EUROPEAN COMMISSION

Brussels, 22.2.2012
COM(2012) 75 final

2012/0034 (NLE)

Proposal for a

COUNCIL DECISION

suspending commitments from the Cohesion Fund for Hungary

EXPLANATORY MEMORANDUM

1. THE APPLICATION OF THE COHESION FUND MACRO-FISCAL CONDITIONALITY

The Cohesion Fund was established to ensure growth-oriented investments in transport infrastructure and environment projects, necessary for real convergence, while Member States were implementing budgetary consolidation in line with programmes leading to the fulfilment of the conditions of economic convergence as set out by the Maastricht criteria. Conditions apply to accessing Cohesion Fund assistance relating to fiscal discipline, notably avoiding excessive government deficits in line with Article 126 of the Treaty on the Functioning of the European Union (TFEU). These provisions aim to increase incentives for national governments to conduct sound fiscal policies and put in place the right macroeconomic conditions that are needed to ensure an efficient use of Cohesion Fund resources.

Article 4 of Council Regulation (EC) No 1084/2006 of 11 July 2006, which sets out conditions for accessing Cohesion Fund assistance, establishes that the Council may decide, on a proposal from the Commission, to suspend part or the totality of commitment appropriations from the Fund for the Member State concerned when: (i) this Member State is in an excessive deficit procedure (EDP), and (ii) has not taken effective action in response to a Council recommendation under Article 126(7) TFEU[1] to correct it by the established deadline. The trigger point for suspension of commitment appropriations is therefore a Council decision adopted on the basis of Article 126(8) of the TFEU[2].

Since the suspension concerns only commitment appropriations, ongoing projects are not affected as long as payments can be made against cumulative previous commitments which remain open during the time period referred to in Article 93 of Regulation (EC) No 1083/2006. During this period, the Member State can implement measures to correct its excessive deficit without any impact on payments from the Cohesion Fund related to previous commitments. A decision to suspend commitments might have an impact on the investment behaviour of the Member State concerned.

2. CONDITIONS TRIGGERING THE SUSPENSION OF THE COHESION FUND COMMITMENTS

2.1. The existence of an excessive deficit

Council Recommendation under Article 126(7) TFEU of 7 July 2009 to correct the excessive deficit

On 7 July 2009, the Council called on the Hungarian authorities to put an end to the excessive deficit situation by 2011 at the latest. Specifically, Hungary was recommended to limit the deterioration of the fiscal position in 2009 by ensuring a rigorous implementation of the adopted and announced corrective measures to respect the target of 3.9 % of GDP. Additionally, starting from 2010, it was also recommended to rigorously implement the necessary consolidation measures to ensure a continued reduction of the structural deficit and a renewed decline of the headline deficit, with an increased reliance on structural measures, in

[1] Replacing Article 104(7) of the Treaty as referred to in Article 4 of Regulation (EC) No 1084/2006.
[2] Replacing Article 104(8) of the Treaty as referred to in Article 4 of Regulation (EC) No 1084/2006.

view of warranting a lasting improvement of public finances. The Council also recommended to spell out and adopt in a timely manner the consolidation measures necessary to achieve the correction of the excessive deficit by 2011 and ensure, at least, a cumulative 0.5% of GDP fiscal effort over 2010 and 2011. The Hungarian authorities were also asked to ensure that the government gross debt ratio be brought onto a firm downward trajectory.

2.2. Insufficient action taken in response to the Council Recommendation of 7 July 2009 to correct the excessive deficit

On 24 January 2012, the Council came to the following conclusion: while Hungary formally respected the 3% of GDP reference value by 2011, this was not based on a structural and sustainable correction. The budget surplus in 2011 hinged upon substantial one-off revenues of over 10% of GDP and was accompanied by a cumulative structural deterioration in 2010 and 2011 of 2¾% of GDP compared to a recommended cumulative fiscal improvement of 0.5% of GDP. Moreover, while the authorities intend to implement substantial structural measures in 2012 reducing the structural deficit to 2.6% of GDP, the 3% of GDP reference value would again be only respected thanks to one-off measures of close to 1% of GDP. Finally, in 2013, the deficit (at 3¼% of GDP) was expected to exceed the reference value in the TFEU once more, even after taking into account additional measures announced since the Commission services' 2011 Autumn Forecast. The higher deficit in 2013 would mainly be linked to the fact that temporary one-off revenues were being phased out as planned, while not all planned structural reforms had been sufficiently specified. Overall, the Council concluded that the response by the Hungarian authorities to the Council recommendation of 7 July 2009 according to Article 126(7) TFEU had been insufficient.

