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Subject: COUNCIL IMPLEMENTING DECISION amending Implementing Decision (EU) 2016/544 approving the macroeconomic adjustment programme of Greece (2015/1411)

COUNCIL IMPLEMENTING DECISION (EU) 2017/...

of ...

**amending Implementing Decision (EU) 2016/544
approving the macroeconomic adjustment programme of Greece
(2015/1411)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability¹, and in particular Article 7(5) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 140, 27.5.2013, p. 1.

Whereas:

- (1) On 16 July 2015, the European Stability Mechanism ('ESM') Board of Governors invited the Commission, in liaison with the European Central Bank ('ECB'), the ESM, the Greek authorities, and, where appropriate, the International Monetary Fund ('IMF'), to agree on a macroeconomic adjustment programme for Greece in the form of a loan. The programme was prepared in accordance with the procedure provided for under Article 7(1) of Regulation (EU) No 472/2013. On 11 August 2015, those institutions reached an agreement at technical level on a macroeconomic adjustment programme (the 'Programme') with the Greek government. On the basis of a proposal by the Commission, the Programme was adopted by the Council in the form of a Council Implementing decision¹.
- (2) Following that agreement, Greece adopted a comprehensive policy package that was to be implemented in a three-year ESM macroeconomic adjustment programme, which would span from the third quarter of 2015 to the third quarter of 2018.
- (3) The comprehensive policy package, laid down in the ESM Memorandum of Understanding on Specific Economic Policy Conditionality (the 'Memorandum of Understanding') of 19 August 2015, aims to restore financial market confidence, to re-establish sound macroeconomic balances and to enable the economy to return to sustainable growth. It is based on four pillars: restoring fiscal sustainability, safeguarding financial stability, enhancing competitiveness and growth, and modernising the State and the public administration.

¹ Council Implementing Decision (EU) 2016/544 of 19 August 2015 approving the macroeconomic adjustment programme of Greece (2015/1411) (OJ L 91, 7.4.2016, p. 27).

- (4) After the first review of the Programme was completed, and following the Eurogroup statement of 25 May 2016, the positive assessment by the Commission and ECB of the implementation of the Programme and the approval of the ESM, Greece and the Commission (on behalf of the ESM) signed a Supplementary Memorandum of Understanding on 16 June 2016. The Supplementary Memorandum of Understanding updates the policy conditions set out in the Memorandum of Understanding to reflect the progress achieved in the implementation of the Programme.
- (5) On 25 May 2016, the Eurogroup also considered the sustainability of Greek debt. It agreed on a package of debt measures to be phased in progressively and as necessary to meet the agreed benchmark on gross financing needs. The Eurogroup agreed that the first set of measures would be implemented in the short term, that is, from after the closure of the first review until the end of the Programme. On 23 January 2017, the Boards of Directors of the ESM and European Financial Stability Facility adopted the rules relating to the set of short-term debt relief measures for Greece, the implementation of which has begun. The Eurogroup of 25 May 2016 also agreed that after the successful implementation of the Programme by mid-2018, the Eurogroup would expect the implementation of a possible second set of measures, if needed to meet the agreed debt sustainability benchmarks.

- (6) On 25 May 2016, the Eurogroup welcomed the intention of the IMF management to recommend to the IMF's Executive Board that it approve a financial arrangement for Greece. The Eurogroup confirmed that position on 5 December 2016, and also stressed the need for shared conditionality, which should be agreed between all the institutions and Greece. On 5 December 2016, the Eurogroup also called upon the institutions and Greece to swiftly resume negotiations in order to reach a staff level agreement (as soon as possible, based on such shared conditionality), and authorised the Eurogroup Working Group to assess that staff level agreement. That conditionality includes the adoption of a pre-legislated fiscal package to help ensure a primary surplus of 3,5 % of GDP over the medium term.
- (7) The Greek economy has shown a high degree of resilience to the environment of elevated uncertainty and the imposition of capital controls, with GDP contracting by only 0,2 % in 2015. In 2016, the Greek economy stagnated, as nascent growth in private consumption was offset by a decline in both public consumption and net exports. The Commission Spring 2017 forecast projects the Greek economy to grow by 2,1 % and 2,5 % in 2017 and 2018 respectively, on the back of improving economic sentiment supporting investment and consumption.

