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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2103/2005**of 12 December 2005****amending Regulation (EC) No 3605/93 as regards the quality of statistical data in the context of the excessive deficit procedure**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third subparagraph of Article 104(14) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Having regard to the opinion of the European Central Bank ⁽²⁾,

Whereas:

(1) Statistical data to be used for the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community must be provided by the Commission. The Commission does not directly compile these data but relies on data compiled and reported by the national authorities pursuant to Article 3 of that Protocol.

(2) The role of the Commission, as statistical authority, in that context is specifically exercised by Eurostat, on behalf of the Commission. As the Commission department responsible for carrying out the tasks devolving on the Commission as regards the production of Community statistics, Eurostat is required to execute its tasks in accordance with the principles of impartiality,

reliability, relevance, cost-effectiveness, statistical confidentiality and transparency, as laid down in Commission Decision 97/281/EC of 21 April 1997 on the role of Eurostat as regards the production of Community statistics ⁽³⁾. The implementation by the national and Community statistical authorities of the Recommendation of the Commission of 25 May 2005 on the independence, integrity and accountability of the national and Community statistical authorities should enhance the principle of professional independence, adequacy of resources and quality of statistical data.

(3) 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 ⁽⁴⁾ contains the relevant definitions for the purpose of the excessive deficit procedure and lays down a timetable for the reporting to the Commission of annual government deficit and debt and of other annual government data. In its current wording, the Regulation does not contain provisions concerning the assessment of the quality of the data reported by Member States or to the provision of data by the Commission.

(4) Following a proposal by the Commission, the Council (ECOFIN) adopted on 18 February 2003 a Code of Best Practice on the compilation and reporting of data in the context of the excessive deficit procedure, in an attempt to clarify and streamline procedures, at both Member States and Commission levels, when compiling and reporting the European System of Accounts 1995 (ESA 95) ⁽⁵⁾, government accounts, and in particular data for government deficit and debt, in the context of the excessive deficit procedure.

⁽³⁾ OJ L 112, 29.4.1997, p. 56.

⁽⁴⁾ 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).

⁽⁵⁾ 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). Regulation as last amended by Regulation (EC) No 1267/2003 of the European Parliament and of the Council (OJ L 180, 18.7.2003, p. 1).

⁽¹⁾ Opinion delivered on 23 June 2005 (not yet published in the Official Journal).

⁽²⁾ OJ C 116, 18.5.2005, p. 11.

- (5) A revision of the deadlines for reporting data in the context of the excessive deficit procedure should ensure full consistency with the deadlines of the ESA transmission programme ⁽¹⁾ on government expenditure and revenue, financial balance sheets, financial transactions and debt with quarterly and annual frequency. The purpose of the revision of reporting deadlines is to streamline the Member States' reporting obligations, and the revision implies some future amendment of the ESA 95 transmission programme, to be carried out by a Commission Regulation.
- (6) The credibility of budgetary surveillance crucially hinges upon reliable budgetary statistics. It is of the utmost importance that data reported by Member States under Regulation (EC) No 3605/93 and provided by the Commission to the Council in accordance with the Protocol be of high quality.
- (7) It is necessary to specify measures to improve the quality of actual government data reported in the context of the excessive deficit procedure which build on existing best practices and which would allow the Council and the Commission to perform their duties under the Treaty. Core elements for the evaluation of quality are laid down in the Quality Declaration of the European Statistical System, adopted by the Statistical Programme Committee in September 2001.
- (8) In accordance with the principle of proportionality, as set out in Article 5 of the Treaty, the measures provided for in this Regulation necessary to achieve the objective of strengthening the statistical monitoring of the quality of the reported data in the context of the excessive deficit procedure do not go beyond what is required to achieve this objective.
- (9) The compilation of budgetary statistics is governed by the principles laid down in Council Regulation (EC) No 322/97 of 17 February 1997 on Community statistics ⁽²⁾, most notably the principles of impartiality, reliability, relevance and transparency.
- (10) Eurostat shall be responsible, on behalf of the Commission, for assessing the quality of the data and for providing the data to be used in the context of the excessive deficit procedure, in accordance with Commission Decision 97/281/EC.
- (11) A permanent dialogue should be established between the Commission and the Member States' statistical authorities in order to ensure the quality both of the actual data reported by Member States and of the underlying government sector accounts compiled in accordance with ESA 95. To that end, regular dialogue visits, as well as possible methodological visits, may be carried out by the Commission, thus enhancing the monitoring of the reported data and providing continuing assurance of data quality. Member States are to provide the Commission with prompt access to the information. Dialogue visits should be the rule. Methodological visits should only be undertaken in cases where the Commission (Eurostat) identifies substantial risks or potential problems with the quality of the data, especially where it relates to the methods, concepts and classifications applied to the data, which Member States are obliged to report. The conduct of these possible methodological visits will be based on exchange of information amongst all the relevant fora, in particular the Economic and Financial Committee.
- (12) Detailed inventories of the methods, procedures and sources used for the compilation of actual deficit and debt data and the underlying government sector accounts compiled according to ESA 95 are to be provided to the Commission, updated and made public by the Member States.
- (13) Prompt decisions by the Commission (Eurostat) on the correct accounting treatment of a transaction in accordance with Council Regulation (EC) No 2223/96 are needed in cases of doubt as to the correct accounting treatment of a government transaction or in cases which are either complex or of general interest.

