DECISIONS

COUNCIL DECISION

of 4 December 2012

amending Decision 2011/734/EU addressed to Greece with a view to reinforcing and deepening fiscal surveillance and giving notice to Greece to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit

(2013/6/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(9) and Article 136 thereof,

Having regard to the recommendation from the European Commission,

Whereas:

(1) Article 136(1)(a) of the Treaty on the Functioning of the European Union (TFEU) provides for the possibility of adopting measures specific to the Member States whose currency is the euro with a view to strengthening the coordination and surveillance of their budgetary discipline.

(2) Article 126 TFEU establishes that Member States are to avoid excessive government deficits and sets out the excessive deficit procedure to that effect. The Stability and Growth Pact, which in its corrective arm implements the excessive deficit procedure, provides the framework supporting government policies for a prompt return to sound budgetary positions taking account of the economic situation.

(3) On 27 April 2009, the Council decided, in accordance with Article 104(6) of the Treaty establishing the European Community, that an excessive deficit existed in Greece.

(4) On 10 May 2010, the Council adopted Decision 2010/320/EU [1] addressed to Greece under Article 126(9) and Article 136 TFEU with a view to reinforcing and deepening Greece's fiscal surveillance and giving it notice to take measures for the deficit reduction judged necessary to remedy the situation of excessive deficit at the latest by 2014. The Council also set annual targets for the government deficit.

(5) Decision 2010/320/EU was substantially amended several times. Since further amendments were to be made, it was recast, in the interest of clarity, on 12 July 2011, by Council Decision 2011/734/EU [2]. This decision was amended for the first time on 8 November 2011 [3].

(6) On 13 March 2012 [4], following a recommendation from the Commission, Decision 2011/734/EU was again amended in a number of respects, including the fiscal adjustment path, while the deadline for remedying the excessive deficit was kept unchanged. That Decision confirmed the recommendation that Greece would have to take measures to correct the situation of excessive deficit by 2014 at the latest, by ensuring an improvement in the structural balance of at least 10 percentage points of GDP over the 2009-2014 period.

(7) In accordance with Article 5(2) of Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure [5], if effective action has been taken in compliance with Article 126(9) TFEU 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 126(9) TFEU.

(8) Economic activity is currently projected to be much weaker than what was expected when the latest amendment to Decision 2011/734/EU was adopted in March 2012. Both real and nominal GDP are expected to be at much lower levels in 2012 and 2013. The recent revision of the Greek national accounts in October 2012 revealed a steeper contraction of real GDP, as compared to the underlying figures in Decision 2011/734/EU. According to the Commission services' 2012 Autumn Forecast, real GDP is projected to contract in 2012 by 6,0 % and by a further 4,2 % in 2013 (against a contraction of 4,7 % and a stagnation at 0,0 % in Decision 2011/734/EU, for 2012 and 2013, respectively), before growing by 0,6 % in 2014. This marked worsening of the economic scenario implies a corresponding deterioration of the outlook for public finances given unchanged policies.

[1] OJ L 145, 11.6.2010, p. 6.

[2] OJ L 296, 15.11.2011, p. 38.

[3] Council Decision 2011/791/EU (OJ L 320, 3.12.2011, p. 28).

[4] Council Decision 2012/211/EU (OJ L 113, 25.4.2012, p. 8).

