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► <u>M1</u>	Council Regulation (EC) No 1056/2005 of 27 June 2005	L 174	5	7.7.2005
► <u>M2</u>	Council Regulation (EU) No 1177/2011 of 8 November 2011	L 306	33	23.11.2011
► <u>M3</u>	Council Regulation (EU) 2024/1264 of 29 April 2024	L 1264	1	30.4.2024

▼B**COUNCIL REGULATION (EC) No 1467/97****of 7 July 1997****on speeding up and clarifying the implementation of the excessive deficit procedure**

SECTION 1

DEFINITIONS AND ASSESSMENTS**▼M3***Article 1*

1. This Regulation lays down the provisions for speeding up and clarifying the implementation of 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 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’ means those Member States whose currency is the euro.

3. The definitions of Article 2 of the Regulation (EU) 2024/1263 of the European Parliament and of the Council ⁽¹⁾ apply.

Article 2

1. The excess of the 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), if it results from the existence of a severe economic downturn in the euro area or the Union as a whole established by the Council in accordance with Article 25 of Regulation (EU) 2024/1263 or from exceptional circumstances outside the control of the government with a major impact on the public finances of the Member State concerned, in accordance with Article 26 of that Regulation.

In addition, the excess over the reference value shall be considered temporary where budgetary forecasts provided by the Commission indicate that the deficit will fall below the reference value following the end of the severe economic downturn or the exceptional circumstances referred to in the first subparagraph.

2. Where the ratio of the government debt to gross domestic product (GDP) exceeds the reference value, it shall be considered sufficiently diminishing and as approaching the reference value at a satisfactory pace in accordance with point (b) of Article 126(2) TFEU if the Member State concerned respects its net expenditure path as set by the Council.

The Commission shall prepare a report in accordance with Article 126(3) TFEU where the ratio of the government debt to GDP exceeds the reference value, the budgetary position is not close to balance or in surplus and where the deviations recorded in the control account of the Member State exceed:

⁽¹⁾ Regulation (EU) 2024/1263 of the European Parliament and of the Council of 29 April 2024 on the effective coordination of economic policies and on multilateral budgetary surveillance and repealing Council Regulation (EC) No 1466/97 (OJ L, 2024/1263, 30.4.2024, ELI: <http://data.europa.eu/eli/reg/2024/1263/oj>).

▼ **M3**

- (a) either 0,3 percentage points of GDP annually,
- (b) or 0,6 percentage points of GDP cumulatively.

3. The Commission, when preparing a report under Article 126(3) TFEU, shall take into account all the 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 referred to in Article 126(3) TFEU shall reflect, as appropriate:

- (a) the degree of public debt challenges based on the methodology referred to in Article 10 of Regulation (EU) 2024/1263, the evolution of the government debt position and its financing, and the related risk factors, in particular the maturity structure, the currency denomination of the debt and contingent liabilities, including any implicit liabilities related to ageing and private debt;
- (b) the developments in the medium-term budgetary positions, including, in particular, the size of the actual deviation from the net expenditure path as set by the Council, in annual and cumulative terms as measured by the control account;
- (c) the developments in the medium-term economic position, including potential growth, inflation developments and cyclical developments compared to the assumptions underlying the net expenditure path as set by the Council;
- (d) the progress in the implementation of reforms and investments, including in particular policies to prevent and correct macro-economic imbalances and policies to implement the common growth and employment strategy of the Union, including those supported by the Recovery and Resilience Facility established by Regulation (EU) 2021/241 of the European Parliament and of the Council ⁽¹⁾, and the overall quality of public finances, in particular the effectiveness of national budgetary frameworks;
- (e) the increase of government investment in defence, where applicable, considering also the time of recording of military equipment expenditure.

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 the deficit and debt criteria and which the Member State has put forward to the Council and the Commission. In that context, particular consideration shall be given to financial contributions to foster international solidarity and achieve the common priorities of the Union referred to in Article 13, point (c), of Regulation (EU) 2024/1263.

