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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party of Financial Counsellors
Subject:	EGR - Second round of comments - clean consolidated version (Preventive arm regulation)

Delegates will find enclosed in view of the FiCo meeting of 28 September consolidated selected parts of the preventive arm regulation incorporating the draft Presidency amendments.

This document includes some technical draft suggestions to be considered by delegates in order to steer the debate in the Financial Counsellors Working Party. Due to the multiple cross-references in the proposal, these suggestions may imply changes in other articles or recitals, which could be amended in due time. As a rule, deletion or addition of provisions will not result in a change in the numeration of previous or subsequent articles in the drafts presented to the working party. “[...]” implies that the Presidency does not provide now a proposed draft for the article.

This courtesy version reflects the regulation in case the proposed amendments were agreed by the delegates. In case of discrepancy, the version highlighting the changes in red or blue prevails.

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject-matter

This Regulation sets out rules ensuring effective coordination of sound economic policies of the Member States, thereby supporting the achievement of the Union’s objectives for inclusive growth and employment.

It lays down detailed rules concerning the content, submission, assessment and monitoring of national medium-term fiscal-structural plans as part of multilateral budgetary surveillance by the Council and the Commission so as to promote debt sustainability, sustainable public finances, inclusive growth in the Member States and prevent the occurrence of excessive government deficits.

Article 2

Definitions

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

- (1) ‘country-specific recommendation’ means the guidance annually addressed by the Council to a Member State on economic, budgetary, employment and structural policies in accordance with Articles 121 and 148 of the Treaty on the Functioning of the European Union (TFEU);
- (2) [...]
- (3) ‘technical trajectory’ means the net expenditure trajectory put forward by the Commission to provide guidance to frame the dialogue with those Member States where public debt exceeds the 60% of gross domestic product (GDP) reference value and/or where the government deficit exceeds the 3% of GDP reference value when drawing up their national medium-term fiscal-structural plans

- (3BIS) ‘technical information’ means the guidance put forward by the Commission to Member States with public debt below the 60% of GDP reference value and government deficit below the 3% of GDP reference value before Member States draw up their national medium-term fiscal structural plans.
- (4) ‘net expenditure path’ means the multi-annual trajectory for net expenditure of a Member State as adopted by the Council;
- (5) ‘national medium-term fiscal-structural plan’ means the document containing the fiscal, reform and investment commitments of a Member State, covering a period of 4 years or 5 years depending on the length of the national legislature;
- (6) ‘annual progress report’ means the document of a Member State reporting on the implementation of the national medium-term fiscal-structural plan, including the net expenditure path, and on the reforms and investment commitments ;
- (7) ‘adjustment period’ means the period of time over which the fiscal adjustment of a Member State takes place, covering a period of 4 years or, in the case of an extension, a period of 4 years plus an additional extended period of 3 years at the most;
- (8) ‘control account’ means a record of the cumulated upward and downward deviations of the actual net expenditure in a Member State from the net expenditure path adopted by the Council
- (9) ‘structural balance’ means the cyclically adjusted general government balance net of one-off and other temporary measures;
- (10) ‘structural primary balance’ means the structural balance net of interest expenditure

CHAPTER II

EUROPEAN SEMESTER

Article 3

The European Semester

In order to ensure closer coordination of economic policies and sustained convergence of the economic performance of the Member States, the Council and the Commission shall conduct multilateral surveillance within the European Semester in accordance with the objectives and requirements set out in the TFEU. Multilateral surveillance shall rely on high quality and independent statistics, produced in accordance with the principles laid down in Regulation (EC) No 223/2009 of the European Parliament and of the Council.

