

Warning: this is an unofficial translation of the law that approves the Statutes of the Portuguese Public Finance Council for informational purposes only. It may contain mistranslations and is not intended to constitute legal advice. The original Portuguese language text may be found [here](#).

ASSEMBLY OF THE REPUBLIC

Law No 54/2011 of 19 October

Approves the Statutes of the Portuguese Public Finance Council, set up by Article 12-I of Law No 91/2001 of 20 August (Budget Framework Law), as amended by Law No 22/2011 of 20 May.

The Assembly of the Republic in accordance with the provisions laid down in Article 161 c) of the Constitution, decrees the following:

Article 1 Purpose

This Law aims to approve the statutes of the Public Finance Council, hereinafter referred to as "the Council", set up by Article 12-I of Law No 91/2001 of 20 August, as amended by Law No 22/2011 of 20 May, published as an annex to this Law, of which it is an integral part.

Article 2 Final and transitional provisions

1 — Within 10 days as of the first appointment of the members of the Council, the amount required for the Council to assure the beginning of its functions will be made available, through Decision of the Minister of Finance.

2 — In the subsequent years, the amount required for the Council's effective operation will be allotted in the State Budget. Such amount can only be reduced in duly justified exceptional circumstances.

3 — The first appointment of the members of the Council occurs within 60 days of the entry into force of this Law, and its functions will start to be carried out after the appropriation

required for the Council's operation is made available.

4 — In the first appointment after approval of this Law, the term of office of the members of the Council shall be the following:

- a) The term of office of the President shall be seven years;
- b) The term of office of the Vice-President and of the executive member shall be five years;
- c) The term of office of the non-executive members shall be three years.

Article 3 Entry into force

This Law shall enter into force on the first day after its publication.

Approved on 8 September 2011.

The President of the Assembly of the Republic,
Maria da Assunção A. Esteves.

Promulgated on 7 October 2011.

Let it be published.

The President of the Republic, ANÍBAL
CAVACO SILVA.

Countersigned on 10 October 2011.

The Prime Minister, *Pedro Passos Coelho.*

ANNEX

**STATUTES OF THE PUBLIC FINANCE
COUNCIL**

(referred to in Article 1)

CHAPTER I

General provisions

Article 1

Nature

The Public Finance Council, hereinafter referred to as "the Council", is a public-law legal person, having the nature of an independent administrative entity, with administrative and financial autonomy and own property, subject to the regime of the autonomous services and funds.

Article 2

Legal regime

The Council is governed by these statutes, by the legal provisions that are specifically applicable and by its own internal regulations.

Article 3

Head office

The head office of the Council is located in Portugal.

Article 4

Mission

The mission of the Council is to undertake an independent assessment of the consistency, compliance and sustainability of fiscal policy, while fostering its transparency so as to contribute for the quality of democracy and economic policy decision-making, as well as for reinforcing the Republic's financial credibility.

Article 5

Independence

1 – The Council and the members of its governing bodies act independently while performing the functions assigned to them by law and through these statutes, and cannot

request or receive instructions from the Assembly of the Republic, the Government or any other public or private entity.

2 – Financially, the independence of the Council and its capacity to fulfil its mission are guaranteed through State budget appropriations.

Article 6

Tasks

In order to carry out its mission, the Council shall fulfil the following tasks:

- a) Assess the macroeconomic scenarios adopted by the Government and the consistency of budget projections with these scenarios;
- b) Assess whether the fiscal rules laid down are complied with;
- c) Analyse the dynamics of the public debt and its sustainability;
- d) Analyse the dynamics of existing commitments, with special emphasis on the pension and health systems and on public-private partnerships and concessions, including an assessment of their implications for the sustainability of the public finances;
- e) Assess the financial position of the autonomous regions and local governments;
- f) Assess the economic and financial situation of public enterprises, and their potential impact on the consolidated public accounts and their sustainability;
- g) Analyse tax expenditures;
- h) Monitor the budget outturn.

Article 7

Reporting commitments

1 – Within the scope of its tasks and preceding debates in the Parliament, the Council must present reports on:

- a) The Stability and Growth Programme and other procedures within the regulatory European framework of the Stability and Growth Pact;
- b) The Multiannual budgetary framework programming;
- c) The State Budget draft.

2 – The production of the report on The State Budget draft and its presentation to the Parliament shall not prejudice the start of its debate, foreseen in the Budget Framework Law.

3 – The Council should also produce regular reports concerning public finances' sustainability and others that may consider relevant.

4 – All reports produced by the Council shall be sent to the President of the Republic, to the Assembly of the Republic, to the Government, to the Tribunal de Contas (Court of Auditors) and to the Banco de Portugal and are made available on the Council's webpage.

Article 8

Access to information

1 – The Council shall have access to all the economic and financial information necessary for the accomplishment of its mission and all public entities are duty bound to supply this information in good time, as well as additional clarification in response to requests.

2 – The Council shall indicate the set of information to which it must have regular and automatic access, in accordance with a pre-defined calendar.

3 – The access to information mentioned in the above clauses 1 and 2 shall be subject to the legal restrictions in terms of State secrecy, judicial secrecy and banking secrecy.

4 – For the purposes of the assessment set out in paragraph a) of Article 6, the Government shall provide the Council with the macroeconomic models used and their underlying assumptions.

5 – Should any public entity not fulfil the duty of providing the information in good time, this shall be stated on the Council's webpage.

6 – Should the Council consider such non-fulfilment serious, the President of the Republic, the Assembly of the Republic, the Tribunal de Contas and the Banco de Portugal shall be duly informed.

