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2015/0162 (NLE)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) No 407/2010 establishing a European financial stabilisation mechanism

EXPLANATORY MEMORANDUM

The high level of monetary and economic integration of euro area Member States and the existence of specific reinforced measures of economic coordination among them based on Article 136 of the Treaty warrant an ad hoc treatment when providing Union financial assistance.

While preserving fully the principle that all EU Member States should back the commitments of the EU budget, adequate arrangements should be put in place so as to guarantee that non euro area Member States are fully compensated in the event that there is a non-payment under the EFSM Facility which results in the use of resources within the EU Budget and/or the Commission making a demand for additional resources from the Non-Participating Member States.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 122(2) thereof,

Having regard to the proposal from the European Commission[1],

Whereas:

(1) The level of monetary and economic integration within the euro area has increased over the last years and any financial assistance that would be granted to a Member State whose currency is the euro would be beneficial for the financial stability of the euro area as a whole.

(2) Moreover, since the establishment of the European Financial Stabilisation Mechanism (EFSM), a new paragraph 3 was added to Article 136 of the Treaty (Decision 2011/199/EU), clarifying under which conditions the Member States whose currency is the euro may establish a stability mechanism for the euro area. The European Stability Mechanism (ESM) was set up by the Member States whose currency is the euro as the main stability mechanism for the euro area.

(3) The European Financial Stabilisation Mechanism can provide Union financial assistance to all Member States, when the conditions set in Article 122(2) TFEU and in Regulation (EU) No 407/2010 are met. The risks attached to a situation where a Member State loses market access differ however fundamentally, depending on whether that Member State is part of the euro area. The potential negative spill over effects are considerably higher for the euro area, where having a Member State in financial difficulties is likely to create risks for the financial stability of the euro area as a whole.

(4) The ESM should be in most cases the financial instrument to be used for providing financial assistance to a euro area Member State. There may be however situations where practical, procedural or financial reasons call for a use of the EFSM, generally before or alongside an ESM financial assistance. Those situations warrant transposing the principle of reinforced solidarity between euro area Member States that is needed for the good functioning of a monetary union to the financial assistance mechanism operated under Union law.

(5) In these circumstances, the granting of new Union financial assistance to the benefit of a Member State whose currency is the euro should be made conditional upon the establishment of arrangements which would ensure that the Member States which do not participate in the single currency would be fully compensated in the event that

[1] OJ C , , p. .

there is a non-payment under the EFSM Facility which results in the use of resources within the EU Budget and/or the Commission making a demand for additional resources from the non-euro area Member States.

(6) This principle was endorsed on 17 July 2015 by a joint statement of the Commission and the Council.

(7) Regulation (EU) No 407/2010 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph 2a is inserted in Article 3 of Regulation (EU) No 407/2010:

' 2a. Where the beneficiary Member State is a Member State whose currency is the euro, the granting of Union financial assistance shall be conditional upon legally binding provisions guaranteeing that the Member States which do not participate in the single currency are fully compensated for any liability they may incur as a result of any failure by the beneficiary Member State to repay the financial assistance in accordance with its terms.'

Article 2

This Regulation shall enter into force on the 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