The New Regulatory Framework in the European Union and the Role of the Independent Fiscal Authority

In this article, the author discusses the regulatory framework which amends the rules on the supervision of fiscal policy and incorporates economic good governance in the European Union, and describes the role and features of independent fiscal institutions acting as “fiscal watchdogs” in selected Member States.

1. Introduction
The framework for fiscal policy and the Stability and Growth Pact (SGP), as applied in the early years of the European Monetary Union (EMU), did not prevent the accumulation of large fiscal deficits in the eurozone. Furthermore, the lack of transposition of good governance throughout the European Union resulted in most Member States not feeling obliged to strictly enforce EU budgetary rules in order to achieve and maintain fiscal sustainability.1

The first part of this article examines the new regulatory framework being applied in the European Union (i.e. the amended SGP and the transposition of economic good governance in individual Member States), which attempts to reinforce the guiding principle of “sound public finances”2 enshrined in article 119(3) of the Treaty on the Functioning of the European Union (TFEU).3

The emerging new fiscal policy architecture of the European Union aims to build a more robust and effective framework for the coordination and surveillance of Member States’ fiscal policies based on the principle that economic policies are a matter of shared concern for all Member States.4

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There are already an extensive body of literature explaining excessive government debt accumulation in the European Union. The key arguments may be summarized as follows:5

− lack of understanding by politicians of the consequences of excessive government debt, mainly associated with over-optimism and overconfidence, as well as underestimating future variables;6
− common-pool problems which arise because government spending is usually targeted at individual groups which lobby for their particular spending objectives and which are, at the same time, financed out of general tax revenue without consideration of the full budgetary cost;7
− time inconsistencies mean that policies that were optimal ex ante are no longer so ex post; and
− short-sightedness on the part of politicians acting mainly in their own interest rather than in the interest of the electorate, and no consideration of the fact that citizens must bear the consequences of such inefficiencies through increased taxes or cuts in the social or educational budgets.

Since 2011, EU law has required the establishment of a technical and independent fiscal body within each Member State with the aim of ensuring compliance with EU and national fiscal rules and avoiding the deterioration of public finances. The second part of this article examines how these independent fiscal institutions can monitor public finances.

It is important to note that there is no general consensus of terminology, as some countries have adopted the name “independent fiscal authority”, while others call those institutions “fiscal councils”. Some literature even refers to them as “fiscal watchdogs”. Nevertheless, these independent bodies are entrusted with a range of common technical tasks.

Some of the general characteristics (i.e. composition, mandates, and role) of the different fiscal councils throughout the European Union is discussed in the second part of this article; however, it is beyond the scope of this article to analyse their adaptation to the new EU regulatory framework.

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7. Calmfors, supra n. 5.

2.1. The “six-pack”: the legal basis of the SGP

2.1.1. Initial comments

Fiscal rules, at both national and EU level, have been flouted in most Member States to such an extent that ever-increasing government debt resulted from the lack of transposition of European good governance. Therefore, it became crucial that an appropriate reform of fiscal frameworks within the European Union should be instituted.

In this climate, the first Economic Governance Package (the “six-pack”) came into force on 13 December 2011. The “six-pack” is the cornerstone for attempts to tackle the serious fiscal imbalances within the European Union. Its source lies in the TFEU and in secondary EU law, which sets out in more detail how to implement the rules and procedures provided in the TFEU.

Article 121 of the TFEU (as a primary source of EU law) provides the main legal foundation for the SGP by incorporating, as an ex ante preventive measure, multilateral surveillance between Member States and the EU institutions. Article 126 of the TFEU and Protocol 12 of the TFEU regulate excessive deficit mechanisms as an ex post measure and provide the main instruments for the correction of excessive deficits.

The “six-pack” refers to six pieces of legislation:
- two regulations to reform the SGP;
- a regulation which imposes sanctions for non-compliance with the SGP in the eurozone countries;
- a directive ordering national fiscal frameworks to meet certain minimum requirements;
- a regulation creating a process for the identification and correction of excessive macroeconomic imbalances; and
- a regulation on the possibility of imposing sanctions in cases of non-compliance in the eurozone.

2.1.2. Preventive or ex ante measure of the SGP

The aim of the preventive measure is to ensure sound public finances in the European Union by means of multilateral surveillance. This ex ante measure is governed by article 121 of the TFEU, the amended Regulation 1466/97 and Regulation 1467/97.

