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Proposal for a

COUNCIL REGULATION

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal forms part of a package and aims to amend Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure[1] (the corrective arm of the Stability and Growth Pact). It is accompanied by a proposal to replace Council Regulation No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies[2] (the preventive arm of the Stability and Growth Pact), as well as by a proposal to amend Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States[3]. The package therefore aims at reforming the EU fiscal framework.

In 2011, to take into account the lessons of the global financial crisis and the euro area sovereign debt crisis, and as part of the package known as the "Six-pack", Regulation (EC) No 1466/97 was amended by Regulation (EU) No 1175/2011[4], Regulation (EC) No 1467/97 was amended by Regulation (EU) No 1177/2011[5], and Directive 2011/85/EU was adopted.

Article 17a of Regulation No 1467/97 contains a review clause whereby every 5 years the Commission is required to publish a report on the application of the Regulation, to evaluate: (i) the effectiveness of the Regulation; (ii) the progress in ensuring closer coordination of economic policies and sustained convergence of economic performances of the Member States in accordance with the TFEU, accompanied, where appropriate, by a proposal for amendments to the Regulation. The Commission carried out a review of the Regulation as part of the review of the EU economic governance framework launched in February 2020[6].

The review of the EU economic governance framework was based on an extensive consultation of a wide range of stakeholders (EU institutions, citizens, national governments and parliaments, social partners, non-governmental institutions and academia). It revealed a number of strengths, but also a series of shortcomings of the framework, in particular an increased complexity, the need to be more effective in reducing debt where it is high and build buffers for future shocks, and the need to update a number of instruments and procedures so as to integrate the lessons learned from the policy responses to recent economic shocks, including the interaction between reforms and investment under the Recovery and Resilience Facility. The proposed package including this proposal aims to address these shortcomings and integrate those lessons.

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1 OJ L 209, 2.8.1997, p. 6.

2 OJ L 209, 2.8.1997, p. 1.

3 OJ L 306, 23.11.2011, p. 41.

4 Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 306, 23.11.2011, p. 12).

5 Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 306, 23.11.2011, p. 33).

6 Communication COM(2020) 55 final of 5 February 2020 from the Commission 'Economic governance review, Report on the application of Regulations (EU) No 1173/2011, 1174/2011, 1175/2011, 1176/2011, 1177/2011, 472/2013 and 473/2013 and on the suitability of Council Directive 2011/85/EU'.

In its Communication of 9 November 2022 the Commission put forward its orientations for a reform of the EU economic governance framework[7] aimed at ensuring debt sustainability and promoting sustainable and inclusive growth in all Member States. The orientations envisaged a stronger national ownership, a simplified framework and a move towards a greater medium-term focus, combined with stronger and more coherent enforcement. These orientations also reflected observations that emerged from the public consultation launched in October 2021, which invited other EU institutions and all key stakeholders to engage on the topic[8].

Based on the findings of the economic governance review and of the public consultation launched in October 2021, and on the basis of the orientations put forward in the Communication of 9 November 2022, the package including this legislative proposal aims at making the EU governance framework simpler, more transparent and effective, with greater national ownership and better enforcement, while allowing for reform and investment and reducing high public debt ratios in a realistic, gradual and sustained manner. In this way, in the context of the European Semester, the reformed framework should help build the green, digital and resilient economy of the future, while ensuring the sustainability of public finances in all Member States. Stronger ex-post enforcement would be the necessary counterpart of a risk-based surveillance framework that provides more leeway to Member States to set their adjustment paths.

The reform proposals are thus shaped by the higher and more diverse public debt levels, the need to sustain high levels of investment for a fair twin transition (green and digital), the need to ensure energy security, open strategic autonomy, as well as social and economic resilience, and the need for a strategic compass for security and defence.

In particular, as the current debt reduction benchmark provided in Article 2(1) of Regulation No 1467/97 for Member States with a debt ratio exceeding the reference value of 60 % of gross domestic product (GDP) (the so-called "1/20th rule") would likely imply, in the current circumstances of high deficit and debt ratios post-COVID, a too demanding frontloaded fiscal effort that would have a very negative impact on growth and thereby on debt sustainability itself, it is proposed to move to a more risk-based surveillance framework that puts debt sustainability at its core and differentiates more between Member States by taking into account their public debt challenges, while adhering to a transparent and common EU framework consistent with the 3% of GDP and 60% of GDP reference values of the Protocol No 12 on the excessive deficit procedure annexed to the Treaties.

The rules for the opening and closing of an excessive deficit procedure (EDP) for breaches of the 3% of GDP deficit reference value (the so-called 'deficit-based EDP') would remain unchanged, with some adjustments to ensure consistency with the EDP for breaches of the debt criterion, to recognise the role of independent fiscal institutions and to clarify cases of severe economic downturn in the Union or the euro area as a whole. It is a well-established element of EU fiscal surveillance that has been effective in influencing fiscal behaviour and is well understood by policy makers and the general public, thanks to its simplicity.

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7 Communication COM(2022)583 final of 9 November 2022 from the Commission 'on orientations for a reform of the EU economic governance framework'.

8 Commission Staff Working Document SWD(2022) 104 final of 28 March 2022 'Online public consultation on the review of the EU economic governance framework - Summary of responses - Final Report'.

The EDP for breaches of the debt criterion (the so-called 'debt-based EDP') would be strengthened for both activation and abrogation. It would focus on departures by Member States with debt above 60% of GDP from the fiscal path that the Member State has committed itself to and has been endorsed by the Council under the proposed Regulation replacing the preventive arm of the Stability and Growth Pact (SGP).

A substantial public debt challenge established according to the most recent Debt Sustainability Monitor should be considered a key factor leading to the opening of an EDP as a rule. The path under the EDP would in principle be the one originally endorsed by the Council. In case this original path is no longer feasible, due to objective circumstances, the Commission could propose to the Council an amended path under the EDP.

- **Consistency with existing policy provisions in the policy area**

The proposal is part of a broader package of proposals following the Commission's orientations of 9 November 2022 for a reform of the EU economic governance framework. This package also includes a proposal for a Regulation replacing the preventive arm of the SGP and a proposal amending Council Directive 2011/85/EU. The package aims at establishing a reformed framework that relies on medium-term orientation and national ownership aiming at a credible and substantial reduction of high debt levels and at promoting sustainable and inclusive growth. The reformed economic governance framework, thus, retains the fundamental objectives of budgetary discipline and growth promotion of the SGP and its founding provisions in the Treaty on the Functioning of the European Union (TFEU).

