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Legislation

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

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([1]) Text with EEA relevance

I

(Legislative acts)

DIRECTIVES

COUNCIL DIRECTIVE 2010/45/EU

of 13 July 2010

amending Directive 2006/112/EC on the common system of value added tax as regards the rules on invoicing

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with a special legislative procedure,

Whereas:

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) lays down conditions and rules concerning value added tax (hereinafter 'VAT') with respect to invoices, in order to ensure the proper functioning of the internal market. In accordance with Article 237 of that Directive, the Commission has presented a report which identifies, in the light of technological developments, certain difficulties with regard to electronic invoicing and which, in addition, identifies certain other areas in which the VAT rules should be simplified with a view to improving the functioning of the internal market.

(2) Since record keeping needs to be sufficient to allow Member States to control goods moving temporarily from one Member State to another, it should be made clear that record keeping is to include details of valuations on goods moving temporarily between Member States. Also, transfers of goods for valuation purposes to another Member State should not be regarded as a supply of goods for VAT purposes.

([1]) OJ L 347, 11.12.2006, p. 1.

(3) The rules concerning the chargeability of VAT on intra-Community supplies of goods and on intra-Community acquisitions of goods should be clarified in order to ensure the uniformity of the information submitted in recapitulative statements and the timeliness of the exchange of information by means of those statements. It is furthermore appropriate that the continuous supply of goods from one Member State to another over a period of more than one calendar month should be regarded as being completed at the end of each calendar month.

(4) To help small and medium-sized enterprises that encounter difficulties in paying VAT to the competent authority before they have received payment from their customers, Member States should have the option of allowing VAT to be accounted using a cash accounting scheme which allows the supplier to pay VAT to the competent authority when he receives payment for a supply and which establishes his right of deduction when he pays for a supply. This should allow Member States to introduce an optional cash accounting scheme that does not have a negative effect on cash flow relating to their VAT receipts.

(5) To provide legal certainty for businesses regarding their invoicing obligations, it should be clearly stated which Member State's invoicing rules apply.

(6) With a view to improving the functioning of the internal market, it is necessary to impose a harmonised time limit for the issue of an invoice with respect to certain cross-border supplies.

(7) Certain requirements concerning the information to be provided on invoices should be amended to allow better control of the tax, to create a more uniform treatment between cross-border and domestic supplies and to help promote electronic invoicing.

(8) Since the use of electronic invoicing can help businesses to reduce costs and be more competitive, current VAT requirements on electronic invoicing should be revised to remove existing burdens and barriers to uptake. Paper invoices and electronic invoices should be treated equally and the administrative burden on paper invoicing should not increase.

(9) Equal treatment should also apply as regards the competences of tax authorities. Their control competences and the rights and obligations of taxable persons should apply equally whether a taxable person chooses to issue paper invoices or electronic invoices.

(10) Invoices must reflect actual supplies and their authenticity, integrity and legibility should therefore be ensured. Business controls can be used to establish reliable audit trails linking invoices and supplies, thereby ensuring that any invoice (whether on paper or in electronic form) complies with those requirements.

(11) The authenticity and integrity of electronic invoices can also be ensured by using certain existing technologies, such as Electronic Data Interchange (EDI) and advanced electronic signatures. However, since other technologies exist, taxable persons should not be required to use any particular electronic-invoicing technology.

(12) It should be clarified that, where a taxable person stores online invoices which he has issued or received, the Member State in which the tax is due, in addition to the Member State in which the taxable person is established, should have the right to access those invoices for control purposes.

(13) Since the objectives of this Directive regarding the simplification, modernisation and harmonisation of the VAT invoicing rules cannot be sufficiently achieved by the Member States and can therefore be better achieved at the level of the Union, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(14) In accordance with point 34 of the Interinstitutional Agreement on better lawmaking [1], Member States are encouraged to draw up, for themselves and in the interests of the Union, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

(15) Directive 2006/112/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2006/112/EC

Directive 2006/112/EC is amended as follows:

1. in Article 17(2), point (f) is replaced by the following:

'(f) the supply of a service performed for the taxable person and consisting in valuations of, or work on, the goods in question physically carried out within the territory of the Member State in which dispatch or transport of the goods ends, provided that the goods, after being valued or worked upon, are returned to that taxable person in the Member State from which they were initially dispatched or transported;';

2. in Article 64, paragraph 2 is replaced by the following:

'2. Continuous supplies of goods over a period of more than one calendar month which are dispatched or transported to a Member State other than that in which the dispatch or transport of those goods begins and which are supplied VAT-exempt or which are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business, in accordance with the conditions laid down in Article 138, shall be regarded as being completed on expiry of each calendar month until such time as the supply comes to an end.

Supplies of services for which VAT is payable by the customer pursuant to Article 196, which are supplied continuously over a period of more than one year and which do not give rise to statements of account or payments during that period, shall be regarded as being completed on expiry of each calendar year until such time as the supply of services comes to an end.

Member States may provide that, in certain cases other than those referred to in the first and second subparagraphs, the continuous supply of goods or services over a period of time is to be regarded as being completed at least at intervals of one year.';

[1] OJ C 321, 31.12.2003, p. 1.

3. in Article 66, first paragraph, point (c), and the second paragraph are replaced by the following:

'(c) where an invoice is not issued, or is issued late, within a specified time no later than on expiry of the time-limit for issue of invoices imposed by Member States pursuant to the second paragraph of Article 222 or where no such time-limit has been imposed by the Member State, within a specified period from the date of the chargeable event.

The derogation provided for in the first paragraph shall not, however, apply to supplies of services in respect of which VAT is payable by the customer pursuant to Article 196 and to supplies or transfers of goods referred to in Article 67.';

4. Article 67 is replaced by the following:

'*Article 67*

Where, in accordance with the conditions laid down in Article 138, goods dispatched or transported to a Member State other than that in which dispatch or transport of the goods begins are supplied VAT-exempt or where goods are transferred VAT-exempt to another Member State by a taxable person for the purposes of his business, VAT shall become chargeable on issue of the invoice, or on expiry of the time limit referred to in the first paragraph of Article 222 if no invoice has been issued by that time.

Article 64(1), the third subparagraph of Article 64(2) and Article 65 shall not apply with respect to the supplies and transfers of goods referred to in the first paragraph.';

5. Article 69 is replaced by the following:

'*Article 69*

In the case of the intra-Community acquisition of goods, VAT shall become chargeable on issue of the invoice, or on expiry of the time limit referred to in the first paragraph of Article 222 if no invoice has been issued by that time.';

6. in Article 91(2), the second subparagraph is replaced by the following:

'Member States shall accept instead the use of the latest exchange rate published by the European Central Bank at the time the tax becomes chargeable. Conversion between currencies other than the euro shall be made by using the euro exchange rate of each currency. Member States may require that they be notified of the exercise of this option by the taxable person.

However, for some of the transactions referred to in the first subparagraph or for certain categories of taxable persons, Member States may use the exchange rate determined in accordance with the Community provisions in force governing the calculation of the value for customs purposes.';

7. the following Article is inserted:

'*Article 167a*

Member States may provide within an optional scheme that the right of deduction of a taxable person whose VAT solely becomes chargeable in accordance with Article 66(b) be postponed until the VAT on the goods or services supplied to him has been paid to his supplier.