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

(9) In 2012, the general government deficit is expected to have reached 6,9 % of GDP, well within the ceiling of a government deficit (based on the European System of Accounts 1995, set up by Regulation (EC) No 2223/96 ([1])) of 7,3 % of GDP for 2012 established by Decision 2011/734/EU. In nominal terms, the 2012 general government deficit is expected to have reached EUR 13,4 billion, compared with a EUR 14,8 billion deficit ceiling prescribed in Decision 2011/734/EU. The primary deficit, however, is expected to be slightly higher than the targeted 1,0 % of GDP, largely because of the deeper-than-expected recession. Greece is estimated to have improved its structural deficit by 13,4 percentage points of GDP from a 14,7 % deficit in 2009 to an estimated 1,3 % deficit in 2012. Greece has thus ensured an improvement in the structural balance in the 2009-2012 period which is already larger than the at least 10 percentage points of GDP over the 2009-2014 period recommended by the Council. On 11 November 2012, the budget for 2013 was adopted by the Greek Parliament that is expected to bring savings of more than EUR 9,2 billion, over 5 % of GDP. The 2013 budget forms part of the 2013-2016 medium-term fiscal strategy ('MTFS') that was adopted by the Greek Parliament a few days earlier on 7 November 2012. The MTFS and the relevant legislation to implement it set out a very sizeable and front-loaded fiscal consolidation amounting to over 7 % of GDP by 2016, with a comprehensive set of structural measures underlying a substantial fiscal consolidation. Taking into account these developments, the policy conditionality in the Memorandum of Understanding on the economic adjustment programme of Greece needs to be updated. The commitment undertaken by Greece concerns not only the fiscal consolidation measures, but also those measures needed to enhance growth and to minimise any negative social impact. Overall, therefore, Greece has taken effective action in 2012 to reduce its deficit in compliance with Decision 2011/734/EU.

(10) The general government consolidated debt was expected in the Commission Autumn 2012 forecast to decline by EUR 11,1 billion in 2012, against EUR 26,95 billion set in Decision 2011/734/EU. This is due to lower-than-expected privatisation receipts, a lower-than-expected consolidation of government debt and worse-than-expected cash-accruals and other interest adjustments. Owing to a lower nominal GDP following the statistical data revision and in light of worse macroeconomic prospects, the debt-to-GDP ratio would rise to 176,7 %, before agreed initiatives by Member States whose currency is the euro and certain debt-reducing measures considered by Greece are implemented in December 2012, which would reduce the debt to slightly above 160 % of GDP by the end of 2012. These measures should improve the sustainability of debt, and certain debt-reducing measures considered by Greece should improve the sustainability of the debt trajectory, without altering the fiscal path for the primary surplus. Taking also into account a narrowing of the budget deficit and stronger nominal GDP growth resulting from structural policy measures, the debt-to-GDP ratio is expected to peak in 2013. The debt-to-GDP ratio would start declining from 2014 onwards to reach below 160 % of GDP in 2016.

(11) Despite the effective action undertaken, the marked worsening of the economic scenario implies a corresponding deterioration of the outlook for public finances given unchanged policies and makes it difficult to complete the correction of the excessive deficit by 2014, as requested by the Council in Decision 2011/734/EU. Given the adverse economic events, an extension of the deadline for the adjustment period is warranted. In particular, the deadline that was set in the Council Decision needs to be extended by two years to 2016. Under a revised Economic Adjustment Programme path, the primary balance targets should be set at 0 %, 1,5 %, 3 % and 4,5 % of GDP respectively for the 2013-2016 period. The revised path means that the general government budget deficit will fall below 3 % of GDP in 2016. The debt-reducing measures to be implemented in December 2012 could reduce interest payments by up to 1 % of GDP, making it possible to bring the budget deficit below 3 % of GDP already in 2015. These numbers could be estimated to translate into an improvement in the cyclically-adjusted primary balance to GDP ratio from 4,1 % in 2012 to 6,2 % in 2013 and at least 6,4 % of GDP in 2014, 2015 and 2016 and into a cyclically-adjusted government deficit to GDP ratio at – 1,3 % in 2012, 0,7 % in 2013, 0,4 % in 2014, 0,0 % in 2015 and – 0,4 % in 2016, reflecting the original profile of interest payments. Notwithstanding the extension of the deadline for remedying the excessive deficit, however, the fiscal effort needed to achieve the target remains very large in 2013-2014, and heavily frontloaded. This revision of the deadline will therefore maintain the credibility of the economic adjustment programme, while considering the economic and social impact of the consolidation and the need to maintain confidence in the capacity of the Greek Government to address the fiscal challenge.

(12) Each measure required by this Decision is instrumental in achieving the required budgetary adjustment. Some measures have a direct impact on the budgetary situation of Greece, while the others are structural measures that will result in improved fiscal governance and a sounder budgetary situation in the medium term.

