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REPORT

on 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))

Committee on Economic and Monetary Affairs

Rapporteur: Diogo Feio

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

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

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5
OPINION OF THE COMMITTEE ON LEGAL AFFAIRS ON THE LEGAL BASIS	27
OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS	35
PROCEDURE.....	52

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on 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))

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2010)0522),
 - having regard to Article 126(14), second subparagraph of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C7-0396/2010),
 - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
 - having regard to the opinion of the European Central Bank of 16 February 2011¹,
 - having regard to Rules 55 and 37 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Employment and Social Affairs (A7-0179/2011),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ Not yet published in the Official Journal.

AMENDMENTS BY PARLIAMENT*
to the Commission proposal

COUNCIL REGULATION (EU) No .../...

**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,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Central Bank,

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 *and balanced* public finances and monetary conditions, sustainable balance of payments, *aiming at achieving sustainable growth and social cohesion, as well as the objectives set out in the TEU and TFEU, whilst respecting the Treaties' horizontal clauses.*
- (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 policies, Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure and the Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact. 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.

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

¹ OJ C , , p..

- (2a) *This Regulation should not affect the exercise of fundamental rights as recognised in the Member States and by Union law. Nor should it affect the right to negotiate, conclude and enforce collective agreements and to take industrial action in accordance with national law and practices which respect Union law.*
- (2b) *A comprehensive and integrated solution to the euro area debt crisis is needed since a piecemeal approach has not worked so far.*
- (2c) *The political response of the Member States to the assessments, decisions, recommendations and warnings issued to them by the Commission or Council in the framework of the European Semester should be taken into account (i) in the enforcement procedures of the preventive and corrective parts of the Stability and Growth Pact (ii) in the enforcement measures to correct macroeconomic imbalances in the euro area, (iii) in ensuring that conditions linked to European Monetary Fund allocations are adequately tailored to the Member State fundamentals and to ensure that its economic policies are on the right track, and (iv) in ensuring that the European Monetary Fund's financial assistance to Member States will smoothen economic adjustment shocks, help them to avoid sovereign defaults, prevent costs on other countries through contagion and guarantee financial stability of the eurozone as a whole.*
- (2d) *The Commission should have a stronger and more independent role in the enhanced surveillance procedure. This concerns Member-State-specific assessments, monitoring, missions, recommendations and warnings. In addition, the role of the Council needs to be reduced in the steps leading to potential sanctions and the reversed qualified majority voting in the Council needs to be used wherever possible in accordance with the TFEU. The member of the Council representing the Member State concerned and those which are not complying with the Council recommendations to take corrective action under the Stability and Growth Pact or to address excessive macroeconomic imbalances should not participate in the vote.*
- (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. Accordingly, its implementation should be measured against its ability to meet these objectives.*
- (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) *Economic developments in the Union have posed new challenges to the conduct of national fiscal policies and have, in particular, highlighted the need for uniform minimum requirements as regards the rules and procedures forming the budgetary frameworks of the Member States.*
- (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 budgetary positions (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 Board, and a credible permanent crisis resolution mechanism.

- (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 Union's economic governance framework as a whole should complement and be compatible with a Union strategy for growth and job creation that boosts the Union's competitiveness. Environmental responsibility, social progress and stability, and the development and strengthening of the Single Market should also be envisaged by this framework. As a general principle, these interlinkages should not provide for exemptions to the provisions of the Stability and Growth Pact.*
- (4e) Strengthening economic governance should go hand in hand with reinforcing the democratic legitimacy of economic governance in the Union, which should be achieved through a closer and more timely involvement of the European Parliament and the national parliaments throughout the economic policy coordination procedures.*
- (4f) Member States should provide for fiscal arrangements such as national fiscal rules, respecting the principles laid down in Council Directive 2011/.../EU [on requirements for budgetary frameworks of the Member States], and for fully independent public institutions to be involved in the budgetary process and medium-term budgetary framework. National budgetary rules should be complementary to the Member States' commitments under the Stability and Growth Pact. National institutions should play a more prominent role in budgetary surveillance to strengthen national ownership, enhance enforcement through national public opinion and complement the economic and policy analysis that exists at EU level.*
- (4g) The European semester for economic policy coordination (Semester) should play a vital role in implementing the requirement under Article 121(1) TFEU that Member States regard their economic policies as a matter of common concern and coordinate them accordingly. Transparency, accountability and independent oversight are an integral part of enhanced economic governance. The Council and the Commission should make public and set out the reasons for their positions and decisions at the appropriate stages of the economic policy coordination procedures. The national budgetary frameworks should include the establishment and strengthening of the role of independent fiscal bodies and ensure the publication of transparent fiscal statistics.*
- (4h) Without prejudice to their rights and obligations under the TFEU, the Member States whose currency is not the euro should have the right to apply the economic*

governance legislation.

- (4i) 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.*
- (4j) The Commission and the Council should when applying this Regulation take into account all relevant factors and the economic and budgetary situation of the concerned Member States, in particular whether they are subject to an European Union/International Monetary Fund adjustment programme. In addition a transition period should be introduced in order to allow Member States to adapt their policies to some of the provisions of this Regulation.*
- (4k) Article 3 of the Protocol (No 12) on the excessive deficit procedure annexed to the Treaties provides that Member States ensure that national procedures in the budgetary area enable them to meet their obligations in this area deriving from the Treaties. Member States whose currency is the euro should therefore anchor the objectives of the Union fiscal framework in national law, and should ensure that adequate budgetary procedures and bodies are in place to meet those objectives.*
- (4l) The permanent crisis mechanism should be adopted under the ordinary legislative procedure and inspired by the Union method, in order, on the one hand, to strengthen Parliament's involvement and improve democratic accountability and, on the other, to draw on the expertise, independence and impartiality of the Commission.*
- (4m) The volatility of the markets and the levels of the government bond spreads of certain Member States whose currency is the euro are calling for a resolute action to defend the stability of the euro.*
- (4n) The European Monetary Fund should serve three purposes: it should cover a percentage of the sovereign debt from the Member States that can be paid without risking the financial stability of any other Member State or of the eurozone as a whole (Eurosecurities); it should help any Member State with financial difficulties to resolve the crisis in which it might be involved (permanent crisis resolution mechanism); and, finally, it should mobilise resources to finance investments that can promote economic growth (project bonds).*
- (4o) Member States whose currency is the euro should pool up to [...] percent of the sovereign debt under joint and several liability (Eurosecurities). Whilst the common issuance would increase the liquidity of the bonds on the capital market, the common liability serves to help those states which face increasing difficulties raising capital. Eurosecurities should take priority over debt owed by national governments. They could help to promote the euro as a reserve currency.*
- (4p) To strengthen fiscal discipline those countries with credible economic and fiscal policies should be allowed to borrow up to the full [...]percent of their GDP, while*

countries with a weaker economic or fiscal position would have to pay a premium/ extra interest rate or only be able to borrow a lower proportion of their GDP in Eurosecurities. In the extreme, if a participating country were consistently to pursue unsustainable economic or fiscal policies, its participation in the issuance of Eurosecurities should be suspended.