Member States which apply the optional scheme referred to in the first paragraph shall set a threshold for taxable persons using the scheme within their territory, based on the annual turnover of the taxable person calculated in accordance with Article 288. That threshold may not be higher than EUR 500 000 or the equivalent in national currency. Member States may increase that threshold up to EUR 2 000 000 or the equivalent in national currency after consulting the VAT Committee. However, such consultation of the VAT Committee shall not be required for Member States which applied a threshold higher than EUR 500 000 or the equivalent in national currency on 31 December 2012.

Member States shall inform the VAT Committee of national legislative measures adopted pursuant to the first paragraph.';

8. Article 178 is amended as follows:

(a) point (a) is replaced by the following:

'(a) for the purposes of deductions pursuant to Article 168(a), in respect of the supply of goods or services, he must hold an invoice drawn up in accordance with Sections 3 to 6 of Chapter 3 of Title XI;';

(b) point (c) is replaced by the following:

'(c) for the purposes of deductions pursuant to Article 168(c), in respect of the intra-Community acquisition of goods, he must set out in the VAT return provided for in Article 250 all the information needed for the amount of VAT due on his intra-Community acquisitions of goods to be calculated and he must hold an invoice drawn up in accordance with Sections 3 to 5 of Chapter 3 of Title XI;';

9. Article 181 is replaced by the following:

'*Article 181*

Member States may authorise a taxable person who does not hold an invoice drawn up in accordance with Sections 3 to 5 of Chapter 3 of Title XI to make the deduction referred to in Article 168(c) in respect of his intra-Community acquisitions of goods.';

10. in Article 197(1), point (c) is replaced by the following:

'(c) the invoice issued by the taxable person not established in the Member State of the person to whom the goods are supplied is drawn up in accordance with Sections 3 to 5 of Chapter 3.';

11. Article 217 is replaced by the following:

'Article 217

For the purposes of this Directive, "electronic invoice" means an invoice that contains the information required in this Directive, and which has been issued and received in any electronic format.';

12. in Section 3 of Chapter 3 of Title XI, the following Article is inserted:

'Article 219a

Without prejudice to Articles 244 to 248, the following shall apply:

(1) Invoicing shall be subject to the rules applying in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of Title V.

(2) By way of derogation from point (1), invoicing shall be subject to the rules applying in the Member State in which the supplier has established his business or has a fixed establishment from which the supply is made or, in the absence of such place of establishment or fixed establishment, the Member State where the supplier has his permanent address or usually resides, where:

(a) the supplier is not established in the Member State in which the supply of goods or services is deemed to be made, in accordance with the provisions of Title V, or his establishment in that Member State does not intervene in the supply within the meaning of Article 192a, and the person liable for the payment of the VAT is the person to whom the goods or services are supplied.

However where the customer issues the invoice (self-billing), point (1) shall apply.

(b) the supply of goods or services is deemed not to be made within the Community, in accordance with the provisions of Title V.';

13. Article 220 is replaced by the following:

'Article 220

1. Every taxable person shall ensure that, in respect of the following, an invoice is issued, either by himself or by his customer or, in his name and on his behalf, by a third party:

(1) supplies of goods or services which he has made to another taxable person or to a non-taxable legal person;

(2) supplies of goods as referred to in Article 33;

(3) supplies of goods carried out in accordance with the conditions specified in Article 138;

(4) any payment on account made to him before one of the supplies of goods referred to in points (1) and (2) was carried out;

(5) any payment on account made to him by another taxable person or non-taxable legal person before the provision of services was completed.

2. By way of derogation from paragraph 1, and without prejudice to Article 221(2), the issue of an invoice shall not be required in respect of supplies of services exempted under points (a) to (g) of Article 135(1).';

14. the following Article is inserted:

'Article 220a

1. Member States shall allow taxable persons to issue a simplified invoice in any of the following cases:

(a) where the amount of the invoice is not higher than EUR 100 or the equivalent in national currency;

(b) where the invoice issued is a document or message treated as an invoice pursuant to Article 219.

2. Member States shall not allow taxable persons to issue a simplified invoice where invoices are required to be issued pursuant to points (2) and (3) of Article 220(1) or where the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the VAT is due, or whose establishment in that Member State does not intervene in the supply within the meaning of Article 192a, and the person liable for the payment of VAT is the person to whom the goods or services are supplied.';

15. Articles 221, 222, 223, 224 and 225 are replaced by the following:

'Article 221

1. Member States may impose on taxable persons an obligation to issue an invoice in accordance with the details required under Article 226 or 226b in respect of supplies of goods or services other than those referred to in Article 220(1).

2. Member States may impose on taxable persons who have established their business in their territory or who have a fixed establishment in their territory from which the supply is made, an obligation to issue an invoice in accordance with the details required in Article 226 or 226b in respect of supplies of services exempted under points (a) to (g) of Article 135(1) which those taxable persons have made in their territory or outside the Community.

3. Member States may release taxable persons from the obligation laid down in Article 220(1) or in Article 220a to issue an invoice in respect of supplies of goods or services which they have made in their territory and which are exempt, with or without deductibility of the VAT paid in the preceding stage, pursuant to Articles 110 and 111, Article 125(1), Article 127, Article 128(1), Article 132, points (h) to (l) of Article 135(1), Articles 136, 371, 375, 376 and 377, Articles 378(2) and 379(2) and Articles 380 to 390b.

Article 222

For supplies of goods carried out in accordance with the conditions specified in Article 138 or for supplies of services for which VAT is payable by the customer pursuant to Article 196, an invoice shall be issued no later than on the fifteenth day of the month following that in which the chargeable event occurs.

For other supplies of goods or services Member States may impose time limits on taxable persons for the issue of invoices.

Article 223

Member States shall allow taxable persons to issue summary invoices which detail several separate supplies of goods or services provided that VAT on the supplies mentioned in the summary invoice becomes chargeable during the same calendar month.

Without prejudice to Article 222, Member States may allow summary invoices to include supplies for which VAT has become chargeable during a period of time longer than one calendar month.

Article 224

Invoices may be drawn up by the customer in respect of the supply to him, by a taxable person, of goods or services, where there is a prior agreement between the two parties and provided that a procedure exists for the acceptance of each invoice by the taxable person supplying the goods or services. Member State may require that such invoices be issued in the name and on behalf of the taxable person.

Article 225

Member States may impose specific conditions on taxable persons in cases where the third party, or the customer, who issues invoices is established in a country with which no legal instrument exists relating to mutual assistance similar in scope to that provided for in Directive 2010/24/EU (*) and Regulation (EC) No 1798/2003 (**).

(*) Council Directive 2010/24/EU of 16 March 2010 concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1).

