

## Consolidated version of the Treaty on the Functioning of the European Union

### PART THREE

#### UNION POLICIES AND INTERNAL ACTIONS

#### TITLE VIII

#### ECONOMIC AND MONETARY POLICY

#### CHAPTER 5

#### TRANSITIONAL PROVISIONS

##### *Article 139*

1 Member States in respect of which the Council has not decided that they fulfil the necessary conditions for the adoption of the euro shall hereinafter be referred to as ‘Member States with a derogation’.

2 The following provisions of the Treaties shall not apply to Member States with a derogation:

- a adoption of the parts of the broad economic policy guidelines which concern the euro area generally (Article 121(2));
- b coercive means of remedying excessive deficits (Article 126(9) and (11));
- c the objectives and tasks of the ESCB (Article 127(1) to (3) and (5));
- d issue of the euro (Article 128);
- e acts of the European Central Bank (Article 132);
- f measures governing the use of the euro (Article 133);
- g monetary agreements and other measures relating to exchange-rate policy (Article 219);
- h appointment of members of the Executive Board of the European Central Bank (Article 283(2));
- i decisions establishing common positions on issues of particular relevance for economic and monetary union within the competent international financial institutions and conferences (Article 138(1));
- j measures to ensure unified representation within the international financial institutions and conferences (Article 138(2)).

In the Articles referred to in points (a) to (j), ‘Member States’ shall therefore mean Member States whose currency is the euro.

3 Under Chapter IX of the Statute of the ESCB and of the ECB, Member States with a derogation and their national central banks are excluded from rights and obligations within the ESCB.

4 The voting rights of members of the Council representing Member States with a derogation shall be suspended for the adoption by the Council of the measures referred to in the Articles listed in paragraph 2, and in the following instances:

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- a recommendations made to those Member States whose currency is the euro in the framework of multilateral surveillance, including on stability programmes and warnings (Article 121(4));
- b measures relating to excessive deficits concerning those Member States whose currency is the euro (Article 126(6), (7), (8), (12) and (13)).

A qualified majority of the other members of the Council shall be defined in accordance with Article 238(3)(a).

#### *Article 140*

#### **(ex Articles 121(1), 122(2), second sentence, and 123(5) TEC)**

1 At least once every two years, or at the request of a Member State with a derogation, the Commission and the European Central Bank shall report to the Council on the progress made by the Member States with a derogation in fulfilling their obligations regarding the achievement of economic and monetary union. These reports shall include an examination of the compatibility between the national legislation of each of these Member States, including the statutes of its national central bank, and Articles 130 and 131 and the Statute of the ESCB and of the ECB. The reports shall also examine the achievement of a high degree of sustainable convergence by reference to the fulfilment by each Member State of the following criteria:

- the achievement of a high degree of price stability; this will be apparent from a rate of inflation which is close to that of, at most, the three best performing Member States in terms of price stability,
- the sustainability of the government financial position; this will be apparent from having achieved a government budgetary position without a deficit that is excessive as determined in accordance with Article 126(6),
- the observance of the normal fluctuation margins provided for by the exchange-rate mechanism of the European Monetary System, for at least two years, without devaluing against the euro,
- the durability of convergence achieved by the Member State with a derogation and of its participation in the exchange-rate mechanism being reflected in the long-term interest-rate levels.

The four criteria mentioned in this paragraph and the relevant periods over which they are to be respected are developed further in a Protocol annexed to the Treaties. The reports of the Commission and the European Central Bank shall also take account of the results of the integration of markets, the situation and development of the balances of payments on current account and an examination of the development of unit labour costs and other price indices.

2 After consulting the European Parliament and after discussion in the European Council, the Council shall, on a proposal from the Commission, decide which Member States with a derogation fulfil the necessary conditions on the basis of the criteria set out in paragraph 1, and abrogate the derogations of the Member States concerned.

The Council shall act having received a recommendation of a qualified majority of those among its members representing Member States whose currency is the euro. These members shall act within six months of the Council receiving the Commission's proposal.

