

CONSIDERATIONS REGARDING TO THE LAW OF FISCAL-BUDGETARY RESPONSIBILITY

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A law of fiscal-budgetary responsibility which is firmly based and structured can outline the general parameters which can constitute the basis of creation of some decisions in sustainable fiscal politics through stipulating fiscal principles, rules concerning with budgetary incomes, public debts, deficits, expenses and risk management.

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Fiscal responsibility is essential to creating a better, stronger, more prosperous nation for the next generation. The choices we make today will determine our children's future.

It is known the fact that the main goal of the fiscal politics is concerned with reaching credibility and stability of the public finances, though this cannot be reached only through the followings:

-continuation of fiscal consolidation in the direction to accomplish the target deficit of 3% from the gross domestic product (GDP) to structural measures which assure sustainability for a medium²⁸⁶;

²⁸⁶ We must take into consideration the fact that the Economic and Financial Affairs Council (ECOFIN) edited recommendations for Romania regarding to the measures which will be taken to correct the excessive public deficit, reevaluating in the same time the established calendar to reduce it under 3% from the gross domestic product (GDP), which is the reference value established by the EU Treaty. Practically the Economic and Financial Affairs Council (ECOFIN) extended the correction period of the deficit, taking into consideration the damage in the economy of the country, more sever than the level which was foreseen, beginning with July 2009, when it was initialized the procedure of excessive deficit, and the Council edited their initial recommendations.

The Council urged Romania to reduce its deficit to 3% from the gross domestic product until year 2012 instead of 2011, presenting a strategy to reduce the deficit and establishing the date of 16 August 2010 as limit term to apply these corrective measures.

The excessive deficit procedure is governed by the Article 126 of the Treaty and the Council Regulation regarding the acceleration and clarification of the excessive deficit procedure implementation. The excessive deficit procedure sets down the criteria and the deadlines for the European Council (ECOFIN) to adopt a decision regarding the existence of an excessive deficit. The excessive deficit Procedure is initiated when the actual or forecasted deficit exceeds the 3% of GDP ceiling, except the situation when the deviation is of an exceptional and temporary nature outside of the control area of the respective member state and has a major impact on the fiscal position, or due to a major contraction of the economic activity – <http://discutii.mfinante.ro/statistic - 26.04.2010> /15.00

- promotion of an anti-cyclical fiscal politics which can offer sustainability for the process of economic increase;
- efficiency of control and increase of the responsibility of the units which are outside the central administration (local authorities, auto-financing institutions and companies of the state) even to reduce the arrears of the state;
- reform of fiscal administration;
- increase of the efficiency of the fiscal-budgetary politics and the improvement of its predictability taking into consideration the fact that stability and predictability of the fiscal-budgetary system represents directive principles for a viable economy.

The institution of the frame-politics which assure sustainability²⁸⁷ and fiscal predictability for long term presumes the promotion and the adoption of the Law of fiscal responsibility, taking into consideration the fact that the fiscal-budgetary politics promoted in the last years had demonstrated the evident fragility of the institutional frame and the lack of some adequate rules which could diminish the discretionary fiscal space.

The Law of fiscal responsibility outlines the principles by which the fiscal-budgetary politics will be guided to respect the long-term objectives of the European Union and the standards which must be fulfilled to create an added value for stability and economical increase.

The necessity of adopting the Law of fiscal responsibility²⁸⁸ is related to the requested conditions for closing the loan adjustment with the International Monetary Fund²⁸⁹, but it is an important moment for Romania because through this normative document are established some „normal things” which were not respected, becoming exceptions.

At the other hand even the harmonization of the fiscal-budgetary politics of the member states of the European Union urges the implementation, with continual and permanent character, of a severe and unconditional fiscal-budgetary discipline, realized practically through the adoption of this law. The Law of fiscal-budgetary responsibility aims to assure predictability in spending the public money.

At the same time Law no. 69/2010 has as regulation object the establishment of a legal frame which allows to assure and maintain a strict, clearly defined financial-budgetary discipline, which being respected offers the opportunity that the public finances could be efficiently managed.

The legal foresights created this way are applicable²⁹⁰ for authorities, institutions and public entities foreseen by *art. 2 point 30 of Law no. 500/2002* regarding to public finances (like The Parliament, the Presidential Administration, the Ministries, the other organs of specialty in public administration, other public authorities, the autonomous public institutions, like the institutions coordinated by these and financed either integrally by the budget of state, by the social insurance budget of the state, by budget of special funds; or by own income and subventions offered by the budget of state, the budget of social insurance of the state, the budget of special funds; or

²⁸⁷ For realizing the sustainability of public finances through fiscal sustainability it must be applied some measures which imply the reduction of expenses, without influencing the vulnerable groups, avoidance of the increase of taxes (which would have a negative impact upon the employment of the labor and upon investments).