At the same time, by aiming at sound and sustainable public finances as well as growth promotion, the reformed framework also meets the main objectives of the Fiscal Compact which forms Title III of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (TSCG)[9]. In addition, other elements of the proposed legislation retain the substance of the Fiscal Compact. With a medium-term orientation anchored on country-specific debt challenges, the proposal for a Regulation replacing the preventive arm of the SGP reflects in part the Fiscal Compact's requirement of convergence to medium-term positions to be proposed taking into account country-specific sustainability risks (Article 3(1), point b of the TSCG). While emphasising the structural balance, the Fiscal Compact also requires an analysis of expenditure net of discretionary revenue measures for the overall assessment of compliance (Article 3(1), point b, of the TSCG), and this analysis is upheld in the proposal for a Regulation replacing the preventive arm of the SGP. The Fiscal Compact allows for temporary deviations from the medium-term objective or adjustment path towards it only in exceptional circumstances (Article 3(1), point c, of the TSCG), as envisaged in the proposal for a Regulation replacing the preventive arm of the SGP. The

[9] With the aim of strengthening budgetary discipline throughout the economic cycle, on 2 March 2012, 25 Member States ratified the inter-governmental TSCG. In its first paragraph, Article 2 of the TSCG recalls that it '*shall be applied and interpreted by the Contracting Parties in conformity with the Treaties on which the EU is founded, in particular Article 4(3) TEU, and with European law, including procedural law whenever the adoption of secondary legislation is required'*. In its second paragraph, Article 2 of the TSCG recalls that it '*shall apply insofar as it is compatible with the Treaties on which the EU is founded and with EU law. It shall not encroach upon the competence of the Union to act in the area of the economic union*'. Title III of the TSCG, the "Fiscal Compact", is binding on the Member States whose currency is the euro and, on a voluntary basis, on other Member States (TSCG, art. 1(2) and 14(5)). Article 16 of the TSCG provides that '*within five years at most, of the date of entry into force of this Treaty, on the basis of an assessment of the experience with its implementation, the necessary steps shall be taken, in accordance with the TEU and the TFEU, with the aim of incorporating the substance of this Treaty into the legal framework of the EU*'

Fiscal Compact stipulates that, in case of significant observed deviations from the medium-term objective or the adjustment path towards it, measures have to be implemented to correct the deviations over a defined period of time (Article 3(1), point e, of the TSCG). In the same vein, the reformed framework requires corrections of deviations from the net expenditure path set by the Council. Moreover, when deviations result in a deficit in excess of 3% of GDP, the Member State could be placed under the excessive deficit procedure. For a Member State with debt above 60% of GDP, the debt-based EDP would be strengthened: it would focus on departures from the net expenditure path, replacing the "1/20th rule", which imposed a too demanding fiscal effort for some Member States. The Fiscal Compact assigns a monitoring role of the compliances with its rules to national independent fiscal institutions, and the provisions on the role and independence of those monitoring institutions, which had to be detailed in common principles proposed by the Commission[10] in accordance with Article 3(2) of the TSCG, are now fully integrated in the proposal amending Directive 2011/85. The Fiscal Compact provides that the Commission and the Council play a role in the enforcement process (Article 5 of the TSCG), as stated in the present proposal for a Council Regulation amending Council Regulation (EC) No 1467/97.

Commonalities between the Fiscal Compact and the reformed economic governance framework also stem from the implementation of the Fiscal Compact into the national legal orders. Most Contracting Parties have transposed the TSCG provisions into national laws inserting a direct link with corresponding EU laws[11]. This applies to the medium-term objective and convergence path as well as the assessment of a significant deviation or provisions requiring to follow the recommendations adopted by the Council (all drawn from Regulation No 1466/97).

Considering these commonalities, the proposed reformed economic governance framework can be considered as incorporating the substance of the fiscal provisions of the TSCG into the legal framework of the EU, as per Article 16 of the TSCG.

- **Consistency with other Union policies**

The proposal is part of a package that aims at moving to a risk-based common EU surveillance framework that differentiates between Member States by taking into account their public debt challenges. It revises the EU fiscal framework by integrating fiscal, reform and investment objectives into a single, holistic medium-term fiscal-structural plan which will be the cornerstone of the new framework. The plan will include all reforms and investment commitments taken by Member States to address the challenges identified in the context of the European Semester, including the country-specific recommendations. A set of these reform and investment commitments would allow for an extension of the fiscal adjustment horizon provided that they meet certain criteria such as being growth enhancing (examples of such reforms include addressing the challenges of population ageing, improving the functioning of the labour market and increasing labour supply, encouraging innovation and strengthening skills, improving the business environment[12], removing barriers to the Single

[10] See Communication COM(2012) 342 final of 20 June 2012 from the Commission 'Common principles on national fiscal correction mechanisms'.

[11] Report C(2017) 1201 final of 22 February 2017 from the Commission presented under Article 8 of the TSCG.

[12] Good governance and respect for the rule of law, in particular independent, quality and efficient justice systems, functioning and effective tax systems, effective insolvency and robust anti-corruption and anti-fraud frameworks are key determinants in this context.

Market and addressing strategic dependencies), ensuring fiscal sustainability and being consistent with common priorities of the Union.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis for this instrument is the second subparagraph of Article 126(14) TFEU, as for the amended regulation.

• Subsidiarity

The corrective arm of the SGP is meant to avoid gross errors in budgetary policies, which might put at risk the sustainability of public finances and potentially endanger EMU. This translates into the Treaty obligation for Member States to avoid excessive government deficits, which are defined against a numerical threshold for deficit (3% of GDP) and debt (60% of GDP or sufficiently declining toward it). The excessive deficit procedure that implements the ban on excessive deficits provides for a sequence of steps, which, for euro-area countries, include the eventual imposition of financial sanctions. The excessive deficit procedure has been regularly applied in line with the relevant provisions, thereby contributing to anchoring expectations of its orderly resolution.

The proposal is in conformity with the subsidiarity principle set out in Article 5 of the Treaty on the European Union. Its objective, namely uniform compliance with budgetary discipline as required by the TFEU, cannot be sufficiently achieved by the Member States and can be better achieved at Union level.

