Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure

COUNCIL REGULATION (EU) No 1177/2011

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

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Parliament[(1)],

Having regard to the opinion of the European Central Bank[(2)],

Acting in accordance with a special legislative procedure,

Whereas:

(1) The coordination of the economic policies of the Member States within the Union, as provided for by the Treaty on the Functioning of the European Union (TFEU), should entail compliance with the guiding principles of stable prices, sound public finances and monetary conditions, and a sustainable balance of payments.

(2) The Stability and Growth Pact (SGP) initially consisted of Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies[(3)], Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure[(4)] and the Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact[(5)]. Regulations (EC) No 1466/97 and (EC) No 1467/97 were amended by Regulations (EC) No 1055/2005[(6)] and (EC) No 1056/2005[(7)] respectively. In addition, the Council Report of 20 March 2005 on 'Improving the implementation of the Stability and Growth Pact'[(8)] was adopted.

(3) The SGP is based on the objective of sound and sustainable government finances as a means of strengthening the conditions for price stability and for strong sustainable growth underpinned by financial stability, thereby supporting the achievement of the Union's objectives for sustainable growth and employment.

(4) Experience gained and mistakes made during the first decade 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 framework at the level of the Union for the surveillance of national economic policies.

(5) The common framework for economic governance needs to be enhanced, including improved budgetary surveillance, in line with the high degree of integration between Member States' economies within the Union, and particularly within the euro area.

(6) The improved economic governance framework should rely on several interlinked and coherent policies for sustainable growth and jobs, in particular a Union strategy for growth and jobs, with particular focus on developing and strengthening the internal market, fostering international trade and competitiveness, a European Semester for strengthened coordination of economic and budgetary policies, an effective framework for preventing and correcting excessive government deficits (the SGP), a robust framework for preventing and correcting macroeconomic imbalances, minimum requirements for national budgetary frameworks, and enhanced financial market regulation and supervision, including macroprudential supervision by the European Systemic Risk Board.

(7) Achieving and maintaining a dynamic internal market should be considered an element of the proper and smooth functioning of the economic and monetary union.

(8) The SGP and the complete economic governance framework should complement and support the Union strategy for growth and jobs. The interlinks between different strands should not provide for exemptions from the provisions of the SGP.

(9) The strengthening of economic governance should include a closer and more timely involvement of the European Parliament and the national parliaments. While recognising that the counterparts of the European Parliament in the framework of this dialogue are the relevant institutions of the Union and their representatives, the competent committee of the European Parliament may offer an opportunity to participate in an exchange of views to a Member State to which the Council has addressed a decision under Article 126(6) TFEU, a recommendation under Article 126(7) TFEU, a notice under Article 126(9) TFEU or a decision under Article 126(11) TFEU. The Member State's participation in such an exchange of views is voluntary.

(10) The Commission should have a stronger role in the enhanced surveillance procedure as regards assessments that are specific to each Member State, monitoring, on-site missions, recommendations and warnings.

(11) The Council and the Commission should, when applying this Regulation, take into account, as appropriate, all relevant factors and the economic and budgetary situation of the Member States concerned.

(12) The rules on budgetary discipline should be strengthened, in particular by giving a more prominent role to the level and evolution of debt and to overall sustainability. The mechanisms to ensure compliance with, and enforcement of, those rules should also be strengthened.

(13) Implementing the existing excessive deficit procedure on the basis of both the deficit criterion and the debt criterion requires a numerical benchmark, which takes into

account the business cycle, against which to assess whether the ratio of the government debt to gross domestic product (GDP) is sufficiently diminishing and is approaching the reference value at a satisfactory pace.

A transitional period should be introduced in order to allow Member States subject to an excessive deficit procedure at the date of adoption of this Regulation to adapt their policies to the numerical benchmark for debt reduction. This should also apply to Member States which are subject to a Union or International Monetary Fund adjustment programme.

(14) Non-compliance with the numerical benchmark for debt reduction should not be sufficient to establish the existence of an excessive deficit, which should take into account the whole range of relevant factors covered by the Commission's report under Article 126(3) TFEU. In particular, the assessment of the effect of the cycle and the composition of the stock-flow adjustment on debt developments may be sufficient to avoid that the existence of an excessive deficit be established on the basis of the debt criterion.

(15) In establishing the existence of an excessive deficit based on the deficit criterion and the steps leading to it, there is a need to take into account the whole range of relevant factors covered by the Commission's report under Article 126(3) TFEU if the ratio of government debt to GDP does not exceed the reference value.

(16) In taking into account systemic pension reforms among the relevant factors, the central consideration should be whether those reforms enhance the long-term sustainability of the overall pension system, while not increasing the risks to the medium-term budgetary position.

