaced by the following:

"5. If effective action has been taken in compliance with a recommendation under Article 126(7) of the Treaty and unexpected adverse economic events with major unfavourable consequences for government finances occur after the adoption of that recommendation, the Council may decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) of the Treaty. The revised recommendation, taking into account the relevant factors *referred to* in Article 2(3) of this Regulation, may notably extend the deadline for the correction of the excessive deficit by one year as a rule. The Council shall assess the existence of unexpected adverse economic events with major unfavourable consequences for government finances against the economic forecasts in its recommendation. *In case of a severe economic downturn for the euro area or the EU as a whole, the* Council may also decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) of the *Treaty on condition that this does not endanger fiscal sustainability in the medium-term.*".

4. *Article 4 is amended as follows:*

- (a) *paragraph 1 is replaced by the following:*

"1. Any Council decision to make public its recommendations, where it is established that no effective action has been taken in accordance with Article 126(8) TFEU, shall be taken immediately after the expiry of the deadline set in accordance with Article 3(4) of this Regulation."

- (b) ■ paragraph 2 is replaced by the following:

"2. The Council, when considering whether effective action has been taken in response to its recommendations made in accordance with Article 126(7) TFEU, shall base its decision on the report submitted by the Member State concerned in accordance with Article 3(4a) of this Regulation and its implementation as well as on any other publicly announced decisions by the Government of the Member

State concerned.

Where the Council establishes, in accordance with Article 126(8) TFEU, that the Member State concerned has failed to take effective action, it shall report to the European Council accordingly."

5. Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Any Council decision to give notice to the participating Member State concerned to take measures for the deficit reduction in accordance with Article 126(9) of the Treaty shall be taken within two months of the Council decision establishing that no effective action has been taken in accordance with Article 126(8). In the notice, the Council shall request that the Member State achieve annual budgetary targets which, on the basis of the forecast underpinning the notice, are consistent with a minimum annual improvement of at least 0,5 % of GDP as a benchmark, in its cyclically adjusted balance net of one-off and temporary measures, in order to ensure the correction of the excessive deficit within the deadline set in the notice. The Council shall also indicate measures conducive to the achievement of these targets.";

(b) the following paragraph ■ is inserted:

"1a. Following the Council notice given in accordance with Article 126(9) TFEU, the Member State concerned shall report to the Commission and the Council on action taken in response to the Council notice. The report shall include the targets for the government expenditure ***and revenue*** and for the discretionary measures on ***both the expenditure and*** the revenue side as well as information on the actions being taken in response to the specific Council recommendations so as to allow the Council to take, if necessary, the decision in accordance with Article 6 (2) of this Regulation. The report shall be made public.";

(c) paragraph 2 is replaced by the following:

"2. If effective action has been taken in compliance with a notice under Article 126(9) of the Treaty and unexpected adverse economic events with major unfavourable consequences for government finances occur after the adoption of that notice, the Council may decide, on a recommendation from the Commission, to adopt a revised notice under Article 126(9) of the Treaty. The revised notice, taking into account the relevant factors ***referred to*** in Article 2(3) of this Regulation, may notably extend the deadline for the correction of the excessive deficit by one year as a rule. The Council shall assess the existence of unexpected adverse economic events with major unfavourable consequences for government finances against the economic forecasts in its notice. ***In case of a severe economic downturn for the euro area or the EU as a whole, the*** Council may also decide, on a recommendation from the Commission, to adopt a revised notice under Article 126(9) of the Treaty, ***on condition that this does not endanger fiscal sustainability in the medium-term."***

6. Article 6 is replaced by the following:

"Article 6

1. The Council, when considering whether effective action has been taken in response to its notice made in accordance with Article 126(9) TFEU, shall base its decision on the report submitted by the Member State concerned in accordance to Article 5(1a) of this Regulation and its implementation as well as on any other publicly announced decisions by the Government of the Member State concerned. ***The outcome of the surveillance mission carried out by the Commission in accordance with Article 10a shall be taken into account.***

2. Where the conditions to apply Article 126(11) TFEU are met, the Council shall impose sanctions in accordance with Article 126(11) TFEU. Any such decision shall be taken no later than four months after the Council decision giving notice to the participating Member State concerned to take measures in accordance with Article 126(9) TFEU."

7. ■ Article 7 is replaced by the following:

"Article 7

If a participating Member State fails to act in compliance with the successive decisions of the Council in accordance with Article 126(7) and (9) TFEU, the decision of the Council to impose sanctions in accordance with Article 126(11) TFEU shall be taken as a rule within sixteen months of the reporting dates established in Article 3(2) and (3) of Regulation (EC) No 479/2009. In case Article 3(5) or 5(2) of this Regulation is applied, the sixteen-month deadline is amended accordingly. An expedited procedure shall be used in the case of a deliberately planned deficit which the Council decides is excessive."