The European Semester shall include:

- (a) the formulation, and the surveillance of the implementation, of the broad guidelines for the economic policies of the Member States and of the Union in accordance with Article 121(2) TFEU, of country-specific recommendations and of the recommendation on the economic policy of the euro area;
- (b) the formulation, and the surveillance of the implementation, of the employment guidelines that are to be taken into account by Member States in accordance with Article 148(2) TFEU, also considering the European Pillar of Social Rights, and of the related country-specific recommendations;

- (c) the submission, assessment and adoption of recommendations on the Member States' medium-term fiscal structural plans in accordance with Article 16, as well as their monitoring of their implementation via the annual progress reports;
- (d) the surveillance to prevent and correct macroeconomic imbalances pursuant to Regulation (EU) No 1176/2011;

Article 4

Implementation of the European Semester

1. Following the assessment pursuant to this Regulation of the medium-term fiscal-structural plans and the annual progress reports, and considering the socio-economic situation of the Member States concerned, the Council shall, on the basis of recommendations from the Commission, address recommendations to those Member States making full use of the legal instruments provided in Articles 121 and 148 TFEU and related secondary legislation.
2. Member States shall take due account of the broad guidelines for the economic policies of the Member States, of the employment guidelines and of the recommendations referred to in Article 3, second paragraph, points (a) and (b) before taking key decisions in the development of their economic, employment and budgetary policies. Progress shall be monitored by the Commission.
3. Failure by a Member State to act upon the guidance received may result in:
 - (a) further country-specific recommendations to take specific measures;
 - (b) a warning by the Commission or a recommendation by the Council pursuant to Article 121(4) TFEU;
 - (c) measures under this Regulation, Council Regulation (EC) No 1467/9731 or Regulation (EU) No 1176/2011.

CHAPTER III

THE TECHNICAL TRAJECTORY

Article 5

Technical trajectory

[...]

Article 6

Requirements for the technical trajectory

[...]

Article 7

Prior guidance by the Commission

1. At the latest by 15 January of the year in which the Member States have to submit their medium-term fiscal-structural plans pursuant to Article 9 or within 3 weeks from the

request of the Member State to submit a revised plan pursuant to Article 14, the Commission shall [...]:

- a) the underlying medium-term public debt projection framework and results
 - b) its macroeconomic forecast and assumptions
 - c) the technical trajectory, if required under Article 5, and the corresponding structural primary balance.
2. [...]
 - 3.

Article 8

Assessment of plausibility

[...]

CHAPTER IV

NATIONAL MEDIUM-TERM FISCAL-STRUCTURAL PLANS

Article 9

Submission of the national medium-term fiscal-structural plans

1. Each Member State shall submit to the Council and to the Commission a national medium-term fiscal-structural plan by 30 April following the entry into force of this Regulation and, subsequently, by 30 April of the last year of the plan in force. The Member State concerned and the Commission may agree to extend this deadline by a reasonable period if necessary.
2. The Member State shall make its national medium-term fiscal-structural plan public

Article 10

Technical dialogue

Prior to the submission of its national medium-term fiscal-structural plan, the Member State concerned shall hold with the Commission a non-binding technical dialogue, with the objective of ensuring that the national medium-term fiscal-structural plan complies with Articles 11, 12 and 14.

Article 11

Content and requirements of the national medium-term fiscal-structural plans

1. The national medium-term fiscal-structural plan shall provide the information listed in Annex II. In particular, it shall present a net expenditure path, as described in article 2(4), as well as the underlying macroeconomic assumptions and the planned fiscal-structural measures in order to demonstrate compliance with the fiscal requirements of Article 15(2). Where the national-medium-term fiscal-structural plan includes a net expenditure path that differs from

- the technical trajectory issued by the Commission pursuant to Article 5, the Member State shall provide in its plan sound and verifiable economic arguments explaining the difference.
2. The national medium-term fiscal-structural plan shall explain how it will ensure the delivery of investment and reforms responding to the main challenges identified within the European Semester, in particular in the country-specific recommendations, and address the common priorities of the Union [referred to in Annex VI of this Regulation,] including achieving a fair green and digital transition, ensuring energy security, strengthening social and economic resilience and, where necessary, the build-up of defence capabilities ;
 3. The national medium-term fiscal-structural plan shall also describe the action of the Member State concerned to address the country-specific recommendations that are relevant for the Macroeconomic Imbalances Procedure, and the warnings by the Commission, where applicable, or the recommendations by the Council, where applicable, made pursuant to Article 121(4) TFEU.
 4. If applicable, the national medium-term fiscal-structural plan shall explain how it will ensure the delivery of a relevant set of reforms and investments referred to in Article 13, underpinning an extension of the Member State's adjustment period by 3 years at most;
 5. The national medium-term fiscal-structural plan shall explain how it will ensure consistency with the Recovery and Resilience Plan of the Member State concerned during the period of availability of the Recovery and Resilience Facility in accordance with Regulation (EU) 2021/241.

