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**A7-0180/2011**

2.5.2011

**\*\*\*I**

## **REPORT**

on 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))

Committee on Economic and Monetary Affairs

Rapporteur: Sylvie Goulard

### ***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: [...].

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## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on 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))**

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

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2010)0524),
  - having regard to Article 294(2) and Articles 121 and 126 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0298/2010),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Central Bank of 16 February 2011<sup>1</sup>,
  - 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 (A7-0180/2011),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> Not yet published in the Official Journal.

POSITION OF THE EUROPEAN PARLIAMENT  
AT FIRST READING\*

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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), **Article 122(2) and Article 3(1)(c)** 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 Economic and Social Committee<sup>1</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*

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

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

*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.*

- (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.*
- (2d) 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.*
- (2e) The annual policy recommendations by the Commission should be discussed in the European Parliament before the beginning of discussions in the Council.*
- (2f) Achieving and maintaining a dynamic Single Market should be considered an element of the proper and smooth functioning of economic and monetary union.*
- (2g) The TFEU also provides that in defining and implementing its policies and activities, the Union should 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.*
- (2h) The European Council, meeting on 17 June 2010, adopted a new strategy for jobs and growth, the Europe 2020 strategy, to enable the Union to emerge stronger from the crisis, and to turn its economy towards smart, sustainable and inclusive growth, accompanied by high level employment, productivity and social cohesion. The European Council also decided to launch, on 1 January 2011, the European semester for policy coordination to allow Member States to benefit from early coordination at Union level and to enable enhanced surveillance and a simultaneous assessment of both budgetary measures and structural reforms fostering growth and employment.*
- (2i) 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.*
- (2j) A comprehensive and integrated solution to the euro area debt crisis is needed since a piecemeal approach has not worked so far.*

- (2k) *Member States outside the euro area are not obliged to implement this Regulation.*
- (2l) *The Commission should play a stronger coordination role in the enhanced surveillance procedures, mainly as regards Member-State-specific assessments, monitoring, missions in situ, recommendations and early warnings.*
- (2m) *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.*
- (2n) *The Commission should have a stronger and more independent 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 the steps leading to potential sanctions and the reversed qualified majority voting in the Council should be used wherever possible under the TFEU.*
- (2o) *Transparency as well as effectiveness of peer support and peer pressure is an integral part of enhanced economic governance in the Union in the spirit of the "specifications on the implementation of the Stability and Growth Pact and Guidelines on the format and content of Stability and Convergence Programmes" endorsed by the Council on 7 September 2010.*
- (2p) *An economic dialogue with the European Parliament may be established, enabling the Commission to make its analyses public and for the economic and finance minister of one or several Member States concerned to respond. Such a public debate, taking place beyond national borders, could enable the Member States to take account of the spill-overs of the national decision and to enable public peer pressure.*
- (2q) *This Regulation should enter into force as soon as possible after adoption. The Commission should, however, when making proposals for measures to implement this Regulation, take into account the current economic situation of the concerned Member States and all other relevant factors.*
- (2r) *To enhance trust in European Statistics and ensure the professional independence of national statistical authorities, Member States should remain fully committed to implementing Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics<sup>1</sup>, in particular the statistical principles as set out in the European statistics Code of Practice, endorsed by the Commission in its Recommendation of 25 May 2005 on the independence, integrity and accountability of the national and Community statistical authorities. Member States should also ensure national statistical authorities are given the necessary autonomy over budgetary allocations, publication of statistical information and a transparent procedure for appointing and dismissing senior management. In addition, national courts of auditors should also enjoy the same level of professional independence, in order to ensure full confidence in reporting at*

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<sup>1</sup> *OJ L 87, 31.3.2009, p. 164.*



*a European level.*

- (3) ***Incentives and*** 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 ***and the incentives should reinforce compliance.***
- (3a) ***The budgetary surveillance framework should, in any case, support the Union's growth and jobs objectives. It needs to be, especially during economic downturns, combined with effective efforts to stimulate sustainable growth, the protection of social cohesion and the creation of jobs, whilst respecting Member-State-specific priorities and needs.***
- (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 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<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<sup>2</sup>.
- (4a) ***The European Parliament in its resolution of 20th October 2010 with recommendations to the Commission on improving the economic governance and stability framework of the Union, in particular on the euro area, calls to "establish a robust and credible excessive debt prevention and resolution mechanism for the euro area" and asks, in that context, for an impact assessment and feasibility study to be undertaken within the following year, with the aim of putting in place a permanent mechanism or body (a European Monetary Fund) to avoid moral hazard and act to safeguard the stability of the euro area as a whole and its Member States whose currency is the euro.***
- (4b) ***Member States whose currency is the euro should pool up to {...} percent of the sovereign debt under joint and several liabilities (Eurosecurities). Eurosecurities should take priority over debt owed by national governments and could help to promote the euro as a reserve currency. To strengthen fiscal discipline those countries with credible economic and fiscal policies should be allowed to borrow up to the full {...} percent of their gross domestic product (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 GDP in Eurosecurities. If a participating country were consistently to pursue unsustainable economic or fiscal policies its participation in the issuance of Eurosecurities should be suspended.***
- (4c) ***A European Monetary Fund should be established to safeguard financial stability in the euro area and assuming the current responsibility of the European Financial Stability Facility and the European Stability Mechanism and any future structure that would take on their responsibilities.***

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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.

