

**P7\_TA(2011)0290**

**Budgetary surveillance in euro area \*\*\*I**

**European Parliament amendments adopted on 23 June 2011 to the 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 – C7-0298/2010 – 2010/0278(COD))<sup>1</sup>**

**(Ordinary legislative procedure: first reading)**

**[Amendment No 2]**

**AMENDMENTS BY PARLIAMENT\***

to the Commission proposal

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**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the effective enforcement of budgetary surveillance in the euro area**

**THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,**

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 136, in combination with Article 121(6) thereof,

Having regard to the proposal from the European Commission,

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<sup>1</sup> The matter was then referred back to committee pursuant to Rule 57(2), second subparagraph (A7-0180/2011).

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

***Having regard to the opinion of the European Central Bank<sup>1</sup>,***

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

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Member States whose currency is the euro have a particular interest and responsibility to conduct economic policies that promote the proper functioning of economic and monetary union and to avoid policies that jeopardise it.
- (2) The Treaty ***on the Functioning of the European Union (TFEU)*** allows the adoption of specific measures in the euro area which go beyond the provisions applicable to all Member States, for the purpose of ensuring the proper functioning of economic and monetary union.
- (2a) ***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.***
- (2b) ***The improved economic governance framework should rely on several inter-linked policies for sustainable growth and jobs, which need to be coherent with each other, in particular a Union strategy for growth and jobs, with particular focus upon development and strengthening of the internal market, fostering international trade and competitiveness, an effective framework for preventing and correcting excessive government deficit (the Stability and Growth Pact), a robust framework for preventing and correcting macro-economic imbalances, minimum requirements for national budgetary frameworks, enhanced financial market regulation and supervision including macro-prudential supervision by the European Systemic Risk Board.***
- (2c) ***The Stability and Growth Pact and the complete economic governance framework should complement and be compatible with a Union strategy for growth and jobs. Inter linkages between the different strands should not provide for exemptions from the provisions of the Stability and Growth Pact.***
- (2d) ***Strengthening economic governance should include a closer and more timely involvement of the European Parliament and the national parliaments.***
- (2e) ***Achieving and maintaining a dynamic Single Market should be considered an element of the proper and smooth functioning of economic and monetary union.***
- (2f) ***The Commission should play a stronger coordination role in the enhanced surveillance procedures, mainly as regards Member-State-specific assessments,***

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<sup>1</sup> OJ C 150, 20.5.2011, p. 1.

<sup>2</sup> OJ C ....

*monitoring, missions in situ, recommendations and warnings.*

- (2g) *The Commission should have a stronger role in the enhanced surveillance procedure as regards assessments that are specific to each Member State, monitoring, missions, recommendations and warnings. In particular, the role of the Council should be limited in decision on sanctions and the reversed qualified majority voting in the Council should be used.*
- (2h) *An economic dialogue with the European Parliament may be established, enabling the Commission to make its analyses public and for the President of the Council, the Commission and, where appropriate, the President of the European Council or the President of the Eurogroup to discuss. Such a public debate could enable the discussion of the spillovers of the national decisions and enable public peer pressure. The competent committee of the European Parliament may offer the opportunity to the Member State concerned by Council decisions taken pursuant to Articles 3, 4 and 5 of this Regulation to participate in an exchange of views.*
- (3) Additional sanctions are necessary to make the enforcement of budgetary surveillance more effective in the euro area. Those sanctions should enhance the credibility of the fiscal surveillance framework of the Union.
- (4) The rules laid down by this Regulation should ensure fair, timely, graduated and effective mechanisms for compliance with the preventive and the corrective parts of the Stability and Growth Pact, in particular 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<sup>1</sup> and Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure, *where compliance with the budgetary discipline is examined on the basis of the government deficit and government debt criteria*<sup>2</sup>.
- (5) Sanctions for Member States whose currency is the euro *under this regulation* in the preventive part of the Stability and Growth Pact should provide incentives for *adjusting to and maintaining* the medium-term budgetary objective.
- (5a) *In order to deter misrepresentation, intentionally or by serious negligence, of government deficit and debt data, which is an essential input to economic policy coordination in the European Union, a fine should be imposed on the Member State responsible for such misrepresentation.*
- (6) *In order to supplement the rules on calculation of the fines against manipulation of statistics as well as on the procedure to be followed by the Commission for the investigation of such actions, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of detailed criteria for establishing the amount of the fine and for conducting the investigations to be carried out by the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and*

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<sup>1</sup> OJ L 209, 2.8.1997, p. 1.

<sup>2</sup> OJ L 209, 2.8.1997, p. 6.

