

Official Journal

of the European Union

C 215



English edition

Information and Notices

Volume 54

21 July 2011

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Price:
EUR 3

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⁽¹⁾ Text with EEA relevance, except for products falling under Annex I to the Treaty

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I

(Resolutions, recommendations and opinions)

RECOMMENDATIONS

COUNCIL

COUNCIL RECOMMENDATION

of 12 July 2011

on the National Reform Programme 2011 of Ireland and delivering a Council opinion on the updated Stability Programme of Ireland, 2011-2015

(2011/C 215/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 121(2) and 148(4) thereof,

Having regard to 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 ⁽¹⁾, and in particular Article 5(3) thereof,

Having regard to the recommendation of the European Commission,

Having regard to the conclusions of the European Council,

Having regard to the opinion of the Employment Committee,

After consulting the Economic and Financial Committee,

Whereas:

(1) On 26 March 2010, the European Council agreed to the Commission's proposal to launch a new strategy for jobs and growth, Europe 2020, based on enhanced coordination of economic policies, which will focus on the key areas where action is needed to boost Europe's potential for sustainable growth and competitiveness.

(2) On 13 July 2010, the Council adopted a recommendation on the broad guidelines for the economic policies of the Member States and the Union (2010 to 2014) and, on 21 October 2010, adopted a decision on guidelines for the employment policies of the Member States ⁽²⁾, which together form the 'integrated guidelines'. Member States were invited to take the integrated guidelines into account in their national economic and employment policies.

(3) On 7 December 2010, the Council adopted Implementing Decision 2011/77/EU ⁽³⁾ on granting Union financial assistance to Ireland for a period of three years under the provisions of the Treaty and Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism ⁽⁴⁾. The accompanying Memorandum of Understanding signed on 16 December 2010 and its first update lay down the economic policy conditions on the basis of which the financial assistance is granted. Implementing Decision 2011/77/EU was amended by Implementing Decision 2011/326/EU ⁽⁵⁾. The first update of the Memorandum of Understanding was signed on 18 May 2011.

(4) On 12 January 2011, the Commission adopted the first Annual Growth Survey, marking the start of a new cycle of economic governance in the EU and the first European semester of ex-ante and integrated policy coordination, which is anchored in the Europe 2020 strategy.

⁽²⁾ Maintained for 2011 by Council Decision 2011/308/EU of 19 May 2011 on guidelines for the employment policies of the Member States (OJ L 138, 26.5.2011, p. 56).

⁽³⁾ OJ L 30, 4.2.2011, p. 34.

⁽⁴⁾ OJ L 118, 12.5.2010, p. 1.

⁽⁵⁾ OJ L 147, 2.6.2011, p. 17.

⁽¹⁾ OJ L 209, 2.8.1997, p. 1.

- (5) On 25 March 2011, the European Council endorsed the priorities for fiscal consolidation and structural reform (in line with the Council's conclusions of 15 February and 7 March 2011 and further to the Commission's Annual Growth Survey). It underscored the need to give priority to restoring sound budgets and fiscal sustainability, reducing unemployment through labour market reforms and making new efforts to enhance growth. It requested Member States to translate these priorities into concrete measures to be included in their Stability or Convergence Programmes and National Reform Programmes.
- (6) On 25 March 2011, the European Council also invited the Member States participating in the Euro Plus Pact to present their commitments in time to be included in their Stability or Convergence Programmes and their National Reform Programmes.
- (7) On 29 April 2011, Ireland submitted its 2011 Stability Programme update covering the period 2011-2015 and its 2011 National Reform Programme. In order to take account of their interlinkages, these programmes have been assessed at the same time.
- (8) The crisis brought about a major correction of the large imbalances that were built up during the preceding boom years. Between 2007 and 2010, real GDP declined by 12 % and employment by nearly 13 %, with unemployment increasing from 4,6 % in 2007 to 13,6 % in 2010. It also led to a dramatic deterioration in public finances, with the general government deficit ratio reaching double-digit levels in 2008 and 2009. In 2010, the general government deficit reached 32,4 % of GDP, including financial sector support measures of 20,5 % of GDP. The debt-to-GDP ratio increased from 25 % in 2007 to 96 % in 2010.
- (9) The implementation of the EU-IMF financial assistance programme is on track. The agreed fiscal measures have been implemented, the 2010 fiscal target was met, and fiscal outturns in the first quarter of 2011 have also been in line with the assistance programme targets. The general government 2011 deficit is forecast to remain below the assistance programme ceiling, despite a downward revision in the forecast for nominal GDP in 2011. Important progress has been made in reforming the banking system and steps have been taken to achieve the structural reform objectives.
- (10) Based on the assessment of the updated Stability Programme pursuant to Regulation (EC) No 1466/97, the Council is of the opinion that the macroeconomic scenario underpinning the budgetary projections in the Stability Programme is plausible. The medium-term budgetary strategy of the Stability Programme is to bring the headline general government deficit below the 3 % of GDP reference value by the deadline foreseen in the Council Recommendation of 3 December 2010. The Stability Programme targets deficits of 10 % of GDP in 2011, 8,6 % in 2012, 7,2 % in 2013, 4,7 % in 2014 and 2,8 % by the end of the Stability Programme period in 2015. This path is underpinned by consolidation measures of 3,8 % of GDP implemented in the budget for 2011, and broad consolidation measures of 5,9 % of GDP in 2012-2014 and a further unspecified consolidation effort of more than 1 % of GDP in 2015. The Stability Programme restates the medium-term objective (MTO) for the budgetary position of -0,5 % of GDP, which is not reached within the Stability Programme period. According to the Commission's latest assessment, the risks with regards to long-term sustainability of public finances appear to be high. Achieving sufficient primary surpluses over the medium-term and further reforming the Irish social security system are necessary to improve the sustainability of public finances.
- (11) Ireland has made a number of commitments under the Euro Plus Pact, which were submitted on 3 May 2011. These include concrete measures to foster competitiveness, including reforming wage-setting mechanisms, opening up certain professional services to competition, strengthening research and innovation, reinforce financial stability, in particular crisis resolution mechanisms, and enhance public finance sustainability through a medium-term budget framework, reforming pensions and increasing the retirement age.
- (12) The Commission has assessed the Stability Programme and National Reform Programme, including the Euro Plus Pact commitments. It has taken into account not only their relevance for sustainable fiscal and socio-economic policy in Ireland but their conformity with EU rules and guidance, given the need to strengthen the overall economic governance of the EU by providing EU-level input into future national decisions. In this context, the Commission stresses the urgency of implementing the planned measures to comply with Implementing Decision 2011/77/EU.
- (13) In light of this assessment, also taking into account the Council Recommendation under Article 126(7) of the TFEU of 7 December 2010, the Council has examined the 2011 update of the Stability Programme of Ireland and its opinion⁽¹⁾. Taking into account the European Council conclusions of 25 March 2011, the Council has examined the National Reform Programme of Ireland,

⁽¹⁾ Foreseen in Article 5(3) of Regulation (EC) No 1466/97.

HEREBY RECOMMENDS that Ireland:

Implement the measures laid down in Implementing Decision 2011/77/EU, as amended by Implementing Decision 2011/326/EU, and further specified in the Memorandum of Understanding of 16 December 2010 and its update of 18 May 2011.

Done at Brussels, 12 July 2011.

For the Council

The President

J. VINCENT-ROSTOWSKI

COUNCIL RECOMMENDATION

of 12 July 2011

on the National Reform Programme 2011 of Italy and delivering a Council opinion on the updated Stability Programme of Italy, 2011-2014

(2011/C 215/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 121(2) and 148(4) thereof,

Having regard to 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 ⁽¹⁾, and in particular Article 5(3) thereof,

Having regard to the recommendation of the European Commission,

Having regard to the conclusions of the European Council,

Having regard to the opinion of the Employment Committee,

After consulting the Economic and Financial Committee,

Whereas:

- (1) On 26 March 2010, the European Council agreed to the Commission's proposal to launch a new strategy for jobs and growth, Europe 2020, based on enhanced coordination of economic policies, which will focus on the key areas where action is needed to boost Europe's potential for sustainable growth and competitiveness.
- (2) On 13 July 2010, the Council adopted a recommendation on the broad guidelines for the economic policies of the Member States and the Union (2010 to 2014) and, on 21 October 2010, adopted a decision on guidelines for the employment policies of the Member States ⁽²⁾, which together form the 'integrated guidelines'. Member States were invited to take the integrated guidelines into account in their national economic and employment policies.
- (3) On 12 January 2011, the Commission adopted the first Annual Growth Survey, marking the start of a new cycle of economic governance in the EU and the first European semester of ex-ante and integrated policy coordination, which is anchored in the Europe 2020 strategy.
- (4) On 25 March 2011, the European Council endorsed the priorities for fiscal consolidation and structural reform (in

line with the Council's conclusions of 15 February and 7 March 2011 and further to the Commission's Annual Growth Survey). It underscored the need to give priority to restoring sound budgets and fiscal sustainability, reducing unemployment through labour market reforms and making new efforts to enhance growth. It requested Member States to translate these priorities into concrete measures to be included in their stability or convergence programme and National Reform Programmes.

- (5) On 25 March 2011, the European Council also invited the Member States participating in the Euro Plus Pact to present their commitments in time to be included in their stability or convergence programmes and their National Reform Programmes.

- (6) On 6 May 2011, Italy submitted its 2011 Stability Programme update covering the period 2011-2014 and its 2011 National Reform Programme. In order to take account of the interlinkages, the two programmes have been assessed at the same time.

- (7) The Italian economy had been affected by structural weaknesses long before the current global economic and financial crisis. Between 2001 and 2007, average real GDP growth was around 1 %, i.e. only half the euro-area average, due mainly to sluggish productivity growth. As these developments affected the whole country, the large regional economic disparities were not reduced. Although the economy was not marked by large private sector internal imbalances, it was seriously affected by the global crisis. A collapse in exports, and subsequently in investment, produced a sharp contraction of around 7 % in real GDP between the second quarter of 2008 and the second quarter of 2009. After having steadily fallen in the previous decade, government gross debt increased to 119 % by end-2010, also reflecting the sharp decline in GDP. Employment declined much less, supported by a government-sponsored scheme to reduce hours worked, and therefore the unemployment rate increased only moderately over 2008-2009. Led by exports, the economy started to recover in the second half of 2009, albeit at a slow pace. The labour market situation remained fragile in 2010, with the unemployment rate stabilising at around 8,5 % by the end of the year. Given the very high government debt ratio, Italy kept an appropriately prudent fiscal stance during the crisis, refraining from undertaking a large fiscal stimulus, and thus keeping the government deficit below the euro-area average in 2009-2010.