Article 13

Conditions for an extension of the adjustment

[...]

Article 14

Revised national medium-term fiscal-structural plan

1. A Member State may request to submit a revised national medium-term fiscal-structural plan to the Commission before the end of the period covered by the national medium-term fiscal-structural plan if there are objective circumstances preventing its implementation.
- 1BIS If requested by a new government, a Member State may request to submit a revised national medium-term fiscal-structural plan covering a new period of 4 years or 5 years depending on the length of the national legislature.
2. Following the request by the Member State under paragraph 1 or paragraph 1 bis, the Commission shall [...].
 3. Taking into account the past adjustment of the Member State concerned or the lack thereof, the new technical trajectory shall not allow backloading of the fiscal adjustment effort and shall not lead as a rule to a lower fiscal adjustment effort
 4. If a revised national medium-term fiscal-structural plan is to be submitted, Articles 10 to 13 and 15 to 19 shall apply.
 5. The Commission shall in particular assess, if applicable, whether any extension of the adjustment period is to apply or continue to apply under the revised national medium-term fiscal-structural plan. The Commission's assessment shall take into account the implementation of the set of reform and investment commitments underpinning the extension under the original plan and the changes in terms of public debt challenges under the revised national medium-term fiscal-structural plan.

Article 15

Assessment of national medium-term fiscal-structural plans by the Commission

1. The Commission shall assess each national medium-term fiscal-structural plan within six weeks of its submission. The Member State concerned and the Commission may agree to extend this period for up to two weeks as a rule, if necessary.
2. [...]
3. [...]

Article 16

Adoption of the national medium-term fiscal-structural plan by the Council

The Council, on a recommendation from the Commission, shall adopt a recommendation setting the net expenditure path of the Member State concerned and, if applicable, endorsing the set of reform and investment commitments underpinning an extension of the adjustment period included in its national medium-term fiscal-structural plan within six weeks of the adoption of the Commission recommendation as a rule.

Where the national medium-term fiscal-structural plan serves as the corrective action plan required for the correction of excessive macroeconomic imbalances, as provided for in Article 30, the Council shall also endorse in that recommendation the reforms and investment necessary to correct the imbalances.

Article 17

Recommendation for a revised national medium-term fiscal-structural plan

Where it considers that the plan does not comply with the requirements set out in this Regulation, taking into account the Commission's assessment referred to in Article 15, the Council shall recommend that the Member State concerned submits a revised national medium-term fiscal-structural plan.

Article 18

Council Recommendation in case of failure by the Member State

The Council shall, on a recommendation from the Commission, recommend to the Member State concerned a net expenditure path in compliance with the fiscal requirements of Article 15(2) where:

- (a) the Member State concerned fails to submit a revised national medium-term fiscal-structural plan within one month of the recommendation by the Council referred to in

Article 17. The Member State concerned and the Commission may agree to extend this deadline by a reasonable period, if necessary.

- (b) the Council considers that the revised national medium-term fiscal-structural plan does not comply with the requirements established in Article 15
- (c) the Member State fails to submit an initial national medium-term fiscal-structural plan or a new national medium-term fiscal-structural plan in the last year covered by the ongoing national medium-term fiscal-structural plan, in accordance with Article 9.1.

Article 19

Failure by a Member State to satisfactorily comply with its commitments underpinning an extension of its adjustment period

[...]

