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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party of Financial Counsellors
Subject:	EGR - Presidency's revised Commission proposal on amending Regulation (EC) No1467/97 (second update)

Delegates will find enclosed Presidency's revised Commission proposal on amending Regulation (EC) No1467/97 (second update) in view of the Financial Counsellors Working Party meeting on 30 November.

- Original text of the regulation.
- **Ammendment proposed by the Commision.**
- **Ammendment proposed by the Council.**
- **Deletion proposed by the Council to an amendment proposed by the Commission/ to the original text**
- **New ammendment proposed by the Council.**
- **New Deletion proposed by the Council to an amendment proposed by the Commission/ to the original text**

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,

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, Council Regulation (EC) No 1467/97 of 7 July 1997 and the Resolution of the European Council of 17 June 1997 on the SGP, is based on the objective of sound and sustainable government finances as a means of strengthening 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~~ **increased** heterogeneity of fiscal positions, **sustainability risks, public debt, economic challenges** and other vulnerabilities across Member States. The strong policy response to the COVID-19 pandemic proved **highly** effective in mitigating the economic and social **damage consequences** of the crisis, but resulted in a significant increase in public- and private-sector debt ratios, underscoring the importance of reducing debt ratios **and deficits** to prudent levels in a gradual, **realistic**, sustained and growth friendly manner, **ensuring leeway for counter-cyclical policies** 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, ensuring energy security, **supporting** open strategic autonomy, addressing demographic change, strengthening social and economic resilience **and sustained convergence** 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 **promote sound and sustainable public finances** ~~put debt sustainability~~, and sustainable **and inclusive** growth ~~at its core~~ and therefore differentiate between Member States by taking into account their public debt **and economic** challenges and allowing **multi-annual** country-specific fiscal trajectories, **while ensuring effective multilateral surveillance and respecting the principle of equal treatment**.
- (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 (~~TEUTUE~~), 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~~ **net expenditure** 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 **as well as 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 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-net expenditure path set by the Council under Regulation (EU) [...] of the European Parliament and of the Council.
- (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, **could** ~~an~~ 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 be registered in the control account nor 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 **all relevant factors**, ~~as a key relevant factor, Substantial public~~ the degree of debt challenges in the Member State concerned **shall be considered a key aggravating factor**. ~~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]¹, may should provide an opinion on the relevant factors.~~

(14bis) Acknowledging the rising geopolitical tensions and security challenges and the corresponding need for Member States to ~~increase~~ build-up their capabilities, the increase of government investment in defence, where applicable, should be considered as a relevant factor when assessing the existence of an excessive deficit in accordance with Article 126(3). This factor could be assessed against EU averages, medium-term trends or other relevant benchmarks,

¹ Council Directive [...] of [...] [amending Council Directive 2011/85/EU on requirements for budgetary frameworks of the Member States] (OJ L ..., ..., p....).

considering also the statistical rules concerning the time of recording of military equipment expenditure.

- (15) To keep track of actual ~~and planned annual~~ deviations from the net expenditure path as set out in ~~Article 21 of Annex IV to~~ Regulation (EU) [on the preventive arm], the Commission should set up a control account for each Member State summing ~~annual those~~ deviations over 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 ensure a minimum structural adjustment of 0.5% of GDP in case of a breach of the deficit criterion or the need to ~~of~~ correct the deviation from that path as a rule in case of a breach of the debt criterion. 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, in accordance with Articles 24 and 25 of Regulation (EU) [on the preventive arm]. ~~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 maintained to ~~in~~ the reformed economic governance framework of the Union. A more

independent European Fiscal Board should also play a more prominent advisory role in the economic governance framework.

