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2010/0278 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the effective enforcement of budgetary surveillance in the euro area

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The global economic and financial crisis has exposed and amplified the need for greater co-ordination and enhanced surveillance of economic policies in the economic and monetary union (EMU). Existing instruments and methods of co-ordination and surveillance enabled the EU to weather a storm that no Member State could have withstood on its own. The European institutions and Member States reacted quickly and are continuing to work together to recover from a crisis that has no precedent in our generation.

However, these recent experiences also revealed remaining gaps and weaknesses in the current system of coordination and in the existing surveillance procedures. There is a broad agreement that the framework for EMU should be urgently strengthened in order to anchor macroeconomic stability and the sustainability of public finances, which are preconditions for durable output and employment growth.

The crisis has drastically reversed the favourable economic and financial conditions that prevailed until 2007 and made clear yet again that windfalls accumulated during good times had not been sufficiently used to create room for manoeuvre when times turn bad. Very sizeable consolidation will be necessary in most Member States to bring public debt back onto a downward path. This is all the more urgent as European societies and economies are facing the effects of ageing populations, which will put further pressure on labour supply and public budgets. Reducing debt levels is highly relevant for most countries in view of their negative effects on economic incentives and growth through higher taxes and risk premia.

The key instrument for fiscal policy co-ordination and surveillance is the Stability and Growth Pact (SGP), which implements the Treaty provisions on budgetary discipline. Strengthening the Pact is important for both increasing the credibility of the agreed co-ordinated fiscal exit strategy and avoiding a repetition of past mistakes. The set of proposals now being presented aims to strengthen the Pact by: (i) improving its provisions in the light of experience, not least of the crisis; (ii) equipping it with more effective enforcement instruments; and (iii) complementing it with provisions on national fiscal frameworks. This set of proposals is part of a broader reform of economic governance under the umbrella of the Europe 2020 strategy, which includes proposals for addressing macroeconomic imbalances through stronger surveillance, including alert and sanction mechanisms. The different strands of economic policy coordination, including surveillance of structural reforms, are to be integrated in a new surveillance cycle, the European Semester, which will bring together existing processes under the SGP and the Broad Economic Policy Guidelines, including simultaneous submission of stability and convergence programmes and national reform programmes.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES

The outlines of the present proposals were announced by the Commission in two communications: Reinforcing economic policy coordination of 12 May 2010 and Enhancing economic policy coordination for stability, growth and jobs – Tools for stronger EU economic governance of 30 June 2010. In opting for a formal communication, the Commission wished to demonstrate its commitment to fostering dialogue with Member States, the European

Parliament and all stakeholders, while at the same time delivering concrete proposals for action.

In June 2010, the European Council agreed on the urgent need to reinforce the coordination of our economic policies. The agreement included first orientations as regards the SGP and budgetary surveillance. In particular, the European Council agreed on: (i) strengthening both the preventive and corrective parts of the SGP, including with sanctions and taking due account of the particular situation of euro-area Member States; (ii) giving, in budgetary surveillance, a much more prominent role to levels and evolutions of debt and overall sustainability; (iii) ensuring that all Member States have national budgetary rules and medium term budgetary frameworks in line with the SGP; (iv) ensuring the quality of statistical data.

The European Council invited the Task Force on economic governance chaired by its President and established in March 2010 and the Commission to rapidly develop further and make operational these orientations. A constructive relationship developed between the Commission and the Task Force. The Commission contributed to the work of the Task Force through the Communications referred to above and through ad hoc contributions.

3. LEGAL ELEMENTS OF THE PROPOSAL

The legal basis for the SGP is laid down in Articles 121 and 126 of the Treaty on the Functioning of the European Union. The SGP consists 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 (referred to as preventive part); Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (referred to as corrective part); and the Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact. These Regulations were amended in 2005 by Regulations (EC) No 1055/2005 and (EC) No 1056/2005 and complemented by the Council Report of 20 March 2005 on ‘Improving the implementation of the Stability and Growth Pact’. The present proposals seek further amendments to Regulations No 1466/97 and (EC) No 1467/97. Additional enforcement instruments are proposed in a new Regulation of the European Parliament and the Council on the effective enforcement of budgetary surveillance in the euro area, based on Article 136 of the Treaty, in combination with Article 121(6). The requirements for the budgetary frameworks of the Member States are the subject of a new Council Directive based on Article 126(14): the Directive aims in particular to specify the obligations of national authorities to comply with the provisions of Article 3 of Protocol No 12 to the Treaties on the excessive deficit procedure.

