



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 30 October 2012**

**15422/12**

**STATIS 75  
ECOFIN 874  
UEM 300  
DELECT 47**

**REPORT**

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from: Presidency  
to: Coreper  
No. Cion prop.: C(2012) 4361 final - 12121/12 STATIS 60 ECOFIN 665 UEM 250 DELECT 31  
Subject: Commission delegated decision of 29.6.2012 on investigations and fines related to the manipulation of statistics as referred to in Regulation (EU) No 1173/2011 of the European Parliament and of the Council on the effective enforcement of budgetary surveillance in the euro area

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1. On 29 June 2012, the Commission submitted the above mentioned delegated act to the Council in accordance with Article 290 of the TFEU and Article 8(4) of Regulation (EU) No 1173/2011 of the European Parliament and of the Council of 16 November 2011 on the effective enforcement of budgetary surveillance in the euro area<sup>1</sup>.
2. On 24 July 2012, the Council decided to extend the period for raising objections on this delegated decision by two months and agreed to inform accordingly the European Parliament and the Commission.
3. The delegated decision was examined during the meetings of the Working Party on Statistics on 11 July and 18 September 2012.

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<sup>1</sup> OJ L 306, 23.11.2011, p. 1.

4. During the discussions in the Working Party, delegations expressed overall support for the delegated decision as an important step in the implementation of the legislative package on Economic Governance (the so-called 'Six Pack'). However, Member States raised a number of concerns.
5. As regards the process of consultations prior to the adoption of the act, while Member States welcomed the close involvement of experts in the initial phase of the work, they questioned the inclusion by the Commission of new provisions at a very late stage of the preparatory work, in particular the text of Article 5(4). Member States regretted that the Commission did not seek the experts' view on these new provisions, which they regarded as very important. They underlined the need to ensure appropriate and transparent consultation in the future, in particular when introducing changes of such importance.
6. In terms of substance, a number of Member States of the euro area (AT, DE, FR, IT, NL, PT) also expressed serious concerns about the role and powers attributed to statistical authorities under Article 5(4), which foresees that their staff members shall, at the request of the Commission, actively assist the officials and other accompanying persons authorised by the Commission and shall enjoy to this end the same powers as those conferred to the Commission. While there was support for the principle of cooperation during inspections, doubts were raised about the compatibility of such provisions with the main mission of statistical authorities, which is to collect data for the production of statistics. A few Member States also questioned whether these provisions were beyond the scope of the power delegated to the Commission in the basic act.
7. Some Member States also raised concerns on the insertion of the phrase "alternatively the degree of obstruction" in Article 14(3)(e) as a factor to be taken into account when establishing the amount of the fine.
8. However, despite the discussion within the Working Party, by the end of the period for raising objections (29 October 2012) no delegation had informed the Presidency of its intention to object to the delegated act. Therefore, the delegated act will enter into force on the twentieth day following its publication in the Official Journal.