- (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 Council Directive [XXX amending 2011/85/EU] and Council Regulation [XXX amending Council Regulation (EC) No 1467/97]. 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 Union², in accordance with Article 16 thereof. By building on the experience with the implementation of the TSCG by the Member States, the proposed legislative 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 ~~maintaining the means of a stronger~~ role ~~for of~~ Independent Fiscal Institutions, which draws on the Fiscal Compact’s common principles proposed by the Commission³ 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 this Regulation. As in the Fiscal Compact, temporary deviations from the medium-term plan are allowed only in exceptional circumstances in accordance with Articles 24 and 25 in this Regulation and in line with the provisions on the control account. In a similar vein to the Fiscal Compact, 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 and inclusive 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,

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

SECTION 1

DEFINITIONS AND ASSESSMENTS

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' ~~shall~~ means those Member States whose currency is the euro;
 - (b) **the definitions under Article 2 of the Regulation (EU) [on the preventive arm] should apply.**
~~'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~~
 - (d) ~~'net expenditure path' means the multi-annual trajectory for net expenditure of a Member State as set by the Council in accordance with;~~
 - (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 ~~the second indent of point (a) of Article 126(2),~~ **second indent, point (a),** of the Treaty on the Functioning of the European Union (TFEU), ~~when~~ **where the Council has established if it results from the existence of a severe economic downturn in the euro area or the Union as a whole established by the Council in accordance with Article 24 of Regulation (EU) [on the preventive arm] or resulting from an unusual event of exceptional circumstances** outside the control of **the government with a major impact on the public finances of** the Member State concerned ~~and with a major impact on the financial position of general government or when resulting from a severe economic downturn, 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~~ **if** budgetary forecasts as provided by the Commission indicate that the deficit will fall below the reference value following the end of the ~~unusual event~~ **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.** ~~if the differential with respect to the reference value has decreased over the previous three years at an average rate of one twentieth per year as a benchmark, based on changes over the last three years for which the data is available.~~

The requirement under the debt criterion shall also be considered to be fulfilled if the budgetary forecasts of the Commission indicate that the required reduction in the differential will occur over the three year period encompassing the two years following the final year for which the data is available. For a Member State that is subject to an excessive deficit procedure on 8 November 2011 and for a period of three years from the correction of the excessive deficit, the requirement under the debt criterion shall be considered fulfilled if the Member State concerned makes sufficient progress towards compliance as assessed in the opinion adopted by the Council on its stability or convergence programme.

In implementing the debt ratio adjustment benchmark, account shall be taken of the influence of the cycle on the pace of debt reduction.

When the ratio of the government debt to GDP exceeds the reference value and the annual and the cumulated deviations recorded in the control account of the Member State exceed [JJ of GDP] and [BB pp of GDP], respectively, the Commission shall prepare a report in accordance with article 126(3) TFEU.

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 the second indent of Article 126(2), **second indent, point (a), TFEU** if the excess over the reference value results from a negative annual GDP volume growth rate or from an accumulated loss of output during a protracted period of very low annual GDP volume growth relative to its potential **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 such 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) (e) the degree of public debt challenges based on the methodology referred to in Article 8 of Regulation [on the preventive arm], the developments in the medium term government debt position, its dynamics and sustainability, including, in particular **the evolution of the government debt position and its financing, and the related** risk factors, including **in particular** the maturity structure, **the** currency denomination of the debt **and contingent liabilities**, stock flow adjustment and its composition, accumulated reserves and other financial assets, guarantees, in particular those linked to the financial sector, and any implicit liabilities related to ageing and private debt, to the extent that it may represent a contingent implicit liability for the government;
- b) the developments in the medium-term budgetary positions, including, in particular, the record of adjustment towards the medium-term budgetary objective, **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~~ the level of the primary balance and developments in primary expenditure, both current and capital, the implementation of policies in the context of the prevention and correction of excessive macroeconomic imbalances, the implementation of policies in the context of the common growth strategy of the Union, and the overall quality of public finances, in particular the effectiveness of national budgetary frameworks;

- c) ~~(a)~~ the developments in the medium-term economic position, ~~including particular inflation developments and cyclical developments compared to the assumptions underlying the net expenditure path~~, potential growth, including the various contributions provided by labour, capital accumulation and total factor productivity, cyclical developments, and the private sector net savings position;
- d) **the progress in 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.**
- e) ~~the financial contributions to fostering international solidarity and achieving the policy goals of the Union referred to in Regulation (EU) [on the preventive arm];~~
- f) **the increase of government investment in defence, where applicable, considering also the time of recording of military equipment expenditure.**