⁽¹⁾ — Commission Regulation (EC) No 264/2000 of 3 February 2000 on the implementation of Council Regulation (EC) No 2223/96 with respect to short term public finance statistics (OJ L 29, 4.2.2000, p. 4).
 — Regulation (EC) No 1221/2002 of the European Parliament and of the Council of 10 June 2002 on quarterly non-financial accounts for general government (OJ L 179, 9.7.2002, p. 1).
 — Regulation (EC) No 501/2004 of the European Parliament and of the Council of 10 March 2004 on quarterly financial accounts for general government (OJ L 81, 19.3.2004, p. 1).
 — Council Regulation (EC) No 1222/2004 of 28 June 2004 concerning the compilation and transmission of data on the quarterly government debt (OJ L 233, 2.7.2004, p. 1).
 — Commission Regulation (EC) No 1500/2000 of 10 July 2000 implementing Council Regulation (EC) No 2223/96 with respect to general government expenditure and revenue (OJ L 172, 12.7.2000, p. 3).
 — Council Regulation (EC) No 2223/96 (OJ L 310, 30.11.1996, p. 1).

⁽²⁾ OJ L 52, 22.2.1997, p. 1.

- (14) Rules governing the provision of data by the Commission (Eurostat) are to be clarified in terms of the time limit for such provision and any reservations and amendments.
- (15) Coverage of the reporting needs to be brought in line with the data currently reported by the Member States. More generally, Regulation (EC) No 3605/93 needs to be updated in the light of the experience gained through the implementation of the Code of Best Practice.
- (16) Regulation (EC) No 3605/93 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 3605/93 is hereby amended as follows:

1. Article 3 shall be replaced by the following:

'Article 3

1. Planned government deficit and government debt level figures mean the figures established for the current year by the Member States. They shall be the most recent official forecasts, taking into account the most recent budgetary decisions and economic developments and prospects. They should be produced in as short a time as possible before the reporting deadline.

2. Actual government deficit and government debt level figures mean estimated, provisional, half-finalised or final results for a past year. The planned data together with the actual data must form a consistent time series as far as the definitions and concepts are concerned.;

2. in Article 4, paragraphs 1, 2 and 3 shall be replaced by the following:

'1. As from the beginning of 1994, Member States shall report to the Commission their planned and actual government deficits and levels of government debt twice a year, the first time before 1 April of the current year (year n) and the second time before 1 October of year n.

Member States shall inform the Commission which national authorities are responsible for the excessive deficit procedure reporting.

2. Before 1 April of year n, Member States:

— shall report to the Commission their planned government deficit for year n, an up-to-date estimate of their actual government deficit for year n-1 and their actual government deficits for years n-2, n-3 and n-4,

— shall simultaneously provide the Commission with their planned data for year n and the actual data for years n-1, n-2, n-3 and n-4 of their corresponding public accounts budget deficits in accordance with the definition which is given most prominence nationally and with the figures which explain the transition between the public accounts budget deficit and their government deficit for the sub-sector S.1311,

— shall simultaneously provide the Commission with their actual data for years n-1, n-2, n-3 and n-4 of their corresponding working balances and with the figures which explain the transition between the working balances of each government sub-sector and their government deficit for the sub-sectors S.1312, S.1313 and S.1314,

— shall report to the Commission their planned level of government debt at the end of year n and their levels of actual government debt at the end of years n-1, n-2, n-3 and n-4,

— shall simultaneously provide the Commission, for years n-1, n-2, n-3 and n-4, with the figures which explain the contribution of the government deficit and other factors relevant to the variation in the level of their government debt by sub-sector.

