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 (Codified version)

COUNCIL REGULATION (EC) No 479/2009

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(Codified version)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 104(14) thereof,

Having regard to the proposal from the Commission,

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

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

Whereas:

(1) Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community[(3)] has been substantially amended several times[(4)]. In the interests of clarity and rationality the said Regulation should be codified.

(2) The definitions of 'government', 'deficit' and 'investment' are laid down in the Protocol on the excessive deficit procedure by reference to the European System of Integrated Economic Accounts (ESA), replaced by the European system of national and regional accounts in the Community (adopted by Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community and hereinafter referred to as '**[**[F1]ESA 2010')[(5)]. Precise definitions referring to the classification codes of ESA 2010**]** are required. Those definitions may be subject to revision in the context of the necessary harmonisation of national statistics or for other reasons. Any revision of ESA will be decided by the Council in accordance with the rules on competence and procedure laid down in the Treaty.

(3) Under **[**[F1]ESA 2010**]**, interest flows under swap contracts and forward rate agreements (FRAs) are to be classified in the financial account and require specific treatment for the data transmitted under the excessive deficit procedure.

(4) The definition of 'debt' laid down in the Protocol on the excessive deficit procedure needs to be amplified by a reference to the classification codes of **[**[F1]ESA 2010**]**.

(5) In the case of financial derivatives, as defined in **[**[F1]ESA 2010**]**, there is no nominal value identical to that for other debt instruments. Therefore, it is necessary that financial

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derivatives are not included with the liabilities making up government debt for the purposes of the Protocol on the excessive deficit procedure. For liabilities which are subject to agreements fixing the exchange rate, this rate should be taken into account in the conversion into national currency.

(6) **[**[F1]ESA 2010**]** provides a detailed definition of gross domestic product at current market prices, which is appropriate for the calculation of the ratios of government deficit to gross domestic product and of government debt to gross domestic product referred to in Article 104 of the Treaty.

(7) Consolidated government interest expenditure is an important indicator for monitoring the budgetary situation in the Member States. Interest expenditure is intrinsically linked to government debt. Government debt to be reported to the Commission by the Member States has to be consolidated within the government sector. The levels of government debt and of interest expenditure should be made mutually consistent. The methodology of **[**[F1]ESA 2010**]** (point 1.58) recognises that, for certain kinds of analysis, consolidated aggregates are more significant than overall gross figures.

(8) Pursuant to the terms of the Protocol on the excessive deficit procedure, the Commission is required to provide the statistical data to be used in that procedure.

(9) The role of the Commission, as statistical authority, in that context is specifically exercised by Eurostat, on behalf of the Commission. As the Commission department responsible for carrying out the tasks devolving on the Commission as regards the production of Community statistics, Eurostat is required to execute its tasks in accordance with the principles of impartiality, reliability, relevance, cost-effectiveness, statistical confidentiality and transparency, as laid down in Commission Decision 97/281/EC of 21 April 1997 on the role of Eurostat as regards the production of Community statistics[(6)]. The implementation by the national and Community statistical authorities of the Recommendation of the Commission of 25 May 2005 on the independence, integrity and accountability of the national and Community authorities should enhance the principle of professional independence, adequacy of resources and quality of statistical data.

(10) Eurostat is responsible, on behalf of the Commission, for assessing the quality of the data and for providing the data to be used within the context of the excessive deficit procedure, in accordance with Commission Decision 97/281/EC.

(11) A permanent dialogue should be established between the Commission and the Member States' statistical authorities in order to ensure the quality both of the data reported by Member States and of the underlying government sector accounts compiled in accordance with **[**[F1]ESA 2010**]**.

(12) Detailed rules are required to organise prompt and regular reporting by the Member States to the Commission (Eurostat) of their planned and actual deficits and of the levels of their debt.

(13) Pursuant to Article 104c(2) and (3) of the Treaty, the Commission is to monitor the development of the budgetary situation and of the stock of government debt in the Member States and to examine compliance with budgetary discipline on the basis of

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criteria relating to government deficit and government debt. If a Member State does not fulfil the requirements under one or both criteria, it is necessary for the Commission to take into account all relevant factors. The Commission has to examine whether there is a risk of an excessive deficit in a Member State,

HAS ADOPTED THIS REGULATION:

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 220/2014 of 7 March 2014 amending Council Regulation (EC) No 479/2009 as regards references to the European system of national and regional accounts in the European Union.

CHAPTER I

DEFINITIONS

Article 1

1 **[**F1For the purposes of the Protocol on the excessive deficit procedure and of this Regulation, the terms in paragraphs 2 to 6 are defined according to Regulation (EU) No 549/2013 of the European Parliament and the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (hereinafter referred to as ESA 2010). The codes in brackets refer to ESA 2010.**]**

2 'Government' means the sector of 'general government' (S.13), that is 'central government' (S.1311), 'state government' (S.1312), 'local government' (S.1313) and 'social security funds' (S.1314), to the exclusion of commercial operations, as defined in **[**F1ESA 2010**]**.

The exclusion of commercial operations means that the sector of 'general government' (S.13) comprises only institutional units producing non-market services as their main activity.

3 'Government deficit (surplus)' means the net borrowing (net lending) (**[**F1B.9**]**) of the sector of 'general government' (S.13), as defined in **[**F1ESA 2010. The interest comprised in the government deficit is the interest (**[**F1D.41**]**), as defined in ESA 2010**]**.