- (4d) *Revenues from unused payments appropriations in the Union should be used to finance the Union priorities for growth and jobs.*
- (4e) *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.*
- (4f) *Increasing liquidity on a new global eurobonds market could reduce the financial costs for Member States and foster the euro as safe haven.*
- (5) Sanctions for Member States whose currency is the euro in the preventive part of the Stability and Growth Pact *are intended to* provide incentives for *sustainable* fiscal policy-making. Such policy-making should ensure that *expenditure and public revenue are balanced without prejudice to future generations.*
- (5a) *The rules laid down in this regulation should include measures such as incentives for compliance in good times.*
- (5b) *A one-off fine should be imposed if a Member State manipulates financial data, falsifies statistics or deliberately provides misleading information as a consequence of misconduct. A Member State should not be fined twice for the same deliberated violation.*
- (6) *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 *deal* with *normal cyclical fluctuations while keeping the government deficit below the 3 %* GDP reference value *and* ensure rapid progress towards *fiscal* sustainability. *Taking this into account, the medium-term budgetary objective should allow* room for budgetary manoeuvre, in particular for public investment *conducive to the achievement of the Union's jobs and smart, sustainable and inclusive growth objectives.*
- (7) In the preventive part of the Stability and Growth Pact, the incentive for *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) 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 and the obligation to pay a fine in the event of non-compliance with a Council recommendation to correct an excessive government deficit. These sanctions should be imposed irrespective of whether or not an interest-bearing deposit has previously been imposed on the Member State concerned.

- (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 ***while avoiding pro-cyclicality*** 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) TFEU as specified in Article 12 of Regulation (EC) No 1467/97 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) TFEU.
- (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 proposal 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 propose to reduce the size of a sanction or to cancel it on grounds of exceptional economic circumstances.
- (11a) ***By derogation from the amount of the fine resulting from the standard calculation, the Commission should be able to propose to reduce or cancel the fine in order to take into account any cumulative effect of any sanction imposed pursuant to Regulation (EU) No .../2011 of the European Parliament and of the Council of ... [on enforcement measures to correct excessive macroeconomic imbalances in the euro area] and Regulation (EU) No .../2011 of the European Parliament and of the Council of ... [on speeding up and clarifying the implementation of the excessive deficit procedure].***
- (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 ***allocated to the permanent stability mechanism. Until the establishment of this mechanism the interest and 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.***
- (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, 126 ***and 148 TFEU*** and Regulations (EC) No 1466/97 and (EC) No 1467/97.

- (13a) *In order to foster accountability and national ownership, the Council should convene and deliberate publicly when it discusses and adopts conclusions and recommendations on these important issues that affect the interests of the European Union and its citizens.*
- (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 principle 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 dialogue visits and surveillance visits.*
- (15b) *A broad evaluation of the economic governance system and in particular of the effectiveness and adequacy of its incentives and sanctions should be undertaken by the Commission at regular intervals. Such evaluations should be complemented by relevant proposals if necessary.*
- (15c) *When imposing sanctions, the measures taken in response to the specific recommendations addressed to Member States in the framework of the ‘European Semester’ should be specifically taken into account.*
- (15d) *All Member States should cooperate closely in the fulfilment of the objectives of the Stability and Growth Pact. Spill-over effects of and on national policies should be taken into account when assessing the sanctions described in this Chapter.*
- (15e) *Loans from the European Monetary Fund should charge interest based on cost but an appropriate risk premium may be added. A ratcheted prepayment incentive may be included in the terms and conditions in order to incentivise early repayment of the loans and to facilitate the borrower's return to the capital markets.*
- (15f) *The Commission and the Council should when applying this Regulation take into account all relevant factors and the economic and budgetary situation of the Member States concerned, 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,*

HAVE ADOPTED THIS REGULATION:

## Chapter I

### Subject matter

#### Article 1

##### Subject matter and scope

1. This Regulation sets out a system of *incentives and* sanctions for enhancing the enforcement of the preventive and corrective parts of the Stability and Growth Pact *and strengthening the coordination and surveillance of the budgetary discipline as well as preserving the financial stability* in the euro area.

*1a. In order to enhance the dialogue between the Union institutions, in particular the European Parliament, the Council and the Commission, and the national parliaments, governments and other relevant bodies of the Member States, and to ensure greater transparency and accountability, the competent committee of the European Parliament may organise, at its own initiative or at the request of a Member state, public debates and hearings on macro-economic and budgetary surveillance undertaken by the Council and the Commission. The Commission and the Council will take due consideration of the outcome of such hearings.*

2. This Regulation shall apply to Member States whose currency is the euro.

*2a. This Regulation shall also apply to a Member State whose currency is not the euro and which has notified the Commission of its willingness to apply this Regulation. Such a notification shall be published in the Official Journal of the European Union. This Regulation shall apply to such a Member State from the day after such publication.*

#### 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;
- (2) 'the corrective part of the Stability and Growth Pact' means the procedure for the control of Member States' excessive deficit as regulated by Article 126 TFEU and Regulation (EC) No 1467/97;
- (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) TFEU and as specified in Regulation (EC) No 1467/97.

## **CHAPTER Ia**

### **Incentives**

#### **Article 2a**

##### **Revenue from unused payments appropriations**

***Revenue arising from unused payments appropriations in the general budget of the European Union may be carried over into the following year's Union budget and allocated to programmes conducive to the Union's growth strategy in all Member States and to the correction of macro-economic imbalances.***

## **Chapter II**

### **Sanctions in the preventive part of the Stability and Growth Pact**

#### **Article 3**

##### **Interest-bearing deposit**

1. If the Council addresses to a Member State a recommendation in accordance with Article 121(4) TFEU to take the necessary adjustment measures in the event of persisting or particularly serious and significant deviations from ***the medium-term budgetary objective, or from the appropriate adjustment path towards its*** fiscal policy-making as laid down in Article 6(3) of Regulation (EC) No 1466/97, the lodging of an interest bearing deposit shall be imposed by the Council, acting on a proposal from the Commission. The decision shall be deemed to be adopted by the Council unless it decides by qualified majority to reject the proposal within **10 days** of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) TFEU.