• Proportionality

The proposal respects the proportionality principle set out in Article 5 of the Treaty on the European Union. It does not go beyond what is necessary to achieve the objectives sought by the instrument.

• Choice of the instrument

The proposals aims to amend a Council Regulation, and therefore takes the form of a proposal for a Council Regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• Ex-post evaluations/fitness checks of existing legislation

Backward looking assessments of the EU economic governance framework were published in February 2020[13] and October 2021[14].

[13] Communication COM(2020) 55 final of 5 February 2020 from the Commission 'Economic governance review, Report on the application of Regulations (EU) No 1173/2011, 1174/2011, 1175/2011, 1176/2011, 1177/2011, 472/2013 and 473/2013 and on the suitability of Council Directive 2011/85/EU'.

[14] Communication COM(2021) 662 final of 19 October 2021 from the Commission 'The EU economy after COVID-19: implications for economic governance'.

- **Stakeholder consultations**

Extensive consultations with stakeholders have taken place. They consisted in:

- Online consultation to gather the views of stakeholders, civil society and citizens. A summary report of the outcome of this consultation was published in March 2022[15].
- In-depth thematic discussions with Member States took place in the Council (ECOFIN), the Eurogroup, the Economic and Financial Committee and the Economic Policy Committee.

The results have been taken into account in the Communication of 9 November 2022 of the Commission on orientations for a reform of the economic governance framework[16], and in the present proposal.

After the adoption of the Communication of 9 November 2022, further discussions took place with Member States in the Council and with the European Parliament, which have been taken into account in the present proposal:

- The European Parliament adopted its annual reports on the European Semester on 15 March 2023 which also focused on the reform of the EU economic governance framework and the future of the European Semester.
- The Council (ECOFIN) adopted Conclusions on the orientations for a reform of the EU economic governance framework on 14 March 2023, which were endorsed by the European Council of 23-24 March 2023.

- **Impact assessment**

The proposal has been granted a derogation from an impact assessment on the grounds of (i) lack of options as the EU fiscal framework sets the boundaries of the revision and (ii) focus on targeted changes that (iii) do not result in an increase in reporting requirements for Member States and (iv) are informed by evidence-gathering activities undertaken in the recent past (staff working document and Commission Communications drafted between 2020 and 2022).

4. BUDGETARY IMPLICATIONS

If fines are imposed on Member States by the Council, the corresponding revenue will go to the EU budget as other revenue. An amendment of Article 21(2) of the Financial Regulation will also be necessary to that effect[17].

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15 Commission Staff Working Document SWD(2022) 104 final of 28 March 2022 'Online public consultation on the review of the EU economic governance framework - Summary of responses - Final Report'.

16 Communication COM(2022)583 final of 9 November 2022 from the Commission 'on orientations for a reform of the EU economic governance framework'.

17 Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The amended Regulation contains a review clause whereby every 5 years the Commission will publish a report on the application of the Regulation. The report will review: (i) the effectiveness of the Regulation; (ii) the progress in ensuring closer coordination of economic policies and sustained convergence of economic performances of the Member States in accordance with the TFEU.

6. DETAILED EXPLANATION OF THE SPECIFIC PROVISIONS OF THE PROPOSAL

Article 1 of the proposal contains the proposed modifications to Regulation No 1467/97.

Paragraph (1) adds new definitions to Article 1 of Regulation No 1467/97 in line with the proposed Regulation replacing the preventive arm of the SGP. It changes the wording of Article 2 on unusual events into exceptional circumstances and adds cross-references to the proposed Regulation replacing the preventive arm of the SGP. It changes the operationalisation of the Treaty debt criterion, abandoning the "1/20th rule" and focusing on the respect of the net expenditure path set by the Council under the proposed Regulation replacing the preventive arm of the SGP. It removes the reference to a quantitative description of a severe economic downturn and refers instead to the proposed Regulation replacing the preventive arm of the SGP. It streamlines the list of relevant factors to decide on the existence of an excessive deficit. The degree of a Member State's debt challenges will be a key relevant factor when preparing a report under Article 126(3) TFEU. In particular, a substantial public debt challenge established according to the most recent Debt Sustainability Monitor shall be considered a key factor leading to the opening of an excessive deficit procedure as a rule. In case of a severe economic downturn, the Commission and the Council, in their assessment, may decide not to conclude on the existence of an excessive deficit, in line with the approach followed during the activation of the general escape clause during the COVID-19 crisis. Lastly, the provisions referring to the introduction of multi-pillar pension systems are removed.

Paragraph (2) makes the opinion of the Economic and Financial Committee in accordance with Article 126(4) TFEU, and decisions and recommendations by the Council in accordance with Article 126(6) and Article 126(7) TFEU public. It sets out the requirements of the corrective net expenditure path set in a Council recommendation in accordance with Article 126(7) TFEU, to have the deficit remaining or brought and maintained below the 3% of GDP reference value and to put debt on a plausibly downward path or keep it at a prudent level. For the years where the general government deficit is expected to exceed the reference value, a minimum annual adjustment of at least 0,5% of GDP as a benchmark is maintained. It adds an obligation for Member States to include in their report on effective action the opinion of their independent fiscal institution. Lastly, it stipulates that exceptional circumstances and a severe economic downturn in the euro area or the Union as a whole allow the Council to extend the deadline for correction.

Paragraph (3) removes the provisions regarding possible publication of the Council recommendations under Article 126(7) TFEU, as, in accordance with paragraph (2), this publication becomes automatic. It adds that decisions by the government should not only be publicly announced but also sufficiently detailed in order to be included in the assessment of effective action.

Paragraph (4) sets out the requirements of the corrective net expenditure path set in a Council Decision to give Notice in accordance with Article 126(9) TFEU, to have the deficit remaining or brought and maintained below the 3% of GDP reference value and to put debt on a plausibly downward path or keep it at a prudent level. For the years where the general government deficit is expected to exceed the reference value, a minimum annual adjustment of at least 0,5% of GDP as a benchmark is maintained. It also stipulates that exceptional circumstances and a severe economic downturn in the euro area or the Union as a whole allow the Council to extend the deadline for correction.

Paragraph (5) adds that decisions by the government should not only be publicly announced but also sufficiently detailed in order to be included in the assessment of effective action following a notice given by the Council under Article 126(9) TFEU.

Paragraph (6) adds the conditions for the Council to abrogate the excessive deficit procedure under Article 126(12) TFEU. Under the current fiscal framework, those are only stipulated in a Code of Conduct.

