



COMMISSION OF THE EUROPEAN COMMUNITIES

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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**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

1. Meeting in Amsterdam on 17 June 1997, the European Council agreed on a Stability and Growth Pact in accordance with the principles and procedures of the Treaty. The European Council noted however in June 2004 the need to foster transparency and national ownership of the EU fiscal framework and to improve enforcement of its rules and provisions. The Commission issued a Communication on 3 September 2004 on “strengthening economic governance and clarifying the implementation of the Stability and Growth Pact” in which it provided an orientation for the future set-up of the Stability and Growth Pact and suggested enhancing its economic underpinnings and strengthening its credibility and enforcement.

Following the Commission Communication, the Council and the Commission engaged in discussions in order to reach consensus on a reform of the Stability and Growth Pact. On 20 March 2005, the Council adopted a report on “Improving the implementation of the Stability and Growth Pact”. In its report, the Council gave consideration to enhancing the governance and the national ownership of the fiscal framework, to strengthening the economic underpinnings and the effectiveness of the Pact, both in its preventive and corrective arms, to safeguarding the sustainability of public finances in the long run, to promoting growth and to avoiding imposing excessive burdens on future generations.

On 22 and 23 March 2005 the European Council endorsed this report, stating that it updates and complements the Stability and Growth Pact, which consists of Council Regulations (EC) No 1466/97 and (EC) No 1467/97 and the Resolution of the European Council on the Stability and Growth Pact of 7 July 1997.

In the presidency conclusions of its meeting of 22 and 23 March 2005, the European Council invited the Commission to bring forward proposals for amending the Council Regulations in accordance with the Council report.

2. The Commission followed the Council’s preference for keeping changes to the existing Regulations to a minimum. Legislative changes were introduced only where strictly necessary to ensure full implementation of the agreement endorsed by the European Council. The proposals amending Regulation (EC) No 1467/97 introduce the four changes explicitly requested by the Council report, in particular concerning the definition of a ‘severe economic downturn’, the definition and role of ‘other relevant factors’, the extension of the deadlines for taking action in the context of the excessive deficit procedure, and to allow the repetition of steps in the procedure, in particular recommendations under Article 104(7) and notices under Article 104(9). In addition to these amendments, some amendments mainly of a technical nature are introduced to Regulation (EC) No 1467/97 in order to ensure consistency with the Council report and smoothen the application of the excessive deficit procedure.

In particular, the deadline for the Council to decide on the existence of an excessive deficit in accordance with Article 104(6) shall be set taking as a reference the adoption by the Commission of a Report in accordance with Article 104(3), instead of the reporting dates established in Regulation (EC) No 3605/93. This would address the cases in which the budgetary data has not been validated by the Commission (Eurostat) shortly after the reporting dates established in Council

Regulation (EC) No 3605/93. It is also motivated by the fact that the Commission may need more time to prepare its reports under Article 104(3) in order to appropriately assess the influence of the 'other relevant factors' mentioned in Article 104(3) of the Treaty.

In addition, with the amendments to Regulation (EC) No 1467/97, the definition of an overall maximum period of 10 months from the reporting dates established in Article 4(2) and (3) of Regulation (EC) No 3605/93 until the decision to impose sanctions should be amended to become consistent with the amended deadlines in each step of the procedure and the possibility to issue revised recommendations under Article 104(7) or notices under Article 104(9).

3. Some of the changes that were agreed by the European Council do not require amendments to Regulation (EC) No 1467/97. The Commission will draw up a Code of Conduct setting out how these are to be implemented. In particular, it will set out how the Commission and the Council, in all budgetary assessments in the framework of the excessive deficit procedure, will give due consideration to the implementation of pension reforms in accordance with section 3.4 of the above-mentioned Council report.

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 establishing the European Community, and in particular the second subparagraph of Article 104(14) thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the European Central Bank<sup>3</sup>,

Whereas:

- (1) The Stability and Growth Pact initially consisted of 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<sup>4</sup>, Council Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure<sup>5</sup> and the Resolution of 17 June 1997 on the Stability and Growth Pact<sup>6</sup>. The Stability and Growth Pact has proven its usefulness in anchoring budget deficits, thereby contributing to a high degree of macroeconomic stability with low inflation and low interest rates, which is necessary to induce sustainable growth and employment creation.
- (2) On 20 March 2005 the Council adopted a report entitled “Improving the implementation of the Stability and Growth Pact” which aims to enhance the governance and the national ownership of the fiscal framework by strengthening the economic underpinnings and the effectiveness of the Pact, both in its preventive and corrective arms, to safeguard the sustainability of public finances in the long run, to promote growth and to avoid imposing excessive burdens on future generations. The report was endorsed by the European Council in its conclusions of 23 March 2005<sup>7</sup>, which stated that the report updates and complements the Stability and Growth Pact.

