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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

(OJ L 332, 31.12.1993, p. 7)

Amended by:

	Official Journal		
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► <u>M1</u> Council Regulation (EC) No 475/2000 of 28 February 2000	L 58	1	3.3.2000
► <u>M2</u> Commission Regulation (EC) No 351/2002 of 25 February 2002	L 55	23	26.2.2002
► <u>M3</u> Council Regulation (EC) No 2103/2005 of 12 December 2005	L 337	1	22.12.2005

▼B**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**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission ⁽¹⁾,Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas 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) ⁽³⁾; whereas precise definitions referring to the classification codes of ESA are required; whereas these definitions may be subject to revision in the context of the necessary harmonization of national statistics or for other reasons; whereas any revision of ESA will be decided by the Council in accordance with the rules on competence and procedure laid down in the Treaty;

Whereas 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 ESA;

Whereas Council Directive 89/130/EEC, Euratom of 13 February 1989 on the harmonization of the compilation of gross national product at market prices ⁽⁴⁾ provides an adequate, detailed definition of gross domestic product at market prices;

Whereas, 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;

Whereas detailed rules are required to organize the prompt and regular reporting by the Member States to the Commission of their planned and actual deficits and of the levels of their debt;

Whereas, 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 criteria relating to government deficit and government debt; whereas, if a Member State does not fulfil the requirements under one or both criteria, the Commission must take into account all relevant factors; whereas the Commission has to examine whether there is a risk of an excessive deficit in a Member State,

HAS ADOPTED THIS REGULATION:

SECTION 1

Definitions▼M1*Article 1*

1. For the purposes of the Protocol on the excessive deficit procedure and of this Regulation, the terms given in the following paragraphs are defined according to the European system of national and regional

⁽¹⁾ OJ No C 324, 1. 12. 1993, p. 8; and
OJ No C 340, 17. 12. 1993, p. 8.

⁽²⁾ OJ No C 329, 6. 12. 1993.

⁽³⁾ Statistical Office of the European Communities, *European System of Integrated Economic Accounts (ESA)*, second edition.

⁽⁴⁾ OJ No L 49, 21. 2. 1989, p. 26.

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accounts in the Community (hereinafter referred to as 'ESA 95'), adopted by Regulation (EC) No 2223/96 ⁽¹⁾. The codes in brackets refer to ESA 95.

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 ESA 95.

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) (► **M2** EDP B.9 ◀) of the sector of 'general government' (S.13), as defined in ESA 95. The interest comprised in the government deficit is the interest (► **M2** EDP D.41 ◀), as defined in ESA 95.

4. 'Government investment' means the gross fixed capital formation (P.51) of the sector of 'general government' (S.13), as defined in ESA 95.

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).

Government debt is constituted by the liabilities of general government in the following categories: currency and deposits (AF.2); securities other than shares, excluding financial derivatives (AF.33) and loans (AF.4), as defined in ESA 95.

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.

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.

Article 2

For the purposes of the Protocol on the excessive deficit procedure and of this Regulation, gross domestic product means gross domestic product at current market prices (GDP mp) (B.1*g), as defined in ESA 95.

⁽¹⁾ Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310, 30.11.1996, p. 1).

▼ **M3***Article 3*

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

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SECTION 2

Rules and coverage of reporting*Article 4*▼ **M3**

1. As from the beginning of 1994, Member States shall report to the Commission 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 which national authorities are responsible for the excessive deficit procedure reporting.

2. Before 1 April of year n, Member States:
 - shall report to the Commission 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,
 - shall simultaneously provide the Commission 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,
 - shall simultaneously provide the Commission 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,
 - shall report to the Commission 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,
 - shall simultaneously provide the Commission, 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:
 - their 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 the second and third indents of paragraph 2,
 - their 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 the fifth indent of paragraph 2.

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4. The figures for the planned government deficit reported to the Commission 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 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 their figures for actual government deficit and actual government debt level in budget years for the two budget years preceding the current budget year.

Article 5

Member States shall, in accordance with the procedure laid down in Article 4 (1), (2) and (3), provide the Commission with the figures for their government investment expenditure ►**M1** and interest expenditure (consolidated) ◀.