- (4q) *A European Monetary Fund, managed under Union rules and financed in particular with the revenues of the fines, should be established in order to safeguard financial stability of the euro area as whole. That fund should be based on the decisions taken by the Council of 9 to 10 May 2010 and the Statement by the Euro Group of 28 November 2010.*
- (5) The rules on budgetary discipline *and on complying with and enforcing it* should be strengthened in particular by giving a more prominent role to the level and evolution of debt and overall sustainability.
- (5a) *The debt criteria, including private debt to the extent that it may represent a contingent implicit liability for the government, should be better integrated in each step of the excessive deficit procedure in order to ensure the sustainability of public finances while maintaining adequate levels of public investments.*
- (5b) *The consolidation of the European Single Market is an essential precondition to ensure the correct functioning and the strengthening of the economic and monetary union. In this sense, it is necessary to eliminate the existing regulatory and physical barriers that make it impossible to achieve a single European railway area, specially in the freight transport.*
- (5c) *Greater balance should be ensured between economic grounds and political room for manoeuvre but the rules should remain simple, transparent and practicable.*
- (5d) *An assessment of the sustainability of public finances, including the debt level, debt profile (including maturity) and debt dynamics, should be more strongly taken into account in the pace of convergence towards Member State-specific medium-term budgetary objectives to be included in the Stability and Convergence Programmes.*
- (5e) *As a complement to the excessive deficit procedure, a clear harmonised framework to measure and monitor debt dynamics, including implicit and contingent liabilities, such as public pension exposures and public guarantees (whether, inter alia, of principal, interest or income-flows) in the financial sector and in public-private partnership investments, and the costs of such investments to the national budget throughout the years, should be established.*
- (5f) *The framework to control public debt and private debt should support long-term growth taking due account of the anti-cyclical role of budgetary policy as well as improving the preconditions for investments and development of the internal market, whilst respecting Member State specific priorities and needs.*
- (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, *or is deemed in situation of temporary deviation from the sufficiently diminishing path. The whole range of relevant factors should be taken into account in the assessment.*

- (6a) *Prudent and sustainable fiscal policy-making should effectively achieve and maintain the medium-term budgetary objective. Adherence to the medium-term objective for budgetary positions should allow Member States to have a safety margin with respect to the 3% of GDP reference value for the government deficit, to ensure rapid progress towards sustainability, and at the same time to have room for budgetary manoeuvre, in particular taking into account the needs for public investment.*
- (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.*
- (7a) *In the preventive part of the Stability and Growth Pact, the incentive for prudent and sustainable fiscal policy-making should consist of an obligation to lodge an interest-bearing deposit temporarily imposed on a Member State whose currency is the euro that is making insufficient progress with budgetary consolidation. This should be the case when, following an initial warning from the Commission, a Member State persists in conduct which, while not amounting to a violation of the ban on excessive deficits, is imprudent and potentially detrimental to the smooth functioning of economic and monetary union, and the Council therefore issues a recommendation in accordance with Article 121(4) TFEU.*
- (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 nature, composition and quality of expenditure, including government investment expenditure, and other* relevant factors covered by the report under Article 126(3) TFEU if the government debt to gross domestic product does not exceed the reference value. *These factors should always be taken into account when establishing the existence of an excessive deficit based on the debt criterion and in the steps leading to it.*
- (8a) *Even where the existence of the excessive deficit has been established, all the relevant factors should be taken into account in the subsequent steps of the procedure. In particular, the implementation of policies aimed at increasing the medium-term rate for potential growth in the context of the common growth strategy of the Union should be appropriately taken into account when setting the deadline for correcting the excessive deficit and eventually extending it.*
- (8b) *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) TFEU 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 ***fiscal one-offs*** and ***other*** 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 ***other*** planned specific revenue measures.
- (12) In assessing the case for an ***exceptional*** extension of the deadline for correcting the excessive deficit, ■ consideration should be given to severe economic downturns of a general nature ***or exceptional circumstances arising in a Member State.***
- (13) It is appropriate to step up the application of the financial sanctions ***and incentives*** 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 ***incentives and*** sanctions should be designed on the basis of Article 136 TFEU, ensuring fair, timely and effective mechanisms for compliance with the Stability and Growth pact rules.
 - (14a) ***The economically and politically more sensitive incentives and sanctions should take due account of the structure of the national deficit and debt (including implicit liabilities), the "economic cycle", in order to avoid pro-cyclical fiscal policy, and the structural composition of public revenue and expenditure needed for growth-enhancing structural reforms.***
 - (14b) ***In the implementation of the rules-based framework under the Stability and Growth Pact, the Commission and the Council should take due account of the complementary framework of the European Financial Stability Facility or other permanent crisis mechanism set up under Article 136(3) TFEU (the European Stability Mechanism). To the extent that Member States are eligible to have recourse to such mechanism, they may be invited by the Commission and the Council to proceed to the required application.***
 - (14c) ***Incentives and sanctions for Member States whose currency is the euro should be enforced and implemented taking into consideration the very close interconnections***

with Member States whose currency is not the euro, especially those that are expected to join the euro area, as part of the new multilateral surveillance framework and the enhanced instruments of the Stability and Growth Pact, in particular a stronger focus on the medium-term budgetary objectives.

- (14d) *The Council and the Commission should make their positions and decisions public at appropriate stages of the economic policy coordination procedures, while fully respecting Treaty provisions, in order to ensure effective peer pressure, and it should be possible for the European Parliament to invite the Member State concerned to explain before its competent committee its decisions and policies.*
- (14e) *The annual policy recommendations by the Commission should be discussed in the European Parliament before the beginning of discussions in the Council.*
- (14f) *Fines collected in accordance with Article 12 of this Regulation should constitute other revenue as referred to in Article 311 TFEU and should be allocated to a stability mechanism for Member States whose currency is the euro. Until the establishment of this mechanism the fines should be allocated as provisioning for risk-sharing financial instruments for EU relevant projects financed by the European Investment Bank in conformity with provisions of the Protocol (n°5) on the Statute of the European Investment Bank annexed to the Treaties.*
- (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 3625/93 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 Community.
- (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 prevent 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.*

The Council shall use the reversed qualified majority voting when deciding on the adoption of recommendations and notices based on Commission formal positions' under Article 126 TFEU.

2. *A Member State with a derogation may apply the rules applicable to participating Member States laid down in this Regulation and, if so, shall notify the Commission accordingly. Such a notification shall be published in the Official Journal of the European Union. The Member State concerned shall be considered to be a participating Member State for the purposes of this Regulation from the day after such publication."*

2. Article 2 is amended as follows:

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

"1. 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) TFEU, 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) TFEU if the differential with respect to the reference value has decreased over the previous three years at *an average* rate of the order of one-twentieth per year *as a benchmark, following an assessment made over a three-year period.*

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 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 relevant Council opinions on its Stability or Convergence Programme.

In implementing the debt adjustment benchmark, the relevant factors for each country, as referred to in paragraph 3, shall be taken into account. In this assessment particular attention shall be given to the stage of the economic cycle of the Member State."