(**) Council Regulation (EC) No 1798/2003 of 7 October 2003 on administrative cooperation in the field of value added tax (OJ L 264, 15.10.2003, p. 1).';

16. Article 226 is amended as follows:

(a) the following point is inserted:

'(7a) where the VAT becomes chargeable at the time when the payment is received in accordance with Article 66(b) and the right of deduction arises at the time the deductible tax becomes chargeable, the mention "Cash accounting";';

(b) the following point is inserted:

'(10a) where the customer receiving a supply issues the invoice instead of the supplier, the mention "Self-billing";';

(c) point (11) is replaced by the following:

'(11) in the case of an exemption, reference to the applicable provision of this Directive, or to the corresponding national provision, or any other reference indicating that the supply of goods or services is exempt;';

(d) the following point is inserted:

'(11a) where the customer is liable for the payment of the VAT, the mention "Reverse charge";';

(e) points (13) and (14) are replaced by the following:

'(13) where the margin scheme for travel agents is applied, the mention "Margin scheme — Travel agents";

(14) where one of the special arrangements applicable to second-hand goods, works of art, collectors' items and antiques is applied, the mention "Margin scheme — Second-hand goods"; "Margin scheme — Works of art" or "Margin scheme — Collector's items and antiques" respectively;';

17. the following Articles are inserted:

'*Article 226a*

Where the invoice is issued by a taxable person, who is not established in the Member State where the tax is due or whose establishment in that Member State does not intervene in the supply within the meaning of Article 192a, and who is making a supply of goods or services to a customer who is liable for payment of VAT, the taxable person may omit the details referred to in points (8), (9) and (10) of Article 226 and instead indicate, by reference to the quantity or extent of the goods or services supplied and their nature, the taxable amount of those goods or services.

Article 226b

As regards simplified invoices issued pursuant to Article 220a and Article 221(1) and (2), Member States shall require at least the following details:

(a) the date of issue;

(b) identification of the taxable person supplying the goods or services;

(c) identification of the type of goods or services supplied;

(d) the VAT amount payable or the information needed to calculate it;

(e) where the invoice issued is a document or message treated as an invoice pursuant to Article 219, specific and unambiguous reference to that initial invoice and the specific details which are being amended.

They may not require details on invoices other than those referred to in Articles 226, 227 and 230.';

18. Article 228 is deleted;

19. Article 230 is replaced by the following:

'*Article 230*

The amounts which appear on the invoice may be expressed in any currency, provided that the amount of VAT payable or to be adjusted is expressed in the national currency of the Member State, using the conversion rate mechanism provided for in Article 91.';

20. Article 231 is deleted;

21. the heading of Section 5 of Chapter 3 of Title XI is replaced by the following:

'**Paper invoices and electronic invoices**';

22. Articles 232 and 233 are replaced by the following:

'*Article 232*

The use of an electronic invoice shall be subject to acceptance by the recipient.

Article 233

1. The authenticity of the origin, the integrity of the content and the legibility of an invoice, whether on paper or in electronic form, shall be ensured from the point in time of issue until the end of the period for storage of the invoice.

Each taxable person shall determine the way to ensure the authenticity of the origin, the integrity of the content and the legibility of the invoice. This may be achieved by any business controls which create a reliable audit trail between an invoice and a supply of goods or services.

"Authenticity of the origin" means the assurance of the identity of the supplier or the issuer of the invoice.

"Integrity of the content" means that the content required according to this Directive has not been altered.

2. Other than by way of the type of business controls described in paragraph 1, the following are examples of technologies that ensure the authenticity of the origin and the integrity of the content of an electronic invoice:

(a) an advanced electronic signature within the meaning of point (2) of Article 2 of Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (*), based on a qualified certificate and created by a secure signature creation device, within the meaning of points (6) and (10) of Article 2 of Directive 1999/93/EC;

(b) electronic data interchange (EDI), as defined in Article 2 of Annex 1 to Commission Recommendation 1994/820/EC of 19 October 1994 relating to the legal aspects of electronic data interchange (**), where the agreement relating to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and integrity of the data.

(*) OJ L 13, 19.1.2000, p. 12.
(**) OJ L 338, 28.12.1994, p. 98.';

23. Article 234 is deleted;

24. Articles 235, 236 and 237 are replaced by the following:

'*Article 235*

Member States may lay down specific conditions for electronic invoices issued in respect of goods or services supplied in their territory from a country with which no legal instrument exists relating to mutual assistance similar in scope to that provided for in Directive 2010/24/EU and Regulation (EC) No 1798/2003.

Article 236

Where batches containing several electronic invoices are sent or made available to the same recipient, the details common to the individual invoices may be mentioned only once where, for each invoice, all the information is accessible.

Article 237

By 31 December 2016 at the latest, the Commission shall present to the European Parliament and the Council an overall assessment report, based on an independent economic study, on the impact of the invoicing rules applicable from 1 January 2013 and notably on the extent to which they have effectively led to a decrease in administrative burdens for businesses, accompanied where necessary by an appropriate proposal to amend the relevant rules.';

25. Article 238 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. After consulting the VAT Committee, Member States may, in accordance with conditions which they may lay down, provide that in the following cases only the information required pursuant to Article 226b shall be entered on invoices in respect of supplies of goods or services:

(a) where the amount of the invoice is higher than EUR 100 but not higher than EUR 400, or the equivalent in national currency;

(b) where commercial or administrative practice in the business sector concerned or the technical conditions under which the invoices are issued make it particularly difficult to comply with all the obligations referred to in Article 226 or 230.';

(b) paragraph 2 is deleted;

(c) paragraph 3 is replaced by the following:

'3. The simplified arrangements provided for in paragraph 1 shall not be applied where invoices are required to be issued pursuant to points (2) and (3) of Article 220(1) or where the taxable supply of goods or services is carried out by a taxable person who is not established in the Member State in which the VAT is due or whose establishment in that Member State does not intervene in the supply within the meaning of Article 192a and the person liable for the payment of VAT is the person to whom the goods or services are supplied.';

26. Article 243 is replaced by the following:

'*Article 243*

1. Every taxable person shall keep a register of the goods dispatched or transported by him, or on his behalf, to a destination outside the territory of the Member State of departure but within the Community for the purposes of transactions consisting in valuations of those goods or work on them or their temporary use as referred to in points (f), (g) and (h) of Article 17(2).

2. Every taxable person shall keep accounts in sufficient detail to enable the identification of goods dispatched to him from another Member State, by or on behalf of a taxable person identified for VAT purposes in that other Member State, and used for services consisting in valuations of those goods or work on those goods.';

27. Article 246 is deleted;

28. in Article 247, paragraphs 2 and 3 are replaced by the following:

'2. In order to ensure that the requirements laid down in Article 233 are met, the Member State referred to in paragraph 1 may require that invoices be stored in the original form in which they were sent or made available, whether paper or electronic. Additionally, in the case of invoices stored by electronic means, the Member State may require that the data guaranteeing the authenticity of the origin of the invoices and the integrity of their content, as provided for in Article 233, also be stored by electronic means.

3. The Member State referred to in paragraph 1 may lay down specific conditions prohibiting or restricting the storage of invoices in a country with which no legal instrument exists relating to mutual assistance similar in scope to that provided for in Directive 2010/24/EU and Regulation (EC) No 1798/2003 or to the right referred to in Article 249 to access by electronic means, to download and to use.';

29. in Section 3 of Chapter 4 of Title XI, the following Article is inserted:

'*Article 248a*

For control purposes, and as regards invoices in respect of supplies of goods or services supplied in their territory and invoices received by taxable persons established in their territory, Member States may, for certain taxable persons or certain cases, require translation into their official languages. Member States may, however, not impose a general requirement that invoices be translated.';

30. Article 249 is replaced by the following:

'*Article 249*

For control purposes, where a taxable person stores, by electronic means guaranteeing online access to the data concerned, invoices which he issues or receives, the competent authorities of the Member State in which he is established and, where the VAT is due in another Member State, the competent authorities of that Member State, shall have the right to access, download and use those invoices.';

31. in Article 272(1), the second subparagraph is replaced by the following:

'Member States may not release the taxable persons referred to in point (b) of the first subparagraph from the invoicing obligations laid down in Sections 3 to 6 of Chapter 3 and Section 3 of Chapter 4.'.