***1a. The Member State concerned may ask the European Parliament to organise hearings or public debates in its competent committee. Such hearings or public debates shall allow the government of the Member State concerned to make its case in the presence of the Commission and the President of the Euro Group. When such a hearing or public debate is organised the 10-day deadline referred to in paragraph 1 shall be extended to a 20-day deadline. Representatives, at an appropriate level, of the European Central Bank shall be invited. The Commission and the Council will take due consideration of the outcome of such hearings.***

2. The interest-bearing deposit to be proposed by the Commission shall amount to 0,2% of the **■** GDP of the Member State concerned ***using the latest available figures collected by Eurostat for*** the preceding year.

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

4. By derogation from paragraph 2, the Commission, **■** within **10 days** of adoption of the

Council recommendation referred to in paragraph 1, may propose to reduce the amount of the interest-bearing deposit or to cancel it:

*(a) on grounds of exceptional economic circumstances;*

*(b) in order to take into account any cumulative effect of any sanction imposed in regard of Regulation (EU) No .../2011 [on enforcement measures to correct excessive macro-economic imbalances in the euro area] and Regulation (EU) No .../2011 [on speeding up and clarifying the implementation of the excessive deficit procedure].*

5. If the situation giving rise to the recommendation referred to in paragraph 1 no longer *exists*, the Council, on the basis of a proposal 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 proposal in accordance with Article 293(1) TFEU.

*5a. If the Council refuses to consider that the situation has ceased to exist, the Member State concerned may ask the competent committee in the European Parliament to organise a public hearing. The Commission and the Council shall take due consideration of the outcome of the hearing.*

### 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) TFEU that an excessive deficit exists in a Member State, the lodging of a non-interest-bearing deposit shall be imposed by the Council, acting on a proposal from the Commission. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the proposal within **10 days** of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) TFEU.

*1a. The Member State concerned may ask the European Parliament to organise hearings or public debates in its competent committee. Such hearings or public debates shall allow the government of the Member State concerned to make its case in the presence of the Commission and the President of the Euro Group. When such a hearing or public debate is organised the 10-day deadline referred to in paragraph 1 shall be extended to a 20-day deadline. Representatives, at an appropriate level, of the European Central Bank shall be invited. The Commission and the Council will take due consideration of the outcome of such hearings.*

2. The non-interest-bearing deposit to be proposed by the Commission shall amount to 0,2% of the GDP of the Member State concerned *using the latest available figures collected by Eurostat for* the preceding year.

3. 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 amount 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 amount when it lodges the non-interest-bearing deposit.

4. By derogation from paragraph 2 of this Article, the Commission may, within **10 days** of adoption of the Council decision in accordance with Article 126(6) TFEU, propose to reduce the amount of the non-interest-bearing deposit or to cancel it:

*(a) on grounds of exceptional economic circumstances;*

*(b) in order to take into account any cumulative effect of any sanction imposed in regard of Regulation (EU) No .../2011 [on enforcement measures to correct excessive macro-economic imbalances in the euro area] and Regulation (EU) No .../2011 [on speeding up and clarifying the implementation of the excessive deficit procedure].*

## Article 5

### Fine

1. If the Council decides in accordance with Article 126(8) TFEU that the Member State has not taken effective action in response to a Council recommendation within the period laid down, the Council, acting on a proposal from the Commission, shall decide that the Member State shall pay a fine. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the proposal within **10 days** of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) TFEU.

*1a. The Member State concerned may ask the European Parliament to organise hearings or public debates in its competent committee. Such hearings or public debates shall allow the government of the Member State concerned to make its case in the presence of the Commission and the President of the Euro Group. When such a hearing or public debate is organised the 10-day deadline referred to in paragraph 1 shall be extended to a 20-day deadline. Representatives, at an appropriate level, of the European Central Bank shall be invited. The Commission and the Council will take due consideration of the outcome of such hearings.*

*1b. In the event that a Member State manipulates financial data, falsifies statistics or deliberately provides misleading information, in particular resulting in a violation of the European statistical rules, on which decisions in Regulations (EU) No [.../...] are based, the Council, acting on a proposal from the Commission, may adopt a decision requiring the Member State to pay a fine. Such a fine shall be a one-off payment of 0,5% of the GDP of the Member State concerned in the preceding year. The decision shall be deemed adopted by the Council unless it decides, by qualified majority, to reject the proposal within ten days of adoption by the Commission. The Council may amend the Commission's proposal in*



*accordance with Article 293(1) TFEU.*

*The Member State concerned may ask the European Parliament to organise hearings or public debates in its competent committee. Such hearings or public debates shall allow the government of the Member State concerned to make its case in the presence of the Commission and the President of the Euro Group. When such a hearing or public debate is organised the 10-day deadline referred to in paragraph 1 shall be extended to a 20-day deadline. Representatives, at an appropriate level, of the European Central Bank shall be invited. The Commission and the Council will take due consideration of the outcome of such hearings.*

2. The fine to be proposed by the Commission shall amount to 0,2% of the GDP of the Member State concerned *using the latest available figures collected by Eurostat* for the preceding year

3. 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 amount 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 amount when it pays the fine.