²⁸⁸ Law no. 69 from 16 April 2010 of fiscal budgetary responsibility, published in the Official Monitor of Romania No. 252 from 20 April 2010.

²⁸⁹ Together with the Law of unique salary of the budgetary personal (respectively Law no. 330 from 5 November 2009 regarding to the unitary salary of the employees paid from public funds, published in the Official Monitor of Romania no. 762 from 9 November 2009) and Law of the reform of the system of pensions.

²⁹⁰ Art. 2 of Law no. 69/2010.

integrally by own incomes) respectively by *art. 2 point 39 of Law no. 273/2006* regarding to local public finances (the general name of local public institutions, including villages, cities, towns, the sectors of Bucharest, districts, the city of Bucharest, institutions and public services under the control of these, with judicial person, financed either integrally by the local budget, or by own incomes) *like to other entities* finances in proportion of over 50% by public funds, established according to European norms.

For the exact conceptual clarification of some notions the legislator tried to define some notions like fiscal-budgetary strategy, the general consolidated budget²⁹¹, primary expenses of the general consolidated budget, economic cycle, expenses with employees etc.

The legal principles of the fiscal-budgetary politics are the following:

- the principle of transparency* regarding to the establishment of fiscal-budgetary objectives and the application of the fiscal and budgetary politics, the Government and the authorities being obliged to publish and maintain in debate for a reasonable period of time all the necessary information which allow to evaluate the implementation method of the fiscal and budgetary politics, the results of these and the situation of the central public finances and that of the local one;
- the principle of stability;
- the principle of fiscal responsibility;
- the principle of equity;
- the principle of efficiency²⁹²;
- the principle of the efficient management of the employment expenses paid by public funds.

In the content of art. 5 of Law no. 69/2010 there are also treated the objectives of the fiscal-budgetary politics, respectively:

- to maintain the public depts. At a sustainable level for a medium or long-term²⁹³;
- realizing of a sold of budget generally consolidated near to zero for the period of economic cycle, in the same time with assuring the competitiveness of the country;
- the prudent management of the resources and of the entered obligations of the public sector and of the fiscal-budgetary risks;
- maintaining and adequate level of the budgetary resources for the payment of service of public dept;
- assuring the predictability of the quota and of the basis of taxation level.

The efficiency and the positive evolution of the fiscal-budgetary politics will be assured also by respecting some established fiscal rules in the matter of the sold of the general consolidated

²⁹¹ We must mention that in form of project, the Law of fiscal-budgetary responsibility defined at art. 3 point 2 the notion of general consolidated budget as being „the ensemble of the component budgets of the aggregated and consolidated budgetary system to create an unitary thing: the budget of state, the budget of social insurance of state, the budgets of special funds , *local budgets*...” but the Commission for budget, finances and banks of the Parliament of Romania considered opportune to substitute the notion of local budgets with the notion of central budget of the administrative-territorial units, and invoked as reason in this sense the necessity for clearer definitions in the sphere of the general consolidated budget and the possibility to review these in conformity with the European norms and with the evolutions in the administration of the public funds.

²⁹² To include all the non-repayable funds offered for Romania, including the communitarian and other programs, whose donators of non-repayable funds are not member of the European Union, the Commission for budget, finances and banks of the Parliament of Romania had changed the definition of the content of *the principle of efficiency*, replacing paragraph „financed by funds offered by the European Union” with the text „financed by **non-repayable** funds offered by the European Union or by other **donators**”

²⁹³ The establishment of a medium/long term for the maintenance of the public dept at a sustainable level must be done because a strategy must foresee a longer period.

budget, the total expenses of the general consolidated budget (including the annual rate of growth of these) etc.

In the matter of employment costs, the Government, the credit accountants and any authority with attributions of elaborating politics and payment agreements from the public sector must assure itself that all these politics are in concordance with the principles of fiscal responsibility, with fiscal rules, as with the objectives and limits of the fiscal-budgetary strategy.