CHAPTER V

IMPLEMENTATION OF THE NATIONAL MEDIUM-TERM FISCAL-STRUCTURAL PLANS

Article 20

Progress report

1. Each Member State shall submit to the Commission an annual progress report on the implementation of its national medium-term fiscal-structural plan, by 30 April each year at the latest.
2. The annual progress report referred to in paragraph 1 shall contain in particular information about the progress in the implementation of the net expenditure path, the implementation of broader reform and investment commitments in the European Semester context and, if applicable, in the implementation of the set of reform and investment commitments underpinning an extension of the adjustment period.
3. The annual progress report referred to in paragraph 1 shall also contain the information set out in Annex III.
4. Each Member State shall make its annual progress report public.

Article 21

Monitoring by the Commission

[...]

Article 22

Role of independent fiscal institutions

The relevant national independent fiscal institution referred to in Article 8 of Council Directive [...]32 [on the national budgetary frameworks] could provide an assessment of compliance of the

budgetary outturns data reported in the progress report referred to in Article 20 with the net expenditure path. Where applicable, the relevant national independent fiscal institution could also analyse the factors underlying a deviation from the net expenditure path. These analyses will be non-binding and additional to those provided by the Commission.

Article 24

Severe economic downturn in the euro area or the Union as a whole

[...]

Article 25

Exceptional circumstances outside the control of the Member State leading to a major impact on the public finances of the Member State concerned

[...]

CHAPTER VI

ECONOMIC DIALOGUE

Article 26

European Semester Dialogue

The European Parliament shall be duly involved in the European Semester in order to increase the transparency and ownership of, and the accountability for the decisions taken, in particular by means of an economic dialogue. The Economic and Financial Committee, the Economic Policy Committee, the Employment Committee and the Social Protection Committee shall be consulted within the framework of the European Semester where appropriate. Relevant stakeholders, in particular national parliaments and social partners, shall be involved within the framework of the European Semester, on the main policy issues where appropriate, in accordance with the provisions of the TFEU and national legal and political arrangements.

In order to enhance the dialogue between the institutions of the Union, in particular the European Parliament, the Council and the Commission, and to ensure transparency and accountability, the European Parliament may invite the President of the Council, the Commission and, where appropriate, the President of the European Council or the President of the Eurogroup to appear before it to discuss the policy guidance to Member States issued by the Commission, conclusions drawn by the European Council and the results of multilateral surveillance carried out under this Regulation.

The President of the Council, and the Commission in accordance with Article 121 TFEU, and, where appropriate, the President of the Eurogroup, shall report annually to the European Parliament and to the European Council on the results of the multilateral surveillance.

*Article 27***Comply or explain rule**

The Council is expected to, as a rule, follow the recommendations and proposals of the Commission or explain its position publicly.

*Article 29***Regular information of the European Parliament**

1. The Council and the Commission shall regularly inform the European Parliament of the application of this Regulation.
2. The Council and the Commission shall include in their report to the European Parliament the results of the multilateral surveillance carried out pursuant to this Regulation

*CHAPTER VII**INTERACTION WITH REGULATION (EU) No 1176/2011**Article 30***Interaction with the Macro-Economic Imbalance Procedure**

1. The implementation of relevant reform and investment commitments included in the Member State's national medium term fiscal-structural that are relevant for macroeconomic imbalances shall be considered (i) by the Commission when undertaking in-depth reviews in accordance with Article 5 (2) of Regulation (EU) No 1176/2011, and (ii) by the Council, and the Commission for its recommendation, when considering whether to establish the existence of an excessive imbalance and recommend that the Member State take correction action in accordance with Article 7(2) of that Regulation. The Commission shall take into account any information that the Member State considers relevant.
2. The Member State for which an excessive imbalance procedure is opened in accordance with Article 7(2) of Regulation (EU) No 1176/2011, it shall submit a revised plan in accordance with Article 14 of this Regulation. The revised plan shall follow the Council recommendation adopted in accordance with Article 7(2) of Regulation (EU) No 1176/2011. The submission of the revised plan shall be subject to the endorsement by the Council in accordance with Articles 16 to 19 of this Regulation. The revised plan shall be assessed in accordance with Article 15 of this Regulation.
3. Where a Member State submits a revised medium-term fiscal-structural plan pursuant to paragraph 2, that revised plan shall serve as the corrective action plan required under Article 8(1) of Regulation (EU) No 1176/2011 and shall set out the specific policy actions the Member State concerned has implemented or intends to implement and shall include a timetable for those actions.