Under article 121 of the TFEU, all Member States shall achieve and maintain a medium-term budgetary objective (MTO) close to balance or surplus. Therefore, a core instrument in the preventive toolbox is the country-specific MTO. Following the new SGP, each country has to be within the range of between -1% of the GDP and balance or surplus, corrected for cyclical effects and one-off temporary measures. This objective has to be revised every three years, or when major structural reforms are implemented in these Member States during this three-year period.

As part of the multilateral surveillance, every year in April, each Member State must submit a stability programme to the Commission and Council (in the case of eurozone Member States) or a convergence programme (for non-eurozone Member States which participate in the exchange rate mechanism (EMR II)).

Countries that have not yet reached their MTO should establish an annual structural adjustment path equivalent to 0.5% of the GDP on average during the years covered by the stability and/or convergence programme with the possibility of realizing further efforts in times of economic growth and reduced efforts in times of deceleration.

Therefore, all programmes must contain, inter alia, the MTO, the adjustment path to it and a scenario analysis examining the effects of changes in the main underlying economic assumptions on the fiscal position. The basis for the calculations must be the most prudent macro-fiscal scenario.

Based on an assessment of the Commission and the Economic and Financial Committee (EFC), the Council will, in particular, scrutinize progress made in order to achieve the MTO. Based on its opinion, the Council will adopt a recommendation to the programme, and, in the event of...
major deviations from the adjustment path to the MTO, the Council will issue a warning to the Member State requesting the necessary policy adjustments.

When the Member State concerned does not take appropriate adjustment action, the amended SGP also allows for the possibility of imposing sanctions (only for the eurozone) in the form of an interest-bearing deposit amounting to 0.2% of the previous year’s GDP.

The submission and assessment of SCPs forms part of the European Semester, which has been enshrined in the preventive measure of the SGP. The European Semester is a broader process of economic policy coordination within the European Union.23

2.1.3. Corrective or ex post measure of the SGP

The purpose of the Excessive Deficit Procedure is to prevent such a deficit from occurring and ensure prompt correction. The procedure is governed by article 126 of the TFEU, Protocol No. 12 annexed to the TFEU, the amended Regulation 1467/97 and the new Regulation 1173/2011.

The procedure is triggered by the existence of “deficit” or “debt”. A general government deficit is considered to be excessive if it is higher than 3% of the GDP at market prices or if debt is higher than 60% of the GDP and the annual debt reduction target of 1/20 has not been achieved over the preceding three years.

These Regulations also contain provisions clarifying that if a deficit is higher than the stated market value, it will be considered as exceptional (resulting from an unusual event or severe economic downturn) or temporary (forecasts indicate that the deficit will fall below such value following the end of the unusual event or downturn).

Article 126 of the TFEU sets out the procedure for assessing and deciding on an excessive deficit. If the Commission considers that a Member State has an excessive deficit or that one is likely to occur, it sends an opinion to the Member State concerned and informs the Council. Thereafter, the EFC formulates an opinion evaluating the Commission’s opinion.

After considering both documents, the Council finally decides whether or not an excessive deficit exists and adopts a recommendation addressed to the Member State concerned to demand effective action be taken to reduce the deficit, and sets a deadline of no more than six months (article 126(9) of the TFEU). If the Council establishes that such action has not been taken, its recommendation may be made public (article 126(8) of the TFEU).

As in the case of the corrective measure, the excessive deficit procedure also provides for sanctions in the case of non-compliance by eurozone members (article 126(11) of the TFEU). As a rule, these sanctions shall consist of fines, comprised of a fixed component of the GDP (0.2%) and a variable component (with the maximum amount of 0.5%) for both components taken together.

2.1.4. Directive 2011/85/EU

Directive 2011/85/EU is the most relevant component of the “six-pack”. The essential conditions provided in the Directive are summarized below:

1. Member States shall have in place public accounting systems comprehensively and consistently covering all subsectors of the general government. The regular availability of timely and reliable fiscal data is also highly relevant, as it is the key to proper monitoring, which in turn allows prompt action in the event of unexpected budgetary developments.

2. Member States shall ensure that fiscal planning is based on realistic macroeconomic and budgetary forecasts using up-to-date information. The macroeconomic and budgetary forecasts shall be compared with the most recent forecasts of the Commission.

3. Each Member State shall have in place numerical fiscal rules24 which are specific to it and which effectively promote compliance with its obligations stemming from the TFEU in the area of budgetary policy.