(c) paragraph 3 is replaced by the following:

"3. The Commission, when preparing a report under Article 126(3) TFEU

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 and cyclical developments, inflation, the implementation of policies in the context of common growth strategy of the Union, and other objectives in accordance with the TFEU, prevention and correction of excessive macroeconomic imbalances and the private sector net savings position;*

– *The developments related to the adjustment path towards the medium term budgetary objectives (in particular primary expenditure, public investment and the overall quality of public finances, in particular the effectiveness of national budgetary frameworks), as defined in Article 5 of Regulation (EC) No 1466/97;*

– *The developments of the current public expenditure shall also be taken into account, in particular its stability in real terms;*

– 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 such as* 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 *and the debt incurred in the form of bilateral and multilateral support between Member States in the context of safeguarding financial stability.*

Particular and explicit consideration shall also be given to the financial burden related to recapitalisation operations and other temporary State aid measures for the financial sector during major financial disturbances and loans and guarantees granted to other Member States and to the European Financial Stability Facility and the European Stability Mechanism.

When preparing a report, the Commission may request additional information from the Member State concerned.

When assessing compliance on the basis of the debt criterion, these relevant

factors shall be taken into account in the steps leading to the decision on the existence of an excessive deficit and debt provided for in articles 126 (4), (5) and (6) TFEU, only where the government debt ratio is declining in an average of three years.";

(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, *to* the extent to which they affect the assessment of compliance with the deficit *and* debt criteria *by the concerned Member State. Relevant factors shall be taken into account as appropriate in both the steps leading to the decision on the existence of an excessive deficit provided for in paragraphs 4, 5 and 6 of Article 126 TFEU, namely, to confirm that the concerned Member State should be placed in excessive deficit to reach the opposite conclusion and the subsequent steps of Article 126, as specified in paragraphs 5 and 6 of Article 2 of this Regulation.* 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 TFEU 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.";

(da) paragraph 5 is replaced by the following:

"5. *The Commission and the Council, in all budgetary assessments in the framework of the excessive deficit procedure, shall give due consideration to the implementation of pension reforms introducing a multipillar system that includes a mandatory, fully funded pillar, which promotes the long-term sustainability of the pension system while not increasing risks for the medium-term budgetary position and other expenditure in accordance with Article 126(3) TFEU."*;

(db) the following paragraph is inserted:

"5a. *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."*;

(dc) paragraph 6 is replaced by the following:

"6. *If the Council, taking into account the position 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

In order to enhance the dialogue between the institutions of the Union, in particular the European Parliament, the Council and the Commission, and the Member States' parliaments and governments, or any other relevant body, and to ensure greater transparency and accountability, the competent committee of the European Parliament may conduct public debates and hearings, in particular regarding Article 126 (8) TFEU on the macro-economic and budgetary surveillance undertaken by the Council and the Commission."

3. Article 3 is amended as follows:

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

1. Within 10 days of the adoption by the Commission of a report issued in accordance with Article 126(3) TFEU, the Economic and Financial Committee shall formulate an opinion in accordance with Article 126(4) TFEU."

(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 **recommendation** to the Council in accordance with Article 126(5) and (6) TFEU **and shall inform the European Parliament and the Parliament of the Member State concerned.**";

(b) █ paragraph 3 is replaced by the following:

"3. The Council shall decide on the existence of an excessive deficit in accordance with Article 126(6) TFEU, as a rule within two months of the reporting dates established in Article 3(2) and (3) of Regulation (EC) No 479/2009. When it decides that an excessive deficit exists, the Council shall at the same time make recommendations to the Member State concerned in accordance with Article 126(7) TFEU.";

(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 **particular** 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 **deficit reduction** of at least 0,5 % of GDP as a benchmark, in its cyclically adjusted balance net of one-off and temporary measures **with direct or indirect budgetary effect**, 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 discretionary revenue, including their level and trend** 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 Commission may request additional reporting from the Member State.** The report shall be made public.";

(da) **the following paragraph is inserted:**

"4b. The competent committee of the European Parliament may invite a representative from the Member State concerned to explain its economic and budgetary policy and the action it intends to take to correct the excessive deficit situation before the committee. The Member State may also ask to be invited to the European Parliament for the same purposes.";

(e) paragraph 5 is replaced by the following:

"5. If effective action has been taken in compliance with a recommendation under Article 126(7) *TFEU* 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) *TFEU*. 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 as defined in Article 5 of Regulation (EC) No 1466/97, the Council may also decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) TFEU, on the condition that this does not endanger fiscal sustainability.***"

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. At the same time, the Council, on a proposal from the Commission, shall submit a formal report to the European Council."

(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), that the Member State concerned has failed to take effective action, it shall report to the European Council accordingly.

The Commission may carry out on-site dialogue or surveillance visits in accordance with Article 10a. For participating Member States, and Member States participating in the ERM II, such visits shall be carried out in liaison with the European Central Bank. The Commission shall report to the European Parliament and the Council on the outcome of the visit and shall make its findings public.

2a. The European Parliament shall be informed of the situations described in paragraphs 1 and 2."

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) *TFEU* 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 **deficit reduction** of at least 0,5 % of GDP as a benchmark, in its cyclically adjusted balance net of one-off and temporary measures **with direct or indirect budgetary effect**, in order to ensure the correction of the excessive deficit within the deadline set in the notice. The Council may also indicate measures conducive to the achievement of these targets.";

(b) the following paragraph 1a is inserted:

'1a. Following the Council notice given in accordance with Article 126(9) *TFEU*, the Member State concerned shall report to **the European Parliament, the Commission and the Council** on action taken in response to the Council notice. The report shall include **■ targets for ■ government expenditure and discretionary revenue, including their level and trend**, 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 Commission shall monitor and evaluate adjustment measures taken to address the excessive deficit by means of a visit in accordance with Article 10a and shall issue a report to the Council.** The report shall be made public.";

(ba) the following paragraph is inserted:

"1b. The competent committee of the European Parliament may invite the Member State concerned to explain its economic and budgetary policy and the action it intends to take to correct the excessive deficit situation before the committee. The Member State may also ask to be invited to the European Parliament for the same purposes.";

(c) paragraph 2 is replaced by the following:

"2. If effective action has been taken in compliance with a **recommendation** under **Article 126(7) TFEU** 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) TFEU**. 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, the Council may also decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) TFEU, on condition that such a revised recommendation does not endanger fiscal sustainability.**"

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 **and on the outcome of the Commission report referred to in Article 5(1a).**

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 **two 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. The competent committee of the European Parliament may invite the Member State to report to its competent committee."

- 7a. **The following article is inserted:**

"Article 7a

Meeting between Parliaments

Whenever there is an invitation to a meeting between the competent committee of the European Parliament and a Member State to explain a position, required action or divergence from the requirements herein, the meeting shall be convened under the auspices of one of:

- a) the European Parliament;*
- b) the Member State parliament; or*
- c) the Rotating Presidency parliament."*

8. Article 8 is replaced by the following:

"Article 8

Any Council decision to intensify sanctions in accordance with Article 126(11) TFEU 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) TFEU shall be taken, ***after consulting the European Parliament***, 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:";

(aa) the following paragraph is inserted:

"1a. The Commission and the Council shall report to the European Parliament their findings under paragraph 1."

(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 ensure a permanent dialogue with the authorities of the Member States in accordance with the objectives of this Regulation. To that end, the Commission shall carry out, in all Member States, visits for the purpose of regular dialogue and, where appropriate, surveillance.