In that case, in accordance with Article 8(2) of Regulation (EU) No 1176/2011, the Council, on the basis of a Commission assessment, shall assess the revised plan within 6 weeks of its submission. The monitoring and assessment of the implementation of the revised plan shall be made in accordance with Article 21 of this Regulation and Articles 9 and 10 of Regulation (EU) No 1176/2011.

CHAPTER VIII

INTERACTION WITH REGULATION (EU) No 472/2013

Article 31

Interaction with the Macro-Economic Imbalance Procedure

Where a Member State is subject to a macroeconomic adjustment programme and the changes thereto in accordance with Article 7 of Regulation (EU) No 472/2013 of the European Parliament and of the Council³³, it shall not be required to submit a medium-term fiscal-structural plan pursuant to Article 9 of this Regulation and an annual progress report pursuant to Article 20 of this Regulation.

CHAPTER IX

DELEGATED POWERS

Article 32

Amendment of the annexes

[...]

Article 33

Exercise of delegation

[...]

CHAPTER X

COMMON PROVISIONS

Article 34

Dialogue with Member States

The Commission shall ensure a permanent dialogue with 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 socio-economic situation in the Member State and the identification of any risks or difficulties in complying with the objectives of this Regulation.

Article 36

Report

1. By [31 December 2030] and every 5 years thereafter, the Commission shall prepare a report on the application of this Regulation accompanied, where appropriate, by a proposal to amend this Regulation. The Commission shall make that report public.
2. The report referred to in paragraph 1 shall review:
 - (a) the effectiveness of this Regulation in achieving its objectives
 - (b) the progress in ensuring closer coordination of economic policies and sustained convergence of economic performances of the Member States.
3. The report shall be forwarded to the European Parliament and the Council.

Article 37

Repeal of Regulation (EC) No 1466/97

Regulation (EC) No 1466/97 is repealed

Article 38

Entry into force

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

Transitory provision

As an exception to Article 7(1), in 2024 the deadline for the Commission shall be 15 February.

ANNEXES

ANNEX II***Information to be provided in the national medium-term fiscal-structural plans***

A national medium-term fiscal-structural plan shall contain the following information:

- (a) [...]
- (b) The projected growth path of government revenue at unchanged policy.
- (c) The projected path of the public debt ratio.
- (d) Information on implicit liabilities related to ageing, and contingent liabilities with a potentially large impact on government budgets. The main assumptions about expected economic developments and main economic variables which are relevant for ensuring consistency with the the public debt ratio is put or remains on a plausibly downward path or stays at prudent levels and bringing and maintaining the government deficit below the 3% of GDP reference value.
- (e) Due explanations and justifications based on sound and verifiable economic arguments of differences, in case the Member State makes use of assumptions referred to under point (e) that differ from the Commission's assumptions over the adjustment period of the national medium-term fiscal-structural plan and the subsequent 10-year period in the absence of further budgetary measures
- (f) An analysis of how changes in the main economic assumptions would affect the budgetary and debt position of the Member State.
- (g) If applicable, the duly justified reasons (with relevant sound and verifiable economic arguments) explaining differences between the net expenditure path adopted by the Council and the technical trajectory put forward by the Commission.
- (h) Reform and investment priorities to respond to the main challenges as identified in the country-specific recommendations, taking into account the state of play of implementation of those country-specific recommendations.
- (i) Total public investment expenditure, as well as reforms and public investment expenditure addressing the common priorities of the Union referred to in Annex VI.
- (j) If applicable, information on a specific, time-bound and verifiable set of reform and investment commitments underpinning an extension of the adjustment period pursuant to Article 13, a timeline for its implementation, as well as sound economic arguments that this set of reform and investment commitments fulfil the criteria under Article 13 taking into account the assessment criteria in Annex VII.
- (k) A quantification, as much as possible, of the expected impacts of reforms and investment referred to under point (k) on fiscal sustainability, growth and employment, where applicable in line with commonly agreed methodologies.
- (l) If applicable, reforms and investment to correct the identified macroeconomic imbalances under the Macroeconomic Imbalance Procedure
- (m) The forecasted overall level of nationally financed public investment covering the period of the national medium-term fiscal-structural plan.
- (n) For Member States with low public debt challenges but large implicit liabilities due to population ageing, the national net expenditure trajectory and the reforms in the national medium-term fiscal-structural plans should take due consideration of long-term fiscal sustainability challenges of public finances.
- (o) Information on the consultations of social partners, civil society organisations and other relevant stakeholders in view of the preparation of the plan.

