

COUNCIL DECISION**of 19 January 2010****on the existence of an excessive deficit in Germany**

(2010/285/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union and, in particular, Article 126(6) in conjunction with Article 126(13) and Article 136 thereof,

Having regard to the proposal from the Commission,

Having regard to the observations made by Germany,

Whereas:

- (1) According to Article 126(1) of the Treaty on the Functioning of the European Union, Member States shall avoid excessive government deficits.
- (2) The Stability and Growth Pact is based on the objective of sound government finances as a means of strengthening the conditions for price stability and for strong sustainable growth conducive to employment creation.
- (3) The excessive deficit procedure (EDP) under Article 126 of the Treaty on the Functioning of the European Union, as clarified by Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure⁽¹⁾ (which is part of the Stability and Growth Pact), provides for a Decision on the existence of an excessive deficit. Regulation (EC) No 1467/97 also establishes provisions for the implementation of Article 104 of the Treaty establishing the European Community, which has become Article 126 of the Treaty on the Functioning of the European Union. The Protocol on the excessive deficit procedure annexed to the Treaty on the Functioning of the European Union sets out further provisions relating to the implementation of the EDP. Council Regulation (EC) No 479/2009⁽²⁾ lays down detailed rules and definitions for the application of the provisions of that Protocol.
- (4) The 2005 reform of the Stability and Growth Pact sought to strengthen its effectiveness and economic underpinnings as well as to safeguard the sustainability of the public finances in the long run. It aimed at ensuring that, in particular, the economic and budgetary background was taken into account fully in all steps in the EDP. In this way, the Stability and

Growth Pact provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

- (5) Article 104(5) of the Treaty establishing the European Community, which has become Article 126(5) of the Treaty on the Functioning of the European Union, required the Commission to address an opinion to the Council if the Commission considered that an excessive deficit in a Member State existed or might occur. Having taken into account its report in accordance with Article 104(3) of the Treaty establishing the European Community, which has become Article 126(3) of the Treaty on the Functioning of the European Union, and having regard to the opinion of the Economic and Financial Committee in accordance with Article 104(4) of the Treaty establishing the European Community, which has become Article 126(4) of the Treaty on the Functioning of the European Union, the Commission concluded that an excessive deficit existed in Germany. The Commission therefore addressed such an opinion to the Council in respect of Germany on 11 November 2009⁽³⁾.
- (6) Article 126(6) of the Treaty on the Functioning of the European Union states that the Council should consider any observations which the Member State concerned may wish to make before deciding, after an overall assessment, whether an excessive deficit exists. In the case of Germany, this overall assessment leads to the conclusions set out in this Decision.
- (7) According to data notified by the German authorities in October 2009, the general government deficit in Germany is planned to reach 3,7 % of GDP in 2009, thus exceeding and not close to the 3 % of GDP reference value. The planned excess over the reference value can be qualified as exceptional within the meaning of the Treaty and the Stability and Growth Pact. According to the Commission services' autumn 2009 forecast, real GDP in Germany is projected to contract sharply by 5 % in the year 2009. Furthermore, the planned excess over the reference value cannot be considered temporary, since according to the Commission services' autumn 2009 forecast, taking into account the measures adopted in the current year affecting the budget for 2010 and for 2011, the deficit would widen to 5,0 % of GDP in 2010 to fall down to 4,6 % of GDP in 2011 on a no-policy change basis. The deficit criterion in the Treaty is not fulfilled.

⁽¹⁾ OJ L 209, 2.8.1997, p. 6.
⁽²⁾ OJ L 145, 10.6.2009, p. 1.

⁽³⁾ All EDP-related documents for Germany can be found at the following website: http://ec.europa.eu/economy_finance/netstartsearch/pdfsearch/pdf.cfm?mode=_m2

- (8) According to data notified by the German authorities in October 2009, the general government gross debt (which has been above the 60 % of GDP reference value since 2002) is planned to stand at 74,2 % of GDP in 2009. According to the Commission services' autumn 2009 forecast, the debt ratio is expected to rise further to 73,1 % of GDP in 2009 and reach 79,7 % of GDP in 2011. The debt ratio cannot be considered as diminishing sufficiently and approaching the reference value at a satisfactory pace within the meaning of the Treaty and the Stability and Growth Pact. The debt criterion in the Treaty is not fulfilled.
- (9) According to Article 2(4) of Regulation (EC) No 1467/97, 'relevant factors' can only be taken into account in the steps leading to the Council Decision on the existence of an excessive deficit in accordance with Article 126(6) of the Treaty on the Functioning of the European Union if the double condition — that the deficit remains close to the reference value and that its excess over the reference value is temporary — is fully met. In the case of Germany, this double condition is not

met. Therefore, relevant factors are not taken into account in the steps leading to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

From an overall assessment it follows that an excessive deficit exists in Germany.

Article 2

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 19 January 2010.

For the Council
The President
E. SALGADO