

COUNCIL REGULATION (EC) No 1056/2005

of 27 June 2005

amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Central Bank ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

(1) The Stability and Growth Pact initially consisted of Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ⁽³⁾, Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure ⁽⁴⁾ and the Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact ⁽⁵⁾. The Stability and Growth Pact has proven its usefulness in anchoring fiscal discipline, thereby contributing to a high degree of macroeconomic stability with low inflation and low interest rates, which is necessary to induce sustainable growth and employment creation.

(2) On 20 March 2005 the Council adopted a report entitled 'Improving the implementation of the Stability and Growth Pact' which aims to enhance the governance and the national ownership of the fiscal framework by strengthening the economic underpinnings and the effectiveness of the Pact, both in its preventive and corrective arms, to safeguard the sustainability of public finances in the long run, to promote growth and to avoid imposing excessive burdens on future generations. The report was endorsed by the European Council in its conclusions of 23 March 2005 ⁽⁶⁾, which stated that the report updates and complements the Stability and Growth Pact, of which it is now an integral part.

(3) According to the 20 March 2005 Ecofin report endorsed by the Spring 2005 European Council, the Member States, the Council and the Commission reaffirm their commitment to implement the Treaty and the Stability and Growth Pact in an effective and timely manner, through peer support and peer pressure, and to act in close and constructive cooperation in the process of economic and fiscal surveillance, in order to guarantee certainty and effectiveness in the rules of the Pact.

(4) Regulation (EC) No 1467/97 needs to be amended in order to allow the full application of the agreed improvement of the implementation of the Stability and Growth Pact.

(5) The guiding principle for the application of the excessive deficit procedure is the prompt correction of an excessive deficit. The procedure should remain simple, transparent and equitable.

(6) The concept of exceptional excess over the reference value resulting from a severe economic downturn should be revised. In doing so, due account should be taken of the economic heterogeneity in the European Union.

(7) The Commission should always prepare a report on the basis of Article 104(3) of the Treaty. In its report, it should examine whether the exceptions provided for in Article 104(2) apply. The Commission report under Article 104(3) should appropriately reflect developments in the medium-term economic position and in the medium-term budgetary position. Furthermore, due consideration should be given to any other factors which, in the opinion of the Member State concerned, are relevant in order to comprehensively assess in qualitative terms the excess over the reference value.

(8) Careful consideration should be given in all budgetary assessments in the framework of the excessive deficit procedure to an excess close to the reference value which reflects the implementation of pension reforms introducing a multi-pillar system that includes a mandatory, fully funded pillar, because the implementation of those reforms leads to a short-term deterioration of the budgetary position, while the long-term sustainability of public finances clearly improves. In particular, when assessing under Article 104(12) of the Treaty whether the excessive deficit has been corrected, the Commission and the Council should assess developments in EDP deficit figures while also considering the net cost of the reform to the publicly managed pillar.

⁽¹⁾ OJ C 144, 14.6.2005, p. 16.

⁽²⁾ Opinion of 9 June 2005 (not yet published in the Official Journal).

⁽³⁾ OJ L 209, 2.8.1997, p. 1.

⁽⁴⁾ OJ L 209, 2.8.1997, p. 6.

⁽⁵⁾ OJ C 236, 2.8.1997, p. 1.

⁽⁶⁾ Annex 2 of conclusions of the European Council of 22 and 23 March 2005.

- (9) The procedural deadlines for Council decisions in the excessive deficit procedure should be extended in order to allow the Member State concerned to better frame its action within the national budgetary procedure and to develop a more coherent package of measures. In particular, the deadline for the Council to decide on the existence of an excessive deficit in accordance with Article 104(6) of the Treaty should be set, as a rule, to four months after the reporting dates established in Article 4(2) and (3) of 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⁽¹⁾. This would address the cases in which the budgetary statistical data has not been validated by the Commission (Eurostat) shortly after the reporting dates established in Regulation (EC) No 3605/93.
- (10) In order to ensure a prompt correction of excessive deficits, it is necessary for Member States that are in a situation of excessive deficit to take effective action and to achieve an annual minimum fiscal improvement in their cyclically adjusted balance, net of one-off and temporary measures. As a benchmark, countries in excessive deficit will be required to achieve an annual minimum fiscal effort in cyclically adjusted terms, net of one-off and temporary measures.
- (11) Maximum time periods within which Member States are to take effective action and measures should be extended to allow better framing of the action in the national budgetary procedures and the development of more articulated packages of measures.
- (12) If the Member State concerned has taken effective action in response to a recommendation under Article 104(7) of the Treaty or a notice issued under Article 104(9) and unexpected adverse economic events with major negative consequences for government finances prevent the correction of the excessive deficit within the time limit set by the Council, it should be possible for the Council to issue a revised recommendation under Article 104(7) or a revised notice under Article 104(9).
- (13) The current overall maximum period of 10 months from the reporting dates established in Article 4(2) and (3) of Regulation (EC) No 3605/93 until the decision to impose sanctions would be inconsistent with the amended deadlines in each step of the procedure and the possibility to issue revised recommendations under Article 104(7) of the Treaty or revised notices under Article 104(9). The overall maximum period should therefore be adjusted in accordance with these amendments.
- (14) The provisions applicable to the implementation of the excessive deficit procedure in the case of the United Kingdom, which are set out in the Annex to Regulation (EC) No 1467/97, also need to be modified to reflect those changes,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1467/97 is hereby amended as follows:

1. in Article 2, paragraphs 2 and 3 shall be replaced by the following paragraphs:

‘2. The Commission and the Council, when assessing and deciding upon the existence of an excessive deficit in accordance with Article 104(3) to (6) of the Treaty, may consider an excess over the reference value resulting from a severe economic downturn as exceptional in the sense of the second indent of Article 104(2)(a) if the excess over the reference value results from a negative annual GDP volume growth rate or from an accumulated loss of output during a protracted period of very low annual GDP volume growth relative to its potential.

3. The Commission, when preparing a report under Article 104(3) of the Treaty shall take into account all relevant factors as indicated in that Article. The report shall appropriately reflect developments in the medium-term economic position (in particular potential growth, prevailing cyclical conditions, the implementation of policies in the context of the Lisbon agenda and policies to foster research and development and innovation) and developments in the medium-term budgetary position (in particular, fiscal consolidation efforts in “good times”, debt sustainability, public investment and the overall quality of public finances). Furthermore, the Commission shall give due consideration to any other factors which, in the opinion of the Member State concerned, are relevant in order to comprehensively assess in qualitative terms the excess over the reference value and which the Member State has put forward to the Commission and to the Council. In that context, special consideration shall be given to budgetary efforts towards increasing or maintaining at a high level financial contributions to fostering international solidarity and to achieving European policy goals, notably the unification of Europe if it has a detrimental effect on the growth and fiscal burden of a Member State. A balanced overall assessment shall encompass all these factors.

4. If the double condition of the overarching principle — that, before the relevant factors mentioned in paragraph 3 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, these factors shall also be taken into account in the steps leading to the decision on the existence of an excessive deficit, foreseen in paragraphs 4, 5 and 6 of Article 104 of the Treaty. The balanced overall assessment to be made by the Council shall encompass all these factors.

⁽¹⁾ OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002, p. 23).

5. The Commission and the Council, in all budgetary assessments in the framework of the excessive deficit procedure, shall give due consideration to the implementation of pension reforms introducing a multi-pillar system that includes a mandatory, fully funded pillar.

6. If the Council has decided, on the basis of Article 104(6) of the Treaty, that an excessive deficit exists in a Member State, the Commission and the Council shall take into account the relevant factors mentioned in paragraph 3 also in the subsequent procedural steps of Article 104, including as specified in Articles 3(5) and 5(2) of this Regulation. However those relevant factors shall not be taken into account for the decision of the Council under Article 104(12) of the Treaty on the abrogation of some or all of its decisions under paragraphs 6 to 9 and 11 of Article 104.

7. In the case of Member States where the deficit exceeds the reference value, while remaining close to it, and where this excess reflects the implementation of a pension reform introducing a multi-pillar system that includes a mandatory, fully funded pillar, the Commission and the Council shall also consider the cost of the reform to the publicly managed pillar when assessing developments in EDP deficit figures. For that purpose, consideration shall be given to the net cost of the reform on a linear degressive basis for a transitory period of five years. This net cost shall be taken into account also for the decision of the Council under Article 104(12) of the Treaty on the abrogation of some or all of its decisions under paragraphs 6 to 9 and 11 of Article 104, if the deficit has declined substantially and continuously and has reached a level that comes close to the reference value.;

2. Article 3 is hereby amended as follows:

(a) paragraph 3 shall be replaced by the following:

'3. The Council shall decide on the existence of an excessive deficit in accordance with Article 104(6) of the Treaty, as a rule within four months of the reporting dates established in Article 4(2) and (3) of Regulation (EC) No 3605/93. When 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 104(7) of the Treaty.;

(b) paragraph 4 shall be replaced by the following paragraphs:

'4. The Council recommendation made in accordance with Article 104(7) of the Treaty shall establish a deadline of six months at most for effective action to be taken by the Member State concerned. The Council recommendation shall also establish a deadline for the correction of the excessive deficit, which should be

completed in the year following its identification unless there are special circumstances. In the recommendation, the Council shall request that the Member State achieves a minimum annual improvement of at least 0,5 % of GDP as a benchmark, in its cyclically adjusted balance net of one-off and temporary measures, in order to ensure the correction of the excessive deficit within the deadline set in the recommendation.