ANNEX III

Information to be provided by Member States in the Annual Progress Reports

In their annual progress report, the Member States shall submit the following information:

- (a) A comparison between the planned net expenditure based on the net expenditure path set by the Council and the net expenditure based on outturn data.
- (b) A comparison from the beginning of the national medium-term fiscal-structural plan between the projections of the main economic variables submitted in that plan and the outturn data for these variables, as well as the implications for compliance with the net expenditure path adopted by the Council and the implications on the projected path of the public debt ratio reported in that plan.
- (c) An analysis of the implementation in the previous year of the discretionary revenue measures.
- (d) Progress and the planned implementation for the following year of the commitments to reforms and investment given in the national medium-term fiscal-structural plan
- (e) Information for the following year on how the Member State intends to address the country-specific recommendations of the previous year, including, where applicable, the recommendation on the economic policy of the euro area.
- (f) During the lifetime of the Recovery and Resilience Facility, information on the progress of implementation of the Recovery and Resilience Plan, to comply with the bi-annual reporting requirements in the context of the European Semester set out in Article 27 of Regulation (EU) 2021/241.
- (g) Information on the evolution of contingent liabilities reported in the national medium-term fiscal-structural plan and referred to in Annex II, point (d), as well as of the implicit liabilities related to ageing, where relevant, and information on the contingent liabilities and the implicit liabilities for the following year.
- (h) The main assumptions about expected economic developments and main economic variables for the remaining years of the adjustment period, including the public debt ratio.
- (i) The projections at unchanged policies for the following years of the adjustment period for government expenditure and revenue and their main components, including public investment expenditure.
- (j) The planned government expenditure and revenue as a percentage of GDP and their main components for the remaining years of the adjustment period, taking into account the net expenditure path adopted by the Council.
- (k) A preliminary description and quantification of the expenditure and revenue measures to be implemented to bridge the gap between the projections at unchanged policies for expenditure and revenue referred to in point (i) and the planned expenditure and revenue referred to in point (j).
- (l) An analysis of the evolution of the macroeconomic imbalances identified under the Macroeconomic Imbalance Procedure and of the impact on them of the implementation of the relevant reforms and investment reported in the national medium-term fiscal-structural plan in accordance with Annex II, point (n), where applicable.
- (m) Information on the implementation of a warning by the Commission or a recommendation by the Council pursuant to Article 121(4) TFEU, where applicable.
- (n) Information on labour market, skills and social policy developments, and on the implementation of policy measures taken in relation to progress on the national targets on employment, skills and poverty reduction by 2030, in line with the principles of the European Pillar of Social Rights and the Employment Guidelines under Article 148 TFEU.

ANNEX IV

Functioning of the Control Account

[...]



ANNEX V

Methodology to assess plausibility by the Commission

[...]



ANNEX VI

Common priorities of the Union

The common priorities of the Union referred to in Article 12, point (b), are:

- (a) The European Green Deal, including the transition to climate neutrality by 2050² and the translation at national level through the National Energy and Climate Plans.
- (b) The European Pillar of Social Rights including the related targets on employment, skills and poverty reduction by 2030 laid-out in the Action Plan for its implementation.
- (c) The Digital Decade Policy Programme 2030 and reflected at national level through the National Digital Decade Strategic Roadmaps.
- (d) A Strategic Compass for Security and Defence - For a European Union that protects its citizens, values and interests and contributes to international peace and security

ANNEX VII

***Assessment framework for the set of reform and investment commitments
underpinning an extension of the adjustment period***

[...]