4. The Council and the Commission shall make a balanced overall assessment of all the relevant factors, specifically the extent to which they affect the assessment of compliance with the deficit and/or the debt criteria as aggravating or mitigating factors. Where the Member State faces substantial public debt challenges as referred to in point (a) of the second subparagraph of paragraph 3 of this Article, it shall be considered a key aggravating factor. Favourable cyclical economic, budgetary and financial developments shall not be considered as mitigating factors, while unfavourable developments may be considered as mitigating factors.

⁽¹⁾ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

▼ M3

When assessing compliance on the basis of the deficit criterion, if the ratio of the government debt to GDP exceeds the reference value, those factors shall be taken into account in the steps leading to the decision on the existence of an excessive deficit provided for in Article 126(4), (5) and (6) TFEU only if the double condition of the overarching principle — that, before these relevant factors are taken into account, the general government deficit remains close to the reference value and its excess over the reference value is temporary — is fully met.

However, those factors shall be taken into account in the steps leading to the decision on the existence of an excessive deficit when assessing compliance on the basis of the debt criterion.

5. Where Member States are allowed to deviate from their net expenditure path pursuant to Articles 25 and 26 of Regulation (EU) 2024/1263, the Commission and the Council, in their assessment, may decide not to reach a conclusion regarding the existence of an excessive deficit.

6. If the Council, acting under Article 126(6) TFEU, decides that an excessive deficit exists in a Member State, the Council and the Commission shall, in the subsequent procedural steps of Article 126 TFEU, take into account the relevant factors referred to in paragraph 3 of this Article, as they affect the situation of the Member State concerned, including as specified in Article 5(2) of this Regulation, in particular in establishing a deadline for the correction of the excessive deficit and eventually extending that deadline. However, those relevant factors shall not be taken into account for the decision of the Council under Article 126(12) TFEU on the abrogation of some or all of its decisions under Article 126(6) to (9) and (11) TFEU.

▼ M2

SECTION 1A

ECONOMIC DIALOGUE*Article 2a*

1. 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 Council decisions under Article 126(6) TFEU, Council recommendations under Article 126(7) TFEU, notices under Article 126(9) TFEU, or Council decisions under Article 126(11) TFEU.

The Council is, as a rule, expected to follow the recommendations and proposals of the Commission or explain its position publicly.

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

▼M2

2. The Council and the Commission shall regularly inform the European Parliament of the application of this Regulation.

▼B

SECTION 2

SPEEDING UP THE EXCESSIVE DEFICIT PROCEDURE**▼M3***Article 3*

1. Within two weeks of the adoption by the Commission of a report issued in accordance with Article 126(3) TFEU, the Economic and Financial Committee shall formulate an opinion in accordance with Article 126(4) TFEU.

2. Taking the opinion referred to in paragraph 1 of this Article fully into account, the Commission, if it considers that an excessive deficit exists, shall address an opinion and a proposal to the Council in accordance with Article 126(5) and (6) TFEU and shall inform the European Parliament thereof.

3. The Council shall decide on the existence of an excessive deficit in accordance with Article 126(6) TFEU, as a rule within four months of the reporting dates established in Article 3(2) and (3) of Council Regulation (EC) No 479/2009 ⁽¹⁾. Where it decides that an excessive deficit exists, the Council shall at the same time make recommendations to the Member State concerned in accordance with Article 126(7) TFEU. The Council shall make its decisions under Article 126(6) TFEU public.

4. The Council recommendation made in accordance with Article 126(7) TFEU shall establish a maximum deadline of six months for effective action to be taken by the Member State concerned. Where warranted by the seriousness of the situation, the deadline for effective action may be three months. The Council recommendation shall also establish a deadline for the correction of the excessive deficit.

In its recommendation, the Council shall also request that the Member State implements a corrective net expenditure path which ensures that the general government deficit remains or is brought and maintained below the reference value within the deadline set in the recommendation.