4. By derogation from paragraph 2 of this Article, the Commission, may, ■ within **10 days** of adoption of the Council decision in accordance with Article 126(8) TFEU, propose to cancel or to reduce the amount of the fine:

*(a) on grounds of exceptional economic circumstances;*

*(b) in order to take into account any cumulative effect of any sanction imposed in regard of Regulation (EU) No .../2011 [on enforcement measures to correct excessive macro-economic imbalances in the euro area] and Regulation (EU) No .../2011 [on speeding up and clarifying the implementation of the excessive deficit procedure].*

*The total yearly amount of the cumulative fines imposed on a Member State, excluding the fine referred to in paragraph 1b, shall not exceed 0,5% of its GDP.*

## Article 6

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

If the Council decides in accordance with Article 126(12) TFEU 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 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 Article 5 shall **be allocated to the stability mechanism for Member States** whose currency is the euro. *Until the establishment of this mechanism the interest and 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.*

Chapter IV  
GENERAL PROVISIONS

*Article -8*  
*Dialogue and surveillance visits*

*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.*

**Article -8a**  
**Transparency**

*The Council and the Commission shall make public and set out the reasons for all their decisions and recommendations unless provided for otherwise in the TFEU.*

**Article -8b**  
**Emergency intervention**

*In the event that the appropriate procedures [of Article 126 TFEU] have been launched without result and the excessive deficit or the debt level or any other imbalance of a Member State still puts the stability of the euro at risk, the Commission, on the basis of Article 136 and Article 3(1) TFEU and after consultation with the ECB, shall take all necessary measures to safeguard the euro.*

*After the Commission has made its decision public, a debate shall be organised in the European Parliament without undue delay, in the presence of the President of the Commission, the President of the European Council and the President of the Eurogroup, as well as representatives of the Member State(s) concerned, in order to discuss the measures taken by the Commission. Representatives, at an appropriate level, of the European Central Bank shall be invited. The Commission and the Council will take due consideration of the outcome of this debate.*

*The Council can revoke the measures of the Commission by qualified majority voting.*

*The European Central Bank shall be informed of these decisions.*

**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)(a) TFEU.

*In order to increase public scrutiny, accountability and national ownership, when discussing and adopting the decisions referred to in Articles 3, 4, 5 and 6, Council deliberations will be open to the public in accordance with Article 8(3) of Council Decision 2006/683/EC, Euratom of 15 September 2006 adopting the Council's Rules of Procedure.*

**Article 8a**  
**Review**

*1. By ... \* and every three years thereafter the Commission shall publish a report on the application of this Regulation. That report shall evaluate, inter alia:*

*(a) whether the system of incentives and sanctions is effective, appropriate and proportional and ensures compliance with the Stability and Growth Pact;*

*(b) whether the extension of reversed qualified majority voting in Council to all steps of the procedure is legally possible.*

*2. Before the end of 2011 the Commission shall present a report, including an impact assessment and a feasibility study, to the European Parliament and the Council, accompanied, where appropriate, by legislative proposals to establish, under Community rules, a European Monetary Fund with the aim of improving economic governance and coordination at EU level, preserving the financial stability of the euro area as a whole and reinforcing budgetary discipline among Member States.*

*3. The European Monetary Fund shall be managed under Union rules and serve two main purposes:*

*(a) to act as a permanent crisis resolution mechanism assuming the current responsibility of the European Financial Stability Facility and the European Stability Mechanism and any future structure that would take on their responsibilities;*

*(b) to issue eurosecurities, whether it is under proportional or common liability.*

*4. The European Monetary Fund should be credited with the interest earned by the Commission on deposits lodged and fines collected in accordance with [Articles 3, 4 and 5 of this Regulation, Article 12 of Regulation (EC) No 1467/97 and Article 3 of Regulation (EU) No .../2011 [on enforcement measures to correct excessive macroeconomic imbalances in the euro area]].*

*The European Monetary Fund may have additional financial resources through contributions from Member States in accordance with their compliance with the Stability and Growth Pact.*

*The legislative proposals referred to in paragraph 2 shall be submitted in due time in order to enter into force from 1 January 2013.*

*5. Before the end of 2011 the Commission shall present a report, including an impact assessment and a feasibility study, to the European Parliament and the Council, accompanied, where appropriate, by legislative proposals and, if necessary, a Treaty change to set up a system of common issuance of European sovereign bonds (eurosecurities) under joint and several liability .*

*This system shall aim at strengthening the fiscal discipline and bring stability to the euro area through markets but also, taking advantage of the increase in liquidity, to ensure that the best rated Member States would not suffer from higher interest rates resulting from the introduction of eurosecurities.*

***These legislative proposals shall be submitted in due time in order to enter into force from 1 January 2013.***

***The issuance of eurosecurities shall be made without prejudice to the tasks of the European Investment Bank and to the project bonds proposed by the Commission aiming at financing long term and future-oriented investments.***

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.

***Article 3 shall not be applicable during a transition period of three years from the publication of this Regulation 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

## 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 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))

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, unanimously<sup>1</sup>.

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<sup>1</sup> 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 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))**

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 processes under the SGP (The Stability and Growth Pact<sup>1</sup>) and the Broad Economic Policy Guidelines.

These proposals come as a response to the weaknesses of the current system as revealed by the global economic and financial crisis. As the Commission stresses in its Explanatory Memorandum *“There is a broad agreement that the framework for EMU should be urgently strengthened in order to anchor macroeconomic stability and the sustainability of public finances, which are preconditions for durable output and employment growth”*<sup>2</sup>.

The proposals follow two communications<sup>3</sup> of the Commission and an agreement of the European Council from 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 Regulation of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area (hereinafter "the proposal") is currently being examined by the Committee on Economic and Monetary Affairs, where the rapporteur is Sylvie Goulard. The Committee on Employment and Social Affairs is giving an opinion (rapporteur: David Casa). The legislative procedure is in the course of first reading before ECON, as the lead committee.