4. All Member States shall establish a credible medium-term budgetary framework providing for the adoption of a fiscal planning horizon of at least three years.

Under article 15(3) of the Directive, the Commission was asked to prepare an interim progress report on the adaptation of the main provisions of the Directive into the legislation of Member States.25 This report is incorporated in a communication,26 which shows that substantial, yet uneven, progress has been made by all Member States in incorporating the Directive into their national legislation.

The Communication highlighted that, while many Member States report the MTO, the details given are sometimes scarce and do not provide enough evidence that they will fully comply with the Directive’s specifications. It is also noted that, despite work on effective coordination arrangements for sub-national governments being carried out, further effort is still required in some Member States.

Directive 2011/85/EU plays an important role with regard to the regulation of fiscal authority. Article 6.1.b) of the Directive establishes that, without prejudice to the provisions of the TFEU concerning budgetary surveillance

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24 According to the most commonly agreed definition, numerical fiscal rules provide a permanent constraint on fiscal policy expressed in terms of a summary indicator of fiscal performance, such as the government budget deficit, borrowing, debt or a major component thereof. See European Commission, Public Finances in EMU (2010), Part II: Evolving Budgetary Surveillance.

25 The report is exclusively based on the information given by the Member States. It should, therefore, not be construed as a fully-fledged assessment of the conformity of national provisions with the Directive, which will be performed upon expiry of the transposition deadline (31 Dec. 2013) in accordance with EU law.

in the European Union, country-specific numerical fiscal rules should be based on a reliable and independent analysis carried out by independent bodies or bodies endowed with functional autonomy vis-à-vis the fiscal authorities of Member States.

In order to reinforce what was established in the Directive, the Commission published a communication establishing a series of common principles with regard to the main requisites that the fiscal authorities should satisfy.

2.2. Fiscal Compact (TSCG)

The intergovernmental “Treaty on Stability, Coordination and Governance in the Economic and Monetary Union” (TSCG) was agreed at the European Council meeting in March 2012. Its fiscal component is called the “Fiscal Compact”. The TSCG, signed by 25 Member States (except the United Kingdom (which is not a member of the eurozone) and the Czech Republic (which is a member of the eurozone)), came into force on 1 January 2013.

The Fiscal Compact strengthens the stabilizing role of fiscal policies and incorporates the economic premise that Member States should enjoy financial health regardless of economic cycles. Certainly, some Member States with great economic difficulties in recent years would have been in a better position if austerity measures had been implemented in times of economic expansion in order to use the surplus in times of recession. It is easier to adopt potentially stronger policies in times of economic growth than in times of deceleration.

The Fiscal Compact provides for the implementation of the balanced budget rule (the “golden rule”) into domestic law of the signatory states. Member States should limit the structural deficit to no more than 0.5% of their GDP. If the rule has not been properly implemented, action can be taken in the Court of Justice of the European Union (ECJ) by Member States against other Member States which are signatories to the Fiscal Compact.

Additional provisions, which include, inter alia, the automatic triggering of the correction mechanism and enforcement rules for countries under the excessive deficit procedure, are particularly relevant.

According to article 3.2 of the TSCG, there must be a fiscal authority at the national level, responsible for monitoring compliance with the balanced-budget clause and convergence towards the country-specific medium-term objectives.

2.3. Further major reforms strengthening economic governance in the eurozone

Recognizing the extent and potential consequences of spillovers among the economic and budgetary situations of the eurozone Member States, two regulations (the “two-pack”), which came into force in May 2013, build on the “six-pack” reforms by introducing additional surveillance and monitoring procedures for the eurozone Member States.28 The “two-pack” has its legal basis in article 136 of the TFEU.

Regulation 473/201329 applies to all eurozone Member States and requires them to present their draft budgets to the Commission by the same time each year (15 October). The Commission will have the right to assess and, if necessary, to issue an opinion on these drafts by 30 November.

Regulation 472/201330 sets out explicit rules and procedures for enhanced surveillance of any eurozone country in distress. It will provide a much more predictable method for dealing with countries in severe difficulty, improve transparency, and establish mechanisms to ensure that austerity measures accompanying financial assistance do not kill potential for recovery.