5. If effective action has been taken in compliance with a recommendation under Article 104(7) and unexpected adverse economic events with major unfavourable consequences for government finances occur after the adoption of that recommendation, the Council may decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 104(7). The revised recommendation, taking into account the relevant factors mentioned in Article 2(3) of this Regulation, may notably extend the deadline for the correction of the excessive deficit by one year. The Council shall assess the existence of unexpected adverse economic events with major unfavourable consequences for government finances against the economic forecasts in its recommendation.;

3. Article 5 shall be replaced by the following:

'Article 5

1. Any Council decision to give notice to the participating Member State concerned to take measures for the deficit reduction in accordance with Article 104(9) of the Treaty shall be taken within two months of the Council decision establishing that no effective action has been taken in accordance with Article 104(8). In the notice, the Council shall request that the Member State achieves a minimum annual improvement of at least 0,5 % of GDP as a benchmark, in its cyclically adjusted balance net of one-off and temporary measures, in order to ensure the correction of the excessive deficit within the deadline set in the notice.

2. If effective action has been taken in compliance with a notice under Article 104(9) of the Treaty and unexpected adverse economic events with major unfavourable consequences for government finances occur after the adoption of that notice, the Council may decide, on a recommendation from the Commission, to adopt a revised notice under Article 104(9) of the Treaty. The revised notice, taking into account the relevant factors mentioned in Article 2(3) of this Regulation, may notably extend the deadline for the correction of the excessive deficit by one year. The Council shall assess the existence of unexpected adverse economic events with major unfavourable consequences for government finances against the economic forecasts in its notice.;

4. in Article 6, second sentence, the words 'two months' shall be replaced by the words 'four months';

5. Article 7 shall be replaced by the following:

'Article 7

If a participating Member State fails to act in compliance with the successive decisions of the Council in accordance with Article 104(7) and (9) of the Treaty, the decision of the Council to impose sanctions, in accordance with Article 104(11), shall be taken as a rule within sixteen months of the reporting dates established in Article 4(2) and (3) of Regulation (EC) No 3605/93. In case Article 3(5) or 5(2) of this Regulation is applied, the sixteen-month deadline is amended accordingly. An expedited procedure shall be used in the case of a deliberately planned deficit which the Council decides is excessive.;

6. Article 9 is hereby amended as follows:

(a) paragraph 2 shall be replaced by the following:

'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.;

(b) the following paragraph shall be added:

'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 Article 6 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.;

7. references to Article 104c, 109e, 109f and 201 of the Treaty shall be replaced throughout the Regulation by references to Articles 104, 116, 117 and 269, respectively. Reference to Article D of the Treaty on European Union is replaced by reference to Article 4;

8. the Annex to Regulation (EC) No 1467/97 shall be replaced by the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

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

Done at Luxembourg, 27 June 2005.

For the Council
The President
J.-C. JUNCKER

ANNEX

'ANNEX

TIME LIMITS APPLICABLE TO THE UNITED KINGDOM

1. In order to ensure equal treatment of all Member States, the Council, when taking decisions in Sections 2, 3 and 4 of this Regulation, shall have regard to the different budgetary year of the United Kingdom, with a view to taking decisions with regard to the United Kingdom at a point in its budgetary year similar to that at which decisions have been or will be taken in the case of other Member States.
2. The provisions specified in Column I shall be substituted by the provisions specified in Column II.

Column I	Column II
"as a rule, within four months of the reporting dates established in Article 4 (2) and (3) of Council Regulation (EC) No 3605/93" (Article 3(3))	"as a rule, within six months after the end of the budgetary year in which the deficit occurred"
"the year following its identification" (Article 3(4))	"the budgetary year following its identification"
"as a rule, within sixteen months of reporting dates established in Article 4(2) and (3) of Regulation (EC) No 3605/93" (Article 7)	"as a rule, within eighteen months from the end of the budgetary year in which the deficit occurred"
"the preceding year" (Article 12(1))	"the preceding budgetary year"