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<sup>1</sup> OJ C [...]

<sup>2</sup> OJ C [...]

<sup>3</sup> OJ C [...]

<sup>4</sup> OJ L 209, 2.8.1997, p. 1.

<sup>5</sup> OJ L 209, 2.8.1997, p. 6.

<sup>6</sup> OJ C 236, 2.8.1997, p. 1.

<sup>7</sup> See annex 2 of conclusions of the European Council of 22-23 March 2005.

- (3) The Stability and Growth Pact needs to be strengthened and its implementation to be clarified, with the aim of improving the coordination and monitoring of economic policies. In doing so, due account should be taken of changing circumstances, in particular the increased economic heterogeneity in the Community of 25 Members and the prospects of demographic changes.
- (4) Regulation (EC) No 1467/97 needs to be amended in order to allow the full application of the agreed improvement of the implementation of the Stability and Growth Pact.
- (5) The concept of exceptional excess over the reference value resulting from a severe economic downturn should be revised. In doing so, due account should be taken of the increased economic heterogeneity in the European Union.
- (6) The definition and the scope of application of all other relevant factors to be taken into account need to be clarified. The Commission report shall appropriately reflect developments in the medium-term economic position (in particular potential growth, prevailing cyclical conditions, the implementation of policies in the context of the Lisbon agenda and policies to foster R&D and innovation) and in the medium-term budgetary position (in particular fiscal consolidation efforts in “good times”, debt sustainability, public investment and the overall quality of public finances). Furthermore, due consideration will be given to any other factors which, in the opinion of the Member State concerned, are relevant in order to comprehensively assess in qualitative terms the excess over the reference value. In that context, special consideration will be given to budgetary efforts towards increasing or maintaining at a high level financial contributions to fostering international solidarity and to achieving European policy goals, notably the unification of Europe if it has a detrimental effect on the growth and fiscal burden of a Member State.
- (7) The deadline for the Council to decide on the existence of an excessive deficit in accordance with Article 104(6) of the Treaty should be set with reference to the adoption by the Commission of a report in accordance with Article 104(3), instead of the reporting dates established in Article 4(2) and (3) of Council Regulation (EC) No 3605/93 of 22 November 1993 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community<sup>8</sup>. This would address the cases in which the budgetary statistical data has not been validated by the Commission (Eurostat) shortly after the reporting dates established in Regulation (EC) No 3605/93. It would also allow the Commission more time to prepare its reports under Article 104(3) in order to appropriately assess the influence of the ‘other relevant factors’ mentioned in Article 104(3) of the Treaty.
- (8) The procedural deadlines for Council decisions in the excessive deficit procedure have been excessively tight and should be extended.
- (9) In order to ensure a prompt correction of excessive deficits, it is necessary for Member States that are in a situation of excessive deficit to take effective action and achieve a

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<sup>8</sup> OJ L 332, 31.12.1993, p. 7. Regulation as last amended by Commission Regulation (EC) No 351/2002 (OJ L 55, 26.2.2002. p.23).

minimum improvement in their cyclically-adjusted balance net of one-off and temporary measures every year.

- (10) Maximum time periods within which Member States are to take effective action and measures should be extended to allow better framing of the action in the national budgetary procedures and the development of more articulated packages of measures.
- (11) If the Member State concerned has taken effective action in response to a recommendation under Article 104(7) or a notice issued under Article 104(9) and unexpected adverse economic events with major negative consequences for government finances prevent the correction of the excessive deficit within the time limit set by the Council, it should be possible for the Council to issue a revised recommendation under Article 104(7) or a revised notice under Article 104(9).
- (12) The current overall maximum period of 10 months from the reporting dates established in Article 4(2) and (3) of Regulation (EC) No 3605/93 until the decision to impose sanctions would be inconsistent with the amended deadlines in each step of the procedure and the possibility to issue revised recommendations under Article 104(7) or revised notices under Article 104(9). The overall maximum period should therefore be adjusted in accordance with these amendments.
- (13) The provisions applicable to the implementation of the excessive deficit procedure in the case of the United Kingdom, which are set out in the Annex to Regulation (EC) No 1467/97, also need to be modified to reflect those changes.
- (14) 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) In Article 2, paragraphs 2 and 3 are replaced by the following:

“2. The Commission and the Council, when assessing and deciding upon the existence of an excessive deficit according to paragraphs 3 to 6 of Article 104 of the Treaty, 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 104(2)(a) if the excess over the reference value results from a negative growth rate or an accumulated loss of output during a protracted period of very low growth relative to potential growth.