- (8) Under that forecast, the debt-to-GDP ratio would amount to 179,0 % in 2016, 178,8 % in 2017, 174,6 % in 2018 and 165,2 % in 2019. The debt-to-GDP ratio would therefore move to a declining path as from 2017. Greece achieved primary surpluses of 0,5 % of GDP in 2015 and 4,2 % of GDP in 2016, outperforming its Programme targets of -0,25 % and 0,5 % of GDP, respectively. The Greek authorities are to pursue a fiscal path premised on primary surplus targets of 1,75 % of GDP in 2017 and 3,5 % of GDP in 2018 and over the medium term. The trajectory of the fiscal targets is consistent with the expected growth rates of the Greek economy as it recovers from its deepest recorded recession.
- (9) In light of the updated forecasts by the Commission services, and in light of the results of the second review that was conducted by the Commission in liaison with the ECB and, where appropriate, with the IMF, an update should be made to the existing Programme to reflect the reforms carried out by the Greek authorities by the end of the first quarter of 2017. On that basis, the updated conditionality should outline the range of policies needed for the successful implementation of the Programme in the future, with the aim of returning the Greek economy to sustainable growth. It is therefore appropriate to amend Council Implementing Decision (EU) 2016/544.

- (10) Any form of financial assistance received by Greece to help it implement the policies under its Programme should be in line with the legal requirements and policies of the Union, in particular the Union's economic governance framework and the Charter of Fundamental Rights of the European Union ('the Charter'). To the extent that any of the measures envisaged in the macroeconomic adjustment programme limit the exercise of the rights and freedoms recognised by the Charter, those limitations are in conformity with Article 52(1) thereof. Any intervention in support of financial institutions should be carried out in accordance with the Union's rules on competition. The Commission should ensure that any measures laid down in a Memorandum of Understanding in the context of requested ESM financial assistance is fully consistent with this Decision,

HAS ADOPTED THIS DECISION:

Article 1

Article 2 of Council Implementing Decision (EU) 2016/544 is replaced by the following:

'Article 2

1. Greece shall pursue fiscal consolidation by means of high-quality permanent measures while minimising the impact of those measures on disadvantaged people. The Greek authorities commit to ensuring sustainable public finances and achieving sizeable and sustainable primary surpluses over the medium-term that will reduce the debt-to-GDP ratio steadily. Greece shall accordingly pursue a fiscal path premised on primary surplus targets of 1,75 % of GDP in 2017 and 3,5 % of GDP as of 2018 and over the medium-term. The Greek authorities commit to take further structural measures yielding 0,3 % of GDP by 2018 in order to secure the targeted primary surplus path. The measures to achieve those primary surplus targets, and as agreed as part of the second review, shall include: the streamlining of welfare benefits and abolition of tax expenditures based on the recommendations of the World Bank's Social Welfare Review; the rationalisation of healthcare spending through widening the scope of the closed budget framework and reducing claw-back ceilings; the introduction of a tax on short-term tourist accommodation rentals; and the rationalisation of certain performance incentives and allowances in the public sector.

