COUNCIL IMPLEMENTING DECISION

of 13 March 2012

suspending commitments from the Cohesion Fund for Hungary with effect from 1 January 2013

(2012/156/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94 [1], and in particular Article 4 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Article 174 of the Treaty on the Functioning of the European Union (TFEU) calls for the Union to develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion in order to promote its overall harmonious development.

(2) In accordance with Article 175 TFEU, Member States are to conduct their economic policies and coordinate them in such a way as to attain the objectives set out in Article 174 TFEU. The formulation and implementation of the Union's policies and actions and the implementation of the internal market also have to take into account the objectives set out in Article 174 TFEU and contribute to their achievement.

(3) Article 121(3) TFEU calls upon the Council to monitor economic developments in each of the Member States and in the Union in order to ensure closer coordination of economic policies and sustained convergence of the economic performances of Member States and to ensure consistency of economic policies with the broad guidelines of the economic policies of the Member States and of the Union.

(4) In accordance with Article 126 TFEU, Member States are to avoid excessive government deficits.

(5) In accordance with Article 177 TFEU, the European Parliament and the Council are to define the tasks, priority objectives and the organisation of the Cohesion Fund which provides a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.

(6) In the Protocol (No 28) on economic, social and territorial cohesion, annexed to the Treaty on European Union and to the TFEU, the Member States agreed that the Cohesion Fund will provide Union financial contributions to projects in the fields of environment and trans-European networks in Member States with a per capita GNP of less than 90 % of the Union average which have a programme leading to the fulfilment of the conditions of economic convergence as set out in Article 126 TFEU.

(7) Article 4 of Regulation (EC) No 1084/2006 sets out conditions applicable to Cohesion Fund assistance and makes access to financial assistance from the Cohesion Fund conditional on the avoidance of an excessive government deficit as set out in Article 126 TFEU [2]. Under Article 4(1) of Regulation (EC) No 1084/2006 the Council may decide, on a proposal from the Commission, to suspend either the totality or part of the commitments from the Cohesion Fund for a beneficiary Member State if: (i) the Council has decided in accordance with Article 126(6) TFEU [3] that excessive government deficit exists in the Member State concerned; and (ii) the Council has established in accordance with Article 126(8) TFEU [4] that the Member State concerned has not taken effective action in response to a Council recommendation under Article 126(7) TFEU [5] to correct the excessive government deficit by the established deadline. Such suspension of commitments should be effective from 1 January of the year following the decision to suspend.

(8) On 5 July 2004, by Decision 2004/918/EC [6] the Council decided in accordance with Article 104(6) of the Treaty establishing the European Community (TEC) that an excessive deficit existed in Hungary. The Council adopted a first recommendation on 5 July 2004, a second recommendation on 8 March 2005 and a third recommendation on 10 October 2006 addressed to Hungary in accordance with Article 104(7) TEC. On 7 July 2009 the Council adopted its fourth recommendation to Hungary in accordance with Article 104(7) TEC ('Council Recommendation of 7 July 2009') with a view to bringing an end to the situation of an excessive government deficit by 2011 at the latest. Specifically, Hungary was recommended: (i) to limit the deterioration of the fiscal position in 2009 by ensuring a rigorous implementation of the adopted and announced corrective measures to respect the target of 3,9 % of GDP; (ii) starting from 2010, to implement rigorously the

(1) OJ L 210, 31.7.2006, p. 79.

(2) Replacing Article 104 of the Treaty establishing the European Community (TEC) as referred to in Article 4 of Regulation (EC) No 1084/2006.

(3) Replacing Article 104(6) TEC as referred to in Article 4 of Regulation (EC) No 1084/2006.

(4) Replacing Article 104(8) TEC as referred to in Article 4 of Regulation (EC) No 1084/2006.

(5) Replacing Article 104(7) TEC as referred to in Article 4 of Regulation (EC) No 1084/2006.

(6) OJ L 389, 30.12.2004, p. 27.

necessary consolidation measures to ensure a continued reduction of the structural deficit and a renewed decline of the headline deficit, with an increased reliance on structural measures, in order to guarantee a lasting improvement of public finances; (iii) to spell out and adopt in a timely manner the consolidation measures necessary to achieve the correction of the excessive deficit by 2011; (iv) to ensure a cumulative 0,5 % of GDP fiscal effort over 2010 and 2011; and (v) to ensure that the government gross debt ratio was brought onto a firm downward trajectory.

(9) On 24 January 2012 the Council adopted Decision 2012/139/EU [1] in accordance with Article 126(8) TFEU establishing that Hungary had not taken effective action in response to the Council Recommendation of 7 July 2009. The Decision noted that while Hungary formally respected the 3 % of GDP reference value by 2011, this was not based on a structural and sustainable correction. The budget surplus in 2011 hinged upon substantial one-off revenues of over 10 % of GDP and was accompanied by a cumulative structural deterioration in 2010 and 2011 of 2,75 % of GDP compared to a recommended cumulative fiscal improvement of 0,5 % of GDP. Moreover, while the authorities intend to implement substantial structural measures in 2012 reducing the structural deficit to 2,6 % of GDP, the 3 % of GDP reference value would again be respected only thanks to one-off measures of close to 1 % of GDP. Finally, in 2013, the deficit (at 3,25 % of GDP) was expected to exceed the reference value in the TFEU once more even after taking into account additional measures announced since the Commission services' 2011 autumn forecast. The higher deficit in 2013 would mainly be linked to the fact that temporary one-off revenues were being phased out as planned, while not all planned structural reforms had been sufficiently specified. Overall, the Council concluded that the response by the Hungarian authorities to the Council Recommendation of 7 July 2009 pursuant to Article 126(7) TFEU had been insufficient.

(10) Therefore, in the case of Hungary, the two conditions set out in Article 4(1) of Regulation (EC) No 1084/2006 have been fulfilled. The Council, on a proposal of the Commission, may thus suspend either the totality or part of the commitments from the Cohesion Fund with effect from 1 January 2013. The decision on the amount of commitments to be suspended should ensure that the suspension is both effective and proportionate, whilst taking into account the current overall economic situation in the European Union and the relative importance of the Cohesion Fund for the economy of the Member State concerned. Accordingly, it is appropriate, in case of a first application of Article 4(1) of Regulation (EC) No 1084/2006 to a given Member State, to set the amount at 50 % of the allocation of cohesion funds for 2013, without exceeding a maximum level of 0,5 % of the nominal GDP of the Member State concerned as forecast by the Commission services.

(11) Since the suspension concerns only commitments, the implementation of transport and environment projects or commitments already made at the time of suspension will not be compromised if the necessary corrective actions are promptly implemented. By suspending commitments taking effect as of the following year, the ongoing project implementation will not be affected for an extended period, giving the authorities the necessary time to adopt measures that would restore macroeconomic and fiscal conditions conductive to sustainable growth and employment.

(12) In accordance with Article 4(2) of Regulation (EC) No 1084/2006, if by 22 June 2012, or at a later date, the Council establishes that Hungary has taken the necessary corrective action, it will decide, without delay, to lift the suspension of the commitments concerned,

HAS ADOPTED THIS DECISION:

Article 1

The amount of EUR 495 184 000 (in current prices) of commitments from the Cohesion Fund for Hungary shall be suspended with effect from 1 January 2013.

Article 2

This Decision shall take effect on the day of its notification.

Article 3

This Decision is addressed to Hungary.

Done at Brussels, 13 March 2012.

For the Council

The President

M. VESTAGER

[1] OJ L 66, 6.3.2012, p. 6.