3. The Commission, when preparing a report under Article 104(3) shall take into account all other relevant factors. The report shall, in particular, appropriately reflect developments in the medium-term economic and budgetary position. The Commission shall also give due consideration to factors which the Member State has put forward publicly and to the Commission within one month of the reporting dates established in Article 4(2) and (3) of Regulation (EC) No 3605/93.

4. The Commission, when considering whether an excessive deficit exists or may occur for non-fulfilment of the criterion mentioned in Article 104(2) (a), and the Council, when deciding on the existence of an excessive deficit, shall take into account the relevant factors mentioned in paragraph 3 only if the general government deficit remains both close to the reference value and its excess over the reference value is temporary.

5. If the Council has decided, on the basis of Article 104(6), that an excessive deficit exists in a Member State, the Commission and the Council shall also take into account the relevant factors mentioned in paragraph 3 in the subsequent procedural steps of Article 104. Such relevant factors shall not be taken into account in the cases referred to in Articles 3(5) and 5(2) of this Regulation or the decision of the Council under Article 104(12) on the abrogation of some or all of its decisions under paragraphs 6 to 9 and 11 of Article 104.”

(2) Article 3 is amended as follows:

(a) Paragraph 3 is replaced by the following:

“3. The Council shall decide on the existence of an excessive deficit in accordance with Article 104(6), within two months of the adoption by the Commission of a Report in accordance with Article 104(3). 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 104(7).”

(b) Paragraph 4 is replaced by the following:

“4. The Council recommendation made in accordance with Article 104(7) shall establish a deadline of six months at the most for effective action to be taken by the Member State concerned. The Council recommendation shall also establish a deadline for the correction of the excessive deficit, which should be completed in the year following its identification unless there are special circumstances. In the recommendation, the Council shall request that the Member State achieves a minimum annual improvement in the cyclically-adjusted balance net of one-off and temporary measures, in order to ensure the correction of the excessive deficit within the deadline set in the recommendation.”

5. If the Member State concerned has taken effective action in compliance with a recommendation under Article 104(7) and 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 104(7). This revised recommendation may notably extend the deadline for the correction of the excessive deficit by one year. The Council shall, in particular, consider whether the Member State concerned has taken effective action in order to achieve a minimum annual improvement in the cyclically-adjusted balance net of one-off and other temporary measures. The Council shall assess the existence of unexpected adverse economic events with major unfavourable consequences for government finances against the economic forecasts in the recommendation.”

(3) Article 5 is replaced by the following:

## “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 104(9) shall be taken within two months of the Council decision establishing that no effective action has been taken in accordance with Article 104(8). In the notice, the Council shall request that the Member State achieves a minimum annual improvement in the cyclically-adjusted balance net of one-off and temporary measures, in order to ensure the correction of the excessive deficit within the deadline set in the notice.

2. If the Member State concerned has taken effective action in compliance with a notice under Article 104(9) and unexpected adverse economic events with major unfavourable consequences for government finances occur after the adoption of that notice, the Council may decide, on a recommendation from the Commission, to adopt a revised notice under Article 104(9). This revised notice may notably extend the deadline for the correction of the excessive deficit by one year. The Council shall, in particular, consider whether the Member State concerned has taken effective action in order to achieve the required annual improvement in the cyclically-adjusted balance net of one-off and other temporary measures. The Council shall assess the existence of unexpected adverse economic events with major unfavourable consequences for government finances against the economic forecasts in the notice.”

(4) In Article 6, second sentence, the words “two months” are replaced by the words “four months”.

(5) Article 7 is replaced by the following:

## “Article 7

If a participating Member State fails to act in compliance with the successive decisions of the Council in accordance with Article 104(7) and (9), the decision of the Council to impose sanctions, in accordance with Article 104(11), shall be taken within fourteen months of the adoption by the Commission of a Report in accordance with Article 104(3). In case Article 3(5) or 5(2) of this Regulation is applied, the fourteen month deadline is amended accordingly. An expedited procedure shall be used in the case of a deliberately planned deficit which the Council decides is excessive”.

(6) Article 9 is amended as follows:

(a) Paragraph 2 is replaced by the following:

“2. The period during which the procedure is held in abeyance shall be included neither in the period referred to in Article 7 nor in the period referred to in Article 6 of this Regulation.”



(b) The following paragraph 3 is added:

“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 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”.

(7) References to Article 104(c) are replaced throughout the Regulation by references to Article 104.

(8) The Annex to Regulation (EC) No 1467/97 is replaced by the Annex to this Regulation.

## *Article 2*

This Regulation shall enter into force on the twentieth 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*

## **Annex**

### **Time limits applicable to the United Kingdom**

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.

Column I	Column II
“the year following its identification” (Article 3 (4))	“the budgetary year following its identification”
“the preceding year” (Article 12 (1))	“the preceding budgetary year”