⁽¹⁾ OJ L 209, 2.8.1997, p. 1.

⁽²⁾ Maintained for 2011 by Council Decision 2011/308/EU of 19 May 2011 on guidelines for the employment policies of the Member States (OJ L 138, 26.5.2011, p. 56).

- (8) Based on the assessment of the updated Stability Programme pursuant to Regulation (EC) No 1466/97, the Council is of the opinion that the macroeconomic scenario underlying the programme is plausible. The programme plans to bring the general government deficit below 3 % of the GDP reference value by 2012, based on further expenditure restraint and additional revenues from improved tax compliance. Following the correction of the excessive deficit, the programme plans to achieve the medium-term objective (MTO) of a balanced budgetary position in structural terms by the end of the programme period (2014), backed by a commitment to further restrain primary expenditure. The programme projects the government debt ratio to peak in 2011 and to decline at an increasing pace thereafter, as the primary surplus increases. The planned average annual fiscal effort over the period 2010-2012 is above the 0,5 % of GDP recommended by the Council under the EDP, and the envisaged pace of adjustment after 2012 is well above the provisions in the Stability and Growth Pact. Reaching the above deficit and debt outcomes will require a strict budgetary implementation, while more information on the planned consolidation measures for 2013 and 2014 is needed to increase the credibility of the programme.
- (9) Given the very high government debt, which stands at around 120 % of GDP in 2011, the pursuit of a durable and credible consolidation and the adoption of structural measures to enhance growth are key priorities for Italy. According to the Commission's latest assessment, the risks with regards to long-term sustainability of public finances appear to be medium. For the period until 2012, the achievement of the targets for the general government deficit set in the Stability Programme, and thus the correction of the excessive deficit by 2012, relies on the full implementation of the measures already adopted. Additional action would be required if, for instance, revenues from improved tax compliance are lower than budgeted or if difficulties arise in achieving the planned restraint in capital expenditure. For 2013-2014, the new three-year budgetary framework prescribes that the concrete measures underpinning the consolidation effort be adopted by October 2011. Although the budgetary framework has been strengthened considerably in recent years, the introduction of enforceable expenditure ceilings and further improvements to budgetary monitoring across all government subsectors would foster fiscal discipline and strengthen the credibility of the medium-term budgetary strategy.
- (10) Despite relatively strong job creation in the years preceding the crisis, Italy's labour market exhibits some structural weaknesses. Workers on permanent contracts enjoy more protection than workers with atypical contracts. For the former, dismissals are subject to stringent rules and cumbersome procedures. For the latter, attention should be paid to the dynamics of self-employment that could hide subordinate working relations. Despite new ad hoc measures taken during the crisis in order to extend income support and unemployment protection, the current system of unemployment benefits remains fragmented. The level of unemployment among workers below 25 years of age reached 27,8 % in 2010, with an uneven distribution across the country, and youth unemployment in southern regions was double that in northern regions. The role of apprenticeships and vocational training should be further strengthened. Although very useful and necessary, there is currently no single system of skill certification and recognition of vocational and training standards that is acknowledged across the country, but a multiplication of regional regimes, thus not facilitating labour mobility and employment opportunities throughout Italy. There is room to strengthen the effectiveness of employment services, especially in regions with high unemployment. Finally, undeclared work remains a serious phenomenon in Italy.
- (11) Aligning wage developments with productivity growth is important in view of Italy's constant loss of competitiveness since the late 1990s; in this regard, bargaining at firm level can play a significant role, which may also help to address regional labour market disparities. The 2009 reform of the bargaining framework introduced, among other things, the possibility of opening clauses (i.e. derogations from the sectoral wage agreed at national level), but they have not yet been widely used up until now.
- (12) The employment rate of women lags behind that of men by over 20 percentage points on average with significant differences between regions. Barely one third of women between 20 and 64 were employed in the southern regions in 2009, due to both relatively lower activity rates and higher unemployment. Italy's relatively high taxation of labour reduces incentives to labour supply, especially for second earners in the household, and adversely affects labour demand by firms. To help boost female employment, the National Reform Programme looks to the plan adopted in 2010 to coordinate efforts across the layers of government to promote the reconciliation of work and family life. The government recently introduced a tax incentive for companies hiring disadvantaged workers, including those who work in a sector or occupation where the gender imbalance is particularly pronounced, in regions with high unemployment. The programme also announces a reform of the taxation system with a view to gradually shifting the tax burden from labour to consumption, which might help increase employment.

- (13) Compared to EU standards, the cost of doing business in Italy remains high, in particular in southern regions, despite recent measures to improve the business environment and to enhance the performance-orientation and accountability of the public administration. There is still ample scope for removing regulatory and administrative barriers in product and services markets, particularly in professional services. An Annual Law on Competition was introduced in 2009 as a legislative tool to enhance the competitive environment and consumer protection, but it has not yet been adopted. Lengthy contract enforcement procedures are a further weakness of Italy's business environment. Non-banking channels for financing the growth of firms are still comparatively rare in Italy, especially for small and medium-sized enterprises (SMEs). Equity financing and venture capital, in particular, continue to play only a limited role, despite their potential for promoting growth in firm size, outreach to new global markets and improved corporate governance.
- (14) Research and development (R&D) expenditure posted only a modest increase over the past 10 years. Consequently, R&D intensity remains low, at around 1,27 % of GDP, and well below the EU average (1,90 %). This gap is mainly due to a low level of industrial research, as business R&D intensity stands at 0,64 % of GDP compared to an EU-27 average of 1,23 %. Venture capital intensity also remains very low. A number of measures, including time-limited tax breaks for companies investing in research projects carried out by universities or public sector entities, are presented in the National Reform Programme. The target of 1,53 % of GDP set for R&D intensity stems from a projection of the average annual growth rate in the period 2006-2008 and takes into account the fiscal stability constraints of the country. It will be subject to review in 2014.
- (15) Italy is the third-largest beneficiary of EU cohesion policy funds, having received around 8 % of the total EU cohesion policy budget during the period 2007-2013. Halfway through the programming period, the share of EU funds actually mobilised is only 16,8 % and it is much lower in the southern Convergence regions.
- (16) Italy has made a number of commitments under the Euro Plus Pact. The National Reform Programme mentions some recently adopted measures and broadly outlines plans for future reform to address public finance sustainability and financial stability, foster competitiveness and increase employment, in line with the principles of the Euro Plus Pact. A new major commitment specifically undertaken to respond to the Pact is the government's intention to amend the Constitution in order to reinforce budgetary discipline. These elements have been assessed and taken into account in the recommendations.
- (17) The Commission has assessed the Stability Programme and National Reform Programme, including the Euro Plus Pact commitments for Italy. It has taken into account not only their relevance for sustainable fiscal and socio-economic policy in Italy, but also their conformity with EU rules and guidance, given the need to reinforce the overall economic governance of the EU by providing EU-level input into future national decisions. In this light, the Commission considers that Italy's consolidation plan for 2011-2014 is credible until 2012, whereas it should be underpinned by concrete measures for 2013-2014, so as to put the very high government debt on a steadily declining path. The National Reform Programme outlines a comprehensive set of initiatives across all dimensions of the Europe 2020 strategy, but further measures are considered necessary in order to address long-standing structural weaknesses exacerbated by the crisis. To enhance Italy's growth and job-creation potential, and promote the catching-up of southern regions, further steps should be taken in 2011-2012 to improve the functioning of the labour market, open up services and product markets to greater competition, improve the business environment, strengthen research and innovation policy and promote faster and better use of EU cohesion funds.
- (18) In light of this assessment, also taking into account the Council Recommendation under Article 126(7) of the Treaty on the Functioning of the European Union of 2 December 2009, the Council has examined the 2011 update of the Stability Programme of Italy and its opinion⁽¹⁾ is reflected in particular in its recommendation 1 below. Taking into account the European Council conclusions of 25 March 2011, the Council has examined the National Reform Programme of Italy,
- HEREBY RECOMMENDS that Italy take action within the period 2011-2012 to:
1. Implement the planned fiscal consolidation in 2011 and 2012 to ensure correction of the excessive deficit in line with the Council recommendations under the EDP, thus bringing the high public debt ratio on a downward path. Building on recently approved legislation, fully exploit any better-than-expected economic or budgetary developments for faster deficit and debt reduction and stand ready to prevent slippages in budgetary implementation. Back up

⁽¹⁾ Foreseen in Article 5(3) of Regulation (EC) No 1466/97.

the targets for 2013-2014 and the planned achievement of the medium-term objective by 2014 with concrete measures by October 2011 as provided for in the new multi-annual budgetary framework. Further strengthen the framework by introducing enforceable ceilings on expenditure and improving monitoring across all government subsectors.

2. Reinforce measures to combat segmentation in the labour market, also by reviewing selected aspects of employment protection legislation including the dismissal rules and procedures and reviewing the currently fragmented unemployment benefit system taking into account the budgetary constraints. Step up efforts to fight undeclared work. In addition, take steps to promote greater participation of women in the labour market, by increasing the availability of care facilities throughout the country and providing financial incentives to second earners to take up work in a budgetary neutral way.
3. Take further steps, based on the 2009 agreement reforming the collective bargaining framework and in consultation with the social partners in accordance with national practices, to ensure that wage growth better reflects productivity developments as well as local and firm conditions, including clauses that could allow firm level bargaining to proceed in this direction.
4. Extend the process of opening up the services sector to further competition, including in the field of professional

services. Adopt in 2011 the Annual Law on Competition, taking into account the recommendations presented by the Anti-trust Authority. Reduce the length of contract law enforcement procedures. Further strengthen actions to promote the access of SMEs to capital markets by removing regulatory obstacles and reducing costs.