Paragraph (7) and (8) complete the existing references to the relevant articles of the TFEU.

Paragraph (9) provides that the missions undertaken by the Commission in Member States allow an exchange also with relevant stakeholders other than the national authorities, including independent fiscal institutions. It also requires the Commission to carry out dedicated surveillance missions to Member States which were given a notice by the Council under Article 126(9) TFEU, and provides that, in that context and upon invitation by the parliament of the Member State concerned, the Commission may present its assessment of the economic and fiscal situation in the Member State.

Paragraph (10) removes the minimum amount for fines and proposes that they accumulate every six months until effective action is taken, up to a maximum of 0.5% of GDP.

Paragraph (11) completes the existing references to the relevant articles of the TFEU.

Paragraph (12) removes the article that assigns the revenues of fines to the European Financial Stability Facility. If fines are imposed, their revenues will go to the EU budget, as other revenue. An amendment of Article 21(2) of the Financial Regulation will also be necessary to that effect. Paragraph (12) also removes provisions related to the United Kingdom following the withdrawal of the United Kingdom from the European Union.

Paragraph (13) amends the review clause.

Paragraph (14) adds transitional provisions.

Paragraph (15) removes the annex with provisions related to the United Kingdom.

Article 2 stipulates the entry into force and applicability of the amending Regulation.

2023/0137 (CNS)

Proposal for a

COUNCIL REGULATION

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(14), second subparagraph, thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

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

Having regard to the opinion of the European Central Bank,

Acting in accordance with a special legislative procedure,

Whereas:

(1) The coordination of the economic policies of the Member States within the Union, as provided for by the Treaty on the Functioning of the European Union (TFEU), entails compliance with the guiding principles of stable prices, sound public finances and monetary conditions and a sustainable balance of payments.

(2) The economic governance framework of the Union, which comprises an elaborate system of policy coordination and surveillance of Member States' economic policies, has guided Member States in achieving their economic and fiscal policy objectives. Since the Treaty of Maastricht of 1992, the framework has helped achieve macroeconomic convergence, safeguard sound public finances and address macroeconomic imbalances. Together with a common monetary policy and a common currency in the euro area, the framework has created conditions for economic stability, sustainable and inclusive economic growth and higher employment for citizens of the Union.

(3) The Stability and Growth Pact (SGP), which initially consisted of Council Regulation (EC) No 1466/97[2], Council Regulation (EC) No 1467/97 of 7 July 1997[3] and the Resolution of the European Council of 17 June 1997 on the SGP[4], is based on the objective of sound and sustainable government finances as a means of strengthening

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1 OJ C , , p. .

2 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 (OJ L 209, 2.8.1997, p. 1).

3 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).

4 Resolution of the European Council on the Stability and Growth Pact Amsterdam, 17 June 1997 (OJ C 236, 2.8.1997, p. 1).

the conditions for price stability and for strong sustainable and inclusive growth underpinned by financial stability, thereby supporting the achievement of the Union's objectives for sustainable growth and employment.

(4) In stage three of the Economic and Monetary Union (EMU), the Member States are, according to Article 126(1) TFEU, under the obligation to avoid excessive government deficits.

(5) The economic governance framework of the Union should be adapted to better take into account the growing heterogeneity of fiscal positions, sustainability risks and other vulnerabilities across Member States. The strong policy response to the COVID-19 pandemic proved effective in mitigating the economic and social damage of the crisis, but resulted in a significant increase in public- and private-sector debt ratios, underscoring the importance of reducing debt ratios to prudent levels in a gradual, sustained and growth-friendly manner and addressing macroeconomic imbalances, while paying due attention to employment and social objectives. At the same time, the economic governance framework of the Union should be adapted to help address the medium- and long-term challenges facing the Union, including achieving a fair digital and green transition, including the Climate Law[5], ensuring energy security, open strategic autonomy, addressing demographic change, strengthening social and economic resilience, and implementing the strategic compass for security and defence, all of which requires reforms and sustained high levels of investment in the years to come.

(6) The economic governance framework of the Union should put debt sustainability and sustainable growth at its core and therefore differentiate between Member States by taking into account their public debt challenges and allowing country-specific fiscal trajectories.

(7) At the same time, to ensure a transparent and common Union framework based on the reference values referred to in Article 126(2) TFEU and Protocol No 12 on the excessive deficit procedure annexed to the TFEU and the Treaty on the European Union (TUE), stronger enforcement underpinning multilateral surveillance should be the necessary counterpart of a risk-based surveillance framework that allows for country-specific fiscal trajectories.

(8) In order to simplify the Union fiscal framework and increase transparency, a single operational indicator anchored in debt sustainability should serve as a basis for setting the fiscal path and carrying out annual fiscal surveillance for each Member State. That single indicator should be based on nationally financed net primary expenditure, that is to say expenditure net of discretionary revenue measures and excluding interest expenditure as well as cyclical unemployment expenditure and expenditure on Union programmes fully matched by revenue from Union funds. This indicator allows for macro-economic stabilisation as it is not affected by the operation of automatic stabilisers, including revenue and expenditure fluctuations outside the direct control of the government.

(9) The excessive deficit procedure (EDP) for breaches of the deficit reference value of 3 % of gross domestic product (GDP) ('deficit-based EDP'), referred to in Article

[5] The European Climate Law sets a Union-wide climate neutrality objective by 2050 and requires Union institutions and Member States to progress in enhancing adaptive capacity, requiring significant public investment to reduce the negative socio-economic impacts of climate change on the EU and its Member States, including negative impacts on growth and fiscal sustainability.

126(2) TFEU and Protocol No 12 is a well-established element of the Union's fiscal surveillance framework that has been effective in influencing fiscal policy in the Member States.

(10) To strengthen the EDP for breaches of the debt criterion of 60 % of GDP ('debt-based EDP'), referred to in Article 126(2) TFEU and Protocol No 12 the focus should be on departures from the fiscal path set by the Council under Regulation (EU) […] of the European Parliament and of the Council[6].

(11) On the basis of Article 126(2) TFEU, the deficit criterion is also fulfilled where the excess over the reference value of 3 % of GDP is only exceptional and temporary and the ratio remains close to the reference value. Therefore, a temporary breach that remains close to the reference value should not lead to the opening of a deficit-based EDP if it results from exceptional circumstances outside the control of the government with a major impact on the public finances of the Member State concerned, which includes a severe economic downturn in the Member State concerned.