3. PROPOSED SUSPENSION OF COMMITMENTS FROM THE COHESION FUND

The Commission, having taken into account: (i) the existence of an excessive deficit in Hungary, and (ii) the Council decision under Article 126(8) TFEU establishing that no effective action has been taken in response to the Council recommendation of 7 July 2009 to end the excessive deficit situation, is of the opinion that a framework supporting government policies for a prompt return to sound budgetary positions needs to be ensured without delay.

Consequently, the Commission proposes to suspend a share of the Cohesion Fund commitment appropriations for Hungary. The suspension will take effect from 1st January 2013.

4. LIFTING OF THE SUSPENSION AND RE-BUDGETING THE SUSPENDED COMMITMENTS

Following the Council Decision under Article 126(8) TFEU of 24 January 2012, the Commission will recommend to the Council to adopt a new recommendation in accordance with Article 126(7) with a view to correct the excessive deficit. In this recommendation, the Council will specify the policy actions for Hungary.

Within a period of maximum six months after the Council has adopted the recommendation, Hungary will report on action taken and, on that basis, the Commission will assess whether the action taken by Hungary appears effective to correct the excessive deficit.

If this assessment is positive, the Commission addresses a communication in this sense to the Council, considering that no further steps in the excessive deficit procedure are needed. On that basis, the Council shall, without delay, on a proposal from the Commission, decide to lift the suspension.

Subsequently, the excessive deficit procedure will be held in abeyance. During this time, the Commission will continue to monitor the implementation of action taken as foreseen under the EDP. If at any moment in time, before abrogation under Article 126(12) TFEU, action taken is proving inadequate, the Council will, based on a recommendation by the Commission, adopt a new Decision under Article 126(8). It may, on a proposal by the Commission, adopt a renewed decision to suspend Cohesion Fund commitments.

If, however, by the end of the six-month period following the recommendation under Article 126(7), the Council were to decide that no effective action had been taken, the initial suspension decision would remain in force. Moreover, the resulting Decision under Article 126(8) could lead to a suspension of additional Cohesion Fund commitments.

When lifting the suspension, the Council shall also decide, upon a proposal from the Commission, to re-budget the suspended commitments in accordance with the procedure set out in the Inter-institutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management of 17 May 2006[3], which remains applicable until 2013. If the decision to lift the suspension is taken after 31 December 2013, the provisions of Council Regulation (EU) No […] laying down the multiannual financial framework for the years 2014-2020 shall apply[4] to the re-budgeting of the suspended commitments.

[3] OJ C 139, 14.6.2006, p.1 (Point 20).

[4] Commission proposal COM(2011) 398 final of 29.6.2011 (Article 8).

2012/0034 (NLE)

Proposal for a

COUNCIL DECISION

suspending commitments from the Cohesion Fund for Hungary

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94[5], and in particular Article 4(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Article 174 of the Treaty on the Functioning of the European Union (TFEU) calls for the Union to develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion in order to promote its overall harmonious development.

(2) In accordance with Article 175 TFEU, Member States have to conduct their economic policies and coordinate them in such a way as to attain the objectives set out in Article 174 TFEU. The formulation and implementation of the Union's policies and actions and the implementation of the internal market also have to take into account the objectives set out in Article 174 and contribute to their achievement.

(3) Article 121 TFEU calls upon the Council to monitor closely economic developments in the Member States and in the Union in order to ensure closer coordination of economic policies and sustained convergence of the economic performances of Member States and to ensure consistency of economic policies with the Broad Economic Policy Guidelines.

(4) In accordance with Article 126 TFEU, Member States have to avoid excessive government deficits.

(5) In accordance with Article 177 TFEU, the European Parliament and the Council determine the tasks, priority objectives and the organisation of the Cohesion Fund which provides a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.

---

5 OJ L 210, 31.7.2006, p.79.

(6) In Protocol No 28 on economic, social and territorial cohesion the Member States agreed that the Cohesion Fund will provide Union financial contributions to projects in the fields of environment and trans-European networks in Member States with a per capita GNP of less than 90 % of the Union average which have a programme leading to the fulfilment of the conditions of economic convergence as set out in Article 126 TFEU.