Article 2

Transposition

1. Member States shall adopt and publish, by 31 December 2012 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 January 2013.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into Force

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

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 13 July 2010.

For the Council
The President
D. REYNDERS

II

(Non-legislative acts)

REGULATIONS

REGULATION (EURATOM) No 647/2010 OF THE COUNCIL

of 13 July 2010

on financial assistance of the Union with respect to the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant in Bulgaria (Kozloduy Programme)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 203 thereof,

Having regard to the Bulgarian request for further funding,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) During the accession negotiations in 2005, Bulgaria agreed to the closure of Units 1 and 2 and Units 3 and 4 of the Kozloduy Nuclear Power Plant by 31 December 2002 and 31 December 2006, respectively and to the subsequent decommissioning of those units. The European Union expressed its willingness to continue to provide financial assistance up to 2009 as an extension of the pre-accession aid planned under the Phare programme in support of Bulgaria's decommissioning efforts.

(2) In view of Bulgaria's commitment to close Units 3 and 4 of the Kozloduy Nuclear Power Plant, Article 30 of the Act concerning the conditions of accession of the Republic of Bulgaria and Romania (hereinafter referred to as the '2005 Act of Accession') established an assistance programme (hereinafter referred to as the 'Kozloduy Programme') with a budget of EUR 210 million for the period 2007 to 2009. That programme included assistance to cover the capacity loss as a consequence of the closure of Kozloduy Nuclear Power Plant.

(3) International decommissioning funds managed by the European Bank for Reconstruction and Development (EBRD) have been in place for a number of years. The Union is the main contributor to those funds.

(4) The Union recognises the effort made and the good progress achieved by Bulgaria in the decommissioning preparation stage of the Kozloduy Programme utilising the Union funds put in place until 2009, and the need for further financial support beyond 2009 in order to continue the progress with the actual dismantling operations in accordance with the 2005 Act of Accession, whilst applying the highest safety standards.

(5) In addition, it is important to use the Kozloduy Nuclear Power Plant's own resources, as this contributes to the availability of the necessary expertise, enhances know-how and skills, and at the same time mitigates the social and economic impact of the early closure by continuously employing the staff from the closed nuclear power plant. The continued financial support is therefore important to maintain the required safety, health and environmental standards.

(6) The Union also recognises the need for financial support in order to progress further with mitigating measures in the energy sector given the extent of the capacity loss by the closure of the nuclear units and its impact on the security of supply in the region.

(7) The Union recognises the need to mitigate the effect of increased environmental damage and emissions due to the replacement capacity coming mostly from increased use of lignite plants.

(8) Consequently, provision should be made for a sum of EUR 300 million from the general budget of the Union to fund the decommissioning of the Kozloduy Nuclear Power Plant over the period from 2010 to 2013.

(9) The appropriations of the general budget of the Union for decommissioning should not lead to distortions of competition in relation to power supply companies on the energy market in the Union. These appropriations should also be used to finance energy efficiency and savings measures in line with the *acquis* and the rules of the functioning of the common European energy market.

[1] Opinion of 20 May 2010 (not yet published in the Official Journal).

(10) The financial assistance should continue to be made available as a Union contribution to the Kozloduy International Decommissioning Support Fund managed by the EBRD.

(11) The tasks of the EBRD include managing the public funds allocated to the programmes for decommissioning those nuclear power units that were subject to accession-linked closure agreements. The EBRD is monitoring the financial management of these programmes so as to optimise the use of public money. In addition, the EBRD carries out the budget tasks entrusted to it by the Commission in line with the requirements of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities [1] (the Financial Regulation).

(12) In order to ensure the highest possible efficiency and to minimise possible environmental consequences, the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant should be carried out with recourse to the best available technical expertise, and with due regard to the nature and technological specifications of the units to be shut down.

(13) The decommissioning of the Kozloduy Nuclear Power Plant will be carried out in line with the legislation on the environment, particularly Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment [2].

(14) Principles of economy, efficiency and effectiveness in respect of the allocated funds should be ensured through evaluation and performance audits of the previously financed programmes.

(15) A financial reference amount, within the meaning of point 38 of the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management [3], should be included in this Regulation for the entire duration of the Kozloduy Programme, without thereby affecting the powers of the budgetary authority as set out in the Treaty on the Functioning of the European Union.

(16) For the adoption of measures necessary for the implementation of this Regulation, the Commission should be assisted by the Committee established by Council Regulation (Euratom) No 549/2007 [4],

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation establishes a programme (hereinafter referred to as the 'Kozloduy Programme') laying down detailed rules for the implementation of the Union's financial contribution to address the further process of the decommissioning of Units 1 to 4 of the Kozloduy Nuclear Power Plant in Bulgaria and the consequences of their early closure, with regard to the environment, the economy and the security of supply in the region.

Article 2

The Union contribution to the Kozloduy programme shall be granted for the purpose of providing financial support for:

— measures connected with the decommissioning of the Kozloduy Nuclear Power Plant,

— measures for environmental upgrading in line with the *acquis* and for modernising conventional production capacity to replace the production capacity of the four reactors at the Plant, and

— other measures which stem from the decision to close and decommission the Plant and which contribute to the necessary restructuring, upgrading of the environment and modernisation of the energy production, transmission and distribution sectors in Bulgaria as well as to enhancing security of supply and energy efficiency in Bulgaria.

Article 3

1. The financial reference amount for the implementation of the Kozloduy Programme for the period from 1 January 2010 to 31 December 2013 shall be EUR 300 million.

2. The annual appropriations shall be authorised by the budgetary authority within the limits of the financial framework.

3. The amount of the appropriations allocated to the Kozloduy Programme may be reviewed in the course of the period from 1 January 2010 to 31 December 2013 to take account of the progress made with the implementation of the Programme and to ensure that the programming and allocation of the resources are based on actual payment needs and absorption capacity.

Article 4

In prolongation of what has been specified in the 2005 Act of Accession, the contribution for certain measures may amount to up to 100 % of the total expenditure. Every effort shall be made to continue the co-financing practice established under the pre-accession assistance and the assistance given over the period 2007-2009 for Bulgaria's decommissioning effort as well as to attract co-financing from other sources, as appropriate.

[1] OJ L 248, 16.9.2002, p. 1.
[2] OJ L 175, 5.7.1985, p. 40.
[3] OJ C 139, 14.6.2006, p. 1.
[4] Council Regulation (Euratom) No 549/2007 of 14 May 2007 on the implementation of Protocol No 9 on Unit 1 and Unit 2 of the Bohunice V1 nuclear power plant in Slovakia to the Act concerning the conditions of accession to the European Union of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ L 131, 23.5.2007, p. 1).

Article 5

1. Financial assistance for measures under the Kozloduy Programme shall be made available as a Union contribution to the Kozloduy International Decommissioning Support Fund, managed by the EBRD, in line with Article 53d of the Financial Regulation.