3. Before 1 October of year n, Member States shall report to the Commission:

— their updated planned government deficit for year n and their actual government deficits for years n-1, n-2, n-3 and n-4 and shall comply with the requirements of the second and third indents of paragraph 2,

— their updated planned level of government debt at the end of year n and their levels of actual government debt at the end of years n-1, n-2, n-3 and n-4, and shall comply with the requirements of the fifth indent of paragraph 2.;

3. Articles 7 and 8 shall be replaced by the following:

‘Article 7

1. Member States shall inform the Commission, as soon as it becomes available, of any major revision in their actual and planned government deficit and debt figures already reported.

2. Major revisions in the actual deficit and debt figures already reported shall be properly documented. In any case, revisions which result in the reference values as specified in the relevant Treaty Protocol being exceeded, or revisions which mean that a Member State's data no longer exceed the reference values, must be reported and properly documented.

Article 8

Member States shall make public the actual deficit and debt data and other data for past years reported to the Commission in accordance with Articles 4, 5, 6 and 7.;

4. After Article 8, the following sections shall be inserted:

‘SECTION 2a

QUALITY OF DATA

Article 8a

1. The Commission (Eurostat) shall regularly assess the quality both of actual data reported by Member States and of the underlying government sector accounts compiled according to ESA 95 (hereinafter referred to as government accounts). Quality of actual data means compliance with accounting rules, completeness, reliability, timeliness, and consistency of the statistical data. The assessment will focus on areas specified in the inventories of Member States such as the delimitation of the government sector, the classification of government transactions and liabilities, and the time of recording.

2. Member States shall provide the Commission (Eurostat), as promptly as possible, with the relevant statistical information requested for the needs of the data quality assessment, without prejudice to the provisions relating to statistical confidentiality of Regulation (EC) No 322/97.

“Statistical information” referred to in the first subparagraph should be limited to the information strictly necessary to check the compliance to ESA rules. In particular, statistical information means:

— data from national accounts,

— inventories,

— EDP notification tables,

— additional questionnaires and clarification related to the notifications.

The questionnaires' format shall be defined by the Commission (Eurostat) after consultation of the Committee on Monetary, Financial and Balance of Payments Statistics (hereinafter referred to as CMFB) established by Council Decision 91/115/EEC (*).

3. The Commission (Eurostat) shall report regularly to the European Parliament and to the Council on the quality of the actual data reported by Member States. The report shall address the overall assessment of the actual data reported by Member States as regards to the compliance with accounting rules, completeness, reliability, timeliness, and consistency of the data.

Article 8b

1. Member States shall provide the Commission (Eurostat) with a detailed inventory of the methods, procedures and sources used to compile actual deficit and debt data and the underlying government accounts.

2. The inventories shall be prepared in accordance with guidelines adopted by the Commission (Eurostat) after consultation of CMFB.

3. The inventories shall be updated following revisions in the methods, procedures and sources adopted by Member States to compile their statistical data.

4. Member States shall make their inventories public.

5. The issues referred to in paragraphs 1, 2 and 3 may be addressed in the visits mentioned in Article 8d.

Article 8c

1. In the event of a doubt regarding the correct implementation of the ESA 95 accounting rules, the Member State concerned shall request clarification from the Commission (Eurostat). The Commission (Eurostat) shall promptly examine the issue and communicate its clarification to the Member State concerned and, when appropriate, to the CMFB.

2. For cases which are either complex or of general interest in the view of the Commission or the Member State concerned, the Commission (Eurostat) shall take a decision after consultation of the CMFB. The Commission (Eurostat) shall make decisions public, together with the opinion of the CMFB, without prejudice to the provisions relating to statistical confidentiality of Regulation (EC) No 322/97.

Article 8d

The Commission (Eurostat) shall ensure a permanent dialogue with Member States' statistical authorities. To this end, the Commission (Eurostat) will carry out in all Member States regular dialogue visits, as well as possible methodological visits. The methodological visits should only be undertaken in cases where substantial risks or potential problems with the quality of the data are identified, especially as they relate to the methods, concepts and classification applied to the data, which Member States are obliged to report.