(7) Article 4 of Regulation (EC) No 1084/2006 sets out conditions applicable to Cohesion Fund assistance and makes access to financial assistance from the Fund conditional on the avoidance of an excessive government deficit as set out in Article 126 TFEU[6].

(8) On 5 July 2004, the Council decided based on Article 104(6) that an excessive deficit existed in Hungary and issued a first recommendation based on Article 104(7) on that date. In accordance with Article 126(7) of the Treaty on 7 July 2009 the Council adopted the latest Recommendation to Hungary with a view to bringing an end to the situation of an excessive government deficit by 2011 at the latest.". Specifically, Hungary was recommended to limit the deterioration of the fiscal position in 2009 by ensuring a rigorous implementation of the adopted and announced corrective measures to respect the target of 3.9 % of GDP. Additionally, starting from 2010, Hungary was to implement rigorously the necessary consolidation measures to ensure a continued reduction of the structural deficit and a renewed decline of the headline deficit, with an increased reliance on structural measures, in order to guarantee a lasting improvement of public finances. Hungary was also to present and adopt in a timely manner the consolidation measures necessary to achieve the correction of the excessive deficit by 2011 and ensure, at least, a cumulative 0.5% of GDP fiscal effort over 2010 and 2011. Finally, the government gross debt ratio was to be brought onto a firm downward trajectory.

(9) In accordance with Article 126(8) TFEU, on 24 January 2012 the Council adopted a decision establishing that Hungary had not taken effective action in response to the Council Recommendation of 7 July 2009. The Decision noted that while Hungary formally respected the 3% of GDP reference value by 2011, this was not based on a structural and sustainable correction. The budget surplus in 2011 hinged upon substantial one-off revenues of over 10% of GDP and was accompanied by a cumulative structural deterioration in 2010 and 2011 of 2.75% of GDP compared to a recommended cumulative fiscal improvement of 0.5% of GDP. Moreover, while the authorities intend to implement substantial structural measures in 2012 reducing the structural deficit to 2.6% of GDP, the 3% of GDP reference value would again be respected only thanks to one-off measures of close to 1% of GDP. Finally, in 2013, the deficit (at 3.25% of GDP) was expected to exceed the reference value in the TFEU once more even after taking into account additional measures announced since the Commission services' 2011 Autumn Forecast. The higher deficit in 2013 would mainly be linked to the fact that temporary one-off revenues were being phased out as planned, while not all planned structural reforms had been sufficiently specified. Overall, the Council concluded that the response by the Hungarian authorities to the Council recommendation of 7 July 2009 pursuant to Article 126(7) TFEU had been insufficient.

---

6 Replacing Article 104 of the Treaty as referred to in Article 4 of Regulation (EC) No 1084/2006.

(10) Therefore, in the case of Hungary, the two conditions set out in Article 4(1) of Regulation (EC) No 1084/2006 have been fulfilled. The Council, on a proposal of the Commission, may thus suspend part or the totality of the commitments from the Cohesion Fund as of 1 January 2013. The decision on the amount of Cohesion Fund commitment appropriations to be suspended should ensure that the suspension is both effective and proportionate, whilst taking into account the current overall economic situation in the European Union and the relative importance of the Cohesion Fund for the economy of the Member State concerned. Accordingly, it is appropriate, in case of a first application of Article 4 (1) of Regulation (EC) No 1084/2006 to a given Member State, to set the amount at 50 % of the allocation of cohesion funds for 2013, without exceeding a maximum level of 0,5 % of the nominal GDP of the Member State concerned as forecast by the Commission services.

(11) The implementation of transport and environment projects or commitments already made at the time of suspension will not be compromised if the necessary corrective actions are promptly implemented. By suspending commitment appropriations taking effect as of the following year, the ongoing project implementation will not be affected for an extended period, giving the authorities the necessary time to adopt measures that would restore macroeconomic and fiscal conditions conductive to sustainable growth and employment,

HAS ADOPTED THIS DECISION:

Article 1

495 184 000 EUR (in current prices) of the Cohesion Fund commitment appropriations for Hungary shall be suspended as of 1 January 2013.

Article 2

This Decision is addressed to Hungary.

Done at Brussels,

For the Council
The President