The preventive part of the SGP is meant to ensure that Member States follow prudent fiscal policies so that there is no need to adopt more stringent forms of coordination to avoid public finance sustainability being put at risk, with potential negative consequences for EMU as a whole. Accordingly, Member States are required to present stability and convergence programmes outlining their plans to achieve medium-term budgetary objectives (MTOs), which are defined as a percentage of GDP in structural terms (i.e. adjusting for the effect of the cycle and excluding one-off and temporary measures) and are differentiated across countries around a close-to-balance position to reflect the level of public debt and liabilities related to ageing. Member States not having reached their MTO are expected to converge towards it at an annual pace of 0.5% of GDP in structural terms.

However, progress towards MTOs has been generally insufficient, leaving public finances badly exposed to the economic downturn. Moreover, the structural balance has in practice proved an insufficient measure of a country's underlying fiscal position, owing to the difficulty of assessing the cyclical position of the economy in real time and to insufficient account being taken of revenue windfalls and shortfalls not directly related to the economic cycle (in particular housing and financial market developments). As a result, in a number of countries, even apparently sound budgetary positions before the crisis masked a strong reliance on windfall revenues to finance expenditure, the reversal of which contributed to soaring budget deficits.

To respond to these shortcomings the reform of the preventive part that is being proposed, while retaining the current MTOs and the 0.5% of GDP annual convergence requirement, makes them operational in terms of a new principle of prudent fiscal policy-making. This principle implies that annual expenditure growth should not exceed – and if the MTO has not been achieved should be clearly below – a prudent medium-term rate of growth of GDP, unless the MTO has been significantly overachieved or the excess of expenditure growth over the prudent medium-term rate is matched by discretionary measures on the revenue side. The essential aim is to ensure that revenue windfalls are not spent but are instead allocated to debt reduction. The new principle will provide the benchmark against which countries' fiscal plans in the stability and convergence programme will be examined. Additionally, failure to respect keep to the agreed rate of growth of expenditure, in conjunction with the stipulated revenue measures, will make the Member State concerned liable to a warning from the Commission and, if persistent and/or particularly serious, a Council recommendation to take corrective action issued under Article 121 of the Treaty. Such a recommendation, while being issued in the context of the preventive part, would be backed, for the first time and for euro-area countries only, by an enforcement mechanism under Article 136 of the Treaty, in the form of an interest-bearing deposit, amounting to 0.2% of GDP. A procedure of 'reverse voting' mechanism is introduced for imposing the interest-bearing deposit: on the issue of a recommendation, the deposit would become due on proposal by the Commission, unless the Council decides to the contrary by qualified majority within ten days. The Council could reduce the amount of the deposit only unanimously or based on a Commission proposal and a reasoned request from the Member State concerned. The deposit will be returned with the accrued interest once the Council is satisfied that the situation giving rise to it has come to an end.

The corrective part of the SGP is meant to avoid gross errors in budgetary policies, which might put at risk the sustainability of public finances and potentially endanger EMU. This translates into the obligation for Member States to avoid excessive government deficits, which are defined against a numerical threshold for deficit (3% of GDP) and debt (60% of GDP or sufficiently declining toward it). The excessive deficit procedure (EDP) that implements the ban on excessive deficits provides for a sequence of steps, which, for euro-area countries, include the eventual imposition of financial sanctions.