To support the effective implementation of the “two-pack” legislation, Member States and the Commission have recently agreed on harmonized frameworks for draft budgetary plans and debt issuance reports.31

3. The Independent Fiscal Authority from the EU Perspective

3.1. Introductory remarks

A way of strengthening incentives for fiscal discipline is to set up specific public bodies acting in the field of budgetary policy. The principal purpose of creating such entities is the depoliticizing of fiscal policy.32

The impetus to create new independent fiscal authorities comes from generally positive experiences in countries in which they already exist. It is important to consider that some Member States established fiscal councils with similar tasks some time ago (Austria, Belgium, Denmark, Germany and the Netherlands). New institutions have emerged in Hungary, Slovenia, Sweden and the United Kingdom since 2007.33 Since 2011, such institutions have also been created in France, Ireland, Italy, Portugal, the Slovak Republic and Spain.

Due to the divergences in the European Union, during 2005 and 2006, the Commission carried out a survey compiling, among others, the following information about each fiscal council: its mandate, role, composition of the governing bodies, independence vis-à-vis government and financial stability, OJ L 140/1, 27 May 2013.

parliament, the relationship with the media and the influence of public debate concerning fiscal policies. The first results were published in 2008 and have been updated annually since then.34

3.2. Features of the fiscal authority

3.2.1. Initial comments

It is important to note that the EU regulatory framework (see section 2.) does not oblige Member States to create a new fiscal authority, as the adaptation of the already existing fiscal council in order to comply with the new SGP35 could be also acceptable.

Communication COM (2012)342 established that, in the design of the institution, the Member State should take into account the already existing institutional setting and the country-specific administrative structure. Therefore, it will be up to each Member State to decide whether they prefer to create a new body or to adapt an existing one to the new EU regulatory framework.

In terms of the above-mentioned Communication, the main features that fiscal authorities (or fiscal councils) should satisfy are:

- functional autonomy and independence (see section 3.2.2.);
- a clear mandate (see section 3.2.3.); and
- transparency and communication with media (see section 3.2.4.).

3.2.2. Functional autonomy and independence

Effective independence from the government and parliament is considered a necessary prerequisite for making the fiscal authority contribute to the improved fiscal performance.36

This assumption can be applied to the relationship with the government, but it should be mitigated in the case of the parliament. Fiscal councils play an important role in improving the democratic legitimacy of financial and budgetary decisions by strengthening the position of the parliament.

Functional autonomy can be ensured with a clear statutory regime provided by ordinary legislation and with public nomination procedures for the members based on experience and competence.

There are already discrepancies within the existing fiscal councils with regard to how the staff should be selected. This issue must be solved in a purely domestic framework without interference from international institutions, although, in any case, nominations should be based on experience and competence with regard to the role the members are going to carry out. Nevertheless, it is unclear as to whether or not functional independence can be guaranteed if the nomination is made by the council of ministers.

To ensure independence, the body must be able to count on sufficient human and financial resources to carry out its tasks. There should be a long-term budget, so that the body does not have to fear that its resources may be cut off if it reaches politically unpopular conclusions.37

Each Member State should be realistic about its own resources, as over-optimism has brought fiscal imbalance in the past. Therefore, the number of council members,38 the member and staff salaries and the task to be performed by the members should be adapted to the budgetary circumstances of each Member State. The literature has presented descriptive evidence that there is a tendency to limit the size of the already existing fiscal council to an absolutely necessary minimum.39

3.2.3. Clear mandate

The mandate should be clear and unambiguous, specifying the tasks assigned to the institution and the scope of its activities, and backed by strong legal provisions.

In this respect, the following observations may be relevant.40

- The mandate should ensure that the tasks assigned to the institution will be carried out on a regular basis and not only occasionally.
- If the mandate includes the provision of forecasts and/or monitoring tasks, the institution should be given access to internal information in the national statistical office, ministries and other government bodies.
- Non-renewable term length of the institution should exceed the parliamentary term length in order to ensure that the mandate will not change as a result of a change of the government. A five year non-renewable mandate is considered by experts to be the ideal length.41

3.2.4. Transparency and communication with media

The fiscal authority should assume the task of accountability to the parliament (presenting reports, parliamentary hearings) as all its considerations, recommendations, reports and forecasts should be public. Its influence is determined by the quality of its assessments; therefore, to be influential, it must earn a reputation for good and impartial analysis. Such a reputation could create a certain media pressure that may make it difficult for the government to ignore the recommendations of the fiscal authority.42
Closely related to transparency is the reputation of the fiscal authority among international organizations (IMF, OECD). Most of the existing fiscal councils have a webpage and almost all of their work (reports, forecasts) is open to public.