(12) Moreover, in case of a severe economic downturn in the euro area or the Union as a whole, and following the application of Article 24 of Regulation (EU) [on the preventive arm], the Commission and the Council may decide not to conclude on the existence of an excessive deficit.

(13) In accordance with Articles 24 and 25 of Regulation (EU) [on the preventive arm], the Council, following a recommendation from the Commission, can allow Member States to deviate from the net expenditure path set by the Council under that Regulation in the event of a severe economic downturn in the euro area or the Union as a whole, or in the event of exceptional circumstances outside the control of the government with a major impact on the public finances of the Member State concerned, provided that it does not endanger fiscal sustainability in the medium term. As a consequence, such a deviation should not lead to the opening of a debt-based EDP.

(14) When assessing the existence of an excessive deficit in accordance with Article 126(3) TFEU, the Commission should take into account, as a key relevant factor, the degree of debt challenge in the Member State concerned. A substantial public debt challenge established according to the most recent Debt Sustainability Monitor should be considered a key factor leading to the opening of an EDP as a rule. Since, in accordance with Article 126(3) TFEU, the Commission is to take into account all other relevant factors, in so far as they significantly affect the assessment of compliance with the deficit and debt criteria by the Member State concerned, that should include in particular the developments in the medium-term economic position and the developments in the medium-term budgetary position, and the implementation of structural reforms and investment. In order to increase national ownership, the independent fiscal institutions referred to in Article 8 of Council Directive [on the national budgetary frameworks][7], should provide an opinion on the relevant factors.

(15) To keep track of actual and planned annual deviations from the net expenditure path as set out in Annex IV to Regulation (EU) [on the preventive arm], the Commission should set up a control account for each Member State summing those deviations over

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[6] Regulation (EU) […] of the European Parliament and of the Council of […] [on the effective coordination of economic policies and multilateral budgetary surveillance] (OJ L …, …, p….).

[7] Council Directive […] of […] [amending Council Directive 2011/85/EU on requirements for budgetary frameworks of the Member States] (OJ L …, …, p….).

time. The information in the control account should be the basis of enforcement actions, in particular of a report pursuant to Article 126(3) TFEU following a deviation from the net expenditure path. At the same time, the degree of ambition of the net expenditure path in the national medium-term fiscal-structural plan referred to in Regulation (EU) [on the preventive arm] should be considered when deciding on the opening of a debt-based EDP. In particular, if the Member State's net expenditure path set by the Council is more ambitious than the medium-term technical trajectory put forward by the Commission in accordance with Regulation (EU) [on the preventive arm] and the deviation from the path is not significant when measured against this trajectory, the opening of an excessive deficit procedure should be avoided.

(16) The corrective net expenditure path under the EDP should bring or keep the general government deficit durably below the reference value of 3 % of GDP referred to in Article 126(2) TFEU and Protocol No 12 by the deadline established by the Council. The corrective net expenditure path under the EDP should also ensure sufficient progress during the period covered by the recommendation regarding putting the projected debt ratio on a plausibly downward path or remaining at a prudent level. When setting the corrective net expenditure path under the EDP, the Council should also ensure that there is no back-loading of the required fiscal adjustment effort. The corrective net expenditure path under the EDP would in principle be the one originally set by the Council, while taking into account the need to correct the deviation from that path. In case the original path is no longer feasible, due to objective circumstances, the Council should be able to set a different path under the EDP.

(17) For Member States under an EDP, the Council, on a recommendation from the Commission, should continue to be able to extend the deadline for the correction of the excessive deficit where it establishes the existence of a severe economic downturn in the euro area or in the Union as a whole in accordance with Article 24 of Regulation (EU) [on the preventive arm], or in the case of exceptional circumstances outside the control of the government with a major impact on the public finances of an individual Member State and provided that it does not endanger fiscal sustainability in the medium term. Such extension should require that the overall size of the shock exceeds a normal range, for example costs of natural disasters should be anticipated within bandwidths.

(18) Specific provisions of Regulation (EC) No 1467/97 related to the contributions to second pillar pension systems should be deleted since the net expenditure path set by the Council should already take into account the revenue loss related to such contributions.

(19) Independent fiscal institutions have proven their capacity to foster fiscal discipline and strengthen the credibility of Member States' public finances. In order to enhance national ownership, the role of independent fiscal institutions, traditionally mandated to monitor compliance with the national framework, should be expanded to the economic governance framework of the Union.

(20) Clear conditions should be laid down for abrogation of excessive deficit procedures. Abrogation should require the deficit to remain credibly below the reference value of 3 % of GDP referred to in Article 126(2) TFEU and Protocol No 12 and, for a debt-based EDP, that the Member State demonstrates compliance with the net expenditure path under the EDP.

(21) The fines provided for in Article 126(11) TFEU should not provide for a minimum amount but they should accumulate until effective action is taken, in order to

constitute a real incentive for compliance with the notices given to Member States under an EDP in accordance with Article 126(9) TFEU.

(22) Provisions related to the United Kingdom should be deleted.

(23) This Regulation is part of a package together with Regulation (EU) [on the preventive arm] and Directive (EU) […] amending 2011/85/EU on requirements for budgetary frameworks of the Member States. Together, they establish a reformed Union economic governance framework that incorporates into Union law the substance of Title III 'Fiscal Compact' of the Treaty on Stability, Coordination and Governance (TSCG) in the Economic and Monetary Union[8], in accordance with Article 16 thereof. By building on the experience with the implementation of the TSCG by the Member States, the package retains the Fiscal Compact's medium-term orientation as a tool to achieve budgetary discipline and growth promotion. The package includes a strengthened country-specific dimension aimed at enhancing national ownership, including by means of a stronger role for independent fiscal institutions, which draws on the Fiscal Compact's common principles proposed by the Commission[9] in accordance with Article 3(2) of the TSCG. The analysis of expenditure net of discretionary revenue measures for the overall assessment of compliance required by the Fiscal Compact is set out in Regulation (EU) [on the preventive arm]. As in the Fiscal Compact, temporary deviations from the medium-term plan are allowed only in exceptional circumstances in Regulation (EU) [on the preventive arm]. Similarly, in case of significant deviations from the medium-term plan, measures should be implemented to correct the deviations over a defined period of time. The package strengthens fiscal surveillance and enforcement procedures to deliver on the commitment of promoting sound and sustainable public finances and sustainable growth. The economic governance framework reform, thus, retains the fundamental objectives of budgetary discipline and debt sustainability set out in the TSCG.