By letter of 15 February 2011, the Committee on Economic and Monetary Affairs requested the advice of the Legal Service concerning the legal bases proposed by the Commission. After examining the main provisions of the proposal, the Legal Service reaches the conclusion that in principle Article 121(6) in combination with Article 136 could provide a proper legal basis<sup>4</sup>. It stresses, however, that the introduction of Eurobonds "goes beyond the legal bases

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<sup>1</sup> The SGP consists 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.

<sup>2</sup> Proposal for a Regulation of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area, Explanatory Memorandum.

<sup>3</sup> 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.

<sup>4</sup> Letter of 4 March 2011, Legal advice on the legal basis for the conferral of emergency intervention powers on the Commission, for the establishment of a European Monetary Fund and for the establishment of Eurobonds in the context of the proposal for a regulation on the effective enforcement of budgetary surveillance in the euro area.

of the proposal"; such an instrument would have to be further defined in order to determine whether there is a suitable legal basis.

Amendments tabled in the lead committee (ECON) seek to change the legal basis from a double basis of Article 136 in combination with Article 121(6) to a multiple basis of Article 136, in combination with Article 121(6), Article 122(2) and Article 3(1)(c) or to the single basis of Article 136 TFEU.

## **Background**

According to the Explanatory Memorandum, the new set of proposals put forward by the Commission aims to strengthen the Stability and Growth Pact (SGP) by improving its provisions, by equipping it with more effective enforcement instruments and finally by complementing it by provisions on national frameworks.

The Regulation on the effective enforcement of budgetary surveillance in the euro area backs Regulation (EC) No 1466/97 and Regulation (EC) No 1467/97, the so-called preventive and corrective parts of the Stability and Growth Pact, by introducing additional enforcement instruments (Recitals 3 to 5).

The main measures concern:

- the obligation to lodge an interest-bearing deposit temporally imposed on a Member State which is making insufficient progress with budgetary consolidation. The decision shall be deemed to be adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission proposal. This deposit shall amount to 0.2% of the gross domestic product (GDP) of the Member State in the preceding year (Article 3 of the proposal).
- the obligation to lodge a non-interest-bearing deposit imposed on a Member State undergoing a deficit procedure in accordance with Article 126 (Article 4 of the proposal).

Article 5 specifies that the above-mentioned deposit is to be converted into a fine if the Member State does not comply with the Council recommendation to correct its deficit. If the size of the fine exceeds the size of the lodged non-interest-bearing deposit or if no interest-bearing deposit has been lodged, the Member State will have to make up the amount when it pays the fine.

Article 7 establishes the procedure of distribution of the interest and fines: these "(...) *shall constitute other revenue referred to in Article 311 of the Treaty, and shall be distributed, in proportion to their share in the gross national income of the eligible Member States, among Member States whose currency is the euro which do not have an excessive deficit as determined in accordance with Article 126(6) of the Treaty*".

## **The proposed legal bases**

### ***Article 136 TFEU***

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<sup>1</sup> Letter of 21 March 2011, Legal basis for the six legislative acts proposed in the Economic Governance Package.

*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).*

#### **Article 121(6)**

*3. In order to ensure closer coordination of economic policies and sustained convergence of the economic performances of the Member States, the Council shall, on the basis of reports submitted by the Commission, monitor economic developments in each of the Member States and in the Union as well as the consistency of economic policies with the broad guidelines referred to in paragraph 2, and regularly carry out an overall assessment. For the purpose of this multilateral surveillance, Member States shall forward information to the Commission about important measures taken by them in the field of their economic policy and such other information as they deem necessary.*

*4. Where it is established, under the procedure referred to in paragraph 3, that the economic policies of a Member State are not consistent with the broad guidelines referred to in paragraph 2 or that they risk jeopardising the proper functioning of economic and monetary union, the Commission may address a warning to the Member State concerned. The Council, on a recommendation from the Commission, may address the necessary recommendations to the Member State concerned. The Council may, on a proposal from the Commission, decide to make its recommendations public.*

*Within the scope of this paragraph, 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 other members of the Council shall be defined in accordance with Article 238(3)(a).*

*6. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, may adopt detailed rules for the multilateral surveillance procedure referred to in paragraphs 3 and 4.*

#### **Article 122 (2)**

2. *Where a Member State is in difficulties or is seriously threatened with severe difficulties caused by natural disasters or exceptional occurrences beyond its control, the Council, on a proposal from the Commission, may grant, under certain conditions, Union financial assistance to the Member State concerned. The President of the Council shall inform the European Parliament of the decision taken.*

### **Article 3(1)(c)**

1. *The Union shall have exclusive competence in the following areas:*

...

*(c) monetary policy for the Member States whose currency is the euro;*

### **Approach of the Court of Justice**

The Court of Justice emphasises that, 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 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 basis, namely that required by the main or predominant purpose or component.<sup>1</sup>

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<sup>2</sup>.

### **Analysis of the legal bases proposed**

According to Recital 4, the proposal provides for "*fair, timely, graduated and effective mechanisms for compliance with the preventive and the corrective parts of the Stability and Growth Pact*".

It thus seems that one of its objectives is to back Regulation No 1466/97 (the so-called preventive part of the SGP) with an effective enforcement mechanism and an interest-bearing deposit in case of non-compliance with the provisions of the Regulation. Consequently, the proposal lays down in Article 3 the measures and the procedure to follow in the event of persisting deviations from prudent fiscal policy as stated by Article 6(3) of Regulation No 1466/97.