2. Measures under the Kozloduy Programme shall be adopted in accordance with Article 8(2).

Article 6

1. The Commission may cause an audit of the use made of the assistance to be carried out, either directly by its own staff or by any other qualified outside body of its choice. Such audits may be carried out throughout the duration of the agreement between the Union and the EBRD on making Union funds available to the Kozloduy International Decommissioning Support Fund and for a period of 5 years from the date of payment of the balance. Where appropriate, the audit findings may lead to recovery decisions by the Commission.

2. Commission staff and outside personnel authorised by the Commission shall have appropriate right of access, particularly to the beneficiary's offices and to all the information, including information in electronic format, needed in order to conduct such audits. The audits shall also cover the stage reached in the issuing of permits for decommissioning.

The Court of Auditors and the European Parliament shall enjoy the same rights, especially of access, as the Commission.

Furthermore, in order to protect the financial interests of the Union against fraud and other irregularities, the European Anti-Fraud Office (OLAF) may carry out on-the-spot checks and inspections under the Kozloduy Programme in accordance with Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ([1]).

3. For the Union action financed under this Regulation, the term 'irregularity' in Article 1(2) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests ([2]) shall mean any infringement of a provision of the law of the Union or any breach of a contractual obligation resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Union or budgets managed by it by an unjustified item of expenditure or budgets managed by other international organisations on behalf of the Union or the Community.

4. The agreements between the Union and the EBRD on making Union funds available to the Kozloduy International Decommissioning Support Fund shall provide for appropriate measures to protect the financial interests of the Union against fraud, corruption and other irregularities and to enable the Commission, OLAF and the Court of Auditors to carry out on-the-spot checks.

Article 7

The Commission shall ensure the implementation of this Regulation and shall report at regular intervals to the European Parliament and the Council. It shall carry out a review, as provided for in Article 3(3).

Article 8

1. The Commission shall be assisted by the Committee established by Article 8(1) of Regulation (Euratom) No 549/2007.

2. Where reference is made to this paragraph, the procedure provided for in Article 8(2) of Regulation (Euratom) No 549/2007 shall apply.

Article 9

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

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

Done at Brussels, 13 July 2010.

For the Council
The President
D. REYNDERS

([1]) OJ L 292, 15.11.1996, p. 2.

([2]) OJ L 312, 23.12.1995, p. 1.

DECISIONS

COUNCIL DECISION

of 12 July 2010

authorising enhanced cooperation in the area of the law applicable to divorce and legal separation

(2010/405/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 329(1) thereof,

Having regard to the requests made by the Kingdom of Belgium, the Republic of Bulgaria, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Latvia, the Grand Duchy of Luxembourg, the Republic of Hungary, Malta, the Republic of Austria, the Portuguese Republic, Romania and the Republic of Slovenia,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

(1) The Union has set itself the objective of maintaining and developing an area of freedom, security and justice in which the free movement of persons is ensured. For the progressive establishment of such an area, the Union is to adopt measures relating to judicial cooperation in civil matters with cross-border implications, particularly when necessary for the proper functioning of the internal market.

(2) Pursuant to Article 81 of the Treaty on the Functioning of the European Union, those measures are to include promoting the compatibility of the rules applicable in the Member States concerning conflict of laws, including measures concerning family law with cross-border implications.

(3) On 17 July 2006, the Commission adopted a proposal for a Council Regulation amending Regulation (EC) No 2201/2003 as regards jurisdiction and introducing rules concerning applicable law in matrimonial matters (hereinafter referred to as 'the proposed Regulation').

(4) At its meeting on 5 and 6 June 2008 the Council adopted political guidelines which recorded that there was no unanimity to go ahead with the proposed Regulation and insurmountable difficulties existed, making unanimity impossible at the time and in the foreseeable future. It established that the objectives of the proposed Regulation could not be attained within a reasonable period by applying the relevant provisions of the Treaties.

(5) In these circumstances, Greece, Spain, Italy, Luxembourg, Hungary, Austria, Romania and Slovenia addressed a request to the Commission by letters dated 28 July 2008 indicating that they intended to establish enhanced cooperation between themselves in the area of applicable law in matrimonial matters and that the Commission should submit a proposal to the Council to that end. Bulgaria addressed an identical request to the Commission by letter dated 12 August 2008. France joined the request by a letter dated 12 January 2009, Germany by a letter dated 15 April 2010, Belgium by a letter dated 22 April 2010, Latvia by a letter dated 17 May 2010, Malta by a letter dated 31 May 2010 and Portugal during the Council meeting of 4 June 2010. On 3 March 2010, Greece withdrew its request. In total, fourteen Member States have requested enhanced cooperation.

(6) The enhanced cooperation should provide a clear and comprehensive legal framework in the area of divorce and legal separation in the participating Member States and ensure adequate solutions for citizens in terms of legal certainty, predictability and flexibility and prevent a 'rush to court'.

(7) The conditions laid down in Article 20 of the Treaty on European Union and in Articles 326 and 329 of the Treaty on the Functioning of the European Union are fulfilled.

(8) The area of the enhanced cooperation, namely the law applicable to divorce and legal separation, is identified by Article 81(2)(c) and Article 81(3) of the Treaty on the Functioning of the European Union as one of the areas covered by the Treaties.

(9) The requirement of last resort in Article 20(2) of the Treaty on European Union is fulfilled in that the Council established in June 2008 that the objectives of the proposed Regulation cannot be attained within a reasonable period by the Union as a whole.

(10) Enhanced cooperation in the area of the law applicable to divorce and legal separation aims to develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments, and to ensure the compatibility of the rules applicable in the Member States concerning conflict of laws. Thus, it furthers the objectives of the Union, protects its interests and reinforces its integration process as required by Article 20(1) of the Treaty on European Union.

(11) Enhanced cooperation in the area of the law applicable to divorce and legal separation complies with the Treaties and Union law, and it does not undermine the internal market or economic, social and territorial cohesion. It does not constitute a barrier to or discrimination in trade between Member States and does not distort competition between them.

(12) Enhanced cooperation in the area of the law applicable to divorce and legal separation respects the competences, rights and obligations of those Member States that do not participate in it. The common conflict-of-law rules in the participating Member States do not affect the rules of the non-participating Member States. The courts of the non-participating Member States continue to apply their existing domestic conflict-of-law rules to determine the law applicable to divorce or legal separation.

(13) In particular, enhanced cooperation in the area of the law applicable to divorce and legal separation complies with Union law on judicial cooperation in civil matters, in that enhanced cooperation does not affect any pre-existing *acquis*.

(14) This Decision respects the rights, principles and freedoms recognised in the Charter of Fundamental Rights of the European Union, and in particular Article 21 thereof.

(15) Enhanced cooperation in the area of the law applicable to divorce and legal separation is open at any time to all Member States, in accordance with Article 328 of the Treaty on the Functioning of the European Union,

HAS ADOPTED THIS DECISION:

Article 1

The Kingdom of Belgium, the Republic of Bulgaria, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Latvia, the Grand Duchy of Luxembourg, the Republic of Hungary, Malta, the Republic of Austria, the Portuguese Republic, Romania and the Republic of Slovenia are hereby authorised to establish enhanced cooperation between themselves in the area of the law applicable to divorce and legal separation by applying the relevant provisions of the Treaties.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 12 July 2010.