The Commission may invite representatives of the European Central Bank, if it deems it appropriate, or other relevant institutions to participate in dialogue and surveillance visits.

2. When organising dialogue or surveillance visits, the Commission shall, if appropriate, transmit its provisional findings to the Member State concerned for

comments.

3. The Commission shall, in the context of dialogue visits, review the actual economic situation in the Member State and identify any risks or difficulties in complying with the objectives of this Regulation.

4. The Commission shall, in the context of surveillance visits, monitor the processes and verify that measures have been taken in accordance with decisions of the Council or the Commission in accordance with the objectives of this Regulation. Surveillance visits shall be undertaken only in exceptional cases and only where there are significant risks or difficulties in achieving those objectives.

5. The Commission shall inform the Economic and Financial Committee of the reasons for the surveillance visits.

6. Member States shall take all necessary measures to facilitate the dialogue and surveillance visits. Member States shall provide, at the request of the Commission and on a voluntary basis, the assistance of all the relevant national authorities for the preparation for and conduct of the dialogue and surveillance visits."

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.

The competent committee of the European Parliament may invite the Member State concerned, within three months of the date of the announcement of the sanctions referred to in paragraph 1, to explain before the committee the reasons why, despite the warnings received, it has not corrected the excessive deficit. The Member State may also ask to be invited to the European Parliament for the same purposes."

12. Article 12 is 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 determination of the variable component shall be based on an assessment by the Council on whether the participating Member State has taken effective action. If the Council considers that the Member State has taken effective action, no variable component shall be applied. The decision not to apply the variable component shall be taken by qualified majority. If the Member State is considered not to have taken effective action,*** the variable component shall amount, as a rule, 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) TFEU.

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 **0,2 % 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 collected in accordance with Article 12 of this Regulation shall constitute other revenue *as* referred to in Article 311 *TFEU* and shall be ***allocated*** to a ***stability mechanism*** for Member States ***whose currency is the euro. Until the establishment of this mechanism the fines shall be allocated as provisioning for risk-sharing financial instruments for EU relevant projects financed by the European Investment Bank in conformity with provisions of the Protocol (n°5) on the Statute of the European Investment Bank annexed to the Treaties.***"

14a. The following article is inserted:

"Article 17a

1. By ...* and every three years thereafter the Commission shall publish a report on the application of this Regulation.

2. The report and any accompanying proposals shall be forwarded to the European Parliament and the Council.

3. If the report identifies obstacles to the proper functioning of the rules and provisions in the Treaties governing economic and monetary union, it shall make the necessary recommendations to the European Council.

*** OJ please insert date: xxx years after the date of entry into force of this Regulation.**

4. Article 2 (1a) shall not apply to a Member State that is subject to an excessive deficit procedure at the date of adoption of this Regulation, if the Member State concerned complies with its Stability or Convergence Programme and related Council Opinions. Article 2(1a) shall apply once that procedure has been abrogated."

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*.

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 relevant Council opinions on its Stability or Convergence Programme.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at,

*For the Council
The President*

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS ON THE LEGAL BASIS

Mrs Sharon Bowles
Chair
Committee on Economic and Monetary Affairs
BRUSSELS

Subject: Opinion on the legal basis of 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))

Dear Mrs Bowles,

By letter of 4 March 2011 you asked the Committee on Legal Affairs pursuant to Rule 37(2) of the Rules of Procedure, to give its opinion on the appropriate legal basis of various proposals for legislation, on which amendments to change the legal basis have been tabled in your committee as the lead committee and/or in the Committee on Employment and Social Affairs.

The committee considered this question at its meeting of 12 April 2011.

The economic governance package aims at responding to the need for greater coordination and closer surveillance of economic policies in the Economic and Monetary Union.

The package consists of six proposals for legislation.

The proposals are analysed separately in the annex. For the sake of convenience, the committee's conclusions as to the appropriate legal basis in each case are set out below:

-Proposal for a Regulation of the Parliament and of the Council on the prevention and correction of macroeconomic imbalances ((COM (2010) 527, 2010/0281 (COD)).

The sole purpose of the proposal for a Regulation is to broaden the economic surveillance procedure, as allowed by **Article 121(6) TFUE**. This legal basis thus seems to be the appropriate one.

- Proposal for a Council Directive on requirements for budgetary frameworks of the Member States (COM (2010) 523 final, 2010/ 0277 (NLE))

The main purpose of this proposal is to encourage fiscal responsibility by setting minimum requirements for national frameworks and to ensure the effectiveness of the excessive deficit

procedure. Therefore, the legal basis proposed by the Commission, namely the third subparagraph of **Article 126(14) TFEU**, seems to be appropriate.

-Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ((COM (2010) 526, 2010/0280 (COD))

This proposal aims at securing strengthened coordination of Member States' economic policies. It therefore seems that **Article 121(6) TFEU** is the appropriate legal basis for this proposal.

- 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) 522 final, 2010/0276 (CNS))

In view of the fact that the main objective of this proposal is to fix the detailed rules to be followed when applying the excessive deficit procedure, the sole appropriate legal basis is **Article 126(14) TFEU**.

- Proposal for a Regulation of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area (COM (2010)0524, 2010/0278(COD))

It is considered that **Article 121(6) in conjunction with Article 136 TFEU** constitutes the appropriate legal basis.

- Proposal for a Regulation of the Parliament and of the Council on enforcement measures to correct excessive macroeconomic imbalances in the euro area ((COM 2010) 525, 2010/0279 (COD))

Considering the purpose of the proposal, which aims at reinforcing the effective correction of macroeconomic imbalances in the euro area, **Article 121(6) in conjunction with Article 136 TFEU** constitutes the appropriate legal basis.

At its meeting of 12 April 2011 the Committee on Legal Affairs decided on the above recommendations, unanimously¹.

¹ The following were present for the final vote: Klaus-Heiner Lehne (Chair), Evelyn Regner (Vice-Chair), Piotr Borys, Sergio Gaetano Cofferati, Christian Engström, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Kurt Lechner, Eva Lichtenberger, Antonio López-Istúriz White, Arlene McCarthy, Antonio Masip Hidalgo, Alajos Mészáros, Angelika Niebler, Bernhard Rapkay, Alexandra Thein, Diana Wallis, Rainer Wieland, Cecilia Wikström, Tadeusz Zwiefka.

Yours sincerely,

Klaus-Heiner Lehne

Annex

Subject: Legal basis of 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) 522, 2010/ 0276 (CNS))

The economic governance package consists of six proposals aiming at reinforcing the coordination and the surveillance of economic policies in the economic and monetary union (EMU) in the context of the Europe 2020 Strategy and the European semester, a new surveillance cycle which will bring together process under the SGP (The Stability and Growth Pact) and the Broad Economic Policy Guidelines.

Two proposals concern the excessive deficit procedure. Both of them are based on Article 126 (14) TFEU. Four proposals concern the multilateral surveillance procedure and are based on Article 121 (6). Two of those proposals are based on Article 121 (6) in combination with Article 136 TFEU.

These proposals represent a response to the weaknesses of the current system as revealed by the global economic and financial crisis. According to the Commission, the system must be strengthened in order to "*anchor macroeconomic stability and the sustainability of public finances, which are preconditions for durable output and employment growth*"¹.