The other acknowledged objective of the proposal is to enforce the provisions on the excessive deficit procedure laid down by Regulation No 1467/97 (the so-called corrective part of the SGP). To this end, Articles 4, 5 and 7 set out detailed provisions concerning non-

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

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

interest-bearing deposits and the system of fines.

The proposal for a regulation on the effective enforcement of budgetary surveillance in the euro area is based on Article 136 in combination with Article 121(6) TFEU.

**Article 121(6) TFEU** allows Parliament and Council to adopt, by the ordinary legislative procedure, regulations with detailed rules for the multilateral surveillance provided for in paragraphs 3 and 4. In order to ensure closer coordination of economic policies and convergence of economic performances of the Member States, these latter provisions allow Commission and Council to monitor economic developments and to issue warnings and recommendations.

Given that providing detailed rules for the implementation of the economic surveillance procedure in order to ensure effective compliance with the corrective part of the SGP is the aim of the examined proposal, it seems that Article 121(6) constitutes an adequate legal basis.

**Article 136 TFEU** is part of Title VIII, Chapter 4, Provisions specific to Member States whose currency is the euro. This provision allows *the Council* to adopt in accordance with procedures set out in Articles 121 and 126, measures to strengthen the surveillance of budgetary discipline in the Member States. However, it must be noted that this provision explicitly excludes Article 126(14) from its scope.

Article 136 seems to be an appropriate legal basis for the proposal only for part enforcing the preventive part of the SGP. Therefore, the provisions on the excessive deficit procedure (Articles 4, 5 and 7) cannot be based on Article 136 TFEU. Anyway, it should be seen whether the enforcement of the excessive deficit procedure can be based only on Article 121(6).

**Article 3(1)(c) TFEU** provides for exclusive competence of the Union concerning monetary policy for the Member States whose currency is the euro. This article does not constitute a legal basis for the adoption of legislation.

**Article 122 (2) TFEU** allows the Council to grant Union financial assistance to a Member State facing severe difficulties caused by natural disaster or exceptional occurrences beyond its control.

### **Conclusion and recommendation**

In the light of the above considerations, Articles 121(6) and Articles 136 are the relevant legal basis for Chapter II of the proposed regulation (sanctions in the preventive part of the Stability and Growth Pact), Article 121(6) is the sole relevant legal basis for Chapter III (Sanctions in the corrective part of the Stability and Growth Pact).

Consequently, the appropriate legal basis is Article 121(6) in conjunction with Article 136 TFEU.

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 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))

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 (EC) No 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 (EC) No 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 for a regulation on the effective enforcement of budgetary surveillance in the euro area. Your rapporteur can support a number of elements proposed by the Commission but wishes to introduce 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. Equally important, the enhanced surveillance framework should be established in the context of the European Semester of policy coordination.
- Moreover, in order to enhance the budgetary surveillance, an enforcement system should be composed not only of fines (sanctions) but also incentives.
- 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 role of the European Parliament, as well as that of National Parliaments, should be strengthened in the whole surveillance process.

## 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 Recital 2 a (new)

*Text proposed by the Commission*

*Amendment*

***(2a) The Treaty on the Functioning of the European Union (TFEU) also provides that in defining and implementing its policies and activities, the Union should 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 2

### Proposal for a regulation Recital 2 b (new)

*Text proposed by the Commission*

*Amendment*

*(2b) The European Council, meeting on 17 June 2010, adopted a new strategy for jobs and growth, the Europe 2020 strategy, to enable the Union to emerge stronger from the crisis, and to turn its economy towards smart, sustainable and inclusive growth, accompanied by high level employment, productivity and social cohesion. The European Council also decided to launch, on 1 January 2011, the European semester for policy coordination to allow Member States to benefit from early coordination at Union level and to enable enhanced surveillance and a simultaneous assessment of both budgetary measures and structural reforms fostering growth and employment.*

## Amendment 3

### Proposal for a regulation Recital 3

*Text proposed by the Commission*

*Amendment*

(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.

(3) Additional ***incentives and*** sanctions are necessary to make the enforcement of budgetary surveillance more effective in the euro area. Those ***incentives and*** sanctions should enhance the credibility of the fiscal surveillance framework of the Union ***and support the political solidarity of the Union.***

## Amendment 4



**Proposal for a regulation**  
**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***(3a) The budgetary surveillance framework should, however, not harm the Union's growth and jobs objectives, and should, especially during the economic downturns, allow for efforts to stimulate sustainable growth, creation of jobs and social cohesion, whilst respecting Member-State-specific priorities and needs.***

**Amendment 5**

**Proposal for a regulation**  
**Recital 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***(3b) 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 6**

**Proposal for a regulation**  
**Recital 3 c (new)**

*Text proposed by the Commission*

*Amendment*

***(3c) 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 a more timely involvement of the European Parliament and the national parliaments throughout the economic policy coordination procedures, with a 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

#### Recital 5

*Text proposed by the Commission*

(5) Sanctions for Member States whose currency is the euro in the preventive part of the Stability and Growth Pact should **provide incentives for prudent** fiscal policy-making. Such policy-making should ensure that the growth rate of government expenditure does not normally exceed **a prudent** medium-term growth rate of gross domestic product (GDP), unless the excess is matched by increases in government revenues or discretionary revenue reductions are compensated by reductions in expenditure.

*Amendment*

(5) **Incentives and** sanctions for Member States whose currency is the euro in the preventive part of the Stability and Growth Pact should **ensure efficient and sustainable** fiscal policy-making. Such policy-making should ensure that the growth rate of government expenditure does not normally exceed **an efficient and sustainable** medium-term growth rate of gross domestic product (GDP), unless the excess is matched by increases in government revenues or discretionary revenue reductions are compensated by reductions in expenditure.

