

# **Act Governing the Domestic Distribution of Sanctions Imposed to Ensure Budgetary Discipline in the European Union (Sanctions Distribution Act)<sup>1</sup>**

Date of signature: 5 September 2006

Full citation:

Sanctions Distribution Act of 5 September 2006 (Federal Law Gazette I, p. 2098, 2104), as amended by Article 3 of the Act of 15 July 2013 (Federal Law Gazette I, p. 2398)

## **Section 1 – Purpose**

This Act governs the domestic distribution of deposits and fines (sanctions) under Articles 121, 126 and 136 of the Treaty on the Functioning of the European Union in conjunction with

1. Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (Official Journal L 209, 2.8.1997, p. 6), most recently amended by Regulation (EU) No 1177/2011 (Official Journal L 306, 23.11.2011, p. 33),
2. Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (Official Journal L 209, 2.8.1997, p. 1), most recently amended by Regulation (EU) No 1175/2011 (Official Journal L 306, 23.11.2011, p. 12), and
3. Regulation (EC) 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 (Official Journal L 306, 23.11.2011, p. 1).

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<sup>1</sup> This working translation of the *Gesetz zur innerstaatlichen Aufteilung von Sanktionszahlungen zur Sicherstellung der Haushaltsdisziplin in der Europäischen Union (Sanktionszahlungs-Aufteilungsgesetz – SZAG)* is provided by the Language Service of the Federal Ministry of Finance. Only the German text of this Act is authentic.

The Federation and the *Länder* shall each bear their attributable share of the sanctions. The *Länder's* payment obligation towards the Federation shall arise when the Federal Republic of Germany is notified of a Council decision on sanctions.

## **Section 2 – Distribution**

(1) The Federation's share of sanctions shall be 65%; the *Länder's* share shall be 35%. Of the *Länder's* share, 35% shall be allocated according to each *Land's* number of inhabitants. The remaining 65% of the *Länder's* share shall be allocated according to each *Land's* financial deficit in proportion to the sum of the financial deficits of all *Länder* (degree of causation); *Länder* with a balanced budget or a budget surplus shall not be included when determining the sum of financial deficits and shall not contribute to the share of the sanctions that is calculated on the basis of the degree of causation. Where sanctions are predicated on the basis of Article 4 of Regulation (EC) No 1173/2011 before 1 January 2020, they shall be borne by the Federation. Sanctions shall be deemed to have been predicated before 1 January 2020 if the period laid down by the Council for rectifying the divergence and taking effective adjustment measures (Article 6(2), second subparagraph of Regulation (EC) No 1466/97) ends before 1 January 2020.

(2) The financial deficit under subsection (1) above shall be composed of the financial balance as defined under budget law, less revenues from the sale of holdings, from borrowing from the public sector and from loan repayments from third parties, and plus expenditure for the acquisition of holdings, repayments of principal to the public sector and for the granting of loans to third parties (definition close to national accounting). When determining the *Länder's* financial deficits, the financial deficits of municipalities, associations of municipalities and special purpose associations must be taken into account.

(3) A *Land's* payment obligations, calculated in accordance with subsections (1) and (2) above, shall be deferred by the Federation within the framework of a coordinated restructuring plan for the duration of any extreme budgetary emergency determined by the Federal Constitutional Court. Upon completion of the restructuring process, the *Land* in question shall, without delay, repay the amounts advanced by the Federation. Interest at the Federation's refinancing rate shall be charged on the deferred amounts until they are repaid.

## **Section 3 – Basis**

(1) The *Länder*'s share of sanctions under section 2 subsection (1), second sentence, shall be calculated on the basis of the number of inhabitants determined by the Federal Statistical Office as of 30 June of the calendar year preceding the Council decision under section 1 subsection (3) (year of allocation).

(2) In the case of fines under section 1, first sentence, the financial deficits of the *Länder*, including those of the municipalities and special purpose associations under section 2 subsection (1), third sentence, shall, subject to the final results of the official statistical analysis, be calculated on the basis of the results of the official quarterly statistics on public budgets of the Federal Statistical Office as of 31 December of the year of allocation.

#### **Section 4 – Refunds; deposits of other member states**

(1) Where deposits are fully refunded to the Federal Republic of Germany, the shares contributed under section 2 shall be returned to the Federation and the *Länder*. Partial refunds of deposits as well as refunds of interest accrued on interest-bearing deposits shall be distributed to the Federation and the *Länder* in accordance with the shares contributed under section 2.

(2) The Federation shall be entitled to 65% and the *Länder* to 35% of any interest on the deposits of other member states and corresponding fines accruing to the Federal Republic of Germany. The *Länder*'s share shall be allocated to the individual *Länder* according to their number of inhabitants. Each *Land*'s share shall be calculated on the basis of its number of inhabitants as determined by the Federal Statistical Office as of 30 June of the calendar year preceding the receipt of the funds.

#### **Section 5 – Empowerment to issue ordinances**

The Federal Ministry of Finance shall be authorised, by means of ordinances with the consent of the *Bundesrat*, to determine the amount of the shares under section 2 subsection (1) and section 4, and to define the payment modalities and other details in connection with the implementation of this Act.