8. Article 8 is replaced by the following:

"Article 8

Any Council decision to intensify sanctions, in accordance with Article 126(11) of the Treaty, shall be taken no later than two months after the reporting dates pursuant to Regulation (EC) No 479/2009. Any Council decision to abrogate some or all of its decisions in accordance with Article 126(12) of the Treaty shall be taken as soon as possible and in any case no later than two months after the reporting dates pursuant to Regulation (EC) No 479/2009."

9. In the third paragraph of Article 9, the reference to 'Article 6' is replaced by the reference to 'Article 6(2)'."

10. Article 10 is amended as follows:

- (a) the introductory phrase of paragraph 1 is replaced by the following:

"1. The Commission and the Council shall regularly monitor the implementation of action taken:";

- (b) in paragraph 3, the reference to 'Regulation (EC) No 3605/93' is replaced by a reference to 'Regulation (EC) No 479/2009'."

10a. The following article is inserted:

"Article 10a

- 1. The Commission shall maintain a permanent dialogue with authorities of the Member States in accordance with the objectives of this Regulation. To that end, the Commission shall, in particular, carry out missions for the purpose of the assessment of the actual economic situation in the Member State and the identification of any risks or difficulties in complying with the objectives of this Regulation.**
- 2. Enhanced surveillance may be undertaken for Member States which are the subject of recommendations and notices issued following a decision pursuant to Article 126(8) and decisions under Article 126(11) TFEU for the purposes of monitoring in situ. The Member States concerned shall provide all necessary information for the preparation and the conduct of the mission.**
- 3. When the Member State concerned is a Member State whose currency is the euro or participating in ERM II, the Commission may invite representatives of the European Central Bank, if appropriate, to participate in surveillance missions.**
- 4. The Commission shall report to the Council on the outcome of the mission referred to in the second paragraph and if appropriate may decide to make its findings public.**
- 5. When organising surveillance missions referred to in the second paragraph, the Commission shall transmit its provisional findings to the Member States concerned for comments."**

11. Article 11 is replaced by the following:

"Article 11

Whenever the Council decides to apply sanctions to a participating Member State in accordance with Article 126(11) TFEU, a fine shall, as a rule, be required. The Council may decide to supplement this fine by the other measures provided for in Article 126(11) TFEU."

12. Article 12 replaced by the following:

"Article 12

- 1. The amount of the fine shall comprise a fixed component equal to 0,2 % of GDP, and a variable component. The variable component shall amount to one tenth of the difference between the deficit as a percentage of GDP in the preceding year and either the reference value for government deficit or, if non compliance with budgetary discipline includes the debt criterion, the general government balance as a percentage of GDP that should have been achieved in the same year according to the notice issued under Article 126(9) of the Treaty.**
- 2. Each following year, until the decision on the existence of an excessive deficit is abrogated, the Council shall assess whether the participating Member State concerned**

has taken effective action in response to the Council notice in accordance with Article 126(9) TFEU. In this annual assessment the Council shall decide, in accordance with Article 126(11) TFEU, to intensify the sanctions, unless the participating Member State concerned has complied with the Council notice. If an additional fine is decided, it shall be calculated in the same way as for the variable component of the fine in paragraph 1.

3. Any single fine referred to in paragraphs 1 and 2 shall not exceed the upper limit of 0,5 % of GDP."

13. Article 13 is repealed and the reference to it in Article 15 is replaced by a reference to 'Article 12'.

14. Article 16 is replaced by the following:

"Article 16

Fines referred to in Article 12 of this Regulation shall constitute other revenue, as referred to in Article 311 of the Treaty, and shall be *assigned to the European Financial Stability Facility. By the moment another stability mechanism to provide financial assistance is created by Member States whose currency is the euro in order to safeguard the stability of the euro area as a whole, the fines shall be assigned to that last mechanism.*"

14a. The following article is inserted:

"Article 17a

1. Within three years after the entry into force of this Regulation and every five years thereafter, the Commission shall publish a report on the application of this Regulation.

That report shall evaluate, inter alia:

(a) *the effectiveness of the regulation;*

(b) *the progress in ensuring closer coordination of economic policies and sustained convergence of economic performances of the Member States in accordance with the Treaty.*

2. *Where appropriate, this report shall be accompanied by a proposal for amendments to this Regulation.*

3. *The report shall be forwarded to the European Parliament and the Council.*"

15. All references to 'Article 104' are replaced throughout the Regulation by references to 'Article 126 TFEU'.

16. In point 2 of the Annex, the references in Column I to 'Article 4 (2) and (3) of Council Regulation (EC) No 3605/93' are replaced by references to 'Article 3(2) and (3) of Council Regulation (EC) No 479/2009'.

Article 2

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,

For the Council
The President