5. Improve the framework for private sector investment in research and innovation by extending current fiscal incentives, improving conditions for venture capital and supporting innovative procurement schemes.
6. Take steps to accelerate in a cost-effective way growth-enhancing expenditure co-financed by cohesion policy funds in order to reduce the persistent disparities between regions, by improving administrative capacity and political governance. Respect the commitments made in the national Strategic Reference Framework in terms of the amount of resources and quality of expenditure.

Done at Brussels, 12 July 2011.

For the Council
The President
J. VINCENT-ROSTOWSKI

COUNCIL RECOMMENDATION

of 12 July 2011

on the National Reform Programme 2011 of Latvia and delivering a Council opinion on the updated Convergence Programme of Latvia, 2011-2014

(2011/C 215/03)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 121(2) and 148(4) thereof,

Having regard to 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 ⁽¹⁾, and in particular Article 9(3) thereof,

Having regard to the recommendation of the European Commission,

Having regard to the conclusions of the European Council,

Having regard to the opinion of the Employment Committee,

After consulting the Economic and Financial Committee,

Whereas:

- (1) On 20 January 2009, the Council adopted Decision 2009/290/EC ⁽²⁾ to make available to Latvia medium-term financial assistance for a period of three years under the provisions of Article 143 of the Treaty. The accompanying Memorandum of Understanding signed on 28 January 2009 and its successive supplements lay down the economic policy conditions on the basis of which the financial assistance is disbursed. Decision 2009/290/EC was amended on 13 July 2009 by Council Decision 2009/592/EC ⁽³⁾. The last supplement to the Memorandum of Understanding was signed in June 2011.
- (2) On 26 March 2010, the European Council agreed to the Commission's proposal to launch a new strategy for jobs and growth, Europe 2020, based on enhanced coordination of economic policies, which will focus on the key areas where action is needed to boost Europe's potential for sustainable growth and competitiveness.
- (3) On 13 July 2010, the Council adopted a recommendation on the broad guidelines for the economic policies of the Member States and the Union (2010 to 2014) and, on 21 October 2010, adopted a decision on Guidelines for the employment policies of the Member States ⁽⁴⁾, which together form the 'integrated guidelines'. Member States were invited to take the integrated guidelines into account in their national economic and employment policies.
- (4) On 12 January 2011, the Commission adopted the first Annual Growth Survey, marking the start of a new cycle of economic governance in the EU and the first European semester of ex-ante and integrated policy coordination, which is anchored in the Europe 2020 strategy.
- (5) On 25 March 2011, the European Council endorsed the priorities for fiscal consolidation and structural reform (in line with the Council's conclusions of 15 February and 7 March 2011 and further to the Commission's Annual Growth Survey). It underscored the need to give priority to restoring sound budgets and fiscal sustainability, reducing unemployment through labour market reforms and making new efforts to enhance growth. It requested Member States to translate these priorities into concrete measures to be included in their Stability or Convergence Programmes and National Reform Programmes.
- (6) On 25 March 2011, the European Council also invited the Member States participating in the Euro Plus Pact to present their commitments to be included in their Stability or Convergence Programmes and their National Reform Programmes. The Latvian Convergence Programme and the National Reform Programme include a general reference to the Euro Plus Pact. A letter sent to the European Council on 17 May 2011 highlights specific commitments and actions for 2011 included in the programmes which are consistent with the objectives of the Euro Plus Pact.
- (7) On 29 April 2011, Latvia submitted its 2011 Convergence Programme update covering the period 2011-2014 and its 2011 National Reform Programme. In order to take account of the interlinkages, the two programmes have been assessed at the same time.

⁽¹⁾ OJ L 209, 2.8.1997, p. 1.

⁽²⁾ OJ L 79, 25.3.2009, p. 39.

⁽³⁾ OJ L 202, 4.8.2009, p. 52.

⁽⁴⁾ Maintained for 2011 by Council Decision 2011/308/EU of 19 May 2011 on guidelines for the employment policies of the Member States (OJ L 138, 26.5.2011, p. 56).

(8) The Latvian economy grew faster than that of any other Member State from 2000 to 2007, reflecting convergence prospects, foreign financial inflows and very strong consumption demand. However, at least partly as a result of an expansionary macroeconomic policy, the economy overheated. Sizable imbalances accumulated, illustrated by a current account deficit of 22,3 % of GDP in 2007 and 13,1 % in 2008; consequently, during 2008-2009, the economy experienced the steepest contraction in the EU. During this period real GDP contracted by 25 % from peak to trough as a collapse in domestic demand was amplified by a slump in global trade. The Latvian employment rate, previously amongst the highest in the EU (75,8 % in 2008), fell by over 10 percentage points and the unemployment rate of over 18 % is now one of the highest in the EU. The general government deficit was 9,7 % in 2009 but as a result of fiscal consolidation measures, decreased to 7,7 % in 2010. This outcome includes sizeable financial sector stabilisation measures that amounted to 1,1 % of GDP in 2009 and 2,3 % of GDP in 2010.

(9) Based on the assessment of the updated Convergence Programme pursuant to Regulation (EC) No 1466/97, the Council is of the opinion that the macroeconomic scenario underpinning the budgetary projections in the Convergence Programme is plausible although the inflation projection may be on the low side for 2011. The medium-term budgetary strategy of the Convergence Programme is to bring the headline general government deficit below the 3 % reference value by the deadline foreseen in the Council Recommendation of 7 July 2009. Taking into account the measures implemented since the issuance of the recommendation to correct the excessive deficit situation and additional consolidation implied in the updated Convergence Programme, the planned fiscal effort for 2011-2012 is in line with the required adjustment. In view of the starting point, the Convergence Programme does not foresee the achievement of the medium-term objective (MTO) by the end of the programme period, while the planned fiscal effort to reach the MTO after the correction of

the excessive deficit situation could be accelerated in particular in 2013. The fiscal consolidation path envisaged in the Convergence Programme is mostly expenditure based. The budgetary targets are subject to downside risks, as the Convergence Programme does not provide full information on measures to underpin the achievement of the set targets. These measures are expected to be provided in the forthcoming budgets. Reducing the primary deficit over the medium term, as foreseen in the Convergence Programme, would help reduce the risks to the sustainability of public finances.

(10) The Commission has assessed the Convergence Programme and National Reform Programme. It has taken into account not only their relevance for sustainable fiscal and socio-economic policy in Latvia but also of their conformity with EU rules and guidance, given the need to strengthen the overall economic governance of the EU by providing EU-level input into future national decisions. In this context, the Commission stresses the urgency of implementing the planned measures to comply with Decision 2009/290/EC,

HEREBY RECOMMENDS that Latvia:

Implement the measures laid down in Decision 2009/290/EC, as amended by Decision 2009/592/EC, and further specified in the Memorandum of Understanding of 20 January 2009 and its subsequent supplements, in particular the last supplement of 7 June 2011.

Done at Brussels, 12 July 2011.

For the Council
The President

J. VINCENT-ROSTOWSKI

COUNCIL RECOMMENDATION

of 12 July 2011

on the National Reform Programme 2011 of Malta and delivering a Council opinion on the updated Stability Programme of Malta 2011-2014

(2011/C 215/04)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 121(2) and 148(4) thereof,

Having regard to 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 ⁽¹⁾, and in particular Article 5(3) thereof,

Having regard to the recommendation of the European Commission,

Having regard to the conclusions of the European Council,

Having regard to the opinion of the Employment Committee,

After consulting the Economic and Financial Committee,

Whereas:

- (1) On 26 March 2010, the European Council agreed to the Commission's proposal to launch a new strategy for jobs and growth, Europe 2020, based on enhanced coordination of economic policies, which will focus on the key areas where action is needed to boost Europe's potential for sustainable growth and competitiveness.
- (2) On 13 July 2010, the Council adopted a recommendation on the broad guidelines for the economic policies of the Member States and the Union (2010 to 2014) and, on 21 October 2010, adopted a decision on guidelines for the employment policies of the Member States ⁽²⁾, which together form the 'integrated guidelines'. Member States were invited to take the integrated guidelines into account in their national economic and employment policies.
- (3) On 12 January 2011, the Commission adopted the first Annual Growth Survey, marking the start of a new cycle of economic governance in the EU and the first European semester of ex-ante and integrated policy coordination, which is anchored in the Europe 2020 strategy.
- (4) On 25 March 2011, the European Council endorsed the priorities for fiscal consolidation and structural reform (in

line with the Council's conclusions of 15 February and 7 March 2011 and further to the Commission's Annual Growth Survey). It underscored the need to give priority to restoring sound budgets and fiscal sustainability, reducing unemployment through labour market reforms and making new efforts to enhance growth. It requested Member States to translate these priorities into concrete measures to be included in their Stability or Convergence Programmes and National Reform Programmes.

- (5) On 25 March 2011, the European Council also invited the Member States participating in the Euro Plus Pact to present their commitments on time for their inclusion in their Stability or Convergence Programmes and their National Reform Programmes.

- (6) On 28 April 2011, Malta submitted its 2011 National Reform Programme and, on 29 April 2011, its 2011 Stability Programme update covering the period 2011-2014. In order to take account of the interlinkages, the two programmes have been assessed at the same time.

- (7) As the economic crisis hit, exports and investment fell sharply and real GDP contracted by 3,4 % in 2009. Employment contracted only mildly, also supported by government assistance. With exports and business investment picking up strongly in 2010, Malta experienced a marked rebound in economic activity in 2010 and unemployment inched down. Given the high government debt (61,5 % of GDP in 2008), the government did not undertake a large fiscal stimulus and the general government deficit in 2009 (3,7 % of GDP) remained below that for the euro area as a whole. In 2010, the government's fiscal deficit and debt ratios remained broadly stable.

- (8) Based on the assessment of the updated Stability Programme pursuant to Regulation (EC) No 1466/97, the Council is of the opinion that the macroeconomic scenario underpinning the budgetary projections is slightly favourable, especially in the later years of the Stability Programme period. From 3,6 % of GDP in 2010, the Stability Programme plans to bring the general government deficit below the Treaty reference value by 2011. Thereafter, gradual progress towards the medium-term objective (MTO) of a balanced position in structural terms is to be backed up by a commitment to ensure a sustainable, largely expenditure-based consolidation. However, the Stability Programme does not envisage the achievement of the MTO within the Stability Programme horizon. The debt ratio is projected to decline from its 2010 peak of 68 % of GDP to 63,7 % in 2014, due to a positive and

⁽¹⁾ OJ L 209, 2.8.1997, p. 1.

