Council of the
European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL IMPLEMENTING DECISION on imposing a fine on Portugal for failure to take effective action to address an excessive deficit

COUNCIL IMPLEMENTING DECISION (EU) 2016/...

of

on imposing a fine on Portugal
for failure to take effective action
to address an excessive deficit

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area[1], and in particular Article 6 thereof,

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[1] OJ L 306, 23.11.2011, p. 1.

Whereas:

(1) The Council, by decision adopted on 12 July 2016, under Article 126(8) of the Treaty, established that no effective action has been taken by Portugal to correct the excessive deficit in response to the Council recommendation of 21 June 2013 under Article 126(7) of the Treaty.

(2) Following the Council's decision of 12 July 2016 that Portugal has not taken effective action to correct the excessive deficit, the Commission should recommend that the Council impose a fine.

(3) The fine to be imposed on Portugal should in principle amount to 0,2 % of its GDP in the preceding year but its amount may be reduced or cancelled on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned.

(4) The GDP of Portugal in 2015 was EUR 179,37 billion and 0,2 % of that GDP corresponds to EUR 358 738 200.

(5) In accordance with point 3 of Article 2 of Regulation (EU) No 1173/2011, 'exceptional economic circumstances' means circumstances where an excess of a government deficit over the reference value is considered exceptional within the meaning of the second indent of point (a) of Article 126(2) of the Treaty, as specified in Council Regulation (EC) No 1467/97[1]. According to the latter Regulation, such an excess is exceptional when it results (i) from an unusual event outside the control of the Member State concerned and with a major impact on the financial position of general government or (ii) from a severe economic downturn, meaning a negative annual GDP volume growth rate or an accumulated loss of output during a protracted period of very low annual GDP volume growth relative to its potential.

(6) An evaluation of the application of the above-mentioned conditions to Portugal yields the following conclusions:

– Even though Portugal's annual GDP growth has contracted more rapidly than expected in 2011 and 2012, the economy has been on a mild recovery path since spring 2013. Unemployment also grew considerably until 2013 but returned to a downward path in 2014, as the Portuguese economy eventually began to recover. GDP has been growing largely above the growth of potential output since 2014 and this situation is expected to continue in 2016. According to the Commission 2016 spring forecast, GDP is projected to continue growing at 1,5 % during 2016, further increasing to 1,7 % in 2017. Consequently, there has not been a severe economic downturn over the period covered by the Council Recommendation of 21 June 2013 (i.e. 2013-2015).

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1 Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 209, 2.8.1997, p. 6).

– Moreover, no unusual event outside the control of the government, with a major impact on public finances over 2013-2015, took place.

(7) Therefore, exceptional economic circumstances that would warrant a reduction of the amount of the fine do not exist.

(8) On 18 July 2016, Portugal submitted a reasoned request to the Commission to recommend that the Council set the amount of the fine to zero. In support of its request, Portugal gave the following reasons:

Portugal recalls the substantial fiscal consolidation effort and the structural reforms implemented during the recent economic adjustment programme. It also reaffirms the strong commitment to correct the excessive deficit in 2016, including the commitment to adopt measures when necessary to correct budgetary deviations, and to implement a fiscal adjustment in 2017 in line with the fiscal country specific recommendation adopted by the Council on 12 July 2016. Portugal considers that the application of sanctions would be detrimental to the achievement of the budgetary targets correcting the excessive deficit this year. It also points to economic policy commitments in particular as regards the stabilisation of the financial system and the measures presented in the 2016 National Reform Programme. Finally, Portugal considers any sanction inappropriate in the current European and international environment, in particular in view of the high uncertainties arising from the outcome of the referendum in the United Kingdom on membership of the Union.

(9) An assessment of the abovementioned arguments leads to the considerations below.