For the Council
The President
S. LARUELLE

COUNCIL DECISION

of 12 July 2010

concerning the allocation of the funds decommitted from projects under the ninth and previous European Development Funds (EDF) for the purpose of addressing the needs of the most vulnerable population in Sudan

(2010/406/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 217 thereof,

Having regard to the proposal from the European Commission,

Having regard to the Internal Agreement between the Representatives of the Governments of the Member States, meeting within the Council, on the financing of Community aid under the multi-annual financial framework for the period 2008 to 2013 in accordance with the ACP-EC Partnership Agreement and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the EC Treaty applies [1], and in particular Article 1(4) and Article 6 thereof,

Whereas:

(1) The Government of Sudan decided not to ratify the Partnership Agreement between the Members of the African, Caribbean and Pacific group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 [2], as first amended in Luxembourg on 25 June 2005 [3], thereby losing access to the 10th European Development Fund (EDF) National Indicative Programme (NIP) with a total allocation of EUR 294,9 million, which is now kept in the 10th EDF.

(2) The current political situation in Sudan, as well as the humanitarian crisis in Darfur, South Sudan, East Sudan and the Transitional Areas, requires a strong engagement of the European Union, including through the provision of vital assistance to the Sudanese population. The gap left by the non-availability of the 10th EDF will seriously reduce the capacity of the Union to assist the population and to help stabilise the country, which could have consequences for the wider region.

(3) In order to bridge the financing gap which will occur, it is appropriate to use funds decommitted from the ninth and previous EDFs.

(4) The funds should be used to address the needs of the most vulnerable populations in Sudan, in particular in the conflict-affected areas, including Darfur, South Sudan, East Sudan and the Transitional Areas. They will be allocated on the basis of a financing decision to be adopted by the Commission. Provision should also be made to cover the cost of support measures.

(5) These funds should be managed through centralised and joint management and, for the purpose of simplification, according to the implementation arrangements for the 10th EDF,

HAS ADOPTED THIS DECISION:

Article 1

1. An amount of EUR 150 million from the funds decommitted from projects under the ninth and previous EDFs shall be allocated for the purpose of addressing the needs of the most vulnerable population in Sudan; 2 % of this amount shall be allocated for support expenditure by the Commission.

2. These funds shall be managed through centralised and joint management in accordance with the rules and procedures applicable for the 10th EDF.

Article 2

This Decision shall enter into force on the day following its adoption.

Done at Brussels, 12 July 2010.

For the Council
The President
S. LARUELLE

[1] OJ L 247, 9.9.2006, p. 32.
[2] OJ L 317, 15.12.2000, p. 3.
[3] OJ L 209, 11.8.2005, p. 27.

COUNCIL DECISION

of 13 July 2010

on the existence of an excessive deficit in Denmark

(2010/407/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(6) in conjunction with Article 126(13) thereof,

Having regard to the proposal from the European Commission,

Having regard to the observations made by Denmark,

Whereas:

(1) According to Article 126(1) of the Treaty Member States shall avoid excessive government deficits.

(2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.

(3) The excessive deficit procedure (EDP) under Article 126 of the Treaty, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure [1] (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. The Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009 [2] lays down detailed rules and definitions for the application of the provision of the said Protocol.

(4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

(5) Article 126(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having taken into account its report in accordance with Article 126(3) and having regard to the opinion of the Economic and Financial Committee in accordance with Article 126(4), the Commission concluded that an excessive deficit exists in Denmark. The Commission therefore addressed such an opinion to the Council in respect of Denmark on 15 June 2010 [3].

(6) Article 126(6) of the Treaty states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Denmark, this overall assessment leads to the following conclusions.

(7) According to data notified by the Danish authorities in April 2010, the general government deficit in Denmark is planned to reach 5,4 % of GDP in 2010, thus exceeding the 3 % of GDP reference value. The planned deficit is not close to the 3 % of GDP reference value, but the planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. In particular, it resulted from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. According to the Commission services' 2010 spring forecast, real GDP in Denmark contracted by 4,9 % in 2009 and is projected to recover at 1,6 % in 2010. The deficit in 2010 is a consequence of both the economic downturn and the stimulus measures taken in line with the EERP by the Danish authorities. However, the planned excess over the reference value cannot be considered temporary. According to the Commission services' spring 2010 forecast, the deficit would decline to 4,9 % of GDP in 2011 on a no-policy-change [4] basis. The deficit criterion in the Treaty is not fulfilled.

[1] OJ L 209, 2.8.1997, p. 6.
[2] OJ L 145, 10.6.2009, p. 1.
[3] All EDP-related documents for Denmark can be found at the following website: http://ec.europa.eu/economy_finance/sgp/deficit/countries/index_en.htm
[4] The no-policy-change forecast takes into account the (partial) withdrawal of measures of extraordinary nature linked to the crisis.

(8) According to data notified by the Danish authorities in April 2010, the general government gross debt remains below the 60 % of GDP reference value, at 45,1 % of GDP in 2010. The Commission services' spring 2010 forecast projects the debt ratio to be at 46 % of GDP in 2010 and to increase to 49,5 % of GDP in 2011, still to remain below the 60 % of GDP reference value. The debt criterion in the Treaty is fulfilled.

(9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 126(6) if the double condition – that the deficit remains close to the reference value and that its excess over the reference value is temporary – is fully met. In the case of Denmark, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Denmark.

Article 2

This Decision is addressed to the Kingdom of Denmark.

Done at Brussels, 13 July 2010.

For the Council
The President
D. REYNDERS

COUNCIL DECISION

of 13 July 2010

on the existence of an excessive deficit in Finland

(2010/408/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the proposal from the European Commission,

Having regard to the observations made by Finland,

Whereas:

(1) According to Article 126(1) of the Treaty Member States shall avoid excessive government deficits.

(2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.

(3) The excessive deficit procedure (EDP) under Article 126 of the Treaty, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure [1] (which is part of the Stability and Growth Pact), provides for a decision on the existence of an excessive deficit. The Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009 [2] lays down detailed rules and definitions for the application of the provision of the said Protocol.

(4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

(5) Article 126(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur. Having taken into account its report in accordance with Article 126(3) and having regard to the opinion of the Economic and Financial Committee in accordance with Article 126(4), the Commission concluded that an excessive deficit exists in Finland. The Commission therefore addressed such an opinion to the Council in respect of Finland on 15 June 2010 [3].

(6) Article 126(6) of the Treaty states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Finland, this overall assessment leads to the following conclusions.

(7) According to the data notified by the Finnish authorities in April 2010, the general government deficit in Finland is planned to reach 4,1 % of GDP in 2010, thus exceeding the 3 % of GDP reference value. While the third supplementary budget presented by the Ministry of Finance to the Parliament on 14 May 2010 suggests that tax revenues in 2010 could turn out higher than planned, this has not officially altered the deficit target. The planned deficit is not close to the 3 % of GDP reference value, but the planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. In particular, it does result from a severe economic downturn in the sense of the Treaty and the Stability and Growth Pact. Furthermore, the planned excess over the reference value can be considered temporary. According to the Commission services' spring 2010 forecast, the deficit will fall below the reference value in 2011, supported by the projected economic recovery taking hold. The deficit criterion in the Treaty is not fulfilled.