⁽²⁾ Maintained for 2011 by Council Decision 2011/308/EU of 19 May 2011 on guidelines for the employment policies of the Member States (OJ L 138, 26.5.2011, p. 56).

strengthening primary balance. The average annual structural adjustment effort in the period 2012-2014, as calculated by the Commission, is broadly in line with the Stability and Growth Pact. However, budgetary outcomes could be worse than targeted because of possible expenditure overruns and the lack of information on the measures underpinning the consolidation effort after 2011.

- (9) Pursuing fiscal consolidation to achieve the MTO is a key challenge for Malta. While the budget for 2011 put in place measures to correct the excessive deficit in 2011, additional action would be required in case of slippages. The credibility of the medium-term consolidation strategy, which is not yet underpinned by concrete measures, would be enhanced by a stronger multi-annual budgetary framework. A key weakness is the non-binding nature of the multi-annual targets, which implies a relatively short fiscal planning horizon. The Stability Programme states that the introduction of an expenditure rule is being considered.
- (10) According to the Commission's latest assessment, the risks with regard to long-term sustainability of public finances appear to be high as the long-term budgetary impact of ageing, including pensions, is significantly higher in Malta than the EU average. Moreover, the labour market participation of older workers is very low, due to a still relatively low retirement age, frequent recourse to early retirement schemes and the very low participation of older women. The 2006 pension reform started to address sustainability by increasing the retirement age, albeit very gradually, and addressed the adequacy of future pensions, in particular through more generous indexation arrangements and the introduction of a guaranteed national minimum pension. The National Reform Programme reports on the ongoing consultation on the proposals for further pension reform put forward by the Pensions Working Group, including the establishment of an explicit link between retirement age and life expectancy and the introduction of a mandatory second pension pillar and a voluntary third pillar. However, the National Reform Programme does not put forward a comprehensive active ageing strategy to accompany the ongoing and envisaged legislative changes. Undeclared work poses a risk to the sustainability of public finances in the long run. The government presents some measures to address this problem in the National Reform Programme, but there are no proposals to revise the tax-benefit system with a view to making work pay. Fostering participation of women in the labour market is another major challenge for Malta, given that its female employment rate is the lowest in the EU. In the National Reform Programme the government has put forward a substantial number of initiatives targeting female workers. Their implementation and impact should be evaluated in 2012.
- (11) In recent years, Malta has experienced intensive industrial restructuring with traditional, labour-intensive manufacturing being replaced by new high added-value activities. This has led to a mismatch between the demand and supply of skills on the labour market, pointing to the need to provide the skills required by the new sectors, particularly through higher education, in a bid to diversify Malta's economic base further.
- (12) Malta has the highest rate of early school-leavers in the EU, standing at 36,8 % in 2009 compared to an EU average of 14,4 %. The country also records a low share of people aged 30-34 with a tertiary level of education or equivalent (21,1 % compared to an EU average of 32,3 % in 2009). Malta aims to reduce early school-leaving to 29 % and to increase the share of tertiary or equivalent education for 30 to 34-year-olds to 33 % by 2020. In 2011, it introduced measures to channel potential early school-leavers to interesting career paths through vocational educational training or second-chance learning opportunities.
- (13) Malta is one of the few EU Member States with a generalised wage indexation mechanism. Wage increases are linked to a mandatory cost-of-living adjustment (COLA) mechanism, resulting in wage increases in line with past inflation developments though proportionately higher at the low end of the wage spectrum. Adding to the minimum wage, this adjustment may further hamper the competitiveness of the labour-intensive sectors. The issue is particularly pertinent in view of the recent increases in energy prices, which could lead to wage-price spirals.
- (14) Malta is almost entirely dependent on imported oil for energy, making the economy vulnerable to oil price changes. This, together with the inadequacy of Malta's energy system, may be posing problems to entrepreneurship and the competitiveness of small and medium-sized enterprises. Exploiting the potential to produce energy from renewable sources could bring the double benefit of improving competitiveness and achieving energy and climate targets. The information provided in the National Reform Programme on energy measures is limited, however, making it difficult to assess their feasibility and cost-effectiveness.
- (15) Malta has made a number of commitments under the Euro Plus Pact. The commitments relate to two areas of the Pact: competitiveness and the sustainability of public finances. On the fiscal side, the commitments involve strengthening the accountability and transparency of the budgetary framework, together with consideration given to introducing mechanisms to increase discipline in budgetary execution. To address productivity, there are measures to improve the business environment and financing conditions for firms, as well as enhancing competition in services, especially in telecommunications. Although present in the National Reform Programme, the Euro Plus Pact commitments do not address employment and financial stability. While the authorities

focus on raising productivity, they do not acknowledge that the current wage indexation mechanism affects Malta's competitiveness. The Euro Plus Pact commitments have been assessed and taken into account in the recommendations.

- (16) The Commission has assessed the Stability Programme and National Reform Programme, and the Euro Plus Pact commitments for Malta. It has taken into account not only their relevance for sustainable fiscal and socio-economic policy in Malta but also their conformity with EU rules and guidance, given the need to reinforce the overall economic governance of the EU by providing EU-level input into future national decisions. In this light, the Commission considers that, while the targeted progress towards the MTO is appropriate, there are important risks to the consolidation strategy, because it is not backed up with concrete measures and expenditure could overrun as has happened in the past. In addition, the non-binding nature of the medium-term budgetary framework may not foster fiscal discipline. The relatively high long-term cost of ageing, particularly pension expenditure, puts the long-term sustainability of Malta's public finances at risk. The National Reform Programme acknowledges the main structural challenges that Malta's economy is facing, though additional attention to certain issues, particularly better utilisation of the economy's labour potential, and reviewing and taking the necessary steps to reform the wage-setting mechanism to ensure better alignment of wage and productivity developments, and energy diversification, appear warranted.
- (17) In the light of this assessment, also taking into account the Council Recommendation of 16 February 2010 under Article 126(7) of the Treaty on the Functioning of the European Union, the Council has examined the 2011 update of the Stability Programme of Malta and its opinion ⁽¹⁾ is reflected in particular in its recommendations (1) and (2) below. Taking into account the European Council conclusions of 25 March 2011, the Council has examined the National Reform Programme of Malta,

HEREBY RECOMMENDS that Malta take action within the period 2011-2012 to:

1. Ensure correction of the excessive deficit in 2011, in line with the EDP recommendations, standing ready to take addi-

tional measures so as to prevent possible slippages, and adopt concrete measures to back up the 2012 deficit target. Bring the high public debt ratio on a downward path and ensure adequate progress towards the MTO. With a view to strengthening the credibility of the medium-term consolidation strategy, define the required broad measures from 2013 onwards, embed the fiscal targets in a binding, rule-based multi-annual fiscal framework and improve the monitoring of budgetary execution.

2. Take action to ensure the sustainability of the pension system such as by accelerating the progressive increase in the retirement age and by linking it to life expectancy. Accompany the higher statutory retirement age with a comprehensive active ageing strategy, discourage the use of early retirement schemes and encourage private pension savings.
3. Focus education outcomes more on labour market needs, notably by making additional efforts to improve access to higher education and by strengthening the effectiveness of the vocational training system. Take further measures to reduce early school-leaving by identifying, analysing and measuring its causes by 2012 and by setting up a regular monitoring and reporting mechanism on the success rate of the measures.
4. Review and take the necessary steps to reform, in consultation with social partners and in accordance with national practices, the system of wage bargaining and wage indexation to ensure that wage growth better reflects developments in labour productivity and competitiveness.
5. Strengthen efforts to reduce Malta's dependence on imported oil, by bringing forward investments in renewable energies and making full use of available EU funds to upgrade infrastructure and promote energy efficiency.

Done at Brussels, 12 July 2011.

For the Council
The President
J. VINCENT-ROSTOWSKI

⁽¹⁾ Foreseen in Article 5(3) of Regulation (EC) No 1466/97.

OPINIONS

EUROPEAN DATA PROTECTION SUPERVISOR

Opinion of the European Data Protection Supervisor on the proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the annual budget of the Union

(2011/C 215/05)

THE EUROPEAN DATA PROTECTION SUPERVISOR,

Having regard to the Treaty on the Functioning of the European Union, and in particular its Article 16,

Having regard to the Charter of Fundamental Rights of the European Union, and in particular its Articles 7 and 8,

Having regard to Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽¹⁾,

Having regard to the request for an opinion in accordance with Article 28(2) of Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽²⁾ sent on 5 January 2011 by the Commission,

HAS ADOPTED THE FOLLOWING OPINION:

I. INTRODUCTION

1. On 22 December 2010, the Commission adopted a proposal for a Regulation of the European Parliament and of the Council on the financial rules applicable to the annual budget of the Union ('the proposal'). It merges and replaces two earlier Commission proposals

on the revision of the Financial Regulation ('the FR', Council Regulation (EC, Euratom) No 1605/2002 ⁽³⁾). These two proposals concerned on the one hand the triennial revision of the FR and on the other hand, the revision of the FR to align it with the Lisbon Treaty ⁽⁴⁾.

2. On 5 January 2011, the proposal was sent to the EDPS in accordance with Article 28(2) of Regulation (EC) No 45/2001. The EDPS was informally consulted prior to the adoption of the proposal. The EDPS recommends the legislator to include a reference to the consultation of the EDPS at the beginning of the proposed regulation.
3. The proposal has certain data protection implications at EU as well as at national level which will be discussed in this Opinion.
4. References to the relevant data protection instruments can be found in the proposal. However, as will be explained in this Opinion, some further elaboration and clarification is needed in order to ensure full compliance with the data protection legal framework.

II. ANALYSIS OF THE PROPOSAL**II.1. General references to the relevant EU rules on data protection**

5. The proposed regulation covers several matters which involve the processing of personal data by EU institutions, agencies and bodies, as well as by entities at Member State level. These processing activities will be analysed in greater detail below. When processing personal data EU institutions, agencies and bodies are bound by the rules on

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

⁽³⁾ OJ L 248, 16.9.2002, p. 1.

⁽⁴⁾ See respectively COM(2010) 260 final and COM(2010) 71 final.

data protection laid down in Regulation (EC) No 45/2001. Entities acting at national level are bound by the national provisions in the relevant Member State which implement Directive 95/46/EC.