Article 6

Member States shall provide the Commission with a forecast of their gross domestic product for year n and the actual amount of their gross domestic product for years n-1, n-2, n-3 and n-4, under the same timing conditions as those indicated in Article 4 (1).

▼M3*Article 7*

1. Member States shall inform the Commission, as soon as it becomes available, of any major revision in their actual and planned government deficit and debt figures already reported.

2. Major revisions in the actual deficit and debt figures already reported shall be properly documented. In any case, revisions which result in the reference values as specified in the relevant Treaty Protocol being exceeded, or revisions which mean that a Member State's data no longer exceed the reference values, must be reported and properly documented.

Article 8

Member States shall make public the actual deficit and debt data and other data for past years reported to the Commission in accordance with Articles 4, 5, 6 and 7.

SECTION 2a

Quality of data*Article 8a*

1. The Commission (Eurostat) shall regularly assess the quality both of actual data reported by Member States and of the underlying government sector accounts compiled according to ESA 95 (hereinafter referred to as government accounts). Quality of actual data means compliance with accounting rules, completeness, reliability, timeliness, and consistency of the statistical data. The assessment will focus on areas specified in the inventories of Member States such as the delimitation of the government sector, the classification of government transactions and liabilities, and the time of recording.

2. Member States shall provide the Commission (Eurostat), as promptly as possible, with the relevant statistical information requested for the needs of the data quality assessment, without prejudice to the provisions relating to statistical confidentiality of Regulation (EC) No 322/97.

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‘Statistical information’ referred to in the first subparagraph should be limited to the information strictly necessary to check the compliance to ESA rules. In particular, statistical information means:

- data from national accounts,
- inventories,
- EDP notification tables,
- additional questionnaires and clarification related to the notifications.

The questionnaires’ format shall be defined by the Commission (Eurostat) after consultation of the Committee on Monetary, Financial and Balance of Payments Statistics (hereinafter referred to as CMFB) established by Council Decision 91/115/EEC ⁽¹⁾.

3. The Commission (Eurostat) shall report regularly to the European Parliament and to the Council on the quality of the actual data reported by Member States. The report shall address the overall assessment of the actual data reported by Member States as regards to the compliance with accounting rules, completeness, reliability, timeliness, and consistency of the data.

Article 8b

1. Member States shall provide the Commission (Eurostat) with a detailed inventory of the methods, procedures and sources used to compile actual deficit and debt data and the underlying government accounts.
2. The inventories shall be prepared in accordance with guidelines adopted by the Commission (Eurostat) after consultation of CMFB.
3. The inventories shall be updated following revisions in the methods, procedures and sources adopted by Member States to compile their statistical data.
4. Member States shall make their inventories public.
5. The issues referred to in paragraphs 1, 2 and 3 may be addressed in the visits mentioned in Article 8d.

Article 8c

1. In the event of a doubt regarding the correct implementation of the ESA 95 accounting rules, the Member State concerned shall request clarification from the Commission (Eurostat). The Commission (Eurostat) shall promptly examine the issue and communicate its clarification to the Member State concerned and, when appropriate, to the CMFB.
2. For cases which are either complex or of general interest in the view of the Commission or the Member State concerned, the Commission (Eurostat) shall take a decision after consultation of the CMFB. The Commission (Eurostat) shall make decisions public, together with the opinion of the CMFB, without prejudice to the provisions relating to statistical confidentiality of Regulation (EC) No 322/97.

Article 8d

The Commission (Eurostat) shall ensure a permanent dialogue with Member States’ statistical authorities. To this end, the Commission (Eurostat) will carry out in all Member States regular dialogue visits, as well as possible methodological visits. The methodological visits should only be undertaken in cases where substantial risks or potential problems with the quality of the data are identified, especially as they relate to the methods, concepts and classification applied to the data, which Member States are obliged to report.

⁽¹⁾ OJ L 59, 6.3.1991, p. 19.