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 ~~referred to in Regulation (EU) [on the preventive arm]~~, the debt incurred in the form of bilateral and multilateral support between Member States in the context of safeguarding financial stability, and the debt related to financial stabilisation operations during major financial disturbances. **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. **Where the Member State faces substantial public debt challenges as referred in paragraph 3(a), it shall be considered a key aggravating factor. Favourable cyclical economic, budgetary and financial developments shall not be considered as mitigating factors, while unfavourable developments may be considered as mitigating factors. Where the budgetary position of the Member State is close to balance or in surplus, it shall be considered as a mitigating factor.**

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 paragraphs 4, 5 and 6 of 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 **and Article 25** 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.

~~When assessing compliance with the deficit and debt criterion and in the subsequent steps of the excessive deficit procedure, the Council and the Commission shall give due consideration to the implementation of pension reforms introducing a multi-pillar system that includes a mandatory, fully funded pillar and the net cost of the publicly managed pillar. In particular, consideration shall be given to the features of the overall pension system created by the reform, namely whether it promotes long-term sustainability while not increasing risks for the medium-term budgetary position.~~

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 3(5) and 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 ~~paragraphs 6 to 9 and 11 of Article 126~~ **(6) to (9) and (11)** TFEU.
- ~~7. In the case of Member States where the excess of the deficit over the reference value reflects the implementation of a pension reform introducing a multi-pillar system that includes a mandatory, fully funded pillar, the Council and the Commission shall also consider the cost of the reform when assessing developments of deficit figures in excessive deficit procedures as long as the deficit does not significantly exceed a level that can be considered close to the reference value, and the debt ratio does not exceed the reference value, provided that overall fiscal sustainability is maintained. The net cost shall be taken into account also for the decision of the Council under Article 126(12) TFEU on the abrogation of some or all of its decisions under paragraphs 6 to 9 and 11 of Article 126 TFEU, if the deficit has declined substantially and continuously and has reached a level that comes close to the reference value.~~

SECTION 1A

ECONOMIC DIALOGUE

Article 2a

1. 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 greater transparency and accountability, the competent committee of 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 the committee to discuss Council decisions under

Article 126(6) TFEU, Council recommendations under Article 126(7) TFEU, notices under Article 126(9) TFEU, or Council decisions under Article 126(11) TFEU.

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

The competent committee of the European Parliament may offer the opportunity to the Member State concerned by such decisions, recommendations or notices to participate in an exchange of views.

2. The Council and the Commission shall regularly inform the European Parliament of the application of this Regulation.

SECTION 2

SPEEDING UP THE EXCESSIVE DEFICIT PROCEDURE

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 ~~paragraphs 5 and 6 of 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 under Article 126(6) 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, ~~which shall be completed in the year following its identification unless there are special circumstances.~~

In its recommendation, the Council shall also request that the Member State implements a corrective net expenditure path which ~~achieve annual budgetary targets which, on the basis of the forecast underpinning the recommendation, are consistent with a minimum annual improvement of at least 0,5 % of GDP as a benchmark, in its cyclically adjusted balance net of one-off and temporary measures, in order to ensure the correction of the excessive deficit~~ ensures that the general government deficit remains or is brought and maintained below the reference value within the deadline set in the recommendation.

Where the excessive deficit procedure was opened on the basis of the deficit criterion, 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 structural primary adjustment of at least 0,5% of GDP as a benchmark.

Where the excessive deficit procedure was opened on the basis of the debt criterion, the corrective net expenditure debt 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 be at least as **demanding ambitious** as the net expenditure path adopted by the Council in accordance with article 16 of Regulation (EU) [on the preventive arm], and correct as a rule the cumulated deviations of the control account by the deadline set by the Council. 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.

4a. 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 Member State shall make the report public. The Member State may invite the relevant independent fiscal institution to produce report shall also include the opinion of the relevant independent fiscal institution of the Member State concerned may issue a non-binding, separate report on the **sufficiency adequacy** of the measures taken and envisaged with respect to the targets.