6. The EDPS is pleased to see that references to one of these two instruments or to both can be found in the proposed regulation ⁽⁵⁾. However, the instruments are not systematically and consistently referred to in the proposal. The EDPS therefore encourages the legislator to take a more comprehensive approach on this in the regulation.
7. The EDPS recommends the legislator to include the following reference to Directive 95/46/EC and Regulation (EC) No 45/2001 in the preamble of the Regulation:

‘This Regulation is without prejudice to the requirements of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.’

8. Moreover, the EDPS recommends to include a reference to Directive 95/46/EC and Regulation (EC) No 45/2001 in Article 57(2)(f), like it has been done in Article 31(3) of the proposal.

II.2. *Prevention, detection and correction of fraud and irregularities*

9. Article 28 of the proposal deals with internal control of budget implementation. It is foreseen in paragraph 2(d) that for the purpose of the implementation of the budget, internal control is designed to provide reasonable assurance of achieving prevention, detection and correction of fraud and irregularities.
10. In case of indirect implementation of the budget by the Commission by way of shared management with the Member States or with entities and persons other than Member States, it is stated in Articles 56(2) and 57(3) respectively that Member States and entities and other persons shall prevent, detect and correct irregularities and

⁽⁵⁾ See Article 31(3) and Articles 56(4) of the proposal. There is furthermore a general reference to ‘data protection requirements’ in recital 36, to ‘protection of personal data’ in Article 57(2)(f) and to ‘Union rules on the protection of personal data’ in Article 102(1).

fraud when executing tasks related to the implementation of the budget. It goes without saying that such measures should fully comply with national provisions implementing Directive 95/46/EC.

11. To that extent it is stated in paragraph 4(f) of Article 56 (which should be 4(e) following the logical order of the subparagraphs) that the bodies accredited by Member States which are solely responsible for the proper management and control of the funds shall ‘ensure a protection of personal data which satisfies the principles laid down in Directive 95/46/EC’. The EDPS recommends strengthening this reference by changing it into ‘ensure that any processing of personal data complies with the national provisions implementing Directive 95/46/EC’.

12. As to the entities and persons other than Member States, Article 57(2)(f) states that these entities and persons should ‘ensure a reasonable protection of personal data’. The EDPS strongly criticizes this phrase as it seems to leave room for a less strict application of data protection rules. The EDPS therefore recommends replacing this phrase also by ‘ensure that any processing of personal data complies with the national provisions implementing Directive 95/46/EC’.

II.3. *Whistleblowers*

13. Articles 63(8) of the proposal deals with the phenomenon of ‘whistle blowing’. It puts the obligation on staff members to inform the authorising officer (or the specialised financial irregularities panel set up pursuant to Article 70(6) of the proposal) in case they consider that a decision they are required to apply by their superior is irregular or contrary to the principles of sound financial management or the professional rules they are required to observe. In the event of any illegal activity, fraud or corruption which may harm the interests of the Union, the staff members must inform the authorities and bodies designated by the applicable legislation.
14. The EDPS wishes to point at the fact that the position of whistleblowers is a sensitive one. Persons that receive such information should ensure that the identity of a whistleblower is kept confidential, in particular towards the person about whom an alleged wrongdoing is being reported ⁽⁶⁾. Ensuring the confidentiality of the identity of

⁽⁶⁾ The importance of keeping the identity of the whistleblower confidential has already been underlined by the EDPS in a letter to the European Ombudsman of 30 July 2010 in case 2010-0458, to be found on the EDPS website (<http://www.edps.europa.eu>). Also the Article 29 Working Party has underlined this in opinion 1/2006 of 1 February 2006 on the application of EU data protection rules to internal whistle blowing schemes in the fields of accounting, internal accounting controls, auditing matters, fight against bribery, banking and financial crime, to be found on the Article 29 WP website: http://ec.europa.eu/justice/policies/privacy/workinggroup/index_en.htm.

a whistleblower does not only protect the person providing the information, it also ensures the efficiency of the whistleblowers scheme as such. Without sufficient guarantees as regards the confidentiality, staff members will be less inclined to report irregular or illegal activities.

15. The protection of the confidentiality of the whistleblower's identity is however not absolute. After the first internal investigation, there might be further procedural or judicial steps which require the identity of the whistleblower to be disclosed to, for instances, judicial authorities. National rules regulating judicial procedures should thereby be respected⁽⁷⁾.
16. There might also be situations in which the person accused of a wrongdoing is entitled to receive the name of the whistleblower. This is possible if this person needs the identity for instigating legal procedures against the whistleblower after it has been established that he maliciously made false statements about him⁽⁸⁾.
17. The EDPS recommends amending the current proposal and assure that the identity of whistleblowers is kept confidential during the investigations in as far as this does not contravene national rules regulating judicial procedures and in as far as the person accused of a wrongdoing is not entitled to it because the identity of the whistleblower is needed for instigating legal procedures against the whistleblower after it has been established that the whistleblower maliciously made false statements about him.

II.4. Publication of information on the recipients of funds deriving from the budget

18. According to paragraph 2 of Article 31 (Publication of Union funds recipients and other information) the Commission shall make available, in an appropriate manner, information on the recipients of funds deriving from the budget held by it when the budget is implemented by the Commission either directly or through delegation.
19. In paragraph 3 of Article 31 it is stated that this information 'shall be made available with due observance of the requirements of confidentiality, in particular the protection of personal data as laid down in Directive 95/46/EC of the European Parliament and of the Council and Regulation (EC) No 45/2001 of the European Parliament and of the Council, and of the requirements

of security, taking into account the specificities of each management mode [...] and where applicable in conformity with the relevant sector-specific rules'.

20. The publication of the identity of recipients of EU funds was dealt with by the European Court of Justice ('the ECJ') in its judgement of November 2010 in the case *Schecke and Eifert*⁽⁹⁾. Without going into the details of that case, it should be underlined that the ECJ carefully assessed whether the EU legislation, which contained the obligation to disclose the information, was in conformity with Articles 7 and 8 of the EU Charter of Fundamental Rights ('the EU Charter').
21. The ECJ examined the purpose for which the information was disclosed and subsequently the proportionality of the measure. The ECJ considered that the institutions are obliged to balance, before disclosing information relating to a natural person, the European Union's interest in the disclosure and the infringement of the rights recognised by the EU Charter⁽¹⁰⁾. The ECJ underlined that derogations and limitations in relation to the protection of personal data must apply only in so far as it is strictly necessary⁽¹¹⁾.
22. The ECJ considered that the institutions should explore different methods of publication in order to find the one which would be consistent with the purpose of the publication while causing the least interference with the beneficiaries' right to private life in general and to protection of personal data in particular⁽¹²⁾. In the specific context of the case, the ECJ referred to limiting publication of data by name relating to the beneficiaries according to the periods for which they received aid, or the frequency or nature and amount of the aid received⁽¹³⁾.
23. The EDPS emphasises once again that the role of privacy and data protection is not to prevent public access to information whenever personal data is involved and to unduly limit transparency of the EU administration. The EDPS endorses the point of view that the principle of transparency 'enables citizens to participate more closely in the decision-making process and guarantees that the administration enjoys greater legitimacy and is more effective and more accountable to the citizen in a democratic system'; publication on the internet of data by name relating to beneficiaries of funds, done appropriately, 'contributes to the appropriate use of public funds by the administration' and 'reinforces public control of the use to which that money is put'⁽¹⁴⁾.

⁽⁷⁾ See also EDPS prior check Opinions of 23 June 2006, on OLAF internal investigations (Case 2005-0418), and of 4 October 2007 regarding OLAF external investigations (Cases 2007-47, 2007-48, 2007-49, 2007-50, 2007-72) to be found on the EDPS website (<http://www.edps.europa.eu>).

⁽⁸⁾ See in this respect also the aforementioned Opinion 1/2006 of the Article 29 Working Party.

⁽⁹⁾ ECJ 9 November 2010, *Schecke and Eifert*, joined Cases C-92/09 and C-93/09.

⁽¹⁰⁾ ECJ, *Schecke*, para. 85.

⁽¹¹⁾ ECJ, *Schecke*, para. 86.

⁽¹²⁾ ECJ, *Schecke*, para. 81.

⁽¹³⁾ See footnote 12.

⁽¹⁴⁾ ECJ, *Schecke*, para. 68, 69, 75 and 76.

24. On this basis, the EDPS wishes to underline that the considerations from the ECJ as referred to in the previous paragraphs are directly relevant for the current proposal. Although reference is made to Directive 95/46/EC and Regulation (EC) No 45/2001, it is not assured that the envisaged publication meets the requirements as explained by the ECJ in *Schecke*. In this respect it should be underlined that the ECJ not only annulled the Commission Regulation which contained the detailed rules on the publication of information about the beneficiaries of the agricultural funds⁽¹⁵⁾, but also the provision in the Regulation that constitutes the legal basis for the Commission Regulation and which contained the general requirement to disclose the information, in as far as it concerned beneficiaries being natural persons⁽¹⁶⁾.
25. The EDPS has strong doubts whether the current proposal meets the criteria as explained by the ECJ in *Schecke*. Neither Article 31, nor the surrounding Articles contain a clear and well-defined purpose for which the publication of the personal information is envisaged. Furthermore, it is unclear when and in what format the information will be disclosed. It is therefore not possible to assess whether the right balance is struck between the various interests involved and to check, as explicitly underlined by the ECJ in *Schecke*, whether publication would be proportionate. Furthermore, it is unclear how the rights of the data subjects involved will be ensured.
26. Even if implementing legislation is envisaged -which is not clearly stated- the basic clarifications just mentioned should be contained in the legal basis the FR is supposed to be for the disclosure of such data.
27. The EDPS therefore recommends the legislator to clarify the purpose and explain the necessity of the envisaged disclosure, to indicate how and the extent to which personal data will be disclosed, to ensure that data is only disclosed if this is proportionate and to assure that data subjects are able to invoke their rights contained in EU data protection legislation.
- II.5. *Publication of decisions or summary of decisions on administrative and financial penalties*
28. Article 103 of the proposal deals with the possibility for the contracting authority to impose administrative or financial penalties on (a) contractors, candidates or tenderers in case they are guilty of misinterpretation in supplying the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply this information (see Article 101(b)) or (b) contractors who have been declared to be in serious breach of their obligations under contract covered by the budget.
29. In Article 103(1) it is stated that the person concerned must be given an opportunity to present his observations. According to Article 103(2) the penalties may consist of exclusion of the person involved from contracts and grants financed by the budget, for a maximum period of 10 years, and/or a financial penalty up to the value of the contract concerned.
30. In comparison with the current situation, a new element in the proposal is the possibility for the institution mentioned in Article 103(3) to publish decisions or summary of decisions indicating the name of the economic operator, a short description of the facts, the duration of the exclusion or the amount of the financial penalties.
31. In as far as this entails the disclosure of information about natural persons, this provision raises some questions from a data protection point of view. First, it is clear from the use of the word 'may' that publication is not obligatory. But this leaves open a number of issues where the text of the proposal does not provide clarity. For instance, what is the purpose for such disclosure? What are the criteria on which the institution concerned decides upon disclosure? How long will the information be publicly available and by which medium? Who will verify whether the information is still correct and will keep it up to date? Who will inform the person concerned about the disclosure? These are all questions which relate to the requirements of data quality as contained in Article 6 of Directive 95/46/EC and Article 4 of Regulation (EC) No 45/2001.
32. It should be emphasised that the publication of such information has an additional negative impact on the person concerned. The publication should only be allowed if it is strictly necessary for the envisaged purpose. The comments made above in Part II.4 in the context of the ECJ ruling in *Schecke* are relevant here as well.
33. In its current form, the proposed text in Article 103(3) does not entirely meet the requirements of data protection law. The EDPS therefore recommends the legislator to clarify the purpose and explain the necessity of the envisaged disclosure, to indicate how and the extent to which personal data will be disclosed, to ensure that data is only disclosed if this is proportionate and to assure that data subjects are able to invoke their rights contained in EU data protection legislation.