3.3. Overview of the existing fiscal institutions in the European Union

3.3.1. Initial comments

In this section, the main characteristics of fiscal institutions in some Member States are briefly described, with the aim of demonstrating that there should not be just one type of fiscal authority.43

3.3.2. Austria44

The Staatsschuldenausschuss [Government Debt Committee] (GDC) was established in 1997 and reorganized in 2002. The composition of the GDC is remarkable, as it comprises 14 members with a four-year mandate (six members elected by the federal government, three members nominated by the Austrian Chamber of Commerce, three members nominated by the Federal Chamber of Labour and two members from the Austrian Association of Municipalities and the Conference of Provincial Governors).

Among other tasks, the GDC forecasts the Austrian financial-political situation. It also analyses the effects of financial operations on the national economy in connection with the indebtedness of all public authorities and presents written recommendations concerning the financial policy underpinning the public budgets.

3.3.3. Belgium45

Belgium has two institutions acting as fiscal councils: Federaal Planbureau/Bureau fédéral du Plan [Federal Planning Bureau] (FPB) and Hoge Raad van Financieën/Conseil Supérieur des Finances [High Council of Finance] (HCF), each with different tasks.

The FPB was established in 1994 and provides a range of services similar to those provided by the fiscal council in the Netherlands (see section 3.3.7.). Among other tasks, it produces macroeconomic forecasts for the national budget.

The HCF46 was formed in 1989 and reformed in 2006. It oversees the coordination of regional and national fiscal policy and has total staff of 34. It sets medium-term objectives for regional and national budget deficits and proposes annual targets which form the basis for government negotiations. Despite the HCF having no power of decision, its influence is considerable.

3.3.4. Sweden47

In 2007, the Finanspolitiska rådet [Fiscal Policy Council] (FPC) was set up. The impact of its work is mainly through media in order to reinforce its independence; therefore, its annual report is presented at a press conference covered by the main TV and radio channels.

Currently, the FPC has only half of the staff it had when it was created. It includes six members coming from academia, who are assisted by a secretariat with five employees. Members are highly proactive.48 Sweden is an example of how a fiscal council with limited resources can be efficient.

The FPC’s tasks are, among others: analysis of the consistency of fiscal policy with a surplus target and expenditure ceiling, the assessment of how the fiscal policy relates to the cyclical economic situation, the effect of fiscal policy on long-term employment, growth and welfare distribution, and the assessment of the official forecasts produced by the government.

3.3.5. Denmark49

Denmark has two councils: Økonomiske Råd [Economic Council] (acting as a "fiscal watchdog") and Miljøøkonomiske Råd [Environmental Economic Council].

The Economic Council was established by law in 1962. Its objective is to monitor the Danish economy and analyse long-term economic development. Another objective of the Council is to improve coordination between the different economic interests in the Danish society. Consequently, the Council plays an important role in the public debate on economic policy issues in Denmark. The Economic Council has 26 members representing unions, employers’ federations, the Central Bank and the government.

The Environmental Economic Council was established by law in 2007. The Council has 17 members representing unions, employer’s federations, government institutions, as well as non-governmental organizations.

The two councils are presided over by a common chairmanship. The chairmanship, whose members are appointed by the Minister of Economic Affairs, consists of four independent economic experts, usually academics. The chairmanship prepares a report with economic data for the meetings in the two councils. Special analyses on issues, such as labour market policies, distribution, the welfare state or the EMU, are also included in these reports.

3.3.6. Germany50

The Sachverständigenrat [Council of Economic Experts] (CEE) was established in 1963 and is an academic body

43. All the information in this section has been obtained from the websites of the fiscal institutions discussed.
44. See www.staatsschuldenausschuss.at/en/jahresberichte/annual_reports.jsp.
47. See www.finanspolitiskekarlet.se.
49. See www.dors.dk.
50. See www.sachverstaendigenrat-wirtschaft.de.
of five members appointed for a period of five years and supported by other scientific staff.

The objective of the CEE is to assess the macroeconomic development of Germany. In line with its legal mandate, the Council compiles and publishes an annual economic report to assess particular current problems. Depending on the mandate issued by the government, the Council also prepares ad hoc special reports.

The Council’s reports and assessments have become an essential part of German economic policy-making and have notably influenced political decisions.