([1]) Council Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (OJ L 310, 30.11.1996, p. 1).

(13) The very severe deterioration of the financial situation of the Greek Government has led the Member States whose currency is the euro to decide to provide stability support to Greece, with a view to safeguarding the financial stability of the euro area as a whole, in conjunction with multilateral assistance provided by the International Monetary Fund. Since March 2012, support provided by the Member States whose currency is the euro takes the form of both a bilateral Greek loan facility and a loan from the European Financial Stability Facility. The lenders have decided that their support shall be conditional on Greece complying with Decision 2011/734/EU, as amended by this Decision. In particular, Greece is expected to carry out the measures specified in this Decision in accordance with the calendar set out herein,

HAS ADOPTED THIS DECISION:

Article 1

Decision 2011/734/EU is hereby amended as follows:

(1) Article 1 is replaced by the following:

‘*Article 1*

1. Greece shall put an end to the present excessive deficit situation as rapidly as possible and, at the latest, by the deadline of 2016.

2. The adjustment path towards the correction of the excessive deficit shall aim to achieve a general government primary deficit (deficit excluding interest expenditure) not exceeding EUR 2 925 million (1,5 % of GDP) in 2012, and general government primary surpluses of at least EUR 0 million (0,0 % of GDP) in 2013, EUR 2 775 million (1,5 % of GDP) in 2014, EUR 5 700 million (3,0 % of GDP) in 2015 and EUR 9 000 million (4,5 % of GDP) in 2016. These targets for the primary deficit/surplus imply an overall ESA-government deficit of 6,9 % of GDP in 2012, 5,4 % of GDP in 2013, 4,5 % of GDP in 2014, 3,4 % of GDP in 2015 and 2,0 % of GDP in 2016. The debt-reducing measures to be implemented in December 2012 could reduce interest payments by up to 1 % of GDP. These numbers could be estimated to translate into an improvement in the cyclically-adjusted primary balance to GDP ratio from 4,1 % in 2012 to 6,2 % in 2013 and at least 6,4 % of GDP in 2014, 2015 and 2016 and into a cyclically-adjusted government deficit to GDP ratio at – 1,3 % in 2012, 0,7 % in 2013, 0,4 % in 2014, 0,0 % in 2015 and – 0,4 % in 2016, reflecting the original profile of interest payments. Proceeds from the privatisation of financial and non-financial assets, transactions relating to bank recapitalisations, as well as all transfers related to the Eurogroup decision of 21 February 2012 with regard to income of euro zone national central banks, including the Bank of Greece, stemming from their investment portfolio holdings of Greek Government bonds shall not reduce the required fiscal consolidation effort and shall not be counted in the assessment of these targets. The same applies to any payments from loss-making banks beyond those which would accrue from the ELA guarantee fee structure existing on 30 September 2012.

3. The adjustment path referred to in paragraph 2, taking into account the impact of debt-reducing measures to be implemented in December 2012, would be consistent with a general government consolidated debt ratio to GDP of below 160 % in 2016.’;

(2) in Article 2, the following paragraph is inserted:

‘10a. Greece shall have adopted the following measures by 4 December 2012:

(a) the budget for 2013 and the MTFS through 2016, as well as the measures as described in Annex IA to this Decision and the respective implementing legislation. The MTFS shall elaborate on the permanent fiscal consolidation measures which ensure that the deficit ceilings for 2012-2016, as established by this Decision, are not exceeded and that the debt-to-GDP ratio is put on a sustainable downward path;

(b) the presentation of an updated Privatisation Plan to the Greek Parliament and the publication of a semi-annual update of the Asset Development Plan;

(c) the transfer to the portfolio of privatisation assets of the HRADF of the full and direct ownership (shares or concession rights) of Egnatia Motorway and the regional ports of Elefsina, Lavrio, Igoumenitsa, Alexandroupolis, Volos, Kavala, Corfu, Patras, Heraklion, and Rafina;

