Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area

REGULATION (EU) No 1173/2011 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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on the effective enforcement of budgetary surveillance in the euro area

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

Having regard to the opinion of the European Economic and Social Committee[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Member States whose currency is the euro have a particular interest in and a responsibility to conduct economic policies that promote the proper functioning of the economic and monetary union and to avoid policies that jeopardise that functioning.

(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 the economic and monetary union.

(3) 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.

(4) 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 Stability and Growth Pact (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.

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

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

(7) The Commission should play 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. When taking decisions on sanctions, the role of the Council should be limited, and reversed qualified majority voting should be used.

(8) In order to ensure a permanent dialogue with the Member States aiming at achieving the objectives of this Regulation, the Commission should carry out surveillance missions.

(9) A broad evaluation of the economic governance system, in particular of the effectiveness and adequacy of its sanctions, should be undertaken by the Commission at regular intervals. Such evaluations should be complemented by relevant proposals if necessary.

(10) When implementing this Regulation, the Commission should take into account the current economic situation of the Member States concerned.

(11) The strengthening of economic governance should include a closer and a more timely involvement of the European Parliament and the national parliaments.

(12) An economic dialogue with the European Parliament may be established, enabling the Commission to make its analyses public and the President of the Council, the Commission and, where appropriate, the President of the European Council or the President of the Eurogroup to discuss. Such a public debate could enable discussion of the spill-over effects of national decisions and enable public peer pressure to be brought to bear on the relevant actors. While recognising that the counterparts of the European Parliament in the framework of that 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 which is the subject of a Council decision taken pursuant to Articles 4, 5 and 6 of this Regulation. The Member State's participation in such an exchange of views is voluntary.

(13) Additional sanctions are necessary to make the enforcement of budgetary surveillance in the euro area more effective. Those sanctions should enhance the credibility of the fiscal surveillance framework of the Union.

(14) The rules laid down in this Regulation should ensure fair, timely, graduated and effective mechanisms for compliance with the preventive and the corrective parts of the SGP, 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[(4)] and Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit

procedure[5], where compliance with the budgetary discipline is examined on the basis of the government deficit and government debt criteria.

(15) Sanctions under this Regulation and based upon the preventive part of the SGP in respect of Member States whose currency is the euro should provide incentives for adjusting to and maintaining the medium-term budgetary objective.

(16) In order to deter against the misrepresentation, whether intentional or due to serious negligence, of government deficit and debt data, which data is an essential input to economic policy coordination in the Union, fines should be imposed on Member States responsible.

(17) In order to supplement the rules on calculation of the fines for manipulation of statistics as well as the rules on the procedure to be followed by the Commission for the investigation of such actions, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of detailed criteria for establishing the amount of the fine and for conducting the Commission's investigations. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

(18) In respect of the preventive part of the SGP, adjustment and adherence to the medium-term budgetary objective should be ensured through an obligation imposed on a Member State whose currency is the euro that is making insufficient progress with budgetary consolidation to lodge temporarily an interest-bearing deposit. This should be the case when a Member State, including a Member State with a deficit below the 3 % of Gross Domestic Product (GDP) reference value, deviates significantly from the medium-term budgetary objective or the appropriate adjustment path towards that objective and fails to correct the deviation.

(19) 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.

(20) In respect of the corrective part of the SGP, 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 if an interest-bearing deposit has already been imposed on the Member State concerned in the preventive part of the SGP or in cases of particularly serious non-compliance with the budgetary policy obligations laid down in the SGP, or the obligation to pay a fine in the event of non-compliance with a Council recommendation to correct an excessive government deficit.

(21) In order to avoid the retroactive application of the sanctions under the preventive part of the SGP provided for in this Regulation, they should apply only in respect of the relevant decisions adopted by the Council under Regulation (EC) No 1466/97 after the entry into force of this Regulation. Similarly, in order to avoid the retroactive application of the sanctions under the corrective part of the SGP provided for in this Regulation, they

should apply only in respect of the relevant recommendations and decisions to correct an excessive government deficit adopted by the Council after the entry into force of this Regulation.

(22) The amount of the interest-bearing deposits, of the non-interest-bearing deposits and of the fines 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 SGP and to provide sufficient incentives for the Member States whose currency is the euro to comply with the fiscal framework of the Union. Fines under Article 126(11) TFEU and as specified in Article 12 of Regulation (EC) No 1467/97 are 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, that being the amount of the fixed component of the fine under Article 126(11) TFEU.

(23) A possibility should be provided for the Council to reduce or to cancel the sanctions imposed on Member States whose currency is the euro on the basis of a Commission recommendation following a reasoned request by the Member State concerned. In the corrective part of the SGP, the Commission should also be able to recommend reducing the amount of a sanction or cancelling it on grounds of exceptional economic circumstances.

(24) The non-interest-bearing deposit should be released upon correction of the excessive deficit, while the interest on such deposits and the fines collected should be assigned to stability mechanisms to provide financial assistance, created by Member States whose currency is the euro in order to safeguard the stability of the euro area as a whole.

(25) The power to adopt individual decisions for the application of the sanctions provided for 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 provided for in Article 121(1) TFEU, those individual decisions are an integral follow-up to the measures adopted by the Council in accordance with Articles 121 and 126 TFEU and Regulations (EC) No 1466/97 and (EC) No 1467/97.

(26) 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) TFEU.

(27) Since the objective of this Regulation, namely to create a system of sanctions for enhancing the enforcement of the preventive and corrective parts of the SGP in the euro area, cannot be sufficiently achieved at the level of the Member States, the Union may adopt measures in accordance with the principles of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). 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,

HAVE ADOPTED THIS REGULATION:

***Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) No 1173/2011 of the European Parliament and of the Council. (See end of Document for details)*

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

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

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

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) ‘preventive part of the Stability and Growth Pact’ means the multilateral surveillance system as organised by Regulation (EC) No 1466/97;

(2) ‘corrective part of the Stability and Growth Pact’ means the procedure for the avoidance 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 point (a) of Article 126(2) TFEU and as specified in Regulation (EC) No 1467/97.

CHAPTER II

ECONOMIC DIALOGUE

Article 3

Economic dialogue

In order to enhance the dialogue between the institutions of the Union, in particular the European Parliament, the Council and the Commission, and to ensure greater transparency and accountability, the competent committee of the European Parliament may invite the President of the Council, the Commission and, where appropriate, the President of the European Council or the President of the Eurogroup to appear before the committee to discuss decisions taken pursuant to Articles 4, 5 and 6 of this Regulation.

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