The proposals follow two communications² of the Commission and an agreement of the European Council of June 2010 on the need to reinforce the coordination of the Member States economic policies. The economic governance package was submitted on 29 September 2010.

The proposal for a Council Regulation amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure is currently being examined by the Committee on Economic and Monetary Affairs, where the rapporteur is Diogo Feio. The Committee on Employment and Social Affairs is giving an opinion (rapporteur: David Casa). The European Parliament is acting under the consultation procedure.

The legal basis of Regulation No 1467/97 is Article 126 (14).

Amendments tabled in the lead committee (ECON) seek to change the legal basis from a single basis of Article 121(14) to a multiple basis of Article 121(14) with Article 136.

¹ Proposal for a Council Regulation (EU) amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure, Explanatory Memorandum.

² Reinforcing economic policy coordination of 12 May 2010; Enhancing economic policy coordination for stability, growth and jobs - Tools for stronger EU governance of 30 June 2010.

Background

Council Regulation No 1467/97 of 7 July 1997 is considered to be the corrective part of the SGP (the Stability and Growth Pact). This regulation sets out provisions to speed up and clarify the excessive deficit procedure, already defined in Article 126 TFEU.

It is meant to avoid gross error in budgetary policies, which could put at risk the sustainability of public finances and potentially endanger European monetary union. This translates into the obligation for Member States to avoid excessive government deficits, which are established according to two main criteria: deficit and debt. The excessive deficit procedure (EDP) that implements the ban on excessive deficits provides a sequence of steps to be followed; this system is backed by an enforcement mechanism which prescribes financial sanctions for non-compliance with the provisions set out by the regulation.

According to the Explanatory Memorandum¹ of the Commission, a reform of the corrective part of the SGP is necessary as a response to a number of shortcomings highlighted by the economic and financial crisis. Consequently, the proposal focuses on the following measures:

- *"the debt criterion of the EDP is to be made operational"*. Debt developments are to be followed more closely and put on an equal footing with deficit developments.

- *"enforcement is strengthened by introducing a new set of financial sanctions for euro-area Member States, which would apply much earlier in the process according to a graduated approach. (...) To reduce discretion in the enforcement, the 'reverse voting' mechanism is envisaged for imposing the new sanctions in connection with the successive steps of the EDP."*

The proposed legal basis

The Commission proposal is based on Article 126(14) TFEU, which reads as follows:

Article 126(14)

Further provisions relating to the implementation of the procedure described in this Article are set out in the Protocol on the excessive deficit procedure annexed to the Treaties.

The Council shall, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the European Central Bank, adopt the appropriate provisions which shall then replace the said Protocol.

¹ See note 1. Explanatory Memorandum.

Subject to the other provisions of this paragraph, the Council shall, on a proposal from the Commission and after consulting the European Parliament, lay down detailed rules and definitions for the application of the provisions of the said Protocol.

The legal basis proposed by an amendment tabled in ECON is Article 126(14) TFEU in combination with Article 136 TFEU.

Article 136

1. In order to ensure the proper functioning of economic and monetary union, and in accordance with the relevant provisions of the Treaties, the Council shall, in accordance with the relevant procedure from among those referred to in Articles 121 and 126, with the exception of the procedure set out in Article 126(14), adopt measures specific to those Member States whose currency is the euro:

- (a) to strengthen the coordination and surveillance of their budgetary discipline;*
- (b) to set out economic policy guidelines for them, while ensuring that they are compatible with those adopted for the whole of the Union and are kept under surveillance.*

2. For those measures set out in paragraph 1, only members of the Council representing Member States whose currency is the euro shall take part in the vote.

A qualified majority of the said members shall be defined in accordance with Article 238(3) (a).

Approach of the Court of Justice

According to the case law, in principle, a measure is to be founded on only one legal basis. If examination of the aim and the content of a Union measure reveals that it pursues a twofold purpose or that it has a twofold component, falling within the scope of different legal bases, and if one is identifiable as the main or predominant purpose or component, whereas the other is merely incidental, the measure must be based on a single legal basis, namely that required by the main or predominant purpose or component¹.

Only if, exceptionally, it is established that the measure simultaneously pursues a number of objectives or has several components that are indissociably linked, without one being secondary and indirect in relation to the other, will that measure have to be founded on the various corresponding legal bases.²

Analysis of the legal basis

¹ Case C-91/05 *Commission v. Council* [2008] ECR I- 3651.

² Case C-338/01 *Commission v. Council* [2004] ECR I - 4829.

Article 126 is part of Title VIII, Chapter 1, Economic Policy TFEU. The provision lays down the steps to be followed by the Commission and the Council when applying the excessive deficit procedure (EDP). Under this procedure, the Council and the Commission monitor the national deficits and issue recommendations.

Article 126(14) allows the Council to adopt complementary measures on the EDP in accordance with a special procedure (on a proposal from the Commission and after consulting the European Parliament).

Chapter 4 of Title VIII contains provisions specific to Member States whose currency is the euro. Article 136 thus allows the Council to decide on measures specific to Member States whose currency is the euro:

- to strengthen coordination and surveillance of their budgetary discipline.
- to set policy guidelines.

Article 136 emphasises that these measures shall be adopted *in accordance with the relevant procedure from among those referred to in Articles 121¹ and 126, with the exception of the procedure set out in Article 126(14).*

It appears that under the combination of Article 126 (14) and 136 TFEU, the legislature may strengthen the coordination and the surveillance provided for in Articles 121 and 126 TFEU² and may also lay down detailed rules concerning the application of the excessive deficit procedure (EDP).

Analysis of the proposal. Aim and content of the proposed measures

As we have seen, in principle a legislative measure is to be founded on one legal basis. Only if, exceptionally, it is established that the measure simultaneously pursues a number of objectives or has several components that are indissociably linked, without one being secondary and indirect in relation to the other, will that measure have to be founded on various corresponding legal bases.³

The present proposal seeks amendments to improve the mechanism put in place by the Regulation No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure.

¹ Article 121 TFEU lays down provisions on the coordination of the Member States' economic policies. Article 121(6) allows Parliament and the Council to adopt by the ordinary legislative procedure regulations with detailed rules for the multilateral surveillance procedure provided in Article 121 (3) and 121(4).

² For those Member States whose currency is the euro.

³ Case C-91/05 *Commission v. Council* [2008] ECR I-3651.

The Explanatory Memorandum puts forward the key measures for the envisaged reform as it follows:

- a) the debt criterion of the EDP is to be made operational. This measure comes as a response to the marginal role played insofar by debt, although the two criteria (deficit and debt) are in principle on an equal footing.
- b) introduction of a new set of financial sanctions for euro-area Member States in order to deter excessive general deficits and if they occur, to further their prompt correction.
- c) a clearer and a more flexible framework concerning the Commission's possible recommendations.

It follows that the main purposes of these proposal are to deter and correct excessive deficits, to avoid gross error in budgetary policies and to fix the detailed rules to be followed when applying the excessive deficit procedure.

It is clear therefore that Article 126(14) constitutes an adequate legal basis for the present proposal.