4 'Government investment' means the gross fixed capital formation (P.51) of the sector of 'general government' (S.13), as defined in **[**F1ESA 2010**]**.

5 'Government debt' means the total gross debt at nominal value outstanding at the end of the year of the sector of 'general government' (S.13), with the exception of those liabilities the corresponding financial assets of which are held by the sector of 'general government' (S.13).

[F1Government debt is constituted by the liabilities of general government in the following categories: currency and deposits (AF.2); debt securities (AF.3) and loans (AF. 4), as defined in ESA 2010.**]**

The nominal value of a liability outstanding at the end of the year is the face value.

The nominal value of an index-linked liability corresponds to its face value adjusted by the index-related change in the value of the principal accrued to the end of the year.

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Liabilities denominated in a foreign currency, or exchanged from one foreign currency through contractual agreements to one or more other foreign currencies shall be converted into the other foreign currencies at the rate agreed on in those contracts and shall be converted into the national currency on the basis of the representative market exchange rate prevailing on the last working day of each year.

Liabilities denominated in the national currency and exchanged through contractual agreements to a foreign currency shall be converted into the foreign currency at the rate agreed on in those contracts and shall be converted into the national currency on the basis of the representative market exchange rate prevailing on the last working day of each year.

Liabilities denominated in a foreign currency and exchanged through contractual agreements to the national currency shall be converted into the national currency at the rate agreed on in those contracts.

6 'Gross domestic product' means gross domestic product at current market prices (GDP mp) (B.1*g), as defined in **[**[F1]ESA 2010**]**.

Textual Amendments

F1 Substituted by Commission Regulation (EU) No 220/2014 of 7 March 2014 amending Council Regulation (EC) No 479/2009 as regards references to the European system of national and regional accounts in the European Union.

Article 2

1 'Planned government deficit and government debt level figures' means the figures established for the current year by the Member States. They shall be the most recent official forecasts, taking into account the most recent budgetary decisions and economic developments and prospects. They should be produced in as short a time as possible before the reporting deadline.

2 'Actual government deficit and government debt level figures' means estimated, provisional, half-finalised or final results for a past year. The planned data together with the actual data shall form a consistent time series as far as the definitions and concepts are concerned.

[F2Article 2a

'Access' means that relevant documents and other information must be provided when requested, either immediately or as promptly afterwards as is consistent with the time needed to collect the requested information.**]**

Textual Amendments

F2 Inserted by Council Regulation (EU) No 679/2010 of 26 July 2010 amending Regulation (EC) No 479/2009 as regards the quality of statistical data in the context of the excessive deficit procedure.

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CHAPTER II

RULES AND COVERAGE OF REPORTING

Article 3

1 Member States shall report to the Commission (Eurostat) their planned and actual government deficits and levels of government debt twice a year, the first time before 1 April of the current year (year *n*) and the second time before 1 October of year *n*.

Member States shall inform the Commission (Eurostat) which national authorities are responsible for the excessive deficit procedure reporting.

2 Before 1 April of year *n*, Member States shall:

a report to the Commission (Eurostat) their planned government deficit for year *n*, an up-to-date estimate of their actual government deficit for year *n-1* and their actual government deficits for years *n-2*, *n-3* and *n-4*;

b simultaneously provide the Commission (Eurostat) with their planned data for year *n* and the actual data for years *n-1*, *n-2*, *n-3* and *n-4* of their corresponding public accounts budget deficits in accordance with the definition which is given most prominence nationally and with the figures which explain the transition between the public accounts budget deficit and their government deficit for the sub-sector S.1311;

c simultaneously provide the Commission (Eurostat) with their actual data for years *n-1*, *n-2*, *n-3* and *n-4* of their corresponding working balances and with the figures which explain the transition between the working balances of each government sub-sector and their government deficit for the sub-sectors S.1312, S.1313 and S.1314;

d report to the Commission (Eurostat) their planned level of government debt at the end of year *n* and their levels of actual government debt at the end of years *n-1*, *n-2*, *n-3* and *n-4*;

e simultaneously provide the Commission (Eurostat), for years *n-1*, *n-2*, *n-3* and *n-4*, with the figures which explain the contribution of the government deficit and other factors relevant to the variation in the level of their government debt by sub-sector.

3 Before 1 October of year *n*, Member States shall report to the Commission (Eurostat) their:

a updated planned government deficit for year *n* and their actual government deficits for years *n-1*, *n-2*, *n-3* and *n-4* and shall comply with the requirements of points (b) and (c) of paragraph 2;

b updated planned level of government debt at the end of year *n* and their levels of actual government debt at the end of years *n-1*, *n-2*, *n-3* and *n-4*, and shall comply with the requirements of paragraph 2(e).

4 The figures for the planned government deficit reported to the Commission (Eurostat) in accordance with paragraphs 2 and 3 shall be expressed in national currency and in budget years.

The figures for actual government deficit and actual government debt level reported to the Commission (Eurostat) in accordance with paragraphs 2 and 3 shall be expressed in national currency and in calendar years, with the exception of the up-to-date estimates for year *n-1*, which may be expressed in budget years.

Where the budget year differs from the calendar year, Member States shall also report to the Commission (Eurostat) their figures for actual government deficit and actual