(d) ensuring the line Ministries and other relevant entities provide the General Secretariat for Public Property with full access to the inventory of all real estate assets owned by the State;

(e) the amendment and/or the repeal of statutory provisions of State-owned enterprises (PPC, OLP and OLTH port authorities, HELPE, EYATH and EYDAP, ports, etc.) that diverge from private company law regarding any restrictions on voting rights of private shareholders;

(f) legislation to define the role and qualifications of the Secretary-General of the Tax Administration and for the Minister of Finance to delegate decision-making powers to the Secretary-General of the Tax Administration;

(g) the deployment of experienced tax auditors towards activities serving the immediate revenue imperatives, by strengthening and making fully operational key enforcement areas such as the large taxpayer unit by transferring 100 auditors from other duties, and by establishing a single functional unit for high-wealth individuals and high-income self-employed persons and staffing this unit with 50 experienced tax auditors directly accountable to the Secretary-General of the Tax Administration;

(h) a Council of Ministers act (replacing the Council of Ministers act adopted on 29 October 2012), aiming at strengthening budget execution and enhancing sound fiscal management, and including, beyond the provisions in the original Council of Ministers act, additional provisions: (i) establishing that Memoranda of Cooperation are signed by end-December of each year between the Ministry of Finance and the other Ministries or between the Ministries and managers of the supervised entities (thus covering the entire general government); (ii) strengthening the current balanced budget constraints for local governments in order for them to be more effective, including corrective and sanctioning mechanisms; (iii) strengthening the current monitoring system for State-owned enterprises (SOEs) and introducing an enforcement mechanism in case of deviations from the specific targets identified for each SOE; and (iv) setting the framework for defining specific targets for the coverage of operational commitment registers for local governments and SOEs to be established by December of each year. That Council of Ministers act shall also include mechanisms for correcting transfers from central government to address deviations from targets within the year and possibly in the following years, while ensuring that arrears are not increasing; it shall make explicit that the proceeds from the privatisation of government assets are paid directly into a segregated account to monitor cash flows, avoid diversion of official financing and secure a timely debt servicing; and it shall set automatic cuts in expenditure to be applied as a rule when targets are missed, while ensuring that arrears do not increase;

(i) a set of measures to improve the current financial situation of the National Organisation for Healthcare Provision (EOPYY) and ensure that budgetary execution is closer to a balanced budget in 2012 and 2013, including: (i) streamlining the benefit package; (ii) increasing cost-sharing for healthcare delivered by private providers; (iii) negotiating price-volume agreements and revising case-mix agreements with private providers; (iv) revising the fees for, and number of, diagnostic and physiotherapy services contracted by EOPYY to private providers with the aim of reducing related costs by at least EUR 80 million in 2013; (v) introducing a reference price system for the reimbursement of medical devices; and (vi) progressively increasing the contributions paid by OGA members to the average of those paid by other members of EOPYY;

(j) the following measures relating to the reimbursement of medicines: (i) legislation to control pharmaceutical spending that activates contingency measures (including e.g. an across-the-board cut in prices), if for any reason the existing automatic claw-back mechanism is not sufficient to achieve the target; such measures shall produce an equivalent amount of savings; (ii) a ministerial decree, setting the new claw-back threshold for 2013 (EUR 2,44 billion for outpatients); (iii) updating the price list and the positive list of reimbursable medicines, particularly by establishing the reimbursement of only cost effective packages for chronic diseases, by moving medicines from the positive to the negative and over-the-counter lists and by introducing the reference price system developed by the National Organisation for Medicines (EOF). These lists must be updated at least twice a year in line with Council Directive 89/105/EEC; and (iv) the substitution of prescribed medicines by the lowest–priced product of the same active substance in the reference category by pharmacies (compulsory “generic substitution”).’;

(3) in Article 2, paragraph 11 is replaced by the following:

‘11. Greece shall adopt the following measures by the end of December 2012:

(a) a tax reform of personal income tax and corporate income tax that aims at simplifying the tax system, broadening the tax base and eliminating exemptions and preferential regimes;