(24) Transitional provisions are needed for Member States that are under an EDP when the reformed framework enters into force. Recommendations under Article 126(7) TFEU and notices under Article 126(9) TFEU that have been adopted prior to the entry into force of this amending Regulation need to be revised in order to align them to the provisions of amended Article 3(4) and Article 5(1). This would allow the Council to set a corrective net expenditure path consistent with the new provisions for Member States that have taken action, without stepping up the excessive deficit procedure.

(25) Regulation (EC) No 1467/97 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

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

(1) Articles 1 and 2 are replaced by the following:

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[8] Treaty on Stability, Coordination and Governance in the Economic and Monetary Union of 2 March 2012.

[9] Communication COM(2012) 342 final of 20 June 2012 from the Commission 'Common principles on national fiscal correction mechanisms'.

'Article 1

1. This Regulation lays down the provisions for speeding up and clarifying the implementation of the excessive deficit procedure. The objective of the excessive deficit procedure is to deter excessive government deficits and, if they occur, to further prompt their correction, where compliance with the budgetary discipline is examined on the basis of the government deficit and government debt criteria.

2. For the purposes of this Regulation, the following definitions apply:

(a) 'participating Member States' means those Member States whose currency is the euro;

(b) 'net expenditure' means government expenditure net of interest expenditure, discretionary revenue measures and other budgetary variables outside the control of the government, as defined in Annex II, point (a) of Regulation (EU) of the European Parliament and of the Council [on the preventive arm]*;

(c) 'technical trajectory' means the net expenditure trajectory put forward by the Commission in accordance with Regulation (EU) [on the preventive arm];

(d) 'net expenditure path' means the multi-annual trajectory for net expenditure of a Member State as set by the Council in accordance with Regulation (EU) [on the preventive arm];

(e) 'control account' means a record of a Member State's cumulated deviations of the actual net expenditure from the net expenditure path.

Article 2

1. The excess of a government deficit over the reference value shall be considered exceptional, in accordance with Article 126(2), second indent, point (a), of the Treaty on the Functioning of the European Union (TFEU), where the Council has established the existence of a severe economic downturn in the euro area or the Union as a whole in accordance with Article 24 of Regulation (EU) [on the preventive arm] or of exceptional circumstances outside the control of the government with a major impact on the public finances of the Member State concerned, in accordance with Article 25 of Regulation (EU) [on the preventive arm].

In addition, the excess over the reference value shall be considered temporary where budgetary forecasts as provided by the Commission indicate that the deficit will fall below the reference value following the end of the severe economic downturn or the exceptional circumstances referred to in the first subparagraph.

1a. When it exceeds the reference value, the ratio of the government debt to gross domestic product (GDP) shall be considered sufficiently diminishing and approaching the reference value at a satisfactory pace in accordance with Article 126(2), point (b), TFEU if the Member State concerned respects its net expenditure path.

2. The Commission and the Council, when assessing and deciding upon the existence of an excessive deficit in accordance with Article 126(3) to (6) TFEU, may consider an excess over the reference value resulting from a severe economic downturn as exceptional in the sense of Article 126(2), second indent, point (a),

TFEU where the Council establishes the existence of exceptional circumstances in accordance with Article 25 of Regulation (EU) [on the preventive arm].

3. The Commission, when preparing a report under Article 126(3) TFEU, shall take into account as a key relevant factor the degree of debt challenges in the Member State concerned. In particular, where the Member State faces substantial public debt challenges according to the most recent Debt Sustainability Monitor, it shall be considered a key factor leading to the opening of an excessive deficit procedure as a rule.

The Commission shall also take into account all other relevant factors as indicated in Article 126(3) TFEU, in so far as they significantly affect the assessment of compliance with the deficit and debt criteria by the Member State concerned.

The report shall reflect, as appropriate:

(a) the developments in the medium-term economic position, in particular inflation developments and cyclical developments compared to the assumptions underlying the net expenditure path;

(b) the developments in the medium-term budgetary positions, including, in particular, the size of the actual deviation from the net expenditure path, in annual and cumulative terms as measured by the control account, and the extent to which the deviation is due to a severe economic downturn in the euro area or in the Union as a whole or to exceptional circumstances outside the control of the government with a major impact on the public finances of the Member State concerned in accordance with Articles 24 and 25 of Regulation (EU) [on the preventive arm]. Where relevant, the deviation compared to the technical trajectory shall also be taken into account when considering the size of the deviation;

(c) the evolution of the government debt position and its financing, and the related risk factors, in particular the maturity structure, the currency denomination of the debt and contingent liabilities;

(d) the implementation of reforms and investments including, in particular policies to prevent and correct excessive macroeconomic imbalances and policies to implement the common growth and employment strategy of the Union including those supported by NextGenerationEU, and the overall quality of public finances, in particular the effectiveness of national budgetary frameworks.

The Commission shall give due and express consideration to any other factors which, in the opinion of the Member State concerned, are relevant in order to comprehensively assess compliance with deficit and debt criteria and which the Member State has put forward to the Council and the Commission. In that context, particular consideration shall be given to financial contributions to fostering international solidarity and achieving the policy goals of the Union. The opinion submitted to the Commission by the Member State concerned shall include the opinion of its national independent fiscal institution on relevant factors.

4. The Council and the Commission shall make a balanced overall assessment of all the relevant factors, specifically, the extent to which they affect the assessment of compliance with the deficit and/or the debt criteria as aggravating or mitigating factors.

When assessing compliance on the basis of the deficit criterion, if the ratio of the government debt to GDP exceeds the reference value, those factors shall be taken into account in the steps leading to the decision on the existence of an excessive deficit provided for in Article 126(4), (5) and (6) TFEU only if the double condition of the overarching principle — that, before these relevant factors are taken into account, the general government deficit remains close to the reference value and its excess over the reference value is temporary — is fully met.

However, those factors shall be taken into account in the steps leading to the decision on the existence of an excessive deficit when assessing compliance on the basis of the debt criterion.

5. Where Member States are allowed to deviate from their net expenditure path in the event of a severe economic downturn in the euro area or in the Union as a whole pursuant to Article 24 of Regulation (EU) [on the preventive arm], the Commission and the Council, in their assessment, may decide not to conclude on the existence of an excessive deficit.