5. The Council may decide, on a recommendation from the Commission, to adopt a revised recommendation under Article 126(7) TFEU where:
- (a) effective action has been taken in response to such recommendation and the conditions referred to in Article 25 of Regulation (EU) [on the preventive arm] apply, or
 - (b) where the conditions referred to in Article 24 of Regulation (EU) [on the preventive arm] apply.

Where If effective action has been taken in compliance with a recommendation under Article 126(7) TFEU and 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, unexpected adverse economic events with major unfavourable consequences for government finances 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. The Council shall assess the existence of unexpected adverse economic events with major unfavourable consequences for government finances against the economic forecasts in its recommendation. In the 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 the one year as a rule.

Article 4

~~1. Any decision by the Council under Article 126(8) TFEU to make public its recommendations where it is established that no effective action has been taken, shall be taken immediately after the expiry of the deadline set in accordance with Article 3(4) of this Regulation.~~

1. 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(4a5) 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.

2. **Any decision by the Council under Article 126(8) TFEU to make public its recommendations where it is established that no effective action has been taken, shall be taken immediately after the expiry of the deadline set in accordance with Article 3(4) of this Regulation.**

Article 5

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 in accordance with the requirements established in Article 3(4), which** achieve annual budgetary targets which, on the basis of the forecast underpinning the notice, are consistent with a minimum annual improvement of at least 0,5 % of GDP as a benchmark, in its cyclically adjusted balance net of one-off and temporary measures, in order to **ensures that the general government deficit remains or is brought and maintained below the reference value** the correction of the excessive deficit 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 those targets **the corrective net expenditure path.**

- 1a. Following a Council notice under Article 126(9) TFEU, the Member State concerned shall report to the Council and the Commission on action taken in response thereto. The report shall include the targets for the government expenditure and revenue and for the discretionary measures on both the expenditure and the revenue side, as well as information on the actions being taken in response to the specific Council recommendations so as to allow the Council

to take, if necessary, a decision in accordance with Article 6(2) of this Regulation. The Member State shall make the report public.

2. The Council may decide, on a recommendation from the Commission, to adopt a revised notice under Article 126(9) TFEU where:

- (a) effective action has been taken in response to such notice and the conditions referred to in Article 25 of Regulation (EU) [on the preventive arm] apply, or
- (b) where the conditions referred to in Article 24 of Regulation (EU) [on the preventive arm] apply.

~~Where If effective action has been taken in compliance with a notice under Article 126(9) TFEU and or unexpected adverse economic events with major unfavourable consequences for government finances 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. The Council shall assess the existence of unexpected adverse economic events with major unfavourable consequences for government finances against the economic forecasts in its notice. In the 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 this 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.

Article 6

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.

Where the conditions to apply Article 126(11) TFEU are met, the Council shall impose sanctions in accordance with that Article. Any such decision shall be taken no later than four months after the Council decision under Article 126(9) TFEU giving notice to the participating Member State concerned to take measures.

Article 7

If a participating Member State fails to act in compliance with the successive acts of the Council in accordance with Article 126(7) and (9) TFEU, the decision of the Council under Article 126(11) TFEU to impose sanctions shall be taken as a rule within 16 months of the reporting dates established in Article 3(2) and (3) of Regulation (EC) No 479/2009. Where Article 3(5) or Article 5(2) of this Regulation is applied, the 16-month deadline shall be adjusted accordingly. An

expedited procedure shall be used in the case of a deliberately planned deficit which the Council decides is excessive.