## Amendment 8

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

(6) **Prudent** 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

*Amendment*

(6) **Efficient 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 **reference values of 3% of GDP for the government deficit and 60% of GDP for government debt**, to ensure rapid progress towards

budgetary manoeuvre, in particular taking into account the needs for public investment.

sustainability, and at the same time to have room for budgetary manoeuvre, in particular taking into account the needs for public investment.

## Amendment 9

### Proposal for a regulation

#### Recital 7

##### *Text proposed by the Commission*

(7) In the preventive part of the Stability and Growth Pact, the incentive for **prudent** 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) *of the Treaty*.

##### *Amendment*

(7) In the preventive part of the Stability and Growth Pact, the incentive for **efficient 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 **or excessive government debt**, 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*.

## Amendment 10

### Proposal for a regulation

#### Recital 9

##### *Text proposed by the Commission*

(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 and the obligation to

##### *Amendment*

(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 **or excessive**

pay a fine in the event of non-compliance with a Council recommendation to correct an excessive government deficit. These sanctions should be imposed irrespective of whether or not an interest-bearing deposit has previously been imposed on the Member State concerned.

**government debt** and the obligation to pay a fine in the event of non-compliance with a Council recommendation to correct an excessive government deficit **or excessive government debt**. These sanctions should be imposed irrespective of whether or not an interest-bearing deposit has previously been imposed on the Member State concerned.

## Amendment 11

### Proposal for a regulation Recital 11

#### *Text proposed by the Commission*

(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 proposal 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 propose to reduce the size of a sanction or to cancel it on grounds of exceptional economic circumstances.

#### *Amendment*

(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 proposal following a reasoned request by the Member State concerned. ***The European Parliament should be kept involved.*** In the corrective part of the Stability and Growth Pact, the Commission should also be able to propose to reduce the size of a sanction or to cancel it on grounds of exceptional economic ***and/or social*** circumstances.

## Amendment 12

### Proposal for a regulation Recital 12

#### *Text proposed by the Commission*

(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 ***distributed among Member States whose currency is the euro which do not have an excessive deficit and which are not the***

#### *Amendment*

(12) The non-interest-bearing deposit should be released upon correction of the excessive deficit ***or excessive government debt*** while the interest on such deposits and the fines collected should be ***allocated to the Union's financial stability mechanism, in support of achieving the Union's***

*subject of an excessive imbalance procedure either.*

*sustainable growth objectives.*

#### **Amendment 13**

##### **Proposal for a regulation**

##### **Recital 13**

*Text proposed by the Commission*

(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) *of the Treaty*, these individual decisions are an integral follow-up to the measures adopted by the Council in accordance with Articles 121 *and* 126 *of the Treaty* and Regulations (EC) No 1466/97 and (EC) No 1467/97.

*Amendment*

(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, 126 *and 148 TFEU* and Regulations (EC) No 1466/97 and (EC) No 1467/97.

#### **Amendment 14**

##### **Proposal for a regulation**

##### **Article 1 – paragraph 1**

*Text proposed by the Commission*

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.

*Amendment*

1. This Regulation sets out a system of *incentives and* sanctions for enhancing the enforcement of the preventive and corrective parts of the Stability and Growth Pact in the euro area.

#### **Amendment 15**

##### **Proposal for a regulation**

##### **Chapter II – title**

*Text proposed by the Commission*

Sanctions in the preventive part of the Stability and Growth Pact

*Amendment*

*Incentives and* sanctions in the preventive part of the Stability and Growth Pact

## Amendment 16

### Proposal for a regulation Article 3 – paragraph 1

#### *Text proposed by the Commission*

1. If the Council addresses to a Member State a recommendation in accordance with Article 121(4) *of the Treaty* to take the necessary adjustment measures in the event of persisting or particularly serious and significant deviations from **prudent** fiscal policy-making as laid down in Article 6(3) of Regulation (EC) No 1466/97, the lodging of an interest bearing deposit shall be imposed by the Council, acting on a proposal from the Commission. The decision shall be deemed to be adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) *of the Treaty*.

#### *Amendment*

1. If the Council addresses to a Member State a recommendation in accordance with Article 121(4) *TFEU* to take the necessary adjustment measures in the event of persisting or particularly serious and significant deviations from **efficient and sustainable** fiscal policy-making as laid down in Article 6(3) of Regulation (EC) No 1466/97, the lodging of an interest bearing deposit shall be imposed by the Council, acting on a proposal from the Commission **and after consulting the European Parliament**. The decision shall be deemed to be adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) *TFEU*.

## Amendment 17

### Proposal for a regulation Article 4 – paragraph 1

#### *Text proposed by the Commission*

1. If the Council decides in accordance with Article 126(6) *of the Treaty* that an excessive deficit **exists** in a Member State, the lodging of a non-interest-bearing deposit shall be imposed by the Council, acting on a proposal from the Commission. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) *of the*

#### *Amendment*

1. If the Council decides in accordance with Article 126(6) *TFEU* that an excessive deficit **or excessive government debt exist** in a Member State, the lodging of a non-interest-bearing deposit shall be imposed by the Council, acting on a proposal from the Commission **and after consulting the European Parliament**. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission adopting it. The

*Treaty.*

Council may amend the proposal in accordance with Article 293(1) *TFEU*.

## **Amendment 18**

### **Proposal for a regulation Article 4 – paragraph 4**

#### *Text proposed by the Commission*

4. By derogation from paragraph 2 of this Article, the Commission may, on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned addressed to the Commission within ten days of adoption of the Council decision in accordance with Article 126(6) *of the Treaty*, propose to reduce the amount of the non-interest-bearing deposit or to cancel it.