6. If the Council, acting under Article 126(6) TFEU, decides that an excessive deficit exists in a Member State, the Council and the Commission shall, in the subsequent procedural steps of that Article of the TFEU, take into account the relevant factors referred to in paragraph 3 of this Article, as they affect the situation of the Member State concerned, including as specified in Article 5(2) of this Regulation, in particular in establishing a deadline for the correction of the excessive deficit and eventually extending that deadline. However, those relevant factors shall not be taken into account for the decision of the Council under Article 126(12) TFEU on the abrogation of some or all of its decisions under Article 126(6) to (9) and (11) TFEU.';

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*Regulation (EU) […] of *[insert a date] [insert full title]* (OJ L …).

(2) Article 3 is replaced by the following:

'*Article 3*

1. Within two weeks of the adoption by the Commission of a report issued in accordance with Article 126(3) TFEU, the Economic and Financial Committee shall formulate an opinion in accordance with Article 126(4) TFEU. The opinion of the Economic and Financial Committee shall be made public.

2. Taking fully into account the opinion referred to in paragraph 1 of this Article, the Commission, if it considers that an excessive deficit exists, shall address an opinion and a proposal to the Council in accordance with Article 126(5) and (6) TFEU and shall inform the European Parliament thereof.

3. The Council shall decide on the existence of an excessive deficit in accordance with Article 126(6) TFEU, as a rule within four months of the reporting dates established in Article 3(2) and (3) of Regulation (EC) No 479/2009. When it decides that an excessive deficit exists, the Council shall at the same time make recommendations to the Member State concerned in accordance with Article 126(7) TFEU. The Council shall make its decisions and recommendations public.

4. The Council recommendation made in accordance with Article 126(7) TFEU shall establish a maximum deadline of six months for effective action to be taken by the Member State concerned. When warranted by the seriousness of the situation, the deadline for effective action may be three months. The Council recommendation shall also establish a deadline for the correction of the excessive deficit. In its recommendation, the Council shall also request that the Member State implements a corrective net expenditure path, which ensures that the general government deficit remains or is brought and maintained below the reference value within the deadline set in the recommendation. For the years when the general government deficit is expected to exceed the reference value, the corrective net expenditure path shall be consistent with a minimum annual adjustment of at least 0,5% of GDP as a benchmark.

The corrective net expenditure path shall also put the debt ratio on a plausibly downward path or keep it at a prudent level having regard to the criteria established in Annex I of Regulation (EU) [on the preventive arm]. The corrective net expenditure path shall ensure that the average annual fiscal adjustment effort in the first three years is at least as high as the average annual fiscal effort of the total adjustment period.

5. Within the deadline provided for in paragraph 4 of this Article, the Member State concerned shall report to the Council and the Commission on action taken in response to the Council's recommendation under Article 126(7) TFEU. The report shall include the targets for government expenditure and revenue and for the discretionary measures on both the expenditure and the revenue side consistent with the Council's recommendation, as well as information on the measures taken and the nature of those envisaged to achieve the targets. The report shall also include the opinion of the independent fiscal institution of the Member State concerned on the adequacy of the measures taken and envisaged with respect to the targets. The Member State shall make the report public.

6. Where effective action has been taken in compliance with a recommendation under Article 126(7) TFEU or where exceptional circumstances outside the control of the government with a major impact on the public finances of the Member State concerned, including on the respect of the corrective net expenditure path recommended by the Council pursuant to paragraph 4 of this Article, occur after the adoption of that recommendation, the Council may decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) TFEU. The revised recommendation, taking into account the relevant factors referred to in Article 2(3) of this Regulation may, in particular, extend the deadline for the correction of the excessive deficit by one year as a rule. In case the Council has established the existence of a severe economic downturn in the euro area or in the Union as a whole in accordance with Article 24 of Regulation (EU) [on the preventive arm], the Council may also decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) TFEU provided that this does not endanger fiscal sustainability in the medium term. The revised recommendation may, in particular, extend the deadline for the correction of the excessive deficit by one year as a rule.';

(3) Article 4 is replaced by the following:

'Article 4

The Council, when considering whether effective action has been taken in response to its recommendations made in accordance with Article 126(7) TFEU, shall base its decision on the report submitted by the Member State concerned in accordance with Article 3(5) of this Regulation and its implementation, as well as on any other publicly announced and sufficiently detailed decisions by the government of the Member State concerned.

Where the Council establishes, in accordance with Article 126(8) TFEU, that the Member State concerned has failed to take effective action, it shall report to the European Council accordingly.';

(4) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Any Council decision to give notice to the participating Member State concerned to take measures for the deficit reduction in accordance with Article 126(9) TFEU shall be taken within two months of the Council decision under Article 126(8) TFEU establishing that no effective action has been taken. In the notice, the Council shall request that the Member State implements a corrective net expenditure path which ensures that the general government deficit remains or is brought and maintained below the reference value within the deadline set in the notice. For the years where the general government deficit is expected to exceed the reference value, the corrective net expenditure path shall be consistent with a minimum annual adjustment of at least 0,5% of GDP as a benchmark.

The corrective net expenditure path shall also put the debt ratio on a plausibly downward path or keep it at a prudent level having regard to the criteria established in Annex I of Regulation (EU) [on the preventive arm]. The corrective net expenditure path shall ensure that the average annual fiscal adjustment effort in the first three years is at least as high as the average annual fiscal effort of the total adjustment period. The Council shall also indicate measures conducive to the achievement of the corrective net expenditure path.';

(b) paragraph 2 is replaced by the following:

'2. Where effective action has been taken in compliance with a notice under Article 126(9) TFEU or where exceptional circumstances outside the control of the government with major impact on the public finances of the Member State concerned, including on the respect of the corrective net expenditure path referred to in paragraph 1 of this Article, occur after the adoption of that notice, the Council may decide, on a recommendation from the Commission, to adopt a revised notice under Article 126(9) TFEU. The revised notice, taking into account the relevant factors referred to in Article 2(3) of this Regulation may, in particular, extend the deadline for the correction of the excessive deficit by one year as a rule. In case the Council has established the existence of a severe economic downturn in the euro area or in the Union as a

whole in accordance with Article 24 of Regulation (EU) [on the preventive arm], the Council may also decide, on a recommendation from the Commission, to adopt a revised notice under Article 126(9) TFEU, on condition that it does not endanger fiscal sustainability in the medium term. The revised notice may, in particular, extend the deadline for the correction of the excessive deficit by one year as a rule.';

(5) in Article 6, paragraph 1 is replaced by the following:

'1. The Council, when considering whether effective action has been taken in response to its notice made in accordance with Article 126(9) TFEU, shall base its decision on the report submitted by the Member State concerned in accordance with Article 5(1a) of this Regulation and its implementation, as well as on any other publicly announced and sufficiently detailed decisions by the government of the Member State concerned. The outcome of the surveillance mission carried out by the Commission in accordance with Article 10a of this Regulation shall be taken into account.';

(6) Article 8 is replaced by the following:

'Article 8

1. Any Council decision under Article 126(11) TFEU to intensify sanctions shall be taken no later than two months after the reporting dates pursuant to Regulation (EC) No 479/2009.