*appropriate transmission of relevant documents to the European Parliament and Council.*

- (7) In the preventive part of the Stability and Growth Pact, the *adjustment and adherence to the medium-term budgetary objective should be ensured through* 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 **■** a Member State, *even with a deficit below the 3% of GDP reference value, deviates significantly from the medium-term budgetary objective or the appropriate adjustment path towards it and fails to correct the deviation.*
- (8) The interest-bearing deposit imposed should be released to the Member State concerned *together* with the interest accrued on it once the Council has been satisfied that the situation giving rise to the obligation to lodge that deposit has come to an end.
- (9) In the corrective part of the Stability and Growth Pact, sanctions for Member States whose currency is the euro should take the form of an obligation to lodge a non-interest-bearing deposit linked to a Council decision establishing the existence of an excessive deficit *when an interest bearing deposit has already been imposed on the Member State concerned in the preventive part of the Stability and Growth Pact or in cases of particularly serious non-compliance with the legal budgetary policy obligations laid down in the Stability and Growth Pact*, and the obligation to pay a fine in the event of non-compliance with a Council recommendation to correct an excessive government deficit. **■**
- (9a) *In order to avoid the sanctions under the preventive part of the Stability and Growth Pact foreseen under this Regulation, to be applied retroactively, said sanctions should in any case only apply in respect of the relevant recommendations adopted by the Council under the fourth subparagraph of Article 6(2) of Regulation (EC) No 1466/97 adopted after the entry into force of this Regulation. Likewise, in order to avoid the sanctions under the corrective part of the Stability and Growth pact laid down in this Regulation to be applied retroactively, said measures should in any case only apply in respect of the relevant recommendations and decisions to correct an excessive government deficit adopted by the Council after the entry into force of this Regulation.*
- (10) The size of the interest-bearing deposit, of the non-interest-bearing deposit and of the fine provided for in this Regulation should be set in such a way as to ensure a *fair* graduation of sanctions in the preventive and corrective parts of the Stability and Growth Pact and to provide sufficient incentives for the Member States whose currency is the euro to comply with the fiscal framework of the Union. The fine linked to Article 126(11) of the Treaty as specified in Article 12 of Regulation (EC) No 1467/97<sup>1</sup> is composed of a fixed component that equals 0,2% of GDP and of a variable component. Thus, graduation and equal treatment between Member States are ensured if the interest-bearing deposit, the non-interest-bearing deposit and the fine specified in this Regulation are equal to 0.2% of GDP, the size of the fixed component of the fine linked to Article 126(11) of the Treaty.

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<sup>1</sup> OJ L 209, 2.8.1997, p. 6.

- (10a) *The Commission should also be able to recommend reducing the size of a sanction or cancelling it on grounds of exceptional economic circumstances.*
- (11) A possibility should be provided for the Council to reduce or to cancel the sanctions imposed on Member States whose currency is the euro on the basis of a Commission **recommendation** following a reasoned request by the Member State concerned. In the corrective part of the Stability and Growth Pact, the Commission should also be able to **recommend** to reduce the size of a sanction or to cancel it on grounds of exceptional economic circumstances.
- (12) The non-interest-bearing deposit should be released upon correction of the excessive deficit while the interest on such deposits and the fines collected should be **assigned to stability mechanisms to provide financial assistance, created by** Member States whose currency is the euro **in order to safeguard the stability of the euro area as a whole.**
- (13) The power to adopt individual decisions implementing the sanction mechanisms set out in this Regulation should be conferred on the Council. As part of the coordination of the economic policies of the Member States conducted within the Council as specified in Article 121(1) TFEU, these individual decisions are an integral follow-up to the measures adopted by the Council in accordance with Articles 121 and 126 TFEU and Regulations (EC) No 1466/97 and (EC) No 1467/97.
- (14) Since this Regulation contains general rules for the effective enforcement of Regulations (EC) No 1466/97 and (EC) No 1467/97, it should be adopted in accordance with the ordinary legislative procedure referred to in Article 121(6).
- (15) Since the objective to create a uniform sanction mechanism cannot be sufficiently achieved at the level of the Member States, the Union may adopt measures in accordance with the principles of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (15a) *In order to ensure a permanent dialogue with the Member States aiming at achieving the objectives of this Regulation, the Commission should carry out surveillance missions.*
- (15b) *A broad evaluation of the economic governance system and in particular of the effectiveness and adequacy of its sanctions should be undertaken by the Commission at regular intervals. Such evaluations should be complemented by relevant proposals if necessary.*
- (15c) *When implementing this Regulation, the Commission should take into account the current economic situation of the Member States concerned,*

HAVE ADOPTED THIS REGULATION:

Chapter I  
Subject matter

Article 1  
Subject matter and scope

1. This Regulation sets out a system of sanctions for enhancing the enforcement of the preventive and corrective parts of the Stability and Growth Pact in the euro area.
2. This Regulation shall apply to Member States whose currency is the euro.