3.3.7. The Netherlands

The Centraal Planbureau [Bureau for Economic Policy Analysis] (CPB) was founded in 1945. It is an independent research institute with a staff of over 110 people and with its own independent external advisory body. The CPB is a part of the Ministry of Economic Affairs and its director is appointed by the Minister, in consultation with other members of the government; however, the CPB is fully independent as far as the contents of its work are concerned.

The CPB carries out scientific research aimed at contributing to the economic decision-making processes of the policymakers. In addition to economic forecasting, the CPB carries out quantitative and qualitative analyses in a large number of problematic areas, for example, the economic effects of ageing, globalization, health care, education, the financial crisis, or the regulation of market orders. The peculiarity of the Netherlands is that such work is sometimes co-financed by the private sector.

Since 2011, the CPB has been divided into five different sectors. The following two are noteworthy:

- The public finance sector, considered as the “fiscal watchdog” of the Dutch government. This sector prepares macroeconomic forecasts for the national budget and provides economic policy analyses.
- The macroeconomic sector, which is the knowledge centre for the Dutch government. This carries out short and medium-term analyses and forecasts for the Dutch economy, and examines general macroeconomic issues at national, European and international level.

3.3.8. The United Kingdom

The Office for Budget Responsibility (OBR) was created in 2010 to provide independent and authoritative analysis of the UK public finances. The OBR has a permanent staff of 17 civil servants. The OBR is led by the three members of the UK public finances. The OBR has a permanent staff in 2010 to provide independent and authoritative analysis

The main roles of the OBR are as follows:

- to produce five-year forecasts for the economy and public finances twice a year. The forecasts accompany the Chancellor’s Budget Statement and incorporate the impact of any tax and spending measures announced by the Chancellor of the Exchequer;
- to use its public finance forecasts to judge the government’s performance against its fiscal targets;
- to scrutinize the Treasury’s costs of tax and welfare spending measures; and
- to assess the long-term sustainability of public finances.

In support of these activities, the OBR undertakes a variety of research projects throughout the year.

3.3.9. Hungary

The Kőltségvetési Tanács [Fiscal Council] was set up in 2009 with staff of about 35 people. This body prepares macroeconomic forecasts, which are used as the baseline for budgetary decisions. It also provides comments and advice on fiscal planning within the context of existing fiscal rules.

Some of its reports were very critical of government proposals or forecasts and, in early 2011, the Hungarian government replaced the Council with a three-person body, which could be perceived as a less effective “fiscal watchdog”.

3.3.10. Ireland

The Irish Fiscal Advisory Council (IFAC) was established in July 2011 as part of a wider agenda of reform of Ireland’s budgetary architecture. The IFAC was set up by the Minister for Finance and is comprised of five economists appointed on a part-time basis and a full-time secretariat of three.

The role of the IFAC is basically:

- to assess the official forecasts produced by the Department of Finance. These are the macroeconomic and budgetary forecasts published by the Department in the Stability Programme;
- to assess whether the fiscal stance of the government is conducive to prudent economic and budgetary management, with reference to the SGP; and
- to monitor and assess compliance with the budgetary rules as set out in the Fiscal Compact.

3.3.11. Portugal

The Conselho das Finanças Públicas [Fiscal Council] (CFP) was created in 2011. The members of the board were appointed in December 2011 and took office during 2012.
The Council’s mission is to conduct an independent assessment of consistency, compliance with the defined objectives and sustainability of public finances, while fostering their transparency. The CFP supports the operation of decision-making and monitoring mechanisms in order to ensure the consistency of public finances with a medium-term, transparent and comprehensive framework compatible with a sustainable path.

The CFP is composed of a senior board with five members, which is responsible for fulfilling the mission of the Council, the performance of its tasks, the definition of its plan of action and the approval of its internal regulations. There is also an executive committee, which ensures the day-to-day management of the Council, and an audit committee, which is responsible for the financial control of the board and its legitimacy.

3.3.12. Spain

The Council of Ministers has approved the Draft Bill of the Constitutional Act creating the Autoridad de Responsabilidad Fiscal Independiente [Independent Fiscal Responsibility Authority].

The role of this new body will be, among others:
- the preparation of mandatory, but not binding, reports;
- the development of an annual report on the implementation of the objectives of budgetary stability and public debt; and
- reporting on macroeconomic forecasts to be incorporated in the draft budgets of public administrations or in the stability programme, in compliance with European law.