The qualified majority of the said members, as referred to in the second subparagraph, shall be defined in accordance with Article 238(3)(a).

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3 If it is decided, in accordance with the procedure set out in paragraph 2, to abrogate a derogation, the Council shall, acting with the unanimity of the Member States whose currency is the euro and the Member State concerned, on a proposal from the Commission and after consulting the European Central Bank, irrevocably fix the rate at which the euro shall be substituted for the currency of the Member State concerned, and take the other measures necessary for the introduction of the euro as the single currency in the Member State concerned.

#### *Article 141*

#### **(ex Articles 123(3) and 117(2) first five indents, TEC)**

1 If and as long as there are Member States with a derogation, and without prejudice to Article 129(1), the General Council of the European Central Bank referred to in Article 44 of the Statute of the ESCB and of the ECB shall be constituted as a third decision-making body of the European Central Bank.

2 If and as long as there are Member States with a derogation, the European Central Bank shall, as regards those Member States:

- strengthen cooperation between the national central banks,
- strengthen the coordination of the monetary policies of the Member States, with the aim of ensuring price stability,
- monitor the functioning of the exchange-rate mechanism,
- hold consultations concerning issues falling within the competence of the national central banks and affecting the stability of financial institutions and markets,
- carry out the former tasks of the European Monetary Cooperation Fund which had subsequently been taken over by the European Monetary Institute.

#### *Article 142*

#### **(ex Article 124(1) TEC)**

Each Member State with a derogation shall treat its exchange-rate policy as a matter of common interest. In so doing, Member States shall take account of the experience acquired in cooperation within the framework of the exchange-rate mechanism.

#### *Article 143*

#### **(ex Article 119 TEC)**

1 Where a Member State with a derogation is in difficulties or is seriously threatened with difficulties as regards its balance of payments either as a result of an overall disequilibrium in its balance of payments, or as a result of the type of currency at its disposal, and where such difficulties are liable in particular to jeopardise the functioning of the internal market or the implementation of the common commercial policy, the Commission shall immediately investigate the position of the State in question and the action which, making use of all the means at its disposal, that State has taken or may take in accordance with the provisions of the Treaties. The Commission shall state what measures it recommends the State concerned to take.

If the action taken by a Member State with a derogation and the measures suggested by the Commission do not prove sufficient to overcome the difficulties which have arisen or which threaten, the Commission shall, after consulting the Economic and Financial

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Committee, recommend to the Council the granting of mutual assistance and appropriate methods therefor.

The Commission shall keep the Council regularly informed of the situation and of how it is developing.

2 The Council shall grant such mutual assistance; it shall adopt directives or decisions laying down the conditions and details of such assistance, which may take such forms as:

- a a concerted approach to or within any other international organisations to which Member States with a derogation may have recourse;
- b measures needed to avoid deflection of trade where the Member State with a derogation which is in difficulties maintains or reintroduces quantitative restrictions against third countries;
- c the granting of limited credits by other Member States, subject to their agreement.

3 If the mutual assistance recommended by the Commission is not granted by the Council or if the mutual assistance granted and the measures taken are insufficient, the Commission shall authorise the Member State with a derogation which is in difficulties to take protective measures, the conditions and details of which the Commission shall determine.

Such authorisation may be revoked and such conditions and details may be changed by the Council.

#### *Article 144*

#### **(ex Article 120 TEC)**

1 Where a sudden crisis in the balance of payments occurs and a decision within the meaning of Article 143(2) is not immediately taken, a Member State with a derogation may, as a precaution, take the necessary protective measures. Such measures must cause the least possible disturbance in the functioning of the internal market and must not be wider in scope than is strictly necessary to remedy the sudden difficulties which have arisen.

2 The Commission and the other Member States shall be informed of such protective measures not later than when they enter into force. The Commission may recommend to the Council the granting of mutual assistance under Article 143.

3 After the Commission has delivered a recommendation and the Economic and Financial Committee has been consulted, the Council may decide that the Member State concerned shall amend, suspend or abolish the protective measures referred to above.