2. Any Council decision under Article 126(12) TFEU to abrogate some or all of its decisions shall be taken as soon as possible and in any event no later than two months after the reporting dates pursuant to Regulation (EC) No 479/2009.

3. A Council decision shall only be taken pursuant to Article 126(12) TFEU where budgetary forecasts as provided by the Commission indicate that the deficit has been brought durably below the reference value and, where the excessive deficit procedure was opened on the basis of the debt criterion, the Member State concerned respected the corrective net expenditure path set by the Council in accordance with Article 3(4) or Article 5(1) of this Regulation over the previous 2 years and is projected to continue to do so in the current year on the basis of the Commission forecast.';

(7) in Article 9, paragraph 1 is replaced by the following:

'1. The excessive deficit procedure shall be held in abeyance:

(a) where the Member State concerned acts in compliance with recommendations made in accordance with Article 126(7) TFEU;

(b) where the participating Member State concerned acts in compliance with notices given in accordance with Article 126(9) TFEU.';

(8) Article 10 is replaced by the following:

'Article 10

1. The Council and the Commission shall regularly monitor the implementation of action taken:

- by the Member State concerned in response to recommendations made under Article 126(7) TFEU;

- by the participating Member State concerned in response to notices given under Article 126(9) TFEU.

2. Where action by a participating Member State is not being implemented or, in the Council's view, is proving to be inadequate, the Council shall immediately take a decision under Article 126(9) TFEU or Article 126(11) TFEU respectively.

3. Where actual data pursuant to Regulation (EC) No 479/2009 indicate that an excessive deficit has not been corrected by a participating Member State within the time limits specified either in recommendations issued under Article 126(7) TFEU or notices issued under Article 126(9) TFEU, the Council shall immediately take a decision under Article 126(9) TFEU or Article 126(11) TFEU respectively.';

(9) Article 10a is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. The Commission shall ensure a permanent dialogue with authorities of the Member States in accordance with the objectives of this Regulation. To that end, the Commission shall, in particular, carry out missions for the purpose of the assessment of the actual economic situation in the Member State and the identification of any risks or difficulties in complying with the objectives of this Regulation and allow an exchange with other relevant stakeholders, including the national independent fiscal institutions.';

(b) paragraph 2 is replaced by the following:

'2. Following the adoption by the Council of a notice under Article 126(9) TFEU, the Commission shall carry out a dedicated surveillance mission to the Member State concerned to discuss the measures that the Member State intends to take in response to the measures judged necessary following the notice under Article 126(9) TFEU. Upon invitation by the parliament of the Member State concerned, the Commission may present its assessment of the economic and fiscal situation in the Member State. Enhanced surveillance may be undertaken for Member States which are the subject of recommendations and notices issued following a decision pursuant to Article 126(8) TFEU and decisions under Article 126(11) TFEU for the purposes of on-site monitoring. The Member States concerned shall provide all necessary information for the preparation and the conduct of the surveillance mission.';

(10) Article 12 is replaced by the following:

'Article 12

1. The amount of the fine shall amount to up to 0,05% of GDP for a 6-month period and be paid every 6 months until the Council assesses that the Member State concerned has taken effective action in response to the notice issued under Article 126(9) TFEU.

2. In each 6-month period following that in which a fine is imposed, until the decision on the existence of an excessive deficit is abrogated, the Council shall assess whether the participating Member State concerned has taken effective action in response to the Council notice in accordance with Article 126(9) TFEU. In this semi-annual assessment the Council shall decide, in accordance with Article 126(11) TFEU, to intensify the sanctions, unless the participating Member State concerned has complied with the Council's notice.

3. The cumulated amount of the fines referred to in paragraphs 1 and 2 shall not exceed 0,5 % of GDP.';

(11) Articles 14 and 15 are replaced by the following:

'Article 14

1. In accordance with Article 126(12) TFEU, the Council shall abrogate the sanctions referred to in Article 126(11), first and second indent, TFEU depending on the significance of the progress made by the participating Member State concerned in correcting the excessive deficit.

Article 15

In accordance with Article 126(12) TFEU, the Council shall abrogate all outstanding sanctions if the decision on the existence of an excessive deficit is abrogated. Fines imposed in accordance with Article 12 of this Regulation will not be reimbursed to the participating Member State concerned.';

(12) Articles 16 and 17 are deleted.

(13) in Article 17a, paragraph 1 is replaced by the following:

'1. By 31 December 2030 and every five years thereafter, the Commission shall publish a report on the application of this Regulation.

That report shall review at least:

(a) the effectiveness of this Regulation;

(b) the progress in ensuring closer coordination of economic policies and sustained convergence of economic performances of the Member States in accordance with the TFEU.

2. Where appropriate, the report referred to in paragraph 1 shall be accompanied by a proposal for amendments to this Regulation.

3. The report shall be forwarded to the European Parliament and to the Council.';

(14) the following Article 17b is inserted:

'*Article 17b*

The Council, on a recommendation from the Commission, shall adopt a revised recommendation under Article 126(7) TFEU or a revised notice under Article 126(9) TFEU to Member States subject to a recommendation under Article 126(7) TFEU or to a notice under Article 126(9) TFEU on [date of entry into force of amending Regulation], and that have taken effective action.

It shall adopt the revised recommendation or notice together with the adoption of the recommendation pursuant to Article 16 of Regulation (EU) [on the preventive arm] setting the net expenditure path.';

(15) the Annex is deleted.

Article 2

Entry into force

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

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

Done at Brussels,

For the Council
The President