Where the excessive deficit procedure was opened on the basis of the deficit criterion, for the years when the general government deficit is expected to exceed the reference value, the corrective net expenditure path shall be consistent with a minimum annual structural adjustment of at least 0,5 % of GDP as a benchmark.

Where the excessive deficit procedure was opened on the basis of the debt criterion, the corrective net expenditure path shall be at least as demanding as the net expenditure path set by the Council in accordance with Article 17 of Regulation (EU) 2024/1263, and correct as a rule the cumulated deviations of the control account by the deadline set by the Council.

⁽¹⁾ 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 (OJ L 145, 10.6.2009, p. 1).

▼ M3

5. Within the deadline provided for in paragraph 4 of this Article, the Member State concerned shall report to the Council and the Commission on action taken in response to the Council's recommendation under Article 126(7) TFEU. The report shall include the targets for government expenditure and revenue and for the discretionary measures on both the expenditure and the revenue side consistent with the Council's recommendation, as well as information on the measures taken and the nature of those envisaged to achieve the targets. The Member State shall make the report public. The Member State may invite the relevant independent fiscal institution to produce a non-binding, separate report on the sufficiency of the measures taken and envisaged with respect to the targets.

6. The Council may decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) TFEU where:

- (a) effective action has been taken in response to such recommendation and the conditions referred to in Article 26 of Regulation (EU) 2024/1263 apply, or
- (b) the conditions referred to in Article 25 of Regulation (EU) 2024/1263 apply.

The revised recommendation may, in particular, extend the deadline for the correction of the excessive deficit by one year as a rule.

Article 4

1. When considering whether effective action has been taken in response to its recommendations made in accordance with Article 126(7) TFEU, the Council shall base its decision on the report submitted by the Member State concerned in accordance with Article 3(5) of this Regulation and its implementation, as well as on any other publicly announced and sufficiently detailed decisions by the government of the Member State concerned.

Where the Council establishes, in accordance with Article 126(8) TFEU, that the Member State concerned has failed to take effective action, it shall report to the European Council accordingly.

2. Any decision by the Council under Article 126(8) TFEU to make its recommendations public where it is established that no effective action has been taken, shall be taken immediately after the expiry of the deadline set in accordance with Article 3(4) of this Regulation.

▼ M1*Article 5***▼ M3**

1. Any Council decision to give notice to the participating Member State concerned to take measures for the deficit reduction in accordance with Article 126(9) TFEU shall be taken within two months of the Council decision under Article 126(8) TFEU establishing that no effective action has been taken. In the notice, the Council shall request that the Member State implement a corrective net expenditure path in accordance with the requirements established in Article 3(4) of this Regulation. The Council shall also indicate measures conducive to the achievement of the corrective net expenditure path.

▼ M2

1a. Following a Council notice under Article 126(9) TFEU, the Member State concerned shall report to the Council and the Commission on action taken in response thereto. The report shall include the targets for the government expenditure and revenue and for the discretionary measures on both the expenditure and the revenue side, as well as information on the actions being taken in response to the specific Council recommendations so as to allow the Council to take, if necessary, a decision in accordance with Article 6(2) of this Regulation. The Member State shall make the report public.

▼ M3

2. The Council may decide, on a recommendation from the Commission, to adopt a revised notice under Article 126(9) TFEU where:

- (a) effective action has been taken in response to such a notice and the conditions referred to in Article 26 of Regulation (EU) 2024/1263 apply, or
- (b) the conditions referred to in Article 25 of Regulation (EU) 2024/1263 apply.

The revised notice may, in particular, extend the deadline for the correction of the excessive deficit by one year as a rule.

▼ M2*Article 6***▼ M3**

1. When considering whether effective action has been taken in response to its notice made in accordance with Article 126(9) TFEU, the Council shall base its decision on the report submitted by the Member State concerned in accordance with Article 5(1a) of this Regulation and its implementation, as well as on any other publicly announced and sufficiently detailed decisions by the government of the Member State concerned. The outcome of the surveillance mission carried out by the Commission in accordance with Article 10a of this Regulation shall be taken into account.