The EDP has been regularly applied in line with the relevant provisions, even against the background of the exceptional circumstances of the financial crisis, thereby contributing to anchoring expectations of its orderly resolution. However a number of shortcomings have emerged. While the deficit and the debt criterion are in principle on an equal footing, and persistently high levels of debt arguably represent a more serious threat to public finance sustainability than occasionally high deficits, in practice the '3% of GDP' threshold has been the almost exclusive focus of the EDP, with debt playing a marginal role so far. This owes to the less straightforward nature of the debt threshold compared to the deficit, including the ambiguity of the notion of sufficiently diminishing pace of reduction and the greater impact on the debt ratio of variables outside the control of the government, notably inflation. The EDP is backed in principle by a strong enforcement mechanism, as financial sanctions can, and should be, imposed in the event of persistent failure to correct an excessive deficit. However, such sanctions arguably come into play too late in the process to represent an effective deterrent against gross fiscal policy errors, not least because the financial situation of the country concerned may have deteriorated so much as to make the threat of a fine less credible at the very time when it should become real. Finally, the recent crisis has highlighted that if the obligation to correct excessive deficits contributes to anchoring the expectation that government solvency will be maintained, the timeline of the correction and the profile of the adjustment may have to reflect EMU-wide considerations.

To respond to these shortcomings the following key proposals for the reform of the corrective part are being put forward.

The debt criterion of the EDP is to be made operational, notably through the adoption of a numerical benchmark to gauge whether the debt ratio is sufficiently diminishing toward the 60% of GDP threshold. Specifically, a debt-to-GDP ratio above 60% is to be considered sufficiently diminishing if its distance with respect to the 60% of GDP reference value has reduced over the previous three years at a rate of the order of one-twentieth per year. Non-compliance with this numerical benchmark is not, however, necessarily expected to result in the country concerned being placed in excessive deficit, as this decision would need to take into account all the factors that are relevant, in particular for the assessment of debt developments, such as whether very low nominal growth is hampering debt reduction, together with risk factors linked to the debt structure, private sector indebtedness and implicit liabilities related to ageing. In line with the greater emphasis on debt, more consideration should be given to relevant factors in the event of non-compliance with the deficit criterion, if a country has a debt below the 60% of GDP threshold.

The more flexible approach put forward with respect to considering the relevant factors in the steps of determining the existence of an excessive deficit could also benefit countries undertaking systemic pension reforms, beyond the currently foreseen five-year transitory period. The special provisions of the SGP for systemic pension reforms with regards the deficit criterion are also extended to the debt criterion; through establishing the same five-year transitory period for considering the net costs of such reforms when assessing the compliance with the debt criterion. Finally, equal consideration shall be given to the partial or total reversal of previously implemented systemic pension reforms, during both the launch and the abrogation of an EDP.

Enforcement is strengthened by introducing a new set of financial sanctions for euro-area Member States, which would apply much earlier in the process according to a graduated approach. Specifically, a non-interest-bearing deposit amounting to 0.2% of GDP would apply upon a decision to place a country in excessive deficit, which would be converted into a fine in the event of non-compliance with the initial recommendation to correct the deficit. The amount is equal to the fixed component of the sanctions already provided for in the final step of the EDP. It also bears a link with the EU budget, which should facilitate the envisaged move to a system of enforcement based on the EU budget as outlined in the above-mentioned Commission Communication of 30 June 2010. Further non-compliance would result in the sanction being stepped up, in line with the already existing provisions in the SGP. To reduce discretion in enforcement, the 'reverse voting' mechanism is envisaged for imposing the new sanctions in connection with the successive steps of the EDP. Specifically, at each step of the

EDP, the Commission will make a proposal for the relevant sanction, and this will be considered adopted, unless the Council decides to the contrary by qualified majority within ten days. The size of the non-interest-bearing deposit or the fine could only be reduced or cancelled by the Council unanimously or based on a specific proposal from the Commission on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned.

Moreover, the criteria for assessing compliance with the recommendations at each step, including the possibility of allowing an extension of the deadlines for the correcting the excessive deficit, are clarified by placing explicit emphasis on the fiscal variables that can be assumed to be under the direct control of the government, in particular expenditure, by analogy with the approach proposed for the preventive part. Beyond these country-specific circumstances, the possibility is introduced of extending the deadlines also in the event of a general economic crisis.