It must therefore be considered on whether the aims of the proposal can be regarded as indissociably linked without one being secondary to the other: if so, multiple legal bases may be possible.

Recital 14 in the preamble emphasises that "*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*". Although it seems that rules-based sanctions are an important component of the system put in place by the proposal and that they contribute to the effective enforcement of the EDP procedure, it cannot be argued that this is the main purpose of the proposed regulation.

Conclusion

In view of all this, it seems that the Article 126(14) TFEU is the sole appropriate legal basis for this proposal.

21.3.2011

OPINION OF THE COMMITTEE ON EMPLOYMENT AND SOCIAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on 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))

Rapporteur: David Casa

SHORT JUSTIFICATION

Background

On 29 September 2010, the Commission presented a legislative package aimed at reinforcing the economic governance in the EU and the euro area. The package is made up of six proposals: four of them deal with fiscal issues, including a reform of the Stability and Growth Pact (SGP), while two new regulations aim at detecting and addressing emerging macroeconomic imbalances within the EU and the euro area.

The Commission proposes to reinforce Member States' compliance with the SGP and to deepen fiscal policy coordination. Under the so-called preventive arm of the SGP, the existing Regulation 1466/97 on "strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies" is amended in order to ensure that Member States follow "prudent" fiscal policies in good times to build up the necessary buffer for bad times. In addition, under the so-called corrective arm, amendments to Regulation 1467/97 concerning the "implementation of the excessive deficit procedure" are proposed to ensure that debt developments are followed more closely and put on an equal footing with deficit developments.

Furthermore, a Directive introducing requirements for budgetary frameworks of the Member States is proposed to encourage fiscal responsibility by setting minimum requirements for national fiscal frameworks and ensuring they are in line with Treaty obligations. To back up the changes in the preventive and corrective arms of the SGP, the Commission also proposed strengthening the enforcement mechanisms for the euro area Member States.

Observations

This draft opinion concerns the Commission's proposal amending Regulation No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure to which your rapporteur proposes the following main modifications:

- The enforcement of budgetary surveillance should always be subject to overarching objectives of the EU, and in particular to the requirements of Article 9 TFEU related to the promotion of a high level of employment, the guarantee of adequate social protection and the fight against social exclusion.
- In monitoring the compliance with the rules on budgetary discipline and in taking decisions in that respect, special consideration should be given not only to severe economic but also social downturns which may have an impact on the financial position of governments.
- The possibility for Member States implementing structural reforms to deviate from their respective medium-term budgetary objectives should not be linked to pension reforms aiming at the promotion of certain models. Instead, such a possibility should be allowed to the Member States implementing structural reforms which contribute to the job preservation or creation and to reduction of poverty.
- Fines collected from the Member States which fail to comply with their respective recommendations should be used in support of the EU's long term investment and job targets and not distributed only to the Member States that are not subject of any excessive procedure as the Commission proposes.
- The strengthening of the economic governance should go hand in hand with reinforcing the democratic legitimacy of the European governance. In this respect, the role of the European Parliament should be strengthened in the whole surveillance process. In addition, regular consultation of the social partners and a stronger involvement of National Parliaments are necessary preconditions of a credible and transparent surveillance framework.

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation – amending act

Recital 1

Text proposed by the Commission

(1) The coordination of the economic policies of the Member States within the

Amendment

(1) The coordination of the economic policies of the Member States within the

Union, as provided by the Treaty, should entail compliance with the guiding principles of stable prices, sound public finances and monetary conditions and a sustainable balance of payments.

Union, as provided by the Treaty *on the Functioning of the European Union (TFEU)*, should entail compliance with the guiding principles of ***a high level of employment and social cohesion***, stable prices, sound public finances and monetary conditions and a sustainable balance of payments.

Amendment 2

Proposal for a regulation – amending act Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) The TFEU provides that in defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection and the fight against social exclusion.

Amendment 3

Proposal for a regulation – amending act Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) The measures adopted under this Regulation should be fully consistent with the horizontal provisions of the TFEU, namely Articles 7, 8, 9, 10 and 11 TFEU, with Article 153(5) TFEU, and with the Protocol (No 26) on services of general interest annexed to the Treaty on European Union and to the TFEU.

Amendment 4

Proposal for a regulation – amending act Recital 3

Text proposed by the Commission

(3) The Stability and Growth Pact is based on the objective of sound 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.

Amendment

(3) The Stability and Growth Pact is based on the objective of sound 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 ***and should, therefore, enhance long-term investments for a smart, sustainable and inclusive growth.***

Amendment 5

Proposal for a regulation – amending act Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The strengthened budgetary surveillance framework should, however, help achieve the Union's growth and jobs objectives, and should, during a severe economic downturn or a severe rise in unemployment be combined with efforts to stimulate the economy, protection and creation of jobs and social cohesion, whilst respecting Member-State-specific priorities and needs.

Amendment 6

Proposal for a regulation – amending act Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) Strengthening economic governance should go hand in hand with reinforcing the democratic legitimacy of European governance, which should be achieved

through a closer and more timely involvement of the European Parliament and the national parliaments throughout the economic policy coordination procedures, with the full use of the tools provided for by the TFEU, in particular the broad guidelines for the economic policies of the Member States and of the Union and the guidelines for the employment policies of the Member States.

Amendment 7

Proposal for a regulation – amending act Recital 12

Text proposed by the Commission

(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 of a general nature*.

Amendment

(12) In assessing the case for an extension of the deadline for correcting the excessive deficit, special consideration should be given to *a* severe economic downturn *or a severe rise in unemployment*.

Amendment 8

Proposal for a regulation – amending act Article 1 – point 2 – point a Regulation (EC) No 1467/97 Article 2 – paragraph 1

Text proposed by the Commission

1. 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 which has a major impact on the financial position of general government, or when resulting from a severe economic downturn.

Amendment

1. 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) *TFEU*, when resulting from an unusual event outside the control of the Member State concerned and which has a major impact on the financial position of general government, or when resulting from a severe economic downturn *or a severe rise in unemployment*.

Amendment 9

Proposal for a regulation – amending act

Article 1 – point 2 – point b

Regulation (EC) No 1467/97

Article 2 – paragraph 1a

Text proposed by the Commission

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 reduced over the previous three years at **a** rate of the order of one-twentieth per year. For a period of *3 years* from [*date of entering into force of this Regulation - to be inserted*], account shall be taken of the backward-looking nature of this indicator in its application.

Amendment

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 reduced over the previous three years at **an average** rate of the order of one-twentieth per year, **as a benchmark, following an assessment made over a three-year period**. For a period of *three years* from ... *, account shall be taken of the backward-looking nature of this indicator in its application.