Also through Law no. 69/2010 are promoted essential rules in the matter of budgetary rectifications and to solve the problem of the excessive expenses and that of the overrating of incomes, there must be elaborated and implemented a credible *fiscal-budgetary strategy* for 3 years, which must include macroeconomic²⁹⁴ frame, fiscal-budgetary frame, a frame of expenses for a medium term and a declaration of responsibility²⁹⁵.

The fiscal-budgetary strategy must be a key document of politics which must offer information and objectives allowing a better process of taking decision in the annual budgetary process even for a medium period, which can be elaborated by the Government and approved by the Parliament. Compliance towards the fiscal strategy will be followed through reports of semester and annual progress which must deliver the feed-back for the Government upon any adjustment which could be proven to be necessary to respect the aims and the limits. The reports and controls done by the Ministry of Public Finances and by the Government contributes to the promotion and increasing of the transparence of the fiscal-budgetary politics (in this sense we can mention as example: the obligation of the Ministry of Public Finances to publish a semester report referring to the economic and budgetary situation, a report about the final budgetary execution, the obligation of the Government to publish a report about the economic and budgetary situation at the end of their mandate etc).

The law foresees also the creation of a Fiscal Council compound by 5 members²⁹⁶ nominated by the decision of the Parliament at the proposal of the National Bank of Romania, the Romanian

²⁹⁴ According to law (art. 19 of Law no. 69/2010) the macroeconomic frame contains information about:
-situation of macro economy and prognoses: for the actual budgetary year and for 3 ulterior years, the concrete results of the last 2 budgetary years, referring to: the gross domestic product and its components; indicators of consume prices and deflation of the gross domestic product; unemployment and labor; the position of current account of the balance of payments; premises which create the basis of the prognoses; a declaration regarding to the concordance or differences towards the prognoses of the European Commission;

-macroeconomic prognoses for a medium term which influence fiscal politics.

²⁹⁵ The responsibility declaration will contain a declaration signed by the Prime Minister and by the Minister of Public Finances, where it is certified the correctness and integrity of information about the fiscal-budgetary strategy and its conformity with the law, the aims and limits of the fiscal rules and the respect of the principles of fiscal responsibility.

²⁹⁶ Their mandate lasts 9 years, and they cannot be elected once again at the end of this period. The conditions which must be fulfilled to become a member of the Fiscal Council are the following:

- the person must have clean judicial and fiscal criminal report;
- the person must have Romanian citizenship and right to vote;
- the person must be graduate of university studies in economic domain;
- the person must have good reputation and professional experience in the domain of economic, budgetary or financial politics;
- minimum 10 year professional experience.

The membership of the Fiscal Council is over in the following situations:

- at the expiration of the mandate;
- through resignation;
- through the appeal of the Parliamentary plenum in the following situations: by the establishment of incompatibility according to the foresights of Law no. 69/2010; in case when a penal conviction with punishment of privative freedom towards a member of the Council was pronounced, being definitive;

Academy, the Academy of Economic Studies, the Romanian Bank Institute and the Romanian Association of Banks, which must assure their support to assure the quality of the macroeconomic and budgetary prognosis and the fact that the budgetary politics are in accordance with the principles of fiscal responsibility.

The sanctions introduced in case of breaking some foresights of Law no. 69/2010 are represented by contravention amendments, but by art. 52 it is shown that „the breaking of the legal foresights by the members of the Government implied the joint political responsibility of the other members of Government, according to the foresights of the Romanian Constitution, republished and to Law no. 115/1999 regarding to the ministerial responsibility, republished with the ulterior modifications”²⁹⁷.

In conclusion, we show that reaching some smaller budgetary deficits assumes the considerable modification of the budgetary process, and also reforms of the income and expenses politics, and the essential component of the medium-term strategy is represented by the law of fiscal-budgetary responsibility which:

- established better elaboration procedures of the multi-annual budgets;
- establishes limits regarding to the budgetary rectifications done during the year;
- foresees fiscal rules regarding to total expenses, employment expenses and budgetary deficit;
- creates a Fiscal Council which assures an independent and professional analysis of the macroeconomic and budgetary prognosis;
- creates an emission and management frame of the guarantees and obligations.

References:

- 1.***, Law no.69/2010;
- 2.***, Law no. 500/2002;
- 3.***, Romania, Ministry of Public Finances – www.mfinante.ro;

-through substitution, in case of definitive impossibility of exercising the mandate. It is considered to be definitive impossibility of exercising the mandate any situation which creates an unavailability longer than 90 calendar days;

-through decease.

²⁹⁷ This way, the supreme sanction for the Governmental members is the joint political responsibility, a sanction whose content is not very clear outlined.