2. To support the rebalancing of the budget toward more growth-friendly and distributionally fair policies, while ensuring that medium-term fiscal targets are met, the Greek authorities shall take the following legislative actions:
- (i) adopt a medium-term fiscal strategy for 2018-2021 in line with agreed medium-term targets, which are to be reached without growth-detrimental measures;
 - (ii) implement pension reform to deliver net savings of 1 % of GDP in 2019-2022 and personal income tax reform that is to deliver net savings of 1 % of GDP in 2020, 2021 and 2022;
 - (iii) adopt a growth-enhancing tax package matching, in net terms, the yield from the personal income tax reform; the package is to encompass: (i) a reduction in personal income tax rates and the solidarity surcharge, with a medium-term fiscal impact of 0,8 % of GDP; (ii) a reduction in corporate income tax rates with a medium-term fiscal impact of 0,1 % of GDP; and (iii) a reduction in property tax (ENFIA) with an impact of 0,1 % of GDP;
 - (iv) adopt a targeted spending package that matches, in net terms, the yield from the pension reform composed of: (i) an increase in spending on targeted welfare benefits (housing allowance, child benefits, school meals, early childhood education and care/pre-school education, means-tested reduction in health co-payments) of 0,7 % of GDP; (ii) high-quality public infrastructure investment of 0,15 % of GDP; and (iii) active labour market policies of 0,15 % of GDP;

- (v) to implement the personal income tax measures in 2019 if, based on a forward-looking assessment in the context of the final programme review, a frontloaded implementation is needed in order to reach the agreed 3,5 % of GDP primary surplus fiscal target in 2019, which is to be reached without growth-detrimental measures;
 - (vi) the expansionary package is to be implemented starting in 2019, contingent on an assessment and an agreement in the final programme review, following a transparent process, with the amount to be implemented in line with the amount by which the institutions project that Greece will exceed the agreed medium-term targets, in order to ensure that these targets are achieved.
3. The Greek authorities shall complete the framework needed for the full implementation of the Independent Authority of Public Revenue and for its effective operation. They shall take further measures to improve tax compliance, including legislation for the promotion and facilitation of the use of electronic payments. Measures to strengthen the fight against tax evasion shall, inter alia, aim to improve the model of cooperation between the justice and tax administrations.

4. The Greek authorities shall take measures to further strengthen the budget process and public financial management. They shall ensure that national legislation is fully in line with the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (Fiscal Compact). The Greek authorities shall also present a medium-term action plan to ensure that payments are made in compliance with Directive 2011/7/EU of the European Parliament and of the Council*. They shall strengthen the public procurement framework, including by fostering central procurement.
5. The Greek authorities shall fully implement the new legislative provisions of the comprehensive pension reform of 2016. To rationalise public health expenditure, the Greek authorities shall take structural measures focusing on improving efficiency, including a closed budget (clawback ceiling) to cover items previously not under clawback. They shall publish an updated price bulletin to reduce pharmaceutical prices, update and publish on a regular basis the positive and the negative lists, and adopt further measures to improve generics penetration.
6. The Greek authorities shall ensure the smooth roll-out and implementation of the new Social Solidarity Income scheme. They shall undertake a major reform of the welfare system, based on the relevant recommendations of the Social Welfare Review provided by the World Bank. That reform shall aim to streamlining the system and better targeting the needs of the most vulnerable, including the re-direction of resources to the financing of the national roll-out of the new Social Solidarity Income scheme.

7. To safeguard financial stability, the Greek authorities shall publish a roadmap for the relaxation of capital controls, avoiding undue delays without compromising financial stability. They shall assess and address impediments to the secondary market for non-performing loans identified in the report on the review of implementation of Law 4354/2015, in order to streamline the licencing process for servicers of non-performing loans. The Greek authorities shall establish an out-of-court workout scheme for non-performing loans and shall ensure the smooth implementation thereof. The scheme shall allow for both large and smaller debtors with a debt above a minimum threshold to have recourse to the debt-restructuring mechanism, and shall subject all elements of debt to that mechanism, including private and public debt but excluding social security contributions and withheld taxes. The Greek authorities shall also modernise the corporate insolvency framework and ensure the effective implementation thereof, with a key focus on the role of insolvency administrators. The Greek authorities shall review the Code of Civil Procedure, with a view to bringing it in line with Union best practices.