The Independent Fiscal Responsibility Authority will be attached to the Ministry of the Treasury. It will be headed by a chairman assisted by departmental directors with a minimum of ten years’ professional experience in areas of budgetary, economic and financial analysis of the public sector.

3.3.13. Interim conclusions

After briefly considering the functions of the fiscal councils of the selected Member States, their tasks can be summarized as follows:

1. Most councils conduct macroeconomic forecasts on which government budget proposals can be based. This is the case in Austria, Denmark, Germany, Hungary, the Netherlands and the United Kingdom. However, some assess the official forecasts produced by the Ministry of Finance (for example, Ireland and Sweden).

2. A few fiscal councils examine the costs of various government policy initiatives (for example, the Netherlands, Sweden and the United Kingdom).

3. Fiscal councils provide ex ante evaluation of fiscal policy and fiscal sustainability. In addition, all provide ex post evaluation of whether or not fiscal policy has met its targets. Following the new EU regulatory framework, this is a key task for all fiscal councils.

4. Most fiscal councils examine the long-term sustainability of fiscal policy.

5. Only a few councils present written recommendations concerning the financial policy of the public budgets (for example, Austria, Belgium, Denmark and Sweden).

6. The remit of the councils is usually limited to fiscal policy, but, in a few cases, their remit also includes other issues, such as employment, growth and other structural policies (for example, Denmark, Germany, the Netherlands and Sweden).

4. Conclusions

It is a fact that, in the past, fiscal rules at both national and EU level have been flouted in most Member States and, together with the lack of implementation of European good governance into their domestic legislation, this has resulted in large structural deficits and growing debt ratios and putting the fiscal sustainability of the European Union at risk.

In the light of this scenario, the article has examined the new regulatory framework which has been in force in the European Union since 2011. The “six-pack” has proved to be the cornerstone of attempts to tackle the serious fiscal imbalances within the European Union.

This legislative pack has been supplemented by the “Fiscal Compact”, which strengthens the stabilizing role of fiscal policies and incorporates the economic premise that Member States should enjoy financial health regardless of at which point of the economic cycle they are, and the “two-pack”, the purpose of which is to further strengthen economic governance in the eurozone.

Within this new regulatory framework, it was determined that fiscal authorities are a key element in ensuring that governments comply with EU and national fiscal rules.

The short-term challenge for the Member States is the time constraint. Therefore, a key point is the adaptation of existing national fiscal councils to the requirements of the EU guidelines. For those Member States who have set up new independent fiscal institutions, it is significantly important to define the relationship between fiscal councils and existing institutions (i.e. court of auditors and/or constitutional courts).

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58. See information published on the webpage of the government of Spain: www.lamoncloa.gob.es.

59. Fiscal councils in Sweden and the United Kingdom differ in a number of aspects. The OBR does not make forecasts, has a broad remit, gives normative recommendations and works independently with the Ministry of Finance. In contrast, the OBR makes forecasts, has a narrow remit limited to fiscal policy, does not analyse alternative policies and cooperates closely with the Treasury. See Calmfors & Wren-Lewis, supra n. 8, at p. 689.
The role of an independent fiscal authority may vary from one Member State to another. Although every council engages in fiscal policy evaluation and sustainability analysis, there is great diversity among the other tasks. These may include, in addition to positive analysis, forecasting, analysis of broader issues and normative recommendations. As long as the fiscal authority complies with the SGP, each Member State has the sovereignty to entrust its institution with the role which it considers most appropriate for its own economy.

Ultimately, what is clear is that the role of these institutions in determining fiscal policies and outcomes is crucial in order to reinforce the guiding principle of “sound public finances” established by the TFEU.

### Cumulative Index

#### Editorial

Fraser Dickinson:  
- 75 Years ... And More? 395  
- From Autarchy to Globalization to Where? 163

#### Articles

**Australia**  
Sabine Heidenbauer, Sigrid Hemels, Brigite W. Muchlmann, Miranda Stewart, Ornmar Thömmes and Tina Tukić:  
Cross-Border Charitable Giving and Its Tax Limitations 611

**Austria**  
Sabine Heidenbauer, Sigrid Hemels, Brigite W. Muchlmann, Miranda Stewart, Ornmar Thömmes and Tina Tukić:  
Cross-Border Charitable Giving and Its Tax Limitations 611

