II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 5 November 2002

on the existence of an excessive deficit in Portugal — Application of Article 104(6) of the Treaty establishing the European Community

(2002/923/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 104(6) thereof,

Having regard to the recommendation from the Commission under the said Article 104(6),

Having regard to the observations made by Portugal,

Whereas:

(1) In stage three of Economic and Monetary Union (EMU), according to Article 104 of the Treaty 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 Amsterdam Resolution of the European Council of 17 June 1997 on the Stability and Growth Pact solemnly invites all parties, namely the Member States, the Council and the Commission to implement the Treaty and the Stability and Growth Pact in a strict and timely manner.

(4) The excessive deficit procedure under Article 104 of the Treaty provides for a decision on the existence of an excessive deficit; the Protocol on the excessive deficit procedure annexed to the Treaty sets out further provisions relating to the implementation of the excessive deficit procedure; Regulation (EC) No 3605/93 [1] lays down detailed rules and definitions for the application of the provision of the said Protocol.

(5) Article 104(5) of the Treaty requires the Commission to address an opinion to the Council if the Commission considers that an excessive deficit in a Member State exists or may occur; the Commission has addressed such an opinion on Portugal to the Council on 16 October 2002; according to this opinion:

(a) Portugal has reported information on its budgetary situation to the Commission by September 2002. Thereupon, the Commission has, in accordance with Article 4 of the Protocol on the excessive deficit procedure, provided the statistical data for the application of the said Protocol;

(b) in accordance with Article 104(3) of the Treaty, the Commission has prepared in September 2002 a report on Portugal which takes account of the relevant factors;

(c) in accordance with Article 104(4) of the Treaty, the Economic and Financial Committee has formulated an opinion on the report of the Commission;

(d) the Commission considers that there exists an excessive deficit in Portugal.

(6) Article 104(6) of the Treaty lays down that the Council should consider any observations which the Member State concerned may wish to make before the Council decides after an overall assessment whether an excessive deficit exists.

[1] 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).

(7) The overall assessment leads to the following conclusions: in the late 1990s, when Portugal enjoyed strong economic growth, progress in fiscal consolidation has been limited, with the general government deficit remaining well above 2 % of GDP. Thus, there had been little budgetary leeway to accommodate for the effects of a cyclical slowdown or for such changes in accounting as required to comply with the European System of Accounts 1995. From 1999 to 2001, the deficit increased from 2,4 % to 4,1 % of GDP, significantly exceeding the reference value of 3 % in 2001. Over the same period, government gross debt remained below 60 % of GDP, but rose from 54,4 % to 55,5 % of GDP. Part of the deficit increase in 2001 was due to the rectification of government accounts, the other part to deviations of budget execution from targets. While economic growth has slowed markedly, the fiscal slippage mainly reflects a weakening in the underlying budgetary position. A rectifying budget adopted in June 2001 proved insufficient as to prevent the deficit from breaching the threshold set by the Treaty. A new government that came into office in April 2002 adopted a rectifying budget providing for, *inter alia*, an increase in the standard VAT rate and, on the expenditure side, cuts in public investment. While the Portuguese government has declared its firm commitment to its new deficit target of 2,8 % of GDP set for 2002, it is yet uncertain whether the excessive deficit situation will actually be corrected. Moreover, government debt is projected to rise to 59,3 % of GDP in 2002, a level just under the 60 % reference value. Thus, any slippage in budgetary execution and/or a deceleration in nominal GDP growth could imply a deficit above 3 % of GDP and a breach of the government debt reference value,

HAS ADOPTED THIS DECISION:

Article 1

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

Article 2

This decision is addressed to the Portuguese Republic.

Done at Brussels, 5 November 2002.

For the Council

The President

T. PEDERSEN