[1] OJ L 209, 2.8.1997, p. 6.
[2] OJ L 145, 10.6.2009, p. 1.
[3] All EDP-related documents for Finland can be found at the following website: http://ec.europa.eu/economy_finance/sgp/deficit/countries/index_en.htm

(8) According to the data notified by the Finnish authorities in April 2010, the general government gross debt remains below the 60 % of GDP reference value at 49,9 % of GDP in 2010. The Commission services' spring 2010 forecast projects the debt ratio to be at 50,5 % of GDP in 2010 and to increase to 54,9 % of GDP in 2011, still to remain below the 60 % of GDP reference value. The debt criterion in the Treaty is fulfilled.

(9) According to Article 2(4) of Council Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council decision on the existence of an excessive deficit in accordance with Article 126(6) if the double condition – that the deficit remains close to the reference value and that its excess over the reference value is temporary – is fully met. In the case of Finland, this double condition is not met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Finland.

Article 2

This Decision is addressed to the Republic of Finland.

Done at Brussels, 13 July 2010.

For the Council
The President
D. REYNDERS

COMMISSION DECISION

of 19 July 2010

on Common Safety Targets as referred to in Article 7 of Directive 2004/49/EC of the European Parliament and of the Council

(notified under document C(2010) 4889)

(Text with EEA relevance)

(2010/409/EU)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) [1], and in particular Article 7 thereof,

Having regard to the recommendation of the European Railway Agency on the first set of Common Safety Targets, delivered to the Commission on 18 September 2009,

Whereas:

(1) According to Directive 2004/49/EC, Common Safety Targets (CSTs) should be gradually introduced to ensure that a high level of safety is maintained and, when and where necessary and reasonably practicable, improved. They should provide tools for assessment of the safety level and the performance of the operators at EU level as well as in Member States.

(2) Article 3(e) of Directive 2004/49/EC defines CSTs as the safety levels that must at least be reached by different parts of the railway system (such as the conventional railway system, the high speed railway system, long railway tunnels or lines solely used for freight transport) and by the system as a whole, expressed in risk acceptance criteria. However, Recital 7 of Commission Decision 2009/460/EC of 5 June 2009 on the adoption of a common safety method for assessment of achievement of safety targets, as referred to in Article 6 of Directive 2004/49/EC of the European Parliament and of the Council [2] states that, due to the lack of harmonised and reliable data on safety performance of parts of rail systems which are in operation in the different Member States, the development of the first set of CSTs for parts of the rail system (such as the conventional rail system, the high speed rail system, long railway tunnels or lines solely used for freight transport) is not feasible.

(3) Article 7(3) of Directive 2004/49/EC requires that the first set of CSTs should be based on an examination of existing targets and safety performance of railway systems in the Member States. According to the methodology established by Decision 2009/460/EC, the first set of CSTs is to be based on National Reference Values (NRVs). It has been calculated using series of data based on Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics [3] and provided by Eurostat on 6 March 2009 for the period 2004-2007. For each railway risk category the maximum tolerable level of risk for a Member State should be (1) the NRV if the NRV is equal to, or lower than, the corresponding CST or (2) the CST if the NRV is higher than the corresponding CST, in accordance with section 3 of the annex to Decision 2009/460/EC.

(4) The first set of CSTs should be considered as a first step of a process. With this first set, a harmonised and transparent framework is put in place for an efficient monitoring and safeguarding the European safety performance of railways.

(5) The measures provided for in this Decision are in accordance with the opinion of the Committee referred to in Article 27(1) of the Directive 2004/49/EC,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter and definitions

This Decision establishes the values of the first set of Common Safety Targets based on National Reference Values, in compliance with Article 7(3) of Directive 2004/49/EC and following the methodology laid down by the Decision 2009/460/EC.

[1] OJ L 164, 30.4.2004, p. 44.
[2] OJ L 150, 13.6.2009, p. 11.
[3] OJ L 14, 21.1.2003, p. 1.

For the purposes of this Decision, definitions of the Directive 2004/49/EC, Regulation (EC) No 91/2003 and Decision 2009/460/EC shall apply.

Article 2

National Reference Values

The National Reference Values for the different Member States and for the different risk categories are laid down in chapter 1, sections from 1.1 to 1.6 of the Annex.

Article 3

Common Safety Targets

The first set of Common Safety Targets for the different risk categories are laid down in chapter 2 of the Annex.

Article 4

Addressees

This Decision is addressed to the Member States.

Done at Brussels, 19 July 2010.

For the Commission

Siim KALLAS

Vice-President

ANNEX

1. **National Reference Values (NRVs)**

1.1. *NRVs for risk to passengers (NRV 1.1 and NRV 1.2)*

Member State	NRV 1.1 ($\times 10^{-9}$) (*)	NRV 1.2 ($\times 10^{-9}$) (**)
Belgium (BE)	53,60	0,456
Bulgaria (BG)	250,00	2,01
Czech Republic (CZ)	40,60	0,688
Denmark (DK)	7,55	0,0903
Germany (DE)	10,90	0,11
Estonia (EE)	50,20	0,426
Ireland (IE)	6,22	0,0623
Greece (EL)	54,00	0,485
Spain (ES)	40,90	0,391
France (FR)	21,90	0,109
Italy (IT)	55,00	0,363
Latvia (LV)	50,20	0,426
Lithuania (LT)	88,60	0,683
Luxembourg (LU)	28,80	0,225
Hungary (HU)	250,00	2,01
Netherlands (NL)	11,70	0,0941
Austria (AT)	29,00	0,335
Poland (PL)	127,00	0,939
Portugal (PT)	33,90	0,267
Romania (RO)	250,00	2,01
Slovenia (SI)	11,80	0,175
Slovakia (SK)	17,70	0,275
Finland (FI)	26,80	0,248
Sweden (SE)	5,70	0,0557
United Kingdom (UK)	6,22	0,0623

(*) NRV1.1 expressed as: Number of passenger fatalities and weighted serious injuries (FWSIs) per year arising from significant accidents/Number of passenger train-km per year. Passenger train-km is intended here as the unit of traffic related to passenger trains only.

(**) NRV1.2 expressed as: Number of passenger FWSIs per year arising from significant accidents/Number of passenger-km per year. FWSIs are intended in (*) and (**) as defined by Article 3(d) of Decision 2009/460/EC.

1.2. *NRVs for risk to employees (NRV 2)*

Member State	NRV 2 ($\times 10^{-9}$) (*)
Belgium (BE)	21,10
Bulgaria (BG)	11,00
Czech Republic (CZ)	17,40
Denmark (DK)	9,10
Germany (DE)	13,30
Estonia (EE)	17,00
Ireland (IE)	8,33
Greece (EL)	77,90
Spain (ES)	8,33
France (FR)	6,68
Italy (IT)	22,50
Latvia (LV)	55,10
Lithuania (LT)	36,90
Luxembourg (LU)	13,70
Hungary (HU)	11,90
Netherlands (NL)	6,69
Austria (AT)	25,40
Poland (PL)	18,60
Portugal (PT)	76,00
Romania (RO)	11,00
Slovenia (SI)	31,00
Slovakia (SK)	1,50
Finland (FI)	8,28
Sweden (SE)	3,76
United Kingdom (UK)	8,33

(*) NRV 2 expressed as: Number of employee FWSIs per year arising from significant accidents/Number of train-km per year. FWSIs are intended here as defined by Article 3(d) of Decision 2009/460/EC.