⁽¹⁵⁾ Commission Regulation (EC) No 259/2008, OJ L 76, 19.3.2008, p. 28.

⁽¹⁶⁾ Article 44(a) of Regulation (EC) No 1290/2005, OJ L 209, 11.8.2005, p. 1, as amended.

II.6. The Central Exclusion Database

34. The proposal also entails the setting up of a Central Exclusion Database ('the CED') which will contain details of candidates and tenderers excluded from participation in tenders (see Article 102). This database is already in place on the basis of the current FR, and its working is further elaborated in Commission Regulation (EC) No 1302/2008. The processing operations of personal data that take place in the framework of the CED have been analysed by the EDPS in a prior check Opinion of 26 May 2010⁽¹⁷⁾.
35. The recipients of the data provided in the CED are multiple. Depending on who is accessing the database, Articles 7, 8 or 9 of Regulation (EC) No 45/2001 apply.
36. The EDPS concluded in the abovementioned prior check Opinion that the current practice as regards implementation of Articles 7 (consultation of the database by other EU institutions and agencies) and 8 (consultation of the CED by authorities and certain other bodies of Member States) was compliant with Regulation (EC) No 45/2001.
37. This conclusion could however not be drawn in relation with the transfer of data to third country authorities which is governed by Article 9 of Regulation (EC) No 45/2001, which deals with data transfer to third country authorities and/or international organisations. In Article 102(2) it is stated that also third countries shall have access to the CED.
38. Article 9(1) of Regulation (EC) No 45/2001 stipulates that 'personal data shall only be transferred to recipients, other than Community institutions and bodies, which are not subject to national law adopted pursuant to Directive 95/46/EC, if an adequate level of protection is ensured in the country of the recipient or within the recipient international organisation and the data are transferred solely to allow tasks covered by the competence of the controller to be carried out'. By way of derogation from Article 9(1), Article 9(6) allows the transfer of data to countries which do not provide for adequate protection if 'the transfer is necessary or legally required on important public interest grounds (...)'.
 39. In the aforementioned prior check Opinion, the EDPS underlined that further steps were necessary to ensure that in case of transfer to a third country or organisation, the recipient offers an adequate level of protection. The

EDPS wishes to underline that such an adequacy finding must be based on a case-by-case assessment, and should include a thorough analysis of the circumstances surrounding a data transfer operation or set of data transfer operations. The FR cannot relieve the Commission from this obligation. Similarly, a transfer which would be based on one of the derogations foreseen in Article 9 should also be based on a case-by-case assessment.

40. In this regards, the EDPS recommends the legislator to add an extra paragraph to Article 102 which deals specifically with the protection of personal data. The paragraph could start with the first sentence already contained in the first paragraph of Article 102, namely that the 'central database shall be set up and operated by the Commission in compliance with Union rules on the protection of personal data'. To this is should be added that access to authorities of third countries is only allowed when the conditions laid down in Article 9 of Regulation (EC) No 45/2001 are fulfilled.

III. CONCLUSION

41. The present proposal has certain data protection implications at EU as well as at national level which have been discussed in this Opinion. References to the relevant data protection instruments can be found in the proposal. However, as has been explained in this Opinion, some further elaboration and clarification is needed in order to ensure full compliance with the data protection legal framework. The EDPS recommends the following:

- to include a reference in the preamble of the Regulation to Directive 95/46/EC and to Regulation (EC) No 45/2001,
- to include a reference to Directive 95/46/EC and Regulation (EC) No 45/2001 in Article 57(2)(f), like it has been done in Article 31(3) of the proposal,
- to strengthen the reference to Directive 95/46/EC in Article 56(4)(f) (which should be 4(e) following the logical order of the subparagraphs) by changing it into 'ensure that any processing of personal data complies with the national provisions implementing Directive 95/46/EC',
- to replace the phrase in Article 57(2)(f) 'ensure a reasonable protection of personal data' by 'ensure that any processing of personal data complies with the national provisions implementing Directive 95/46/EC',

⁽¹⁷⁾ See the EDPS prior check Opinion of 26 May 2010 regarding the processing operation on personal data concerning the 'Registration of a Data Subject in the Central Exclusion Database' (Case 2009-0681), to be found on the EDPS website (<http://www.edps.europa.eu>).

- to assure in Article 63(8) that the identity of whistleblowers is kept confidential during investigations in as far as this would not contravene national rules regulating judicial procedures and in as far as the person accused of a wrongdoing is not entitled to it because the identity of the whistleblower is needed for instigating legal procedures against the whistleblower after it has been established that the whistleblower maliciously made false statements about the accused person,
- to clarify in Article 31 the purpose and explain the necessity of the envisaged disclosure of information on the recipients of funds deriving from the budget, to indicate how and the extent to which personal data will be disclosed, to ensure that data is only disclosed if this is proportionate and to assure that data subjects are able to invoke their rights contained in EU data protection legislation,
- to improve Article 103(3), which deals with the publications of decisions or summary of decisions on administrative and financial penalties, by clarifying the purpose and explaining the necessity of the envisaged disclosure, to indicate how and the extent to which personal data will be disclosed, to ensure that data is only disclosed if this is proportionate and to assure that data subjects are able to invoke their rights contained in EU data protection legislation,
- to add an extra paragraph to Article 102 which deals with the protection of personal data by providing that access to authorities of third countries is only allowed when the rules laid down in Article 9 of Regulation (EC) No 45/2001 are fulfilled and after an evaluation on a case by case basis.

Done at Brussels, 15 April 2011.

Giovanni BUTTARELLI
Assistant European Data Protection Supervisor

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Authorisation for State aid pursuant to Articles 107 and 108 of the TFEU**Cases where the Commission raises no objections**

(Text with EEA relevance, except for products falling under Annex I to the Treaty)

(2011/C 215/06)

Date of adoption of the decision	15.6.2011	
Reference number of State Aid	SA.31144 (N 274a/10)	
Member State	Germany	
Region	Bayern	Mixed
Title (and/or name of the beneficiary)	Disaster Aid Scheme „Bayerischer Härtefonds Finanzhilfen (Beneficiaries in agriculture and forestry)“	
Legal basis	Artikel 23 und 44 der Bayerischen Haushaltsordnung; Artikel 6 und 7 des Gesetzes über die Übernahme von Staatsbürgschaften und Garantien des Freistaates Bayern (BÜG); Bekanntmachung des Staatsministeriums der Finanzen „Härtefonds für Notstände durch Elementarereignisse“ mit „Richtlinien für die Übernahme von Staatsbürgschaften bei Notständen durch Elementarereignisse“	
Type of measure	Scheme	—
Objective	Natural disasters or exceptional occurrences	
Form of aid	Direct grant, Guarantee, Interest subsidy	
Budget	Overall budget: EUR 9 million Annual budget: EUR 1,50 million	
Intensity	100 %	
Duration (period)	Until 10.5.2017	
Economic sectors	Agriculture, forestry and fishing	
Name and address of the granting authority	Kreisverwaltungsbehörden, jeweiliges Landratsamt bzw. jeweilige kreisfreie Stadt, in deren Zuständigkeitsbereich die Naturkatastrophe stattgefunden hat	
Other information	—	

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	17.6.2011	
Reference number of State Aid	SA.32872 (11/N)	
Member State	Finland	
Region	—	
Title (and/or name of the beneficiary)	Tuki vuosien 2010–2013 epäsuotuisista sääoloista aiheutuneiden menetysten korvaamiseksi viljelijöille	
Legal basis	Laki satovahinkojen korvaamisesta, 1214/2000, sellaisena kuin se on muutettuna laeilla 434/2007, 1495/2007, 1487/2009 ja 1055/2010; valtioneuvoston asetus satovahinkojen korvaamisesta 297/2008, sellaisena kuin se on muutettuna asetuksilla 950/2009 ja 271/2010; valtioneuvoston asetus vuoden 2010 satovahinkojen viljelmäkohtaisista korvausosuuksista XX/2011, annetaan sen jälkeen, kun komissio on hyväksynyt tämän ilmoituksen sekä maa- ja metsätalousministeriön asetus satovahinkojen korvaamisesta 213/2011.	
Type of measure	Scheme	—
Objective	Adverse weather conditions	
Form of aid	Direct grant	
Budget	Overall budget: EUR 24 million	
Intensity	70 %	
Duration (period)	Until 31.12.2013	
Economic sectors	Crop and animal production, hunting and related service activities	
Name and address of the granting authority	Ministry of Agriculture and Forestry and Finnish Agency for Rural Affairs Ministry of Agriculture and Forestry PO Box 30 FI-00023 Government SUOMI/FINLAND http://www.mmm.fi Body responsible for implementing the aid: Finnish Agency for Rural Affairs PO Box 405 FI-60101 Seinäjoki SUOMI/FINLAND http://www.mavi.fi	
Other information	—	