* *OJ please insert date of entry into force of this Regulation.*

Amendment 10

Proposal for a regulation – amending act

Article 1 – point 2 – point c

Regulation (EC) No 1467/97

Article 2 – paragraph 3

Text proposed by the Commission

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. The report shall appropriately reflect developments in the medium-term economic position (in particular potential growth, prevailing cyclical conditions, inflation, excessive

Amendment

3. The Commission, when preparing a report under Article 126(3) *TFEU* shall take into account all relevant factors as indicated in that Article. The report shall appropriately reflect developments in the medium-term **social and** economic position (in particular potential growth, prevailing cyclical conditions, **poverty rate**,

macroeconomic imbalances) and developments in the medium-term budgetary position (in particular, fiscal consolidation efforts in ‘good times’, public investment, the implementation of policies in the context of the *common* growth strategy *for the Union* and the overall quality of public finances, in particular, compliance with Council Directive [...] on requirements for budgetary frameworks of the Member States). The report shall also analyse developments in the medium-term debt position as relevant (in particular, it appropriately reflects risk factors including the maturity structure and currency denomination of the debt, stock-flow operations, accumulated reserves and other government assets; guarantees, notably linked to the financial sector; liabilities both explicit and implicit 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 consideration to any other factors which, in the opinion of the Member State concerned, are relevant in order to comprehensively assess in qualitative terms the excess over the reference value and which the Member State has put forward to the Commission and to the Council. In that context, special consideration shall be given to financial contributions to fostering international solidarity and to achieving Union policy goals, including financial stability.

Amendment 11

Proposal for a regulation – amending act

Article 1 – point 2 – point d a (new)

Regulation (EC) No 1467/97

Article 2 – paragraph 5

income inequalities, unemployment rates, inflation, excessive macroeconomic imbalances) and developments in the medium-term budgetary position (in particular, fiscal consolidation efforts in ‘good times’, public investment, the implementation of policies in the context of the *Union’s* growth *and job* strategy and the overall quality of public finances, in particular, compliance with Council Directive [...] on requirements for budgetary frameworks of the Member States). The report shall also analyse developments in the medium-term debt position as relevant (in particular, it appropriately reflects risk factors including the maturity structure and currency denomination of the debt, stock-flow operations, accumulated reserves and other government assets; guarantees, notably linked to the financial sector; liabilities both explicit and implicit 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 consideration to any other factors which, in the opinion of the Member State concerned, are relevant in order to comprehensively assess in qualitative terms the excess over the reference value and which the Member State has put forward to the Commission and to the Council. In that context, special consideration shall be given to financial contributions to fostering international solidarity and to achieving Union policy goals, including financial stability.

(da) paragraph 5 is replaced by the following:

5. The Commission and the Council, in all budgetary assessments in the framework of the excessive deficit and excessive debt procedure, shall give due attention to the implementation of *major structural reforms of pension or social security systems conducive to the Union's sustainable growth objectives or reforms carried out in response to Council's recommendations issued under Article 121 TFEU.*

Amendment 12

Proposal for a regulation – amending act

Article 1 – point 2 – point e

Regulation (EC) No 1467/97

Article 2 – paragraph 7

Text proposed by the Commission

7. In the case of Member States where the excess of the deficit or the breach of the requirements of the debt criterion according to Article 126 (2) (b) *of the Treaty* 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 to the publicly managed pillar*** when assessing developments in EDP deficit and debt figures. In cases where the debt ratio exceeds the reference value, the cost of the reform shall be considered only if the deficit remains close to the reference value. For that purpose, ***for a period of five years starting*** from the date of entry into

Amendment

7. In the case of Member States where the excess of the deficit or the breach of the requirements of the debt criterion according to Article 126 (2) (b) *TFEU* reflects the implementation of a pension reform, the Commission and the Council shall also consider the ***costs of these reforms*** when assessing developments in EDP deficit and debt figures. In cases where the debt ratio exceeds the reference value, the ***full*** cost of the reform shall be considered only if the deficit remains close to the reference value. For that purpose, from the date of entry into force of such reform, consideration shall be given to ***its*** net cost as reflected in deficit and debt developments on the basis of a linear

force of such a reform, consideration shall be given to its net cost as reflected in deficit and debt developments on the basis of a linear degressive scale. Additionally, irrespective of the date of entry into force of the reform, its net cost as reflected in debt developments shall be given consideration **for a transitional period of five years** from [date of entry into force of this Regulation, to be inserted] on the basis of the same linear degressive scale. The net cost as thus calculated shall be taken into account also for the decision of the Council under Article 126(12) *of the Treaty* on the abrogation of some or all of its decisions under paragraphs 6 to 9 and 11 of Article 126 *of the Treaty*, if the deficit has declined substantially and continuously and has reached a level that comes close to the reference value and, in case of non-fulfilment of the requirements of the debt criterion, the debt has been put on a declining path. Moreover, equal consideration shall be given to the reduction in this net cost resulting from the partial or total reversal of an above mentioned pension **reform**.

degressive scale. Additionally, irrespective of the date of entry into force of the **reform**, its net cost as reflected in debt developments shall be given consideration from [date of entry into force of this Regulation, to be inserted] on the basis of the same linear degressive scale. The net cost as thus calculated 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 and, in case of non-fulfilment of the requirements of the debt criterion, the debt has been put on a declining path. Moreover, equal consideration shall be given to the reduction in this net cost resulting from the partial or total reversal of above mentioned pension **reforms**.

Amendment 13

Proposal for a regulation – amending act

Article 1 – point 3 – point c

Regulation (EC) No 1467/97

Article 3 – paragraph 4

Text proposed by the Commission

4. The Council recommendation made in accordance with Article 126(7) *of the Treaty* shall establish a deadline of six months at most for effective action to be taken by the Member State concerned. The Council recommendation shall also establish a deadline for the correction of the excessive deficit, which should be completed in the year following its

Amendment

4. The Council recommendation made in accordance with Article 126(7) *TFEU* **and after consulting the European Parliament** shall establish a deadline of six months at most for effective action to be taken by the Member State concerned. The Council recommendation shall also establish a deadline for the correction of the excessive deficit, which should be completed in the

identification unless there are special circumstances. In the 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.

year following its identification unless there are special circumstances. In the recommendation, the Council shall, ***while taking full account of Article 9 TFEU, in particular with regard to the promotion of a high level of employment, the guarantee of adequate social protection and the fight against social exclusion and of the Union's growth and jobs objectives,*** 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.

Amendment 14

Proposal for a regulation – amending act

Article 1 – point 3 – point e

Regulation (EC) No 1467/97

Article 3 – paragraph 5

Text proposed by the Commission

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 mentioned 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

Amendment

5. If effective action has been taken in compliance with a recommendation under Article 126(7) *TFEU* and unexpected adverse economic ***or social*** 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 ***and after consulting the European Parliament,*** to adopt a revised recommendation under Article 126(7) *TFEU*. The revised recommendation, taking into account the relevant factors mentioned 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

adverse economic events with major unfavourable consequences for government finances against the economic forecasts in its recommendation. The Council may also decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) of *the Treaty* in case of a severe economic downturn **of a general nature**.

shall assess the existence of unexpected adverse economic **or social** events with major unfavourable consequences for government finances against the economic forecasts in its recommendation. The Council may also decide, on a recommendation from the Commission **and after consulting the European Parliament**, to adopt a revised recommendation under Article 126(7) *TFEU* in case of a severe economic downturn **or a severe rise in unemployment**.

Amendment 15

Proposal for a regulation – amending act
Article 1 – point 5 – point a
Regulation (EC) No 1467/97
Article 5 – paragraph 1

Text proposed by the Commission

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.

Amendment

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) *TFEU* shall be taken, **after consulting the European Parliament**, within two months of the Council decision establishing that no effective action has been taken in accordance with Article 126(8) *TFEU*. 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.