▼ M2

2. Where the conditions to apply Article 126(11) TFEU are met, the Council shall impose sanctions in accordance with that Article. Any such decision shall be taken no later than four months after the Council decision under Article 126(9) TFEU giving notice to the participating Member State concerned to take measures.

Article 7

If a participating Member State fails to act in compliance with the successive acts of the Council in accordance with Article 126(7) and (9) TFEU, the decision of the Council under Article 126(11) TFEU to impose sanctions shall be taken as a rule within 16 months of the reporting dates established in Article 3(2) and (3) of Regulation (EC) No 479/2009. Where Article 3(5) or Article 5(2) of this Regulation is applied, the 16-month deadline shall be adjusted accordingly. An expedited procedure shall be used in the case of a deliberately planned deficit which the Council decides is excessive.

▼ **M3***Article 8*

1. Any Council decision under Article 126(11) TFEU to intensify sanctions shall be taken no later than two months after the reporting dates pursuant to Regulation (EC) No 479/2009.
2. Any Council decision under Article 126(12) TFEU to abrogate some or all of its decisions shall be taken as soon as possible and in any event no later than two months after the reporting dates pursuant to Regulation (EC) No 479/2009.
3. A Council decision shall only be taken pursuant to Article 126(12) TFEU where the deficit has been brought below the reference value and is projected by the Commission to remain so in the current and following year and, where the excessive deficit procedure was opened on the basis of the debt criterion, the Member State concerned respected the corrective net expenditure path set by the Council in accordance with Article 3(4) or Article 5(1) of this Regulation.

▼ **B**

SECTION 3

ABEYANCE AND MONITORING*Article 9*▼ **M3**

1. The excessive deficit procedure shall be held in abeyance where:
 - (a) the Member State concerned acts in compliance with recommendations made in accordance with Article 126(7) TFEU,
 - (b) the participating Member State concerned acts in compliance with notices given in accordance with Article 126(9) TFEU.

▼ **M1**

2. The period during which the procedure is held in abeyance shall be included neither in the period referred to in Article 6 nor in the period referred to in Article 7 of this Regulation.
3. Following the expiry of the period referred to in the first sentence of Article 3(4) and following the expiry of the period referred to in the second sentence of ►**M2** Article 6(2) ◀ of this Regulation, the Commission shall inform the Council if it considers that the measures taken seem sufficient to ensure adequate progress towards the correction of the excessive deficit within the time limits set by the Council, provided that they are fully implemented and that economic developments are in line with forecasts. The Commission statement shall be made public.

▼ **M3***Article 10*

1. The Council and the Commission shall regularly monitor the implementation of action taken:
 - by the Member State concerned in response to recommendations made under Article 126(7) TFEU,
 - by the participating Member State concerned in response to notices given under Article 126(9) TFEU.

▼ M3

2. Where action by a participating Member State is not being implemented or, in the Council's view, is proving to be inadequate, the Council shall immediately take a decision under paragraph 9 or 11 of Article 126 TFEU respectively.

3. Where actual data pursuant to Regulation (EC) No 479/2009 indicate that an excessive deficit has not been corrected by a participating Member State within the time limits specified either in recommendations issued under Article 126(7) TFEU or notices issued under Article 126(9) TFEU, the Council shall immediately take a decision under Article 126(9) or (11) TFEU respectively.

▼ M2*Article 10a*▼ M3

1. The Commission shall ensure a permanent dialogue with authorities of the Member States in accordance with the objectives of this Regulation. To that end, the Commission shall, in particular, carry out missions for the purpose of the assessment of the actual economic situation in the Member State and the identification of any risks or difficulties in complying with the objectives of this Regulation and allow an exchange with other relevant stakeholders, including the national independent fiscal institutions.