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Authorisation for State aid pursuant to Articles 107 and 108 of the TFEU

Cases where the Commission raises no objections

(Text with EEA relevance)

(2011/C 215/07)

Date of adoption of the decision	15.6.2011
Reference number of State Aid	SA.30381 (N 44/10)
Member State	Latvia
Region	—
Title (and/or name of the beneficiary)	Valsts atbalsta paziņojums projektam "Infrastrukturā attīstība Krievu salā ostas aktivitāšu pārcelšanai no pilsētas centra"
Legal basis	Rīgas attīstības plāns 2006.–2018. gadam ar grozījumiem MK noteikumi Nr. 690 "Noteikumi par Rīgas brīvdostas robežu noteikšanu" ("LV", 138 (3506), 30.8.2006.) Valsts stratēģiskais ietvardokuments 2007.–2013. gada periodam, Darbības programma "Infrastrukturā un pakalpojumi" (CCI: 2007LV161PO002).
Type of measure	Individual aid
Objective	Sectoral development, Environmental protection
Form of aid	Direct grant
Budget	Annual budget: — Overall budget: LVL 83,9 million
Intensity	61 %
Duration (period)	1.1.2010-31.12.2015
Economic sectors	Transport
Name and address of the granting authority	Satiksmes ministrija Gogoļa iela 3 Rīga, LV-1743 LĀTVIJA
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	11.5.2011
Reference number of State Aid	SA.30649 (11/N)
Member State	Denmark

Region	Limfjorden
Title (and/or name of the beneficiary)	State aid to the Danish Shellfish Centre
Legal basis	Rådets forordning (EF) nr. 1083/2006 af 11. juli 2006 om generelle bestemmelser for Den Europæiske Fond for Regionaludvikling, Den Europæiske Socialfond og Samhørighedsfonden og ophævelse af forordning (EF) nr. 1260/1999 Lov nr. 1599 af 20. december 2006 om administration af tilskud fra Den Europæiske Regionalfond og Den Europæiske Socialfond.
Type of measure	Individual aid
Objective	Culture, Heritage conservation, Regional development
Form of aid	Direct grant, Guarantee
Budget	Annual budget: DKK 10 million Overall budget: DKK 10 million
Intensity	100 %
Duration (period)	1.5.2011-31.12.2012
Economic sectors	Recreational, cultural sporting activities
Name and address of the granting authority	Erhvervs- og Byggestyrelsen Vejsøvej 29 8600 Silkeborg DANMARK
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	15.6.2011
Reference number of State Aid	SA.32224 (11/N)
Member State	Netherlands
Region	De stadsregio Rotterdam
Title (and/or name of the beneficiary)	Alblasserdam Container Transferium
Legal basis	Algemene wet bestuursrecht
Type of measure	Individual aid
Objective	Sectoral development
Form of aid	Direct grant
Budget	Annual budget: EUR 8,3 million Overall budget: EUR 8,3 million

Intensity	18 %
Duration (period)	1.5.2011-1.5.2011
Economic sectors	Land transport and transport via pipelines
Name and address of the granting authority	Minister van Infrastructuur en Milieu PO Box 20904 2500 EX Den Haag NEDERLAND
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	9.6.2011
Reference number of State Aid	SA.32454 (11/N)
Member State	Belgium
Region	Bruxelles/Brussel
Title (and/or name of the beneficiary)	Brussels Greenfields (amended)
Legal basis	— Organieke ordonnantie van 23 februari 2006 op begroting en controle (B.S., 23 juni 2006) — Ordonnantie van 5 maart 2009 op verontreinigde bodems (B.S., 10 maart 2009) — Kandidatuur „Greenfields” voor het Operationeel Programma: „Doelstelling 2013 ...” — Brief van 19 januari 2009 van de regering van het Brussels Hoofdstedelijk Gewest — Beslissing van de regering van het Brussels Hoofdstedelijk Gewest van 12 december 2008
Type of measure	Aid scheme
Objective	Environmental protection
Form of aid	Direct grant
Budget	Overall budget: EUR 14 960 000
Intensity	75 %
Duration (period)	Until 31.12.2014
Economic sectors	All sectors
Name and address of the granting authority	Het Brussels Instituut voor Milieubeheer Gulledelle 100 1200 Bruxelles/Brussel BELGIQUE/BELGIË
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Date of adoption of the decision	30.6.2011
Reference number of State Aid	SA.33106
Member State	Latvia
Region	—
Title (and/or name of the beneficiary)	Support for private owners of cultural monuments in the restoration and preservation of cultural heritage
Legal basis	Mīnistrū kabīneta 2009. gada 30. jūnija noteikumi Nr. 675 "Noteikumi par darbības programmas "Infrastruktūra un pakalpojumi" papildinājuma 3.4.3.3. aktivitāti "Atbalsts kultūras pieminekļu privātīpašniekiem kultūras pieminekļu saglabāšanā un to sociālekonomiskā potenciāla efektīvā izmantošanā".
Type of measure	Aid scheme
Objective	Culture
Form of aid	Direct grant
Budget	Annual budget: — Overall budget: LVL 3,9 million
Intensity	50 %
Duration (period)	2009-2015
Economic sectors	Recreational, cultural sporting activities
Name and address of the granting authority	Kultūras ministrija K. Valdemāra iela 11a Rīga, LV-1364 LATVIJA
Other information	—

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

http://ec.europa.eu/community_law/state_aids/state_aids_texts_en.htm

Non-opposition to a notified concentration**(Case COMP/M.6274 — Bridgepoint/Eurazeo/Foncia Groupe)****(Text with EEA relevance)**

(2011/C 215/08)

On 14 July 2011, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32011M6274. EUR-Lex is the on-line access to the European law.

Non-opposition to a notified concentration**(Case COMP/M.6265 — CSN/AG Cementos Balboa/Corrugados Azpeitia/Corrugados Lasao/ Stahlwerk Thüringen)****(Text with EEA relevance)**

(2011/C 215/09)

On 14 July 2011, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32011M6265. EUR-Lex is the on-line access to the European law.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

20 July 2011

(2011/C 215/10)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,4207	AUD	Australian dollar	1,3218
JPY	Japanese yen	112,05	CAD	Canadian dollar	1,3451
DKK	Danish krone	7,4553	HKD	Hong Kong dollar	11,0704
GBP	Pound sterling	0,88065	NZD	New Zealand dollar	1,6609
SEK	Swedish krona	9,1713	SGD	Singapore dollar	1,7247
CHF	Swiss franc	1,1652	KRW	South Korean won	1 500,59
ISK	Iceland króna		ZAR	South African rand	9,8020
NOK	Norwegian krone	7,8040	CNY	Chinese yuan renminbi	9,1762
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,4575
CZK	Czech koruna	24,498	IDR	Indonesian rupiah	12 130,21
HUF	Hungarian forint	269,18	MYR	Malaysian ringgit	4,2585
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	60,690
LVL	Latvian lats	0,7093	RUB	Russian rouble	39,7267
PLN	Polish zloty	3,9917	THB	Thai baht	42,493
RON	Romanian leu	4,2475	BRL	Brazilian real	2,2206
TRY	Turkish lira	2,3575	MXN	Mexican peso	16,5442
			INR	Indian rupee	63,1570

⁽¹⁾ Source: reference exchange rate published by the ECB.

Commission notice concerning the date of application of the protocols on rules of origin providing for diagonal cumulation of origin between the European Union, Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia ⁽¹⁾ and Turkey

(2011/C 215/11)

For the purpose of the creation of diagonal cumulation of origin among the European Union, Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey, the European Union and the countries concerned notify each other, through the European Commission, of the origin rules in force with the other countries.

Based on the notifications received from the countries concerned, the table here enclosed gives an overview of the protocols on rules of origin providing for diagonal cumulation specifying the date from which such cumulation becomes applicable. This table replaces the previous one (OJ C 225, 20.8.2010, p. 4).

It is recalled that cumulation can only be applied if the countries of final manufacture and of final destination have concluded free trade agreements, containing identical rules of origin, with all the countries participating in the acquisition of originating status, i.e. with all the countries in which all the materials used originate. Materials originating in a country which has not concluded an agreement with the countries of final manufacture and of final destination must be treated as non-originating.

It is also recalled that the materials originating in Turkey covered by the EU-Turkey customs union can be incorporated as originating materials for the purpose of diagonal cumulation between the European Union and the countries participating in the Stabilisation and Association Process with which an origin protocol is in force.

The ISO-Alpha-2 codes for countries listed in the table are given here below:

— Albania	AL
— Bosnia and Herzegovina	BA
— Croatia	HR
— The former Yugoslav Republic of Macedonia	MK (*)
— Montenegro	ME
— Serbia	RS
— Turkey	TR

⁽¹⁾ Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia are the countries participating in the Stabilisation and Association Process.

^(*) ISO code 3166. Provisional code which does not prejudice in any way the definitive nomenclature for this country, which will be agreed following the conclusion of negotiations currently taking place under the auspices of the United Nations.

Date of application of the protocols on rules of origin providing for diagonal cumulation between the European Union, Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey

	EU	AL	BA	HR	MK	ME	RS	TR
EU		1.1.2007	1.7.2008	1.6.2011	1.1.2007	1.1.2008	8.12.2009	(¹)
AL	1.1.2007		22.11.2007	22.8.2007	26.7.2007	26.7.2007	24.10.2007	1.8.2011
BA	1.7.2008	22.11.2007		22.11.2007	22.11.2007	22.11.2007	22.11.2007	
HR	1.6.2011	22.8.2007	22.11.2007		22.8.2007	22.8.2007	24.10.2007	
MK	1.1.2007	26.7.2007	22.11.2007	22.8.2007		26.7.2007	24.10.2007	1.7.2009
ME	1.1.2008	26.7.2007	22.11.2007	22.8.2007	26.7.2007		24.10.2007	1.3.2010
RS	8.12.2009	24.10.2007	22.11.2007	24.10.2007	24.10.2007	24.10.2007		1.9.2010
TR	(¹)	1.8.2011			1.7.2009	1.3.2010	1.9.2010	

(¹) For goods covered by the EU-Turkey customs union, the date of application is 27 July 2006.