**Brazil**  
Christine Alves Alvarrenga:  
Preventing Tax Avoidance: Is There Convergence in the Way Countries Counter Tax Avoidance? 348

Rafael Minervino Bispo:  
Cross-Border Intra-Group Hybrid Finance: A Comparative Analysis of the Legal Approach Adopted by Brazil, the United Kingdom and the United States 364

Maria Bocachica and Vanessa Aruza Ferreira:  
Constitutionality of the Brazilian CFC Legislation 565

Leticia Pires:  
The Brazilian Controlled Foreign Company Regime: A Comparative Analysis from an International Tax Law Perspective 295

**Denmark**  
Prof. Dr Rainer Zielke:  
Transfer Pricing in Scandinavian Countries with Reference to the Corporate Income Tax Burden in the 34 OECD Member Countries – Denmark, Finland, Norway and Sweden Compared 602

**European Union**  
Christine Alves Alvarrenga:  
Preventing Tax Avoidance: Is There Convergence in the Way Countries Counter Tax Avoidance? 348

Luca Cerioni:  
Company Taxation in the European Union: A Key Challenge 20 Years after the Roding Report 536

Malcolm Gannum and Erik Röder:  
Taxation of Financial Transactions 529

Sabine Heidenbauer, Sigrid Hemels, Brigite W. Muchlmann, Miranda Stewart, Ornmar Thömmes and Tina Tukić:  
Cross-Border Charitable Giving and Its Tax Limitations 611

Prof. Dr Hans van den Hurk, Dr Harm van den Broek and Jasper Korving:  
Final Settlement Taxes for Companies: Transfer of Seats, Interest Charges, Guarantees and Step-Ups in Value 257

Prof. Dr H J P M. van den Hurk and J I A M. Korving:  
Dividend Withholding Tax: Tax Reclaims within the European Union and European Economic Area and from Third Countries – How Long Should Member States Withhold? 548

J I A M. Korving and L W D. Wijndts:  
A Consideration of the European Foundation – Alle Menschen werden Spender 491

Patricia Lampreave:  
The New Regulatory Framework in the European Union and the Role of the Independent Fiscal Authority 592

Leticia Pires:  
The Brazilian Controlled Foreign Company Regime: A Comparative Analysis from an International Tax Law Perspective 295

**Finland**  
Prof. Dr Rainer Zielke:  
Transfer Pricing in Scandinavian Countries with Reference to the Corporate Income Tax Burden in the 34 OECD Member Countries – Denmark, Finland, Norway and Sweden Compared 602

**Germany**  
Sven-Eric Bärtsch and Christoph Spengel:  
Hybrid Mismatch Arrangements: OECD Recommendations and German Practice 520

**India**  
P Raj Kumar Ihabahk:  

Vijay Krishnamurthy:  
The Proposed Indian General Anti-Avoidance Rule 436

Patricia Lampreave:  
Anti-Tax Avoidance Measures in China and India: An Evaluation of Specific Court Decisions 49

**Malaysia**  
Hishamuddin Mat Jum:  
Transfer Pricing – The Independent Fiscal Authority’s Approach 86

**Netherlands**  
Sven-Eric Bärtsch:  
Hybrid Mismatch Arrangements: OECD Recommendations and German Practice 520

**Sweden**  
Hanna Nilsson:  
Transfer Pricing – The Independent Fiscal Authority’s Approach 86

**United Kingdom**  
Mike Fawcett:  
Transfer Pricing – The Independent Fiscal Authority’s Approach 86

**United States**  
Vijay Krishnamurthy:  
The Proposed Indian General Anti-Avoidance Rule 436

#### International

Christine Alves Alvarrenga:  
Preventing Tax Avoidance: Is There Convergence in the Way Countries Counter Tax Avoidance? 348

Brian J. Arnold:  
Proceedings of a Special Conference in Honour of Professor Hugh J. Ault 41

Jose Manuel Calderon Carrero and Alberto Quintas Seara:  
Transfer Pricing Disputes, Abusive Tax Schemes and the Protection of the European Convention on Human Rights against Oppressive Tax Actions: The Yukos Case 283

Patricia Lampreave:  
The New Regulatory Framework in the European Union and the Role of the Independent Fiscal Authority 592

Leticia Pires:  
The Brazilian Controlled Foreign Company Regime: A Comparative Analysis from an International Tax Law Perspective 295

[continued on page 626]