Effective enforcement of the EMU budgetary coordination framework cannot be expected to derive only from provisions laid down at EU level. The particular decentralised nature of fiscal policy-making in the EU and the general need for national ownership of EU rules make it essential that the objectives of the EMU budgetary coordination framework are reflected in the national budgetary frameworks. A national budgetary framework is the set of elements that form the basis of national fiscal governance, i.e. the country-specific institutional policy setting that shapes fiscal policy-making at national level. This includes public accounting systems, statistics, forecasting practices, numerical fiscal rules, budgetary procedures governing all stages of the budget process and medium term budgetary frameworks in particular, and fiscal relations across government sub-sectors. While Member States' specific needs and preferences must be respected, a number of features stand out as being needed in terms of ensuring minimum quality and consistency with the EMU budgetary framework. These are the subject of the Directive on national budgetary frameworks that is being proposed to complement the reform of the SGP. Such features firstly require that the most primary elements of national budgetary frameworks, namely accounting and statistical issues and forecasting practices, work in line with minimum European standards to facilitate transparency and the monitoring of fiscal developments. Domestic budgetary frameworks need also to adopt a multi-annual fiscal planning perspective so as to ensure the achievement of the medium-term objectives set at EU level. Additionally, Member States must have in place numerical fiscal rules conducive to compliance with the deficit and debt thresholds. Member States must ensure that these features apply to all general government sub-sectors. National authorities must also guarantee the transparency of the budget process by providing detailed information on existing extra-budgetary funds, tax expenditures and contingent liabilities.

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 136 , in combination with Article 121(6) 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 Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Member States whose currency is the euro have a particular interest and responsibility to conduct economic policies that promote the proper functioning of economic and monetary union and to avoid policies that jeopardise it.

(2) The Treaty allows the adoption of specific measures in the euro area which go beyond the provisions applicable to all Member States, for the purpose of ensuring the proper functioning of economic and monetary union.

(3) Additional sanctions are necessary to make the enforcement of budgetary surveillance more effective in the euro area. Those sanctions should enhance the credibility of the fiscal surveillance framework of the Union.

(4) The rules laid down by this Regulation should ensure fair, timely, graduated and effective mechanisms for compliance with the preventive and the corrective parts of the Stability and Growth Pact, in particular 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[2] and Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure[3].

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[1] OJ C , , p. .
[2] OJ L 209, 2.8.1997, p. 1.
[3] OJ L 209, 2.8.1997, p. 6.

(5) Sanctions for Member States whose currency is the euro in the preventive part of the Stability and Growth Pact should provide incentives for prudent fiscal policy-making. Such policy-making should ensure that the growth rate of government expenditure does not normally exceed a prudent medium-term growth rate of gross domestic product (GDP), unless the excess is matched by increases in government revenues or discretionary revenue reductions are compensated by reductions in expenditure.

(6) Prudent fiscal policy-making should effectively achieve and maintain the medium-term budgetary objective. Adherence to the medium-term objective for budgetary positions should allow Member States to have a safety margin with respect to the 3% of GDP reference value for the government deficit, to ensure rapid progress towards sustainability, and at the same time to have room for budgetary manoeuvre, in particular taking into account the needs for public investment.

(7) In the preventive part of the Stability and Growth Pact, the incentive for prudent fiscal policy-making should consist of an obligation to lodge an interest-bearing deposit temporarily imposed on a Member State whose currency is the euro that is making insufficient progress with budgetary consolidation. This should be the case when, following an initial warning from the Commission, a Member State persists in conduct which, while not amounting to a violation of the ban on excessive deficits, is imprudent and potentially detrimental to the smooth functioning of economic and monetary union, and the Council therefore issues a recommendation in accordance with Article 121(4) of the Treaty.

(8) The interest-bearing deposit imposed should be released to the Member State concerned with the interest accrued on it once the Council has been satisfied that the situation giving rise to the obligation to lodge that deposit has come to an end.

(9) In the corrective part of the Stability and Growth Pact, sanctions for Member States whose currency is the euro should take the form of an obligation to lodge a non-interest-bearing deposit linked to a Council decision establishing the existence of an excessive deficit and the obligation to pay a fine in the event of non-compliance with a Council recommendation to correct an excessive government deficit. These sanctions should be imposed irrespective of whether or not an interest-bearing deposit has previously been imposed on the Member State concerned.