Commission communication in the framework of the implementation of Directive 2009/48/EC of the European Parliament and of the Council on the safety of toys

(Text with EEA relevance)

(Publication of titles and references of harmonised standards under the directive)

(2011/C 215/12)

ESO ⁽¹⁾	Reference and title of the harmonised standard (and reference document)	First publication OJ	Reference of superseded standard	Date of cessation of presumption of conformity of superseded standard Note 1
CEN	EN 71-1:2011 Safety of toys — Part 1: Mechanical and physical properties	18.6.2011		
CEN	EN 71-2:2011 Safety of toys — Part 2: Flammability	This is the first publication		

⁽¹⁾ ESO: European Standards Organisation:

- CEN: Avenue Marnix 17, 1000 Bruxelles/Brussel, BELGIQUE/BELGIË, tel. +32 25500811; fax +32 25500819 (<http://www.cen.eu>),
- Cenelec: Avenue Marnix 17, 1000 Bruxelles/Brussel, BELGIQUE/BELGIË, tel. +32 25196871; fax +32 25196919 (<http://www.cenelec.eu>),
- ETSI: 650 route des Lucioles, 06921 Sophia Antipolis, FRANCE, tel. +33 492944200; fax +33 493654716 (<http://www.etsi.eu>).

Note 1: Generally the date of cessation of presumption of conformity will be the date of withdrawal ('dow'), set by the European Standardisation Organisation, but attention of users of these standards is drawn to the fact that in certain exceptional cases this can be otherwise.

Note 2.1: The new (or amended) standard has the same scope as the superseded standard. On the date stated, the superseded standard ceases to give presumption of conformity with the essential requirements of the directive.

Note 2.2: The new standard has a broader scope than the superseded standard. On the date stated, the superseded standard ceases to give presumption of conformity with the essential requirements of the directive.

Note 2.3: The new standard has a narrower scope than the superseded standard. On the date stated, the (partially) superseded standard ceases to give presumption of conformity with the essential requirements of the directive for those products that fall within the scope of the new standard. Presumption of conformity with the essential requirements of the directive for products that still fall within the scope of the (partially) superseded standard, but that do not fall within the scope of the new standard, is unaffected.

Note 3: In case of amendments, the referenced standard is EN CCCCC:YYYY, its previous amendments, if any, and the new, quoted amendment. The superseded standard (column 3) therefore consists of EN CCCCC:YYYY and its previous amendments, if any, but without the new quoted amendment. On the date stated, the superseded standard ceases to give presumption of conformity with the essential requirements of the directive.

NOTE:

— Any information concerning the availability of the standards can be obtained either from the European Standardisation Organisations or from the national standardisation bodies of which the list is annexed to the Directive 98/34/EC of the European Parliament and of the Council amended by the Directive 98/48/EC.

— Harmonised standards are adopted by the European Standardisation Organisations in English (CEN and Cenelec also publish in French and German). Subsequently, the titles of the harmonised standards are translated into all other required official languages of the European Union by the National Standards Bodies. The European Commission is not responsible for the correctness of the titles which have been presented for publication in the Official Journal.

- Publication of the references in the *Official Journal of the European Union* does not imply that the standards are available in all the Community languages.

 - This list replaces all the previous lists published in the *Official Journal of the European Union*. The Commission ensures the updating of this list.

 - More information about harmonised standards on the Internet at
http://ec.europa.eu/enterprise/policies/european-standards/harmonised-standards/index_en.htm
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V

(Announcements)

COURT PROCEEDINGS

EFTA COURT

Request for an Advisory Opinion from the EFTA Court by Héraðsdómur Reykjavíkur dated 25 March 2011 in the case of Grund, elli- og hjúkrunarheimili v Lyfjastofnun (Icelandic Medicines Control Agency)**(Case E-7/11)**

(2011/C 215/13)

A request has been made to the EFTA Court by a letter of 25 March 2011 from Héraðsdómur Reykjavíkur (Reykjavik District Court), which was received at the Court Registry on 31 March 2011, for an Advisory Opinion in the case of Grund, elli- og hjúkrunarheimili (an old peoples' and nursing home) v Lyfjastofnun (Icelandic Medicines Control Agency), on the following questions:

1. Is Directive 2001/83/EC of the European Parliament and of the Council and, as appropriate, other EEA legislation, including Articles 11-13 of the main text of the EEA Agreement on the free movement of goods, to be interpreted as meaning that a health-care institution such as the plaintiff, which provides people with health care and medical services, may not import, for use by the people in the care of the institution, medicinal products from Norway which have been granted Norwegian national marketing authorisation, by reference to an Icelandic national marketing authorisation for medicinal products under the same name, if the authorisations were granted before Directive 2001/83/EC entered into force?
 2. If this is the situation, then how is a health-care institution like the plaintiff, which maintains that medicinal products imported from another EEA contracting party have Icelandic marketing authorisation, to demonstrate that this is the case? Is the first paragraph of Article 51 i.f. of Directive 2001/83/EC of the European Parliament and of the Council to be interpreted as meaning that the health-care institution is required to present a control report to the Defendant as the competent surveillance authority? Is it possible that less stringent requirements regarding the burden of proof could be made regarding the import of medicinal products from Norway, if the products are not intended for further sale or other distribution or marketing in Iceland, but only for the use of persons in the care of the health-care institution?
 3. Do the competent authorities have completely unrestricted discretion as to whether, and then to whom, they grant exemptions under the third paragraph of Article 63 of Directive 2001/83/EC of the European Parliament and of the Council in the case of medicinal products that are imported by a health-care institution such as the plaintiff when the products are not intended for self-administration but are prepared by a pharmacist employed by the health-care institution and delivered to the users in specially-designed medicinal-product boxes?
-

PROCEDURES RELATING TO THE IMPLEMENTATION OF COMPETITION
POLICY

EUROPEAN COMMISSION

Prior notification of a concentration

(Case COMP/M.6295 — CVC/Ande/Delachaux)

Candidate case for simplified procedure

(Text with EEA relevance)

(2011/C 215/14)

1. On 12 July 2011, the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking(s) CVC Capital Partners SICAV-FIS SA (Luxembourg) and Ande Investissements SA (Luxembourg) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the undertaking Delachaux SA (France) by way of purchase of shares.

2. The business activities of the undertakings concerned are:

- for undertaking CVC Capital Partners SICAV-FIS: providing investment advice to and/or managing investments on behalf of investment funds (the 'CVC Funds'). The CVC Funds hold controlling interests in a number of companies in various industries including chemicals, utilities, manufacturing, retailing and distribution, primarily in Europe and the Asia-Pacific region,
- for undertaking Ande Investissements SA: shareholding acquisitions, administration, management and development. Currently, Ande mainly holds and manages the André Delachaux family's shareholdings in the Delachaux group,
- for undertaking Delachaux SA: manufacture and production of rail fastening and welding systems, electric power and data transmission systems, magnetics, cabling and chrome metal.

3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.

4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6295 — CVC/Ande/Delachaux, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

Prior notification of a concentration
(Case COMP/M.6309 — Macquarie Group/Airwave Solutions)

Candidate case for simplified procedure

(Text with EEA relevance)

(2011/C 215/15)

1. On 13 July 2011 the Commission received a notification of a proposed concentration pursuant to Article 4 of Council Regulation (EC) No 139/2004 ⁽¹⁾ by which the undertaking MEIF II Luxembourg Holdings Sàrl ('MEIF II', Luxembourg) controlled by Macquarie Group Limited ('Macquarie Group', Australia) acquires within the meaning of Article 3(1)(b) of the Merger Regulation control of the whole of the undertaking Airwave Solutions Limited ('Airwave', UK) by way of purchase of shares.
2. The business activities of the undertakings concerned are:
 - for MEIF II and Macquarie Group: banking, financial, advisory, investment and funds, management services,
 - for Airwave: mobile information communications technology.
3. On preliminary examination, the Commission finds that the notified transaction could fall within the scope of the EC Merger Regulation. However, the final decision on this point is reserved. Pursuant to the Commission Notice on a simplified procedure for treatment of certain concentrations under the EC Merger Regulation ⁽²⁾ it should be noted that this case is a candidate for treatment under the procedure set out in the Notice.
4. The Commission invites interested third parties to submit their possible observations on the proposed operation to the Commission.

Observations must reach the Commission not later than 10 days following the date of this publication. Observations can be sent to the Commission by fax (+32 22964301), by email to COMP-MERGER-REGISTRY@ec.europa.eu or by post, under reference number COMP/M.6309 — Macquarie Group/Airwave Solutions, to the following address:

European Commission
Directorate-General for Competition
Merger Registry
J-70
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

⁽¹⁾ OJ L 24, 29.1.2004, p. 1 (the 'EC Merger Regulation').

⁽²⁾ OJ C 56, 5.3.2005, p. 32 ('Notice on a simplified procedure').

CORRIGENDA**Corrigendum to publication of an amendment application pursuant to Article 6(2) of Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs**

(Official Journal of the European Union C 87 of 16 April 2009)

(2011/C 215/16)

On page 16, point 3.2, first subparagraph:

for: 'Parmigiano Reggiano is a hard cheese made from raw cow's milk, partially skimmed by natural surface skimming';

read: 'Parmigiano Reggiano is a hard cheese, cooked and slowly matured cheese, made from raw cow's milk, partially skimmed by natural surface skimming'.

On page 17, point 3.5, last subparagraph:

for: 'After the minimum maturing period, tests are carried out to check compliance with production specifications';

read: 'After the minimum maturing period, examination by experts is carried out to check compliance with production specifications'.

On page 17, point 3.5, second subparagraph:

for: 'Following coagulation, obtained exclusively by the use of calf whey, the curd is broken up and cooked';

read: 'Following coagulation, obtained exclusively by the use of calf rennet, the curd is broken up and cooked'.

On page 18, point 3.6, third subparagraph:

for: 'Portions of Parmigiano Reggiano may be packaged in the year in which they are prepared';

read: 'Portions of Parmigiano Reggiano may be packaged in the retail outlet in which they are prepared'.

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