(17) The Commission's report under Article 126(3) TFEU should consider appropriately the quality of the national budgetary framework, as that plays a crucial role in supporting fiscal consolidation and sustainable public finances. That consideration should include the minimum requirements as laid down in Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States[(9)] and other agreed desirable requirements for fiscal discipline.

(18) In order to support the monitoring of compliance with Council recommendations and notices for the correction of situations of excessive deficit, there is a need that these specify annual budgetary targets consistent with the required fiscal improvement in cyclically adjusted terms, net of one-off and temporary measures. In that context, the 0,5 % of GDP annual benchmark should be understood as an annual average.

(19) The assessment of effective action will benefit from taking compliance with general government expenditure targets as a reference, in conjunction with the implementation of planned specific revenue measures.

(20) In assessing the case for an extension of the deadline for correcting the excessive deficit, particular consideration should be given to severe economic downturns in the euro area or in the Union as a whole, provided that this does not endanger fiscal sustainability in the medium term.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 1177/2011. (See end of Document for details)*

(21) It is appropriate to step up the application of the financial sanctions provided for in Article 126(11) TFEU so that they constitute a real incentive for compliance with the notices under Article 126(9) TFEU.

(22) In order to ensure compliance with the fiscal surveillance framework of the Union for Member States whose currency is the euro, rules-based sanctions should be designed on the basis of Article 136 TFEU, ensuring fair, timely and effective mechanisms for compliance with the SGP.

(23) Fines referred to in this Regulation shall constitute other revenue, as referred to in Article 311 TFEU, and 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.

(24) References contained in Regulation (EC) No 1467/97 should take account of the new Article numbering of the Treaty on the Functioning of the European Union and to the replacement of Council Regulation (EC) No 3605/93[(10)] by Council Regulation (EC) No 479/2009 of 25 May 2009 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community[(11)].

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

HAS ADOPTED THIS REGULATION:

Article 1

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

(1) Article 1 is replaced by the following:

Article 1

1 This Regulation lays down the provisions for speeding up and clarifying the excessive deficit procedure. The objective of the excessive deficit procedure is to deter excessive government deficits and, if they occur, to further prompt their correction, where compliance with the budgetary discipline is examined on the basis of the government deficit and government debt criteria.

2 For the purposes of this Regulation, “participating Member States” shall mean those Member States whose currency is the euro.;

(2) Article 2 is amended as follows:

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

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

(b) the following paragraph is inserted:

1a. When it exceeds the reference value, the ratio of the government debt to gross domestic product (GDP) shall be considered sufficiently

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diminishing and approaching the reference value at a satisfactory pace in accordance with point (b) of Article 126(2) TFEU if the differential with respect to the reference value has decreased over the previous three years at an average rate of one twentieth per year as a benchmark, based on changes over the last three years for which the data is available.

The requirement under the debt criterion shall also be considered to be fulfilled if the budgetary forecasts of the Commission indicate that the required reduction in the differential will occur over the three-year period encompassing the two years following the final year for which the data is available. For a Member State that is subject to an excessive deficit procedure on 8 November 2011 and for a period of three years from the correction of the excessive deficit, the requirement under the debt criterion shall be considered fulfilled if the Member State concerned makes sufficient progress towards compliance as assessed in the opinion adopted by the Council on its stability or convergence programme.

In implementing the debt ratio adjustment benchmark, account shall be taken of the influence of the cycle on the pace of debt reduction.;

(c) paragraphs 3 to 7 are replaced by the following:

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

a the developments in the medium-term economic position, in particular potential growth, including the various contributions provided by labour, capital accumulation and total factor productivity, cyclical developments, and the private sector net savings position;

b the developments in the medium-term budgetary positions, including, in particular, the record of adjustment towards the medium-term budgetary objective, the level of the primary balance and developments in primary expenditure, both current and capital, the implementation of policies in the context of the prevention and correction of excessive macroeconomic imbalances, the implementation of policies in the context of the common growth strategy of the Union, and the overall quality of public finances, in particular the effectiveness of national budgetary frameworks;

c the developments in the medium-term government debt position, its dynamics and sustainability, including, in particular, risk factors including the maturity structure and currency denomination of the debt, stock-flow adjustment and its composition, accumulated reserves and other financial assets, guarantees, in particular those linked to the financial sector, and any implicit liabilities related to ageing and private debt, to the extent that it may represent a contingent implicit liability for the government.

The Commission shall give due and express consideration to any other factors which, in the opinion of the Member State concerned, are relevant in order to comprehensively assess compliance with deficit and debt criteria and which the Member State has put forward to the Council and the