#### *Amendment*

4. By derogation from paragraph 2 of this Article, the Commission may, on grounds of exceptional economic ***or social*** circumstances or following a reasoned request by the Member State concerned addressed to the Commission within ten days of adoption of the Council decision in accordance with Article 126(6) *TFEU*, propose to reduce the amount of the non-interest-bearing deposit or to cancel it.

## **Amendment 19**

### **Proposal for a regulation Article 5 - paragraph 1**

#### *Text proposed by the Commission*

1. If the Council decides in accordance with Article 126(8) *of the Treaty* that the Member State has not taken effective action in response to a Council recommendation within the period laid down, the Council, acting on a proposal from the Commission, shall decide that the Member State shall pay a fine. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) *of the Treaty*.

#### *Amendment*

1. If the Council decides in accordance with Article 126(8) *TFEU* that the Member State has not taken effective action in response to a Council recommendation within the period laid down, the Council, acting on a proposal from the Commission ***and after consulting the European Parliament, while taking due 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 decide that the Member State shall pay a fine. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the proposal within ten

days of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) *TFEU*.

## Amendment 20

### Proposal for a regulation Article 5 – paragraph 4

#### *Text proposed by the Commission*

4. By derogation from paragraph 2 of this Article, the Commission may, on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned addressed to the Commission within ten days of adoption of the Council decision in accordance with Article 126(8) *of the Treaty*, propose to cancel or to reduce the amount of the fine.

#### *Amendment*

4. By derogation from paragraph 2 of this Article, the Commission may, on grounds of exceptional economic ***or social*** circumstances or following a reasoned request by the Member State concerned addressed to the Commission within ten days of adoption of the Council decision in accordance with Article 126(8) *TFEU*, propose to cancel or to reduce the amount of the fine. ***The European Parliament shall be kept involved.***

## Amendment 21

### Proposal for a regulation Article 7 – title

#### *Text proposed by the Commission*

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

#### *Amendment*

***Use*** of the interest and fines

## Amendment 22

### Proposal for a regulation Article 7

#### *Text proposed by the Commission*

The interest earned by the Commission on deposits lodged in accordance with Article 4 and the fines collected in accordance with Article 5 shall constitute other revenue referred to in Article 311 *of the Treaty*, and shall be ***distributed, in proportion to their share in the gross***

#### *Amendment*

The interest earned by the Commission on deposits lodged in accordance with Article 4 and the fines collected in accordance with Article 5 shall constitute other revenue referred to in Article 311 *TFEU*, and shall be ***allocated to the Union's financial stability mechanism, in support***



*national income of the eligible Member States, among Member States whose currency is the euro which do not have an 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 [.../...].*

*of achieving the Union's sustainable growth objectives.*

## PROCEDURE

<b>Title</b>	Effective enforcement of budgetary surveillance in the euro area
<b>References</b>	COM(2010)0524 – C7-0298/2010 – 2010/0278(COD)
<b>Committee responsible</b>	ECON
<b>Opinion by</b> Date announced in plenary	EMPL 21.10.2010
<b>Rapporteur</b> Date appointed	David Casa 21.10.2010
<b>Discussed in committee</b>	1.12.2010                      25.1.2011
<b>Date adopted</b>	16.3.2011
<b>Result of final vote</b>	+:                      36 –:                      4 0:                      4
<b>Members present for the final vote</b>	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, Thomas Händel, 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 Öry, Rovana Plumb, Konstantinos Poupakis, Sylvana Rapti, Licia Ronzulli, Elisabeth Schroedter, Jutta Steinruck, Traian Ungureanu
<b>Substitute(s) present for the final vote</b>	Georges Bach, Raffaele Baldassarre, Sven Giegold, Antigoni Papadopoulou, Evelyn Regner
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Liam Aylward, Fiona Hall

## PROCEDURE

<b>Title</b>	Effective enforcement of budgetary surveillance in the euro area		
<b>References</b>	COM(2010)0524 – C7-0298/2010 – 2010/0278(COD)		
<b>Date submitted to Parliament</b>	29.9.2010		
<b>Committee responsible</b> Date announced in plenary	ECON 21.10.2010		
<b>Committee(s) asked for opinion(s)</b> Date announced in plenary	BUDG 21.10.2010	EMPL 21.10.2010	
<b>Not delivering opinions</b> Date of decision	BUDG 20.10.2010		
<b>Rapporteur(s)</b> Date appointed	Sylvie Goulard 21.9.2010		
<b>Legal basis disputed</b> Date of JURI opinion	JURI 12.4.2011		
<b>Discussed in committee</b>	26.10.2010	24.1.2011	22.3.2011
<b>Date adopted</b>	19.4.2011		
<b>Result of final vote</b>	+: 33 -: 14 0: 0		
<b>Members present for the final vote</b>	Burkhard Balz, Udo Bullmann, Nikolaos Chountis, George Sabin Cutaş, Leonardo Domenici, Derk Jan Eppink, Diogo Feio, Markus Ferber, Elisa Ferreira, Vicky Ford, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sven Giegold, Sylvie Goulard, Liem Hoang Ngoc, Gunnar Hökmark, Wolf Klinz, Jürgen Klute, Philippe Lamberts, Werner Langen, Astrid Lulling, Arlene McCarthy, 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		
<b>Substitute(s) present for the final vote</b>	Marta Andreasen, Carl Haglund, Krišjānis Kariņš, Barry Madlener, Claudio Morganti, Andreas Schwab		
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Karima Delli, Monika Hohlmeier, Ria Oomen-Ruijten, Marc Tarabella, Wim van de Camp, Axel Voss		
<b>Date tabled</b>	2.5.2011		