***Chapter Ia***  
***Economic dialogue***

***Article 1a***

***In order to enhance the dialogue between the Union institutions, in particular the European Parliament, the Council and the Commission, and to ensure greater transparency and accountability, the competent committee of the European Parliament may invite the President of the Council, the Commission and, where appropriate, the President of the Eurogroup to appear before the committee to discuss decisions taken pursuant to Articles 3, 4 and 5 of this Regulation.***

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

Article 2  
Definitions

For the purpose of this Regulation:

- (1) 'the preventive part of the Stability and Growth Pact' means the multilateral surveillance system as organised by Regulation (EC) No 1466/97 of 7 July 1997;
- (2) 'the corrective part of the Stability and Growth Pact' means the procedure for the ***avoidance*** of Member States' excessive deficit as regulated by Article 126 of the Treaty and Regulation (EC) No 1467/97 of 7 July 1997;
- (3) 'exceptional economic circumstances' means circumstances where an excess of a government deficit over the reference value is considered exceptional within the meaning of the second indent of Article 126(2)(a) of the Treaty and as specified in Regulation (EC) No 1467/97.

Chapter II  
Sanctions in the preventive part of the Stability and Growth Pact

Article 3  
Interest-bearing deposit

1. ***If the Council adopts a decision establishing that a Member State failed to take action in response to the Council recommendation referred to in the second subparagraph of Article 6(2) of Regulation (EC) No 1466/97, the Commission shall, within 20 days of adoption of the Council recommendation, recommend to the Council to impose the*** lodging of an interest bearing deposit ***■***. The decision shall be deemed to be adopted by the Council unless it decides by qualified majority to reject the ***recommendation*** within ten days of the Commission

adopting it. The Council may amend the *Commission recommendation acting by a qualified majority*.

2. The interest-bearing deposit to be *recommended* by the Commission shall amount to 0,2% of the gross domestic product (GDP) of the Member State concerned in the preceding year.

■

4. By derogation ■ the Commission *may*, following a reasoned request by the Member State concerned addressed to the Commission within **10 days** of adoption of the Council recommendation referred to *in* paragraph 1, *recommend* to reduce the amount of the interest-bearing deposit or to cancel it.

**4a.** *The deposit shall bear the interest rate reflecting the Commission credit risk and the relevant investment period.*

5. If the situation giving rise to the recommendation referred to in paragraph 1 no longer *exists*, the Council, on the basis of a *recommendation* from the Commission, shall decide that the deposit and the interest accrued thereon are returned to the Member State concerned. The Council may amend the Commission *recommendation acting by a qualified majority*.

### Chapter III

#### Sanctions in the corrective part of the Stability and Growth Pact

#### Article 4

#### Non-interest-bearing deposit

1. If the Council decides in accordance with Article 126(6) of the Treaty that an excessive deficit exists in a Member State *which has an interest bearing deposit lodged with the Commission in accordance with Article 3(1), or where particularly serious non compliance with the legal budgetary policy obligations laid down in the Stability and Growth Pact have been identified, the Commission shall, within 20 days of adoption of the Council decision, recommend to the Council to impose* the lodging of a non-interest-bearing deposit ■. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the *recommendation* within **10 days** of the Commission adopting it. The Council may amend the *Commission recommendation acting by a qualified majority*.

2. The non-interest-bearing deposit to be *recommended* by the Commission shall amount to 0.2% of the GDP of the Member State concerned in the preceding year.

■

4. By derogation ■, the Commission may, on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned addressed to the Commission within **10 days** of adoption of the Council decision in accordance with Article 126(6) of the Treaty, *recommend* to reduce the amount of the non-interest-bearing deposit or to cancel it.

**4a.** *The deposit shall be lodged with the Commission. If the Member State has an interest-bearing deposit lodged with the Commission in accordance with Article 3, the interest-bearing deposit shall be converted into a non-interest-bearing deposit.*

*If the size of the previously lodged interest-bearing deposit and of the interest accrued exceeds the size of the required non-interest-bearing deposit, the outstanding difference shall be returned to the Member State.*

*If the size of the required non-interest-bearing deposit exceeds the size of the previously lodged interest-bearing deposit and the interest accrued thereon, the Member State shall make up the outstanding difference when it lodges the non-interest-bearing deposit.*

#### Article 5 Fine

1. *Within 20 days of the adoption of a Council decision in accordance with Article 126(8) TFEU that the Member State has not taken effective action to correct its excessive deficit, the Commission shall recommend to the Council that a fine is imposed.* The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the recommendation within 10 days of the Commission adopting it. The Council may amend the recommendation of the Commission acting by a qualified majority.

2. The fine to be recommended by the Commission shall amount to 0.2% of the GDP of the Member State concerned in the preceding year.