1.3. *NRVs for risk to level crossing users (NRV 3.1 and NRV 3.2)*

Member State	NRV 3.1 ($\times 10^{-9}$) (*)	NRV 3.2 (**)
Belgium (BE)	143,0	n.a.
Bulgaria (BG)	124,0	n.a.
Czech Republic (CZ)	302,0	n.a.
Denmark (DK)	55,9	n.a.
Germany (DE)	69,9	n.a.
Estonia (EE)	168,0	n.a.
Ireland (IE)	31,4	n.a.
Greece (EL)	743,0	n.a.
Spain (ES)	131,0	n.a.
France (FR)	78,9	n.a.
Italy (IT)	50,7	n.a.
Latvia (LV)	240,0	n.a.
Lithuania (LT)	530,0	n.a.
Luxembourg (LU)	97,3	n.a.
Hungary (HU)	244,0	n.a.
Netherlands (NL)	128,0	n.a.
Austria (AT)	181,0	n.a.
Poland (PL)	264,0	n.a.
Portugal (PT)	508,0	n.a.
Romania (RO)	124,0	n.a.
Slovenia (SI)	365,0	n.a.
Slovakia (SK)	249,0	n.a.
Finland (FI)	151,0	n.a.
Sweden (SE)	74,2	n.a.
United Kingdom (UK)	23,0	n.a.

(*) NRV3.1 expressed as: Number of level-crossing user FWSIs per year arising from significant accidents/Number of train-km per year.

(**) NRV3.2 expressed as: Number of level-crossing user FWSIs per year arising from significant accidents/[(Number of Train-km per year × Number of level crossings)/Track-km]. Data on number of level crossings and track-km didn't have an appropriate reliability at the time of data extraction (most of the MSs reported CSI data on line-km instead of track-km).

FWSIs are intended in (*) and (**) as defined by Article 3(d) of Decision 2009/460/EC.

1.4. *NRVs for risk to persons classified as 'others' (NRV 4)*

Member State	NRV 4 ($\times 10^{-9}$) (*)
Belgium (BE)	1,90
Bulgaria (BG)	6,45
Czech Republic (CZ)	5,28
Denmark (DK)	10,30
Germany (DE)	4,41
Estonia (EE)	18,50
Ireland (IE)	6,98
Greece (EL)	6,45
Spain (ES)	4,93
France (FR)	6,98
Italy (IT)	6,98
Latvia (LV)	18,50
Lithuania (LT)	18,50
Luxembourg (LU)	4,43
Hungary (HU)	6,45
Netherlands (NL)	3,16
Austria (AT)	14,20
Poland (PL)	18,50
Portugal (PT)	4,93
Romania (RO)	6,45
Slovenia (SI)	7,14
Slovakia (SK)	5,28
Finland (FI)	10,30
Sweden (SE)	10,30
United Kingdom (UK)	6,98

(*) NRV 4 expressed as: Yearly number of FWSIs to persons belonging to the category 'others' arising from significant accidents/ Number of train-km per year. FWSIs are intended here as defined by Article 3(d) of Decision 2009/460/EC.

1.5. *NRVs for risk to unauthorised persons on railway premises (NRV 5)*

Member State	NRV 5 ($\times 10^{-9}$) (*)
Belgium (BE)	75,5
Bulgaria (BG)	190,0
Czech Republic (CZ)	657,0
Denmark (DK)	134,0
Germany (DE)	106,0
Estonia (EE)	1 850,0
Ireland (IE)	94,7
Greece (EL)	906,0
Spain (ES)	184,0
France (FR)	69,7
Italy (IT)	122,0
Latvia (LV)	1 520,0
Lithuania (LT)	2 030,0
Luxembourg (LU)	83,7
Hungary (HU)	534,0
Netherlands (NL)	28,2
Austria (AT)	117,0
Poland (PL)	1 110,0
Portugal (PT)	948,0
Romania (RO)	190,0
Slovenia (SI)	273,0
Slovakia (SK)	477,0
Finland (FI)	294,0
Sweden (SE)	98,1
United Kingdom (UK)	94,7

(*) NRV 5 expressed as: Number of FWSIs to unauthorised persons on railway premises per year arising from significant accidents/ Number of train-km per year. FWSIs are intended here as defined by Article 3(d) of Decision 2009/460/EC.

1.6. *NRVs for societal risk (NRV 6)*

Member State	NRV 6 ($\times 10^{-9}$) (*)
Belgium (BE)	273,0
Bulgaria (BG)	364,0
Czech Republic (CZ)	1 010,0
Denmark (DK)	218,0
Germany (DE)	206,0
Estonia (EE)	2 320,0
Ireland (IE)	131,0
Greece (EL)	1 820,0
Spain (ES)	351,0
France (FR)	179,0
Italy (IT)	235,0
Latvia (LV)	1 850,0
Lithuania (LT)	2 510,0
Luxembourg (LU)	219,0
Hungary (HU)	1 000,0
Netherlands (NL)	166,0
Austria (AT)	354,0
Poland (PL)	1 530,0
Portugal (PT)	1 510,0
Romania (RO)	364,0
Slovenia (SI)	697,0
Slovakia (SK)	740,0
Finland (FI)	461,0
Sweden (SE)	188,0
United Kingdom (UK)	131,0

(*) NRV 6 expressed as: Total number of FWSIs per year arising from significant accidents/Number of train-km per year. Total number of FWSIs to be intended here as the sum of all the FWSIs considered for calculating all the other NRVs.

2. **Values attributed to the first set of CSTs**

Risk Category	CST Value ($\times 10^{-9}$)		Measurement units
Risk to passengers	CST 1.1	250,0	Number of passenger FWSIs per year arising from significant accidents/Number of passenger train-km per year
	CST 1.2	2,01	Number of passenger FWSIs per year arising from significant accidents/Number of passenger-km per year
Risk to employees	CST 2	77,9	Number of employee FWSIs per year arising from significant accidents/Number of train-km per year
Risk to level crossing users	CST 3.1	743,0	Number of level-crossing user FWSIs per year arising from significant accidents/Number of train-km per year
	CST 3.2	n.a. (*)	Number of level-crossing user FWSIs per year arising from significant accidents/[(Number of Train-km per year × Number of level crossings)/Track-km]
Risk to 'others'	CST 4	18,5	Yearly number of FWSIs to persons belonging to the category 'others' arising from significant accidents/Number of train-km per year
Risk to unauthorised persons on railway premises	CST 5	2 030,0	Number of FWSIs to unauthorised persons on railway premises per year arising from significant accidents/Number of train-km per year
Risk to the whole society	CST 6	2 510,0	Total number of FWSIs per year arising from significant accidents/Number of train-km per year

(*) The data on number of level crossings and track-km, which are necessary to calculate this CST, didn't have an appropriate reliability at the time of data extraction (e.g. most of the Member States reported line-km instead of track-km, etc.).

CORRIGENDA

Corrigendum to Decision No 388/2010/EU of the European Parliament and of the Council of 7 July 2010 providing macrofinancial assistance to Ukraine

(Official Journal of the European Union L 179 of 14 July 2010)

On the cover and on page 1, the Decision number in the title:

for: 'Decision No 388/2010/EU of the European Parliament and of the Council …',

read: 'Decision No 646/2010/EU of the European Parliament and of the Council …'.

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