The dialogue visits are designed to review reported data, to examine methodological issues, to discuss statistical processes and sources described in the inventories, and to assess compliance with the accounting rules. The dialogue visits should be used to identify risks or potential problems about the quality of the reported data. The methodological visits are designed to monitor the processes and the government accounts which justify the reported actual data and to draw detailed conclusions as to the quality of reported data, as defined in Article 8a(1). The methodological visits should not go beyond the purely statistical domain. This should be reflected in the composition of the delegations referred to in Article 8e.

When organising dialogue and methodological visits, the Commission (Eurostat) shall transmit its provisional findings to the Member States concerned for comments.

Article 8e

1. When carrying out methodological visits in Member States, the Commission (Eurostat) may request the assistance of national accounts experts, proposed by other Member States on a voluntary basis, and of officials from other Commission departments.

The list of national accounts' experts from which the Commission may request assistance, will be constituted on the basis of proposals sent to the Commission by the national authorities responsible for the excessive deficit reporting.

2. Member States shall take all necessary measures to facilitate the methodological visits. These visits should be confined to the national authorities involved in the excessive deficit procedure reporting. Member States shall, however, ensure that their services which are directly or indirectly involved in the production of government accounts and debt, and where necessary their national authorities which have a functional responsibility for the control of the public accounts, provide the Commission officials or other experts referred to in paragraph 1 with the assistance necessary to carry out their duties, including making documents available to justify the reported actual deficit and debt data and the underlying government accounts. Confidential records of the national statistical system should only be provided to the Commission (Eurostat).

Without prejudice to the general obligation of the Member States to take all measures required to facilitate the methodological visits, the interlocutors of Eurostat for the methodological visits referred to in the first subparagraph are, in each Member State, the services responsible for the excessive deficit procedure reporting.

3. The Commission (Eurostat) shall ensure that officials and experts participating in these visits meet every guarantee as regards technical competence, professional independence and observance of confidentiality.

Article 8f

The Commission (Eurostat) shall report to the Economic and Financial Committee on the findings of dialogue and methodological visits, including any comments on these findings made by the Member State concerned. These reports, along with any comments made by the Member State concerned, after having been transmitted to the Economic and Financial Committee, shall be made public, without prejudice to the provisions concerning statistical confidentiality in Regulation (EC) No 322/97.

SECTION 2b

PROVISION OF DATA BY THE COMMISSION

Article 8g

1. The Commission (Eurostat) shall provide the actual government deficit and debt data for the application of the Protocol on the excessive deficit procedure, within three weeks after the reporting deadlines referred to in Article 4(1) or after revisions as referred to in Article 7(1). This provision of data shall be effected through publication.

2. The Commission (Eurostat) shall not delay the provision of the actual government deficit and debt data of Member States where a Member State has not reported its own data.

Article 8h

1. The Commission (Eurostat) may express a reservation on the quality of the actual data reported by the Member States. No later than three working days before the planned publication date, the Commission (Eurostat) shall communicate to the Member State concerned and to the President of the Economic and Financial Committee the reservation it intends to express and make public. Where the issue is resolved after publication of the data and the reservation, withdrawal of the reservation shall be made public immediately thereafter.

2. The Commission (Eurostat) may amend actual data reported by Member States and provide the amended data and a justification of the amendment where there is evidence that actual data reported by Member States do not comply with the requirements of Article 8a(1). No later than three working days before the planned publication date, the Commission (Eurostat) shall communicate to the Member State concerned and to the President of the Economic and Financial Committee the amended data and the justification for the amendment.

SECTION 2c

GENERAL PROVISIONS

Article 8i

1. Member States shall ensure that the actual data reported to the Commission are provided in accordance

with the principles established by Article 10 of Regulation (EC) No 322/97. In this regard, the responsibility of the National Statistical Authorities is to ensure the compliance of reported data with Articles 1 and 2 and the underlying ESA 95 accounting rules.

2. Member States shall take all appropriate measures to ensure that officials responsible for the reporting of the actual data to the Commission and of the underlying government accounts act in accordance with the principles established by Article 10 of Regulation (EC) No 322/97.

Article 8j

In the event of a revision of ESA 95 or of an amendment to its methodology decided on by the European Parliament and the Council or the Commission in accordance with the rules of competence and procedure laid down in the Treaty and in Regulation (EC) No 2223/96, the Commission shall introduce the new references to ESA 95 into Articles 1, 2 and 4.

(*) OJ L 59, 6.3.1991, p. 19.'

Article 2

Entry into force

This Regulation shall enter into force on the day following 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, 12 December 2005.

For the Council
The President
J. STRAW