(b) the necessary primary and secondary legislation to ensure the swift implementation of the Privatisation Plan;

(c) the establishment of a regulatory framework for water companies;

(d) measures to improve the tax administration, introducing performance assessments, improving the use of risk assessment techniques, and establishing and reinforcing specialist debt management units;

(e) the preparation and publication of a plan for the clearance of arrears owed to suppliers by public entities and of tax refunds;

(f) the finalisation of the implementation of the reform of the functioning of secondary/supplementary public pension funds; and the unification of all existing funds in the public sector;

(g) legislation to extend the application of the 5 % rebate on pharmaceutical companies (which exists for hospital-priced medicines) to all products sold in EOPYY pharmacies;

(h) an increase of the share of generic medicines to 35 % of the overall volume of medicines sold by pharmacies;

(i) the assignment of internal controllers to all hospitals and the adoption by all hospitals of commitment registers.’;

(4) the following paragraphs are added to Article 2:

‘12. Greece shall adopt the following measures by the end of March 2013:

(a) issue a Ministerial Decree for the adjustment of end-user prices for low-voltage customers;

(b) update the MTFS, including by setting binding 3-year expenditure ceilings for government subsectors;

(c) adopt staffing plans for line Ministries;

(d) establish a significantly more autonomous tax administration and specify the degree of autonomy, governance framework, accountability, legal powers of the head of the tax administration and the initial staffing of the organisation;

(e) issue and make public a new fully-fledged anti-corruption plan for the civil service, including special provisions for the tax and customs administration;

(f) make fully operational a standard procedure for revision of legal values of real estate to better align them with market prices under the responsibility of the Directorate of Capital Taxation;

(g) transfer 40 new real estate assets (identified as “real estate assets lots 2 and 3” in the Privatisation Plan) to the HRADF.

13. Greece shall adopt the following measures by the end of June 2013:

(a) achieve the target of making 2 000 tax auditors fully operational;

(b) adopt a new Tax Procedures Code;

(c) ensure the e-procurement platform is ready for use by all central purchasing bodies.

14. Greece shall adopt, by the end of September 2013, the necessary legislation with a view to introducing a structural balanced budget rule with an automatic correction mechanism.’;

(5) the text appearing in the Annex to this Decision is inserted as Annex IA.

Article 2

This Decision shall take effect on the day of its notification.

Article 3

This Decision is addressed to the Hellenic Republic.

Done at Brussels, 4 December 2012.

For the Council

The President

V. SHIARLY

ANNEX

'ANNEX IA

MEDIUM-TERM FISCAL STRATEGY 2013-16 MEASURES

The additional measures included in the medium-term fiscal strategy (MTFS) through 2016 are the following:

1. Rationalisations in the wage bill by at least EUR 1 110 million in 2013 and by an additional EUR 259 million in 2014.
2. Savings in pensions of at least EUR 4 800 million in 2013 and of an additional EUR 423 million in 2014.
3. Cuts in the State's operational expenditure by at least EUR 239 million in 2013 and by an additional EUR 285 million in 2014.
4. Savings from rationalisation and efficiency improvements in education-related expenses of at least EUR 86 million in 2013 and of an additional EUR 37 million in 2014.
5. Savings in State-owned enterprises of at least EUR 249 million in 2013 and of an additional EUR 123 million in 2014.
6. Cuts in operational defence-related expenditure producing savings by at least EUR 303 million in 2013 and by an additional EUR 100 million in 2014.
7. Savings in healthcare and pharmaceutical expenditure of at least EUR 455 million in 2013 and of an additional EUR 620 million in 2014.
8. Savings from the rationalisation of social benefits of at least EUR 217 million in 2013 and of an additional EUR 78 million in 2014.
9. Cuts in State transfers to local governments by at least EUR 50 million in 2013 and by an additional EUR 160 million in 2014.
10. Cuts in expenditure by the public investment budget (domestically-financed public investment) by EUR 150 million in 2013 and by an additional 150 million in 2014.
11. An increase in revenues of at least EUR 1 689 million in 2013 and of an additional EUR 1 799 million in 2014.'.