(10) The size of the interest-bearing deposit, of the non-interest-bearing deposit and of the fine provided for in this Regulation should be set in such a way as to ensure a graduation of sanctions in the preventive and corrective parts of the Stability and Growth Pact and to provide sufficient incentives for the Member States whose currency is the euro to comply with the fiscal framework of the Union. The fine linked to Article 126(11) of the Treaty as specified in Article 12 of Regulation (EC) No 1467/97[4] is composed of a fixed component that equals 0.2% of GDP and of a variable component. Thus, graduation and equal treatment between Member States are ensured if the interest-bearing deposit, the non-interest-bearing deposit and the fine specified in this Regulation are equal to 0.2% of GDP, the size of the fixed component of the fine linked to Article 126(11) of the Treaty.

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[4] OJ L 209, 2.8.1997, p. 6.

(11) A possibility should be provided for the Council to reduce or to cancel the sanctions imposed on Member States whose currency is the euro on the basis of a Commission proposal following a reasoned request by the Member State concerned. In the corrective part of the Stability and Growth Pact, the Commission should also be able to propose to reduce the size of a sanction or to cancel it on grounds of exceptional economic circumstances.

(12) The non-interest-bearing deposit should be released upon correction of the excessive deficit while the interest on such deposits and the fines collected should be distributed among Member States whose currency is the euro which do not have an excessive deficit and which are not the subject of an excessive imbalance procedure either.

(13) The power to adopt individual decisions implementing the sanction mechanisms set out in this Regulation should be conferred on the Council. As part of the coordination of the economic policies of the Member States conducted within the Council as specified in Article 121(1) of the Treaty, these individual decisions are an integral follow-up to the measures adopted by the Council in accordance with Articles 121 and 126 of the Treaty and Regulations (EC) No 1466/97 and (EC) No 1467/97.

(14) Since this Regulation contains general rules for the effective enforcement of Regulations (EC) No 1466/97 and (EC) No 1467/97, it should be adopted in accordance with the ordinary legislative procedure referred to in Article 121(6).

(15) Since the objective to create a uniform sanction mechanism cannot be sufficiently achieved at the level of the Member States, the Union may adopt measures in accordance with the principles of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Chapter I
Subject matter

Article 1
Subject matter and scope

1. This Regulation sets out a system of sanctions for enhancing the enforcement of the preventive and corrective parts of the Stability and Growth Pact in the euro area.

2. This Regulation shall apply to Member States whose currency is the euro.

Article 2
Definitions

For the purpose of this Regulation:

(1) 'the preventive part of the Stability and Growth Pact' means the multilateral surveillance system as organised by Regulation (EC) No 1466/97 of July 1997;

(2) 'the corrective part of the Stability and Growth Pact' means the procedure for the control of Member States’ excessive deficit as regulated by Article 126 of the Treaty and Regulation (EC) No 1467/97 of 7 July 1997;

(3) 'exceptional economic circumstances' means circumstances where an excess of a government deficit over the reference value is considered exceptional within the meaning of the second indent of Article 126(2)(a) of the Treaty and as specified in Regulation (EC) No 1467/97.

Chapter II
Sanctions in the preventive part of the Stability and Growth Pact

Article 3
Interest-bearing deposit

1. If the Council addresses to a Member State a recommendation in accordance with Article 121(4) of the Treaty to take the necessary adjustment measures in the event of persisting or particularly serious and significant deviations from prudent fiscal policy-making as laid down in Article 6(3) of Regulation (EC) No 1466/97, the lodging of an interest bearing deposit shall be imposed by the Council, acting on a proposal from the Commission. The decision shall be deemed to be adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) of the Treaty.

2. The interest-bearing deposit to be proposed by the Commission shall amount to 0.2% of the gross domestic product (GDP) of the Member State concerned in the preceding year.

3. The deposit shall bear the interest rate reflecting the Commission credit risk and the relevant investment period.

4. By derogation from paragraph 2, the Commission, following a reasoned request by the Member State concerned addressed to the Commission within ten days of adoption of the Council recommendation referred to on paragraph 1, may propose to reduce the amount of the interest-bearing deposit or to cancel it.