2. Following the adoption by the Council of a notice under Article 126(9) TFEU, and if requested by the parliament of the Member State concerned, the Commission may present its assessment of the economic and fiscal situation in the Member State. Enhanced surveillance may be undertaken for Member States which are the subject of recommendations and notices issued following a decision pursuant to Article 126(8) TFEU and decisions under Article 126(11) TFEU for the purposes of on-site monitoring. The Member States concerned shall provide all the necessary information for the preparation and conduct of the mission.

▼ M2

3. The Commission may invite representatives of the European Central Bank, if appropriate, to participate in surveillance missions in a Member State whose currency is the euro or which is participating in the Agreement of 16 March 2006 between the European Central Bank and the national central banks of the Member States outside the euro area laying down the operating procedures for an exchange rate mechanism in stage three of Economic and Monetary Union ⁽¹⁾ (ERM II).

4. The Commission shall report to the Council on the outcome of the mission referred to in paragraph 2 and may decide to make its findings public.

5. When organising surveillance missions referred to in paragraph 2, the Commission shall transmit its provisional findings to the Member States concerned for comments.;

⁽¹⁾ OJ C 73, 25.3.2006, p. 21.

▼ B

SECTION 4

SANCTIONS**▼ M2***Article 11*

Whenever the Council decides under Article 126(11) TFEU to impose sanctions on a participating Member State, a fine shall, as a rule, be required. The Council may decide to supplement such a fine by the other measures provided for in Article 126(11) TFEU.

▼ M3*Article 12*

1. The amount of the fine shall amount to up to 0,05 % of the latest estimate of the previous year's GDP for a six-month period and be paid every six months until the Council assesses that the Member State concerned has taken effective action in response to the notice issued under Article 126(9) TFEU.

2. In each six-month period following that in which a fine is imposed, until the decision on the existence of an excessive deficit is abrogated, the Council shall assess whether the participating Member State concerned has taken effective action in response to the Council notice in accordance with Article 126(9) TFEU. In that six-monthly assessment the Council shall decide, in accordance with Article 126(11) TFEU, to intensify the sanctions, unless the participating Member State concerned has complied with the Council's notice.

▼ M2**▼ M3***Article 14*

In accordance with Article 126(12) TFEU, the Council shall abrogate the sanctions referred to in Article 126(11), first and second indent, TFEU depending on the significance of the progress made by the participating Member State concerned in correcting the excessive deficit.

Article 15

In accordance with Article 126(12) TFEU, the Council shall abrogate all outstanding sanctions if the decision on the existence of an excessive deficit is abrogated. Fines imposed in accordance with Article 12 of this Regulation will not be reimbursed to the participating Member State concerned.

Article 16

The fines referred to in Article 12 shall constitute general revenue for the Union budget.

▼B

SECTION 5

TRANSITIONAL AND FINAL PROVISIONS

▼M3*Article 17a*

1. By 31 December 2030 and every five years thereafter, the Commission shall publish a report on the application of this Regulation.

That report shall review:

- (a) the effectiveness of this Regulation in achieving its objective as referred to in Article 1(1); and
- (b) the progress in ensuring closer coordination of economic policies and sustained convergence of economic performances of the Member States in accordance with the TFEU.

2. Where appropriate, the report referred to in paragraph 1 shall be accompanied by a proposal to amend this Regulation.

3. The report referred to in paragraph 1 shall be forwarded to the European Parliament and to the Council.

Article 17b

The Council, on a recommendation from the Commission, shall adopt a revised recommendation under Article 126(7) TFEU or a revised notice under Article 126(9) TFEU to Member States subject to a recommendation under Article 126(7) TFEU or to a notice under Article 126(9) TFEU on 30 April 2024, and that have taken effective action.

It shall adopt the revised recommendation or notice together with the adoption of the recommendation pursuant to Article 17 of Regulation (EU) 2024/1263 setting the net expenditure path.

▼B*Article 18*

This Regulation shall enter into force on 1 January 1999.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

▼M3