COUNCIL DECISION

of 19 January 2010

on the existence of an excessive deficit in Portugal

(2010/288/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Articles 126(13) and 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by Portugal,

Whereas:

(1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.

(2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.

(3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure [1] (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community — which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009 [2] lays down detailed rules and definitions for the application of the provisions of that Protocol.

(4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

(5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Portugal. The Commission therefore addressed such an opinion to the Council in respect of Portugal on 11 November 2009 [3].

(6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Portugal, this overall assessment leads to the conclusions set out in this Decision.

(7) According to data notified by the Portuguese authorities in October 2009, the general government deficit in Portugal is planned to reach 5,9 % of GDP in 2009, thus exceeding and not close to the 3 % of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and

[1] OJ L 209, 2.8.1997, p. 6.
[2] OJ L 145, 10.6.2009, p. 1.
[3] All EDP-related documents for Portugal can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

Growth Pact. In particular, it results, among other things, from a severe economic downturn in 2009 in the sense of the Treaty and the Stability and Growth Pact. For the years 2009 and 2010, the Commission services' autumn 2009 forecast foresees that annual GDP would contract by 2,9 % and grow by 0,3 % respectively. Furthermore, the planned excess over the reference value cannot be considered temporary, since according to the Commission services' autumn 2009 forecast, taking into account the measures already adopted in the current year, the general government headline deficit will increase to 8 % of GDP in 2010. In 2010 and 2011, despite the discontinuation of most of the measures of extraordinary nature linked to the crisis in 2009, no improvement in the fiscal position is expected due to the continued recessionary environment, the working of automatic stabilisers and a marked growth in interest expenditure. The deficit criterion in the Treaty is not fulfilled.

(8) According to data notified by the Portuguese authorities in October 2009, the general government gross debt (which has been above the 60 % of GDP reference value since 2005) is planned to stand at 74,5 % of GDP in 2009. According to the Commission services' autumn 2009 forecast, the general government debt-to-GDP ratio is projected to significantly increase by 18 percentage points over the forecast period from 66,3 % in 2008 to 91,1 % in 2011. The debt ratio cannot be considered as diminishing sufficiently and approaching the reference value at a satisfactory pace within the meaning of the Treaty and the Stability and Growth Pact. The debt criterion in the Treaty is not fulfilled.

(9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council Decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Portugal, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Portugal.

Article 2

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 19 January 2010.

For the Council

The President

E. SALGADO