5. If the situation giving rise to the recommendation referred to in paragraph 1 no longer subsists, the Council, on the basis of a proposal from the Commission, shall decide that the deposit and the interest accrued thereon are returned to the Member State concerned. The Council may amend the Commission proposal in accordance with Article 293(1) of the Treaty.

Chapter III
Sanctions in the corrective part of the Stability and Growth Pact

Article 4
Non-interest-bearing deposit

1. If the Council decides in accordance with Article 126(6) of the Treaty that an excessive deficit exists in a Member State, the lodging of a non-interest-bearing deposit shall be imposed by the Council, acting on a proposal from the Commission. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) of the Treaty.

2. The non-interest-bearing deposit to be proposed by the Commission shall amount to 0.2% of the GDP of the Member State concerned in the preceding year.

3. If the Member State has an interest-bearing deposit lodged with the Commission in accordance with Article 3, the interest-bearing deposit shall be converted into a non-interest-bearing deposit.

If the size of the previously lodged interest-bearing deposit and of the interest accrued exceeds the size of the required non-interest-bearing deposit, the outstanding amount shall be returned to the Member State.

If the size of the required non-interest-bearing deposit exceeds the size of the previously lodged interest-bearing deposit and the interest accrued thereon, the Member State shall make up the outstanding amount when it lodges the non-interest-bearing deposit.

4. By derogation from paragraph 2 of this Article, the Commission may, on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned addressed to the Commission within ten days of adoption of the Council decision in accordance with Article 126(6) of the Treaty, propose to reduce the amount of the non-interest-bearing deposit or to cancel it.

Article 5
Fine

1. If the Council decides in accordance with Article 126(8) of the Treaty that the Member State has not taken effective action in response to a Council recommendation within the period laid down, the Council, acting on a proposal from the Commission, shall decide that the Member State shall pay a fine. The decision shall be deemed adopted by the Council unless it decides by qualified majority to reject the proposal within ten days of the Commission adopting it. The Council may amend the proposal in accordance with Article 293(1) of the Treaty.

2. The fine to be proposed by the Commission shall amount to 0.2% of the GDP of the Member State concerned in the preceding year.

3. If the Member State has a non-interest-bearing deposit lodged with the Commission in accordance with Article 4, the non-interest-bearing deposit shall be converted into the fine.

If the size of the previously lodged non-interest-bearing deposit exceeds the size of the required fine, the outstanding amount shall be returned to the Member State.

If the size of the required fine exceeds the size of the previously lodged non-interest-bearing deposit, or if no non-interest-bearing deposit has been previously lodged, the Member State shall make up the outstanding amount when it pays the fine.

4. By derogation from paragraph 2 of this Article, the Commission may, on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned addressed to the Commission within ten days of adoption of the Council decision in accordance with Article 126(8) of the Treaty, propose to cancel or to reduce the amount of the fine.

Article 6
Return of the non-interest-bearing deposit

If the Council decides in accordance with Article 126(12) of the Treaty to abrogate some or all of its decisions, any non-interest-bearing deposit lodged by the Member State with the Commission shall be returned to the Member State concerned.

Article 7
Distribution of the interest and fines

The interest earned by the Commission on deposits lodged in accordance with Article 4 and the fines collected in accordance with Article 5 shall constitute other revenue referred to in Article 311 of the Treaty, and shall be distributed, in proportion to their share in the gross national income of the eligible Member States, among Member States whose currency is the euro which do not have an excessive deficit as determined in accordance with Article 126(6) of the Treaty and which are not the subject of an excessive imbalance procedure within the meaning of Regulation (EU) No […/…].

Chapter IV
GENERAL PROVISIONS

Article 8
Voting within the Council

For the measures referred to in Articles 3, 4 and 5, only members of the Council representing Member States whose currency is the euro shall vote and the Council shall act without taking into account the vote of the member of the Council representing the Member State concerned.

A qualified majority of the members of the Council mentioned in the previous paragraph shall be defined in accordance with Article 238(3)(a) of the Treaty.

Article 9
Entry into force

This Regulation shall enter into force on the [xx] 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 the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*