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The dialogue visits are designed to review reported data, to examine methodological issues, to discuss statistical processes and sources described in the inventories, and to assess compliance with the accounting rules. The dialogue visits should be used to identify risks or potential problems about the quality of the reported data. The methodological visits are designed to monitor the processes and the government accounts which justify the reported actual data and to draw detailed conclusions as to the quality of reported data, as defined in Article 8a(1). The methodological visits should not go beyond the purely statistical domain. This should be reflected in the composition of the delegations referred to in Article 8e.

When organising dialogue and methodological visits, the Commission (Eurostat) shall transmit its provisional findings to the Member States concerned for comments.

Article 8e

1. When carrying out methodological visits in Member States, the Commission (Eurostat) may request the assistance of national accounts experts, proposed by other Member States on a voluntary basis, and of officials from other Commission departments.

The list of national accounts' experts from which the Commission may request assistance, will be constituted on the basis of proposals sent to the Commission by the national authorities responsible for the excessive deficit reporting.

2. Member States shall take all necessary measures to facilitate the methodological visits. These visits should be confined to the national authorities involved in the excessive deficit procedure reporting. Member States shall, however, ensure that their services which are directly or indirectly involved in the production of government accounts and debt, and where necessary their national authorities which have a functional responsibility for the control of the public accounts, provide the Commission officials or other experts referred to in paragraph 1 with the assistance necessary to carry out their duties, including making documents available to justify the reported actual deficit and debt data and the underlying government accounts. Confidential records of the national statistical system should only be provided to the Commission (Eurostat).

Without prejudice to the general obligation of the Member States to take all measures required to facilitate the methodological visits, the interlocutors of Eurostat for the methodological visits referred to in the first subparagraph are, in each Member State, the services responsible for the excessive deficit procedure reporting.

3. The Commission (Eurostat) shall ensure that officials and experts participating in these visits meet every guarantee as regards technical competence, professional independence and observance of confidentiality.

Article 8f

The Commission (Eurostat) shall report to the Economic and Financial Committee on the findings of dialogue and methodological visits, including any comments on these findings made by the Member State concerned. These reports, along with any comments made by the Member State concerned, after having been transmitted to the Economic and Financial Committee, shall be made public, without prejudice to the provisions concerning statistical confidentiality in Regulation (EC) No 322/97.

SECTION 2b

Provision of data by the commission*Article 8g*

1. The Commission (Eurostat) shall provide the actual government deficit and debt data for the application of the Protocol on the

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excessive deficit procedure, within three weeks after the reporting deadlines referred to in Article 4(1) or after revisions as referred to in Article 7(1). This provision of data shall be effected through publication.

2. The Commission (Eurostat) shall not delay the provision of the actual government deficit and debt data of Member States where a Member State has not reported its own data.

Article 8h

1. The Commission (Eurostat) may express a reservation on the quality of the actual data reported by the Member States. No later than three working days before the planned publication date, the Commission (Eurostat) shall communicate to the Member State concerned and to the President of the Economic and Financial Committee the reservation it intends to express and make public. Where the issue is resolved after publication of the data and the reservation, withdrawal of the reservation shall be made public immediately thereafter.

2. The Commission (Eurostat) may amend actual data reported by Member States and provide the amended data and a justification of the amendment where there is evidence that actual data reported by Member States do not comply with the requirements of Article 8a(1). No later than three working days before the planned publication date, the Commission (Eurostat) shall communicate to the Member State concerned and to the President of the Economic and Financial Committee the amended data and the justification for the amendment.

SECTION 2c

General provisions*Article 8i*

1. Member States shall ensure that the actual data reported to the Commission are provided in accordance with the principles established by Article 10 of Regulation (EC) No 322/97. In this regard, the responsibility of the National Statistical Authorities is to ensure the compliance of reported data with Articles 1 and 2 and the underlying ESA 95 accounting rules.

2. Member States shall take all appropriate measures to ensure that officials responsible for the reporting of the actual data to the Commission and of the underlying government accounts act in accordance with the principles established by Article 10 of Regulation (EC) No 322/97.

Article 8j

In the event of a revision of ESA 95 or of an amendment to its methodology decided on by the European Parliament and the Council or the Commission in accordance with the rules of competence and procedure laid down in the Treaty and in Regulation (EC) No 2223/96, the Commission shall introduce the new references to ESA 95 into Articles 1, 2 and 4.

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