Amendment 16

Proposal for a regulation – amending act

Article 1 – point 5 – point c

Regulation (EC) No 1467/97

Article 5 – paragraph 2

Text proposed by the Commission

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 mentioned 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. The Council may also decide, on a recommendation from the Commission, to adopt a revised notice under Article 126(9) *of the Treaty* in case of a severe economic downturn ***of a general nature***.

Amendment

2. If effective action has been taken in compliance with a notice under Article 126(9) *TFEU* and unexpected adverse economic ***or social*** 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 ***and after consulting the European Parliament***, to adopt a revised notice under Article 126(9) *TFEU*. The revised notice, taking into account the relevant factors mentioned 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 ***or social*** events with major unfavourable consequences for government finances against the economic forecasts in its notice. The Council may also decide, on a recommendation from the Commission ***and after consulting the European Parliament***, to adopt a revised notice under Article 126(9) *TFEU* in case of a severe economic downturn ***or a severe rise in unemployment***.

Amendment 17

Proposal for a regulation – amending act

Article 1 – point 6

Regulation (EC) No 1467/97

Article 6 – paragraph 2

Text proposed by the Commission

2. Where the conditions to apply Article

Amendment

2. Where the conditions to apply Article

126(11) *of the Treaty* are met, the Council shall impose sanctions in accordance with Article 126 (11). 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).

126(11) *TFEU* are met, the Council shall, ***and after consulting the European Parliament***, impose sanctions in accordance with Article 126 (11) *TFEU* ***while taking full account of Article 9 TFEU, in particular with regard to the promotion of a high level of employment, the guarantee of adequate social protection and the fight against social exclusion and of the Union's growth and jobs objectives***. 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*.

Amendment 18

Proposal for a regulation – amending act

Article 1 – point 7

Regulation (EC) No 1467/97

Article 7

Text proposed by the Commission

7. in Article 7, 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'.

Amendment

7. Article 7 is replaced by the following:

"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, while taking full account of Article 9 TFEU, in particular with regard to the promotion of a high level of employment, the guarantee of adequate social protection and the fight against social exclusion and of the Union's growth and jobs objectives, 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."

Amendment 19

Proposal for a regulation – amending act

Article 1 – point 8

Regulation (EC) No 1467/97

Article 8

Text proposed by the Commission

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.

Amendment

Any Council decision to intensify sanctions, in accordance with Article 126(11) *TFEU*, shall be taken, ***after consulting the European Parliament***, 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) *TFEU* 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.

Amendment 20

Proposal for a regulation – amending act

Article 1 – point 10 – point a

Regulation (EC) No 1467/97

Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Commission and the Council shall report to the European Parliament their findings under paragraph 1.

Amendment 21

Proposal for a regulation – amending act

Article 1 – point 14

Regulation (EC) No 1467/97

Article 16

Text proposed by the Commission

Fines referred to in Article 12 of this Regulation shall constitute other revenue referred to in Article 311 *of the Treaty* and shall be ***distributed among participating Member States which do not have excessive deficit as determined in accordance with Article 126(6) of the Treaty and which are not the subject of an excessive imbalance procedure within the meaning of Regulation (EU) No [.../...], in proportion to their share in the total gross national income (GNI) of the eligible Member States.***

Amendment

Fines referred to in Article 12 of this Regulation shall constitute other revenue referred to in Article 311 *TFEU* and shall be ***used through a Union's financial stability mechanism, in support of achieving the Union's long-term investment and jobs objectives.***

PROCEDURE

Title	Amendment of Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure
References	COM(2010)0522 – C7-0396/2010 – 2010/0276(CNS)
Committee responsible	ECON
Opinion by Date announced in plenary	EMPL 13.12.2010
Rapporteur Date appointed	David Casa 21.10.2010
Discussed in committee	1.12.2010 25.1.2011
Date adopted	16.3.2011
Result of final vote	+: 39 –: 4 0: 1
Members present for the final vote	Regina Bastos, Edit Bauer, Jean-Luc Bennahmias, Pervenche Berès, Mara Bizzotto, Philippe Boulland, David Casa, Alejandro Cercas, Marije Cornelissen, Frédéric Daerden, Karima Delli, Proinsias De Rossa, Frank Engel, Sari Essayah, Richard Falbr, Ilda Figueiredo, Nadja Hirsch, Stephen Hughes, Liisa Jaakonsaari, Danuta Jazłowiecka, Martin Kastler, Ádám Kósa, Patrick Le Hyaric, Veronica Lope Fontagné, Olle Ludvigsson, Elizabeth Lynne, Thomas Mann, Elisabeth

	Morin-Chartier, Csaba Óry, Rovana Plumb, Konstantinos Poupakis, Sylvana Rapti, Licia Ronzulli, Elisabeth Schroedter, Jutta Steinruck, Traian Ungureanu
Substitute(s) present for the final vote	Georges Bach, Raffaele Baldassarre, Sven Giegold, Thomas Händel, Antigoni Papadopoulou, Evelyn Regner
Substitute(s) under Rule 187(2) present for the final vote	Liam Aylward, Fiona Hall

PROCEDURE

Title	Amendment of Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure		
References	COM(2010)0522 – C7-0396/2010 – 2010/0276(CNS)		
Date of consulting Parliament	29.11.2010		
Committee responsible Date announced in plenary	ECON 13.12.2010		
Committee(s) asked for opinion(s) Date announced in plenary	BUDG 13.12.2010	EMPL 13.12.2010	
Not delivering opinions Date of decision	BUDG 20.10.2010		
Rapporteur(s) Date appointed	Diogo Feio 21.9.2010		
Legal basis disputed Date of JURI opinion	JURI 12.4.2011		
Discussed in committee	26.10.2010	24.1.2011	22.3.2011
Date adopted	19.4.2011		
Result of final vote	+: 29	–: 7	0: 10
Members present for the final vote	Burkhard Balz, Sharon Bowles, Udo Bullmann, Nikolaos Chountis, George Sabin Cutaş, Rachida Dati, Leonardo Domenici, Derk Jan Eppink, Diogo Feio, Elisa Ferreira, Vicky Ford, Ildikó Gáll-Pelcz, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Sven Giegold, Sylvie Goulard, Liem Hoang Ngoc, Wolf Klinz, Jürgen Klute, Rodi Kratsa-Tsagaropoulou, Philippe Lamberts, Astrid Lulling, Arlene McCarthy, Íñigo Méndez de Vigo, Ivari Padar, Alfredo Pallone, Anni Podimata, Antolín Sánchez Presedo, Olle Schmidt, Edward Scicluna, Peter Simon, Theodor Dumitru Stolojan, Ivo Strejček, Kay Swinburne, Marianne Thyssen, Ramon Tremosa i Balcells, Corien Wortmann-Kool		
Substitute(s) present for the final vote	Marta Andreasen, Herbert Dorfmann, Robert Goebbels, Carl Haglund, Krišjānis Kariņš, Barry Madlener, Thomas Mann, Claudio Morganti, Andreas Schwab		
Substitute(s) under Rule 187(2) present for the final vote	Karima Delli		
Date tabled	2.5.2011		