4. By derogation , the Commission may, on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned addressed to the Commission within 10 days of adoption of the Council decision in accordance with Article 126(8) TFEU, recommend to reduce the amount of the fines or to cancel it.

4a. *If the Member State has a non-interest-bearing deposit lodged with the Commission in accordance with Article 4, the non-interest-bearing deposit shall be converted into the fine.*

*If the size of the previously lodged non-interest-bearing deposit exceeds the size of the required fine, the outstanding difference shall be returned to the Member State.*

*If the size of the required fine exceeds the size of the previously lodged non-interest-bearing deposit, or if no non-interest-bearing deposit has been previously lodged, the Member State shall make up the outstanding difference when it pays the fine.*

#### Article 6 Return of the non-interest-bearing deposit

If the Council decides in accordance with Article 126(12) of the Treaty to abrogate some or all of its decisions, any non-interest-bearing deposit lodged by the Member State with the Commission shall be returned to the Member State concerned.

#### Article 6a Sanctioning the manipulation of statistics

1. *The Council acting on a recommendation by the Commission, may decide to impose a fine on a Member State that intentionally or by serious negligence, misrepresents deficit and debt data relevant for the application of Articles 121 and 126 of the Treaty and the protocol (No 12) annexed to the Treaty.*



2. *The fines referred to in paragraph 1 shall be effective, dissuasive and proportionate to the nature and the seriousness of the breach, the duration of the breach. The amount of the fine shall not exceed 0.2% of GDP.*

3. *In order to establish the existence of infringements referred to in paragraph (1) of this Article, the Commission may conduct all necessary investigations. The Commission may decide to initiate an investigation when it finds that there are serious indications on the possible existence of facts liable to constitute an infringement in the sense of paragraph (1) of this Article. The Commission shall investigate the presumed infringements taking into account any comments submitted by the Member State subject to investigation. In order to carry out its tasks, the Commission may request to the Member State subject to investigation to provide information, as well as conduct on site inspections and accede to the accounts of all government entities at central, state, local and social security levels. If required by the national law of the Member State subject to investigation, authorization by a judicial authority shall be applied for before any on site inspection.*

*Upon completion of its investigation, and before submitting any proposal to the Council, the Commission shall give to the Member State subject to investigation the opportunity of being heard on the matters being investigated. The Commission shall base its proposal to the Council only on facts on which the Member State concerned has had the opportunity to comment.*

*The rights of defence of the Member State subject to investigation shall be fully respected during the investigations.*

4. *The Commission shall be empowered to adopt delegated acts in accordance with Article -8a concerning (a) detailed criteria establishing the amount of the fine; (b) detailed rules on the procedure for the investigations referred to in paragraph 3, associated measures and reporting on the investigations, as well as detailed rules of procedure aimed at guaranteeing the rights of defence, access to file, legal representation, confidentiality and temporal provisions and the collection of fines.*

5. *The Court of Justice shall have unlimited jurisdiction to review decisions whereby the Council has fixed a fine in accordance with paragraph 1. It may annul, reduce or increase the fine imposed.*

#### **Article 6b**

*Fines imposed pursuant to Articles 3 to 6a are of an administrative nature.*

#### **Article 7**

##### **Distribution of the interest and fines**

*The interest earned by the Commission on deposits lodged in accordance with Article 4 and the fines collected in accordance with **Articles 5 and 6a** shall constitute other revenue, as referred to in Article 311 of the Treaty, and shall be assigned to ■ the **European Financial Stability Facility**. By the moment another stability mechanism to provide financial assistance is created by Member States whose currency is the euro in order to safeguard the stability of the euro area as a whole, the interest and the fines shall be assigned to that last mechanism.*

#### **Chapter IV**

## General provisions

### *Article -8*

#### *Exercise of the delegation*

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The delegation of power referred to in Article 6a shall be conferred on the Commission for a period of three years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
- 3. The delegation of powers referred to in Article 6a may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
- 5. A delegated act adopted pursuant to Article 6a shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.*

### Article 8

#### Voting within the Council

For the measures referred to in Articles 3, 4 and 5, only members of the Council representing Member States whose currency is the euro shall vote and the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the members of the Council mentioned in the previous paragraph shall be defined in accordance with *Article 238(3)(b)* of the Treaty.

### *Article 8a*

#### *Review*

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

*That report shall evaluate, inter alia:*

- (a) the effectiveness of this Regulation, including the possibility to enable the Council and the Commission to act in order to address situations which risk jeopardising the*

*proper functioning of the monetary union;*

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

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

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

*4. Before the end of 2011 the Commission shall present a report on the possibility of introduction of “euro-securities” to the Council and the European Parliament.*

Article 9  
Entry into force

This Regulation shall enter into force on the [xx] day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at

*For the European Parliament*  
*The President*

*For the Council*  
*The President*