(10) While Portugal did not take effective action to address the excessive deficit in compliance with the Council's recommendation of 21 June 2013, the overall fiscal adjustment from 2010 to 2014 was indeed very sizeable. The reduction of the headline deficit net of one-offs by more than 5 % of GDP was driven by the improvement of the structural balance by more than 6 %. Nonetheless, this momentum stalled after the conclusion of the economic programme as highlighted in the Council decision of 12 July 2016. The fiscal adjustment has been accompanied by a comprehensive set of structural reforms under the adjustment programme that has been successfully completed on June 2014, setting the ground for a sounder economic recovery. Important challenges remain, as the still high private and public debt levels are a burden for the economy, and the still high unemployment hampers economic adjustment.

(11) The commitment by the Portuguese authorities to correct the excessive deficit in 2016 and respect the fiscal country-specific recommendation in 2017 is an important sign of the intention of the Government to comply with the Stability and Growth Pact. For 2016, the government reiterates its commitment given in the Eurogroup of 11 February 2016 to adopt, when necessary, fiscal measures to correct any potential budget execution deviations. Also, the Government commits itself to maintaining the freezing of certain appropriations amounting to 0,2 % of GDP as highlighted in the Stability Programme. The annex to the reasoned request of 18 July 2016 provides additional information on the way these appropriations can be used, making more credible the commitment not to spend them as long as the freeze is needed. First, it indicates that the appropriations have been earmarked for public institutions whose funding has already increased compared to 2015; hence they may eventually not request more funding. Second, to access these appropriations, any public service must present spending authorisations that require the explicit approval of the Minister of Finance. Finally, these appropriations are also on top of already budgeted appropriations and of reserves that are also subject to approval.

(12) As regards the durable correction of the excessive deficit and, in particular, the budget for 2017, the reasoned request of 18 July 2016 refers mainly to the forthcoming Draft Budgetary Plan to be submitted in October 2016 and commits to compliance with the fiscal country-specific recommendation, which requires a structural adjustment of at least 0,6 % of GDP. This is an improvement compared to the structural adjustment of only 0,35 % of GDP laid out in the Stability Programme for 2017 while the specific adjustment measures are still to be defined.

(13) As regards the alleged detrimental effect of sanctions to the correction of the excessive deficit in 2016, the fine is limited by Article 6(1) of Regulation (EU) No 1173/2011 to 0,2 % of GDP, an amount small enough to be compatible with the correction of the excessive deficit. Moreover, any potential fine would not impact the variation of the structural balance.

(14) The commitment to proceed with structural reforms in key economic policy areas and with measures to stabilise the banking system is welcome as indeed they are also part of the relevant country-specific recommendations addressed to Portugal. With respect to other structural reforms planned for 2016 and onwards, like those intended to improve the business environment or address the undercapitalisation of firms, the measures indicated do not depart substantially from what was already presented in the 2016 National Reform Programme. While in principle these reforms are sound, they are subject to implementation risks. Finally, the annex to the reasoned request of 18 July 2016 refers explicitly to the need to define a programme to reduce non-performing loans.

(15) Regarding the appropriateness of the decision in the current European and international environment, the Council is fully aware of increased uncertainties in the current context, in particular in view of the outcome of the referendum in the United Kingdom on membership of the Union.

(16) In view of Portugal's reasoned request of 18 July 2016 and having regard of the points given above, in particular the fiscal adjustment undergone during the economic adjustment programme which was accompanied by a comprehensive set of structural reforms; the commitments (i) to adopt, when necessary, fiscal measures to correct any potential budget execution deviations in 2016, (ii) to implement an additional structural adjustment of 0,25 % of GDP in 2017 compared with the adjustment of 0,35 % of GDP laid out in the April 2016 Stability Programme, and (iii) to implement structural reforms in key areas in view of existing challenges including measures to stabilise the banking system, the reasons put forward by Portugal are considered to warrant a cancellation of the fine of 0,2 % of GDP,

HAS ADOPTED THIS DECISION:

Article 1

The fine of 0,2 % of GDP to be imposed on Portugal for failure to take effective action in response to the Council recommendation of 21 June 2013 is cancelled.

Article 2

This Decision is addressed to the Portuguese Republic.

Done at Brussels,

For the Council
The President