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 is projected by the Commission to remain so in the current year 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.~~

SECTION 3

ABEYANCE AND MONITORING

Article 9

1. The excessive deficit procedure shall be held in abeyance:
 - (a) if **where** the Member State concerned acts in compliance with recommendations made in accordance with Article 126(7) **TFEU**,
 - (b) if **where** the participating Member State concerned acts in compliance with notices given in accordance with Article 126(9) **TFEU**.
2. The period during which the procedure is held in abeyance shall be included neither in the period referred to in Article 6 nor in the period referred to in Article 7 of this Regulation.
3. Following the expiry of the period referred to in the first sentence of Article 3(4) and following the expiry of the period referred to in the second sentence of Article 6(2) of this Regulation, the Commission shall inform the Council if it considers that the measures taken seem sufficient to ensure adequate progress towards the correction of the excessive deficit within the time limits set by the Council, provided that they are fully implemented and that economic developments are in line with forecasts. The Commission statement shall be made public.

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. ~~If~~ **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. ~~If~~ **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.

Article 10a

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.**

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 and if requested 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.

3. The Commission may invite representatives of the European Central Bank, if appropriate, to participate in surveillance missions in a Member State whose currency is the euro or which is participating in the Agreement of 16 March 2006 between the European Central Bank and the national central banks of the Member States outside the euro area laying down the operating procedures for an exchange rate mechanism in stage three of Economic and Monetary Union (⁶) (ERM II).

4. The Commission shall report to the Council on the outcome of the mission referred to in paragraph 2 and may decide to make its findings public.

5. When organising surveillance missions referred to in paragraph 2, the Commission shall transmit its provisional findings to the Member States concerned for comments.

SECTION 4

SANCTIONS

Article 11

Whenever the Council decides under Article 126(11) TFEU to impose sanctions on a participating Member State, a fine shall, as a rule, be required. The Council may decide to supplement such a fine by the other measures provided for in Article 126(11) TFEU.

Article 12

1. The amount of the fine shall ~~comprise a fixed component equal to 0,2% of GDP, and a variable component~~ **amount to up to 0,05% of the latest estimate of the previous year's 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** ~~The variable component shall amount to one tenth of the absolute value of the difference between the balance as a percentage of GDP in the preceding year and either the reference value for government balance or, if non-compliance with budgetary discipline includes the debt criterion, the government balance as a percentage of GDP that should have been achieved in the same year according to the notice issued under Article 126(9) TFEU~~
2. In each year **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. ~~If the Council decides to impose an additional fine, it shall be calculated in the same way as for the variable component of the fine referred to in paragraph 1.~~
3. ~~No single~~ **The cumulated amount of the fines referred to in paragraphs 1 and 2 shall not exceed 0.5 % of GDP.**

Article 14

In accordance with Article 126(12) **TFEU**, the Council shall abrogate the sanctions referred to in **~~the first and second indents of~~ 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.

Article 16

~~The Fines referred to in Article 12 shall constitute~~ **other general revenue for the Union budget, other revenue, as referred to in Article 311 TFEU, and shall be assigned to the EU budget, European Financial Stability Facility.** ~~When the participating Member States create another stability mechanism to provide financial assistance in order to safeguard the stability of the euro area as a whole, the amount of those fines shall be assigned to that mechanism.~~

SECTION 5
TRANSITIONAL AND FINAL PROVISIONS

Article 17

~~For the purpose of this Regulation and for as long as the United Kingdom has a budgetary year which is not a calendar year, the provisions of sections 2, 3 and 4 of this Regulation shall be applied to the United Kingdom in accordance with the Annex.~~

Article 17a

1. By ~~14 December 2014~~ 31 December 2030 and every five years thereafter, the Commission shall prepare publish 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~~ That report referred to in paragraph 1 shall ~~evaluate-review at least, inter alia:~~ the effectiveness of this Regulation in achieving its objectives, as referred in article 1; 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.

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.

Article 18

This Regulation shall enter into force on 1 January 1999.

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

Annex

1. In order to ensure equal treatment of all Member States, the Council, when taking decisions in Sections 2, 3 and 4 of this Regulation, shall have regard to the different budgetary year of the United Kingdom, with a view to taking decisions with regard to the United Kingdom at a point in its budgetary year similar to that at which decisions have been or will be taken in the case of other Member States.

2. The provisions specified in Column I shall be substituted by the provisions specified in Column II.

Article 2 [of the amending Regulation]

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.