8. To promote growth, competitiveness and investment, the Greek authorities shall continue to design and implement a wide range of reforms in product markets. These reforms shall aim at achieving Union best practices. The reforms shall include: further implementation of OECD Toolkit recommendations to remove impediments to competition across a wide range of sectors; reforms to liberalise investment licensing and to reduce the administrative burden of starting a business; further steps to liberalise regulated professions; reforms to modernise the framework for land use, including spatial planning and cadastre; and measures to enhance the functioning of the water and transport sectors.
9. Regarding labour markets, Greece shall adopt legislation to clarify that the 2011 collective bargaining reforms will be extended until the end of the Programme. The Greek authorities shall replace the current administrative framework for collective dismissals with a notification procedure of no more than three months, which shall not involve *ex ante* approval, and shall amend legislation on industrial action. The Greek authorities shall also take further steps to combat undeclared work, strengthen vocational education and training, and shall implement the three-year action plan on education.

10. The Greek authorities shall continue the implementation of wide-ranging reforms in the energy markets, to bring them in line with Union legislation and policies, to make them more modern and competitive, to reduce monopolistic rents and inefficiencies, to promote innovation, to favour the wider adoption of renewables and gas, and to ensure the transfer of benefits of all those changes to consumers. In the electricity market, in order to bring the market share of the incumbent to the agreed targets, the Greek authorities shall continue the implementation of electricity auctions, and shall propose unconditional structural measures to divest a share of the generation capacity of the incumbent, in line with the relevant Commission Decisions that were upheld by the General Court^{**}. The Greek authorities shall also continue the process leading to the full ownership unbundling of the transmission system operator from the incumbent, shall continue the implementation of the reform of incentives for renewable energies, and shall ensure the timely implementation of other market reforms. In the gas market, continued implementation of the existing reforms shall, inter alia, lead to full eligibility to switch supplier for all customers by 2018, as scheduled. The Greek authorities shall take further action to remove remaining obstacles to effective competition in the wholesale and retail gas markets, and to promote interconnections, as well as the diversification of the sources of supply.

11. The Greek authorities shall continue to implement an ambitious privatisation programme and to implement policies that support investment. The Greek authorities commit to facilitating the privatisation process and to completing all necessary government actions to allow tenders to be executed successfully. In that respect, the Greek authorities shall complete all necessary actions as agreed on a quarterly basis between the Hellenic Republic Asset Development Fund ('HRADF'), the institutions and the Greek government. The List of Government Pending Actions has been approved by the Board of Directors of the HRADF. Following the establishment of the Hellenic Corporation of Assets and Participations (HCAP), which shall have in its possession valuable Greek assets, the Greek authorities shall ensure that the management and the internal rules of HCAP comply with international standards and best practices, including the OECD Guidelines on Governance of State-Owned Enterprises. The overarching objective of HCAP shall be to manage valuable Greek assets; and to protect, create and ultimately maximise their value, which it shall monetise through privatisations and other means.

12. A modern State and public administration shall continue to be a key priority of the Programme. The Greek authorities shall pay particular attention to the implementation of the measures already taken under the Programme to increase the efficiency of the public sector in the delivery of essential public goods and services, with special attention to the recruitment and de-politicisation of managers, performance evaluations, and mobility. Measures shall be taken to enhance the effectiveness of the judicial system, including by allowing for the implementation of electronic auctions, and to upgrade the fight against corruption. The institutional and operational independence of key institutions, such as the revenue administration and the statistics institute (Elstat), shall be strengthened through the further implementation of reforms that have already been adopted.

* Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ L 48, 23.2.2011, p. 1).

** Judgment of 15 December 2016, *DEI v. Commission*, T-169/08 RENV, ECLI:EU:T:2016:733 and judgment of 15 December 2016, *DEI v. Commission*, T-421/09 RENV, ECLI:EU:T:2016:748.'

Article 2

This Decision is addressed to the Hellenic Republic.

Done at ...,

For the Council

The President