

(OJ L 198, 28.7.2015, p. 19)

► **C1** Corrigendum, OJ L 291, 7.11.2015, p. 10 (2015/1289)

▼B

▼C1

COUNCIL IMPLEMENTING DECISION (EU) 2015/1289

▼B

of 13 July 2015

**imposing a fine on Spain for the manipulation of deficit data in the
Autonomous Community of Valencia**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area⁽¹⁾, and in particular Article 8(1) thereof,

Having regard to Commission Delegated Decision 2012/678/EU of 29 June 2012 on investigations and fines related to the manipulation of statistics as referred to in Regulation (EU) No 1173/2011⁽²⁾,

Having regard to the Commission's report on the investigation related to the manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011 adopted on 7 May 2015,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union (TFEU), Member States are to avoid excessive government deficits. Government deficit and debt data relevant for the application of Articles 121 and 126 TFEU, or for the application of Protocol No 12 on the excessive deficit procedure annexed to the Treaties, are an essential input to economic policy coordination in the Union.
- (2) In order to enhance the enforcement of budgetary surveillance in the euro area, and to deter misrepresentation, whether intentional or due to serious negligence, of government deficit and debt data, the Council, acting upon a recommendation by the Commission, may decide to impose a fine on the Member State responsible.
- (3) On 11 July 2014, the Commission launched an investigation related to the manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011. The preliminary findings of the investigation were sent to Spain for its observations on 19 February 2015, as required by Delegated Decision 2012/678/EU. Spain provided its written observations on the preliminary findings on time.

⁽¹⁾ OJ L 306, 23.11.2011, p. 1.

⁽²⁾ OJ L 306, 6.11.2012, p. 21.

▼B

- (4) On 7 May 2015, the Commission adopted a report on the investigation related to the manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011, taking into account the observations provided by Spain.
- (5) In its report, the Commission has concluded that an entity within the general government sector of Spain, the Regional Audit Office of the Autonomous Community of Valencia, was seriously negligent concerning the non-recording of health expenditure and the non-respect of the accrual principle in national accounts, leading to incorrect reporting of the government deficit data of Spain to the Commission (Eurostat) in March 2012. Based on the findings of the Commission, it is appropriate to conclude that a misrepresentation of deficit data due to serious negligence took place when Spain reported the incorrect figures to Eurostat in March 2012. These elements justify the imposition of a fine.
- (6) The amount of the fine should not exceed 0,2 % of the gross domestic product of Spain in 2014.
- (7) The reference amount of the fine to be imposed should be equal to 5 % of the larger impact of the misrepresentation of the general government deficit of Spain for the relevant years covered by the notification in the context of the excessive deficit procedure (EDP). The revision to the expenditure reported by Spain for the April 2012 EDP notification amounted to EUR 1,893 billion. The reference amount should thus be set at EUR 94,65 million.
- (8) Taking into account the criteria set out in point (a) of Article 14(3) of Delegated Decision 2012/678/EU, the Commission, in its report, has concluded that the misrepresentation of data had no significant impact on the functioning of the strengthened economic governance of the Union, due to the limited impact on the deficit of Spain as a whole. Moreover, it concludes that the reporting of the correct figures followed shortly after the publication of the incorrect deficit data for Spain in April 2012, allowing the revision of the deficit data for Spain to take place still in 2012. These elements justify a reduction of the amount of the fine.
- (9) Taking into account the criteria set out in point (b) of Article 14(3) of Delegated Decision 2012/678/EU, the Commission, in its report, has concluded that the misrepresentation was the result of serious negligence. No modulation should be applied to the amount of the fine in this respect.
- (10) Taking into account the criteria set out in point (c) of Article 14(3) of Delegated Decision 2012/678/EU, the Commission, in its report, has concluded that the misrepresentation of data was essentially the work of one entity within the general government sector of Spain. These elements justify a reduction in the amount of the fine.

▼B

- (11) Taking into account the criteria set out in point (d) of Article 14(3) of Delegated Decision 2012/678/EU, the Commission, in its report, has concluded that the relevant actions of the Member State on which a fine may be based are those which took place in the period from 13 December 2011, when Regulation (EU) No 1173/2011 entered into force, until the launch of the investigation, namely, 11 July 2014. It has also concluded that the incorrectly reported deficit data were corrected in connection with the revision in the October 2012 EDP notification. No modulation should be applied to the amount of the fine on account of the duration of the misrepresentation.
- (12) Taking into account the criteria set out in point (e) of Article 14(3) of Delegated Decision 2012/678/EU, the Commission, in its report, has concluded that the Spanish statistical authorities and all the entities concerned have shown a high degree of cooperation in the course of the investigation. These elements justify a reduction in the amount of the fine.
- (13) In view of these circumstances, the fine to be imposed on Spain should be set at EUR 18,93 million,

HAS ADOPTED THIS DECISION:

Article 1

A fine of EUR 18,93 million is imposed on Spain for the misrepresentation, due to serious negligence, of government deficit data, as set out in the report of the European Commission on the investigation related to the manipulation of statistics in Spain as referred to in Regulation (EU) No 1173/2011.

Article 2

This Decision is addressed to the Kingdom of Spain.