Article 9

Cooperation with outside entities

The Council should promote active cooperation with international entities with

similar mission and can take part in forums related to fiscal or macroeconomic issues.

CHAPTER II

Organic Structure

SECTION I

Governing bodies

Article 10

Governing bodies

The governing bodies of the Council are the Senior Board, the Executive Committee and the auditor.

SECTION II

Senior Board

Article 11

Senior Board

The Senior Board is the highest body in the Council, and 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.

Article 12

Composition

1 – The Senior Board is a collegiate body and comprises five members.

2 – The members of the Senior Board shall be personalities of acknowledged merit, with experience in the economics and public finance areas and a high degree of independence.

3 – The Senior Board shall have a maximum of two non-national members, preferably from other Member States of the European Union.

4 – The members of the Senior Board are the President, the Vice-President, one executive member and two non-executive members.

5 – The President and the executive member shall perform be resident in Portugal.

6 – The Executive President shall be a Portuguese citizen.

7 – The members of the Senior Board shall not be all of the same gender.

Article 13 Appointment

1 – The members of the Senior Board are appointed by the Council of Ministers, on a joint proposal of the President of the Tribunal de Contas and the Governor of the Banco de Portugal.

2 – Up to sixty days before the end of the term of the members of the Senior Board, new members shall be appointed.

3 – Within thirty days after the end of the term of a member of the Senior Board, under the provisions of paragraphs b) to h) of clause 1 of Article 15, a new member shall be appointed.

4 – The appointments referred in the previous clauses shall be published in the 2nd series of the *Diário da República* (Official Journal) within five days of the Council of Ministers' decision.

5 – The members of the Senior Board shall take office before the President of the Assembly of the Republic within thirty days of the end of the term of office of their predecessors or of publication of the respective appointment, pursuant to clause 3 above.

Article 14 Term of office duration and renewal

1 – The term of office of the members of the Senior Board shall be seven years.

2 – The term of office of the members of the Senior Board shall cease when the new members take office.

3 – The term of office of the members of the Senior Board shall not be renewable, apart from the term of office of the non-executive members of the Senior Board, which can be renewed only once.

4 – Outgoing Members cannot be appointed again within a period of five years after the end of their previous term.

Article 15 The end of the term of office

1 – The term of office of the members of the Senior Board end as follows:

a) At the stipulated date;

b) In the event of death or permanent incapacity;

c) Through legal restraint or incapacity decreed by the courts;

d) Through resignation;

e) Through conviction of any crime, once all appeals are exhausted;

f) Through a conflict of interest;

g) Through unjustified absence from two meetings;

h) Through dismissal for serious misconduct, being such procedure agreed jointly by the President of the Tribunal de Contas and the Governor of the Banco de Portugal.

2 – The justification of the absence referred in paragraph g) of the previous clause shall be verified by the other members of the Senior Board, and its refusal shall be unanimous.

3 – The member of the Senior Board, whose justification is being scrutinized, under the provisions of the previous clause, does not have a vote on the decision.

Article 16 Guarantees of independence and incompatibilities

1 – Except for the reasons provided in paragraphs b), c), e), f), g) and h) of clause 1 of Article 15, the members of the Senior Board cannot be removed from office.

2 – The following persons cannot be appointed members of the Senior Board: those who in the previous two years have been a member of the European Parliament, a member of a national Parliament, a member of the Government, a member of the Regional Governments, a member of the executive bodies of local governments, a member of the national executive bodies of a political party or a public manager.

3 – During their term of office, the members of the Senior Board cannot perform other public or private functions in Portugal or in any other entities that may conflict with their functions in this Board.

4 – The provisions of the previous clause do not cover unpaid teaching at universities and research activity.

Article 17

Meetings and decisions

1 – The Senior Board shall meet whenever convened by its President or by request of two of its members:

a) To assess the outturn of the State budget for the previous year and analyse the proposals contained in the Stability and Growth Programme;

b) To deliberate on the Multi-annual budgetary framework programming and the State Budget draft.

2 – The meeting convened to assess the State Budget draft shall be appropriately timed and shall not prejudice its discussion by the Parliament, foreseen in the Budget Framework Law.

3 – The Senior Board is only quorate with a minimum of four members.

4 – Each member of the Senior Board has one vote, and decisions are adopted by a simple majority.

5 – In the event of a tie, the President shall have the casting vote or, in absence, the Vice-President.

6 – The Head of the staff of the Council shall prepare and act as secretary of the meetings of the Senior Board, attending the meetings, without having the right to vote.

7 – The reports shall be subject to discussion and approval by the Senior Board before they are made public.

8 – The meetings referred in clause 1 of this Article shall be followed by parliamentary hearings along with press conferences, both attended by the President and the Vice-President of the Senior Board.

Article 18

Functions of the President of the Senior Board

It is incumbent on the President of the Senior Board:

a) To convene and preside at the Senior Board, after hearing the Vice-President, and conduct the meetings;

b) To coordinate the activities of the Senior Board;

c) To preside at the Executive Committee, and in this capacity to take part in the day-to-day running of the Council;

d) To take part in the parliamentary hearings and press conferences.

e) To perform any other functions conferred by the internal regulations or delegated by the Senior Board.

Article 19

Functions of the Vice-President of the Senior Board

It is incumbent on the Vice-President of the Senior Board:

a) To give previous opinion on the calling of the Senior Board and on the issues to be dealt with.

b) To replace the President of the Senior Board in non-executive functions in the event of absence or impediment.

c) To take part in the parliamentary hearings and press conferences;

d) To perform any other functions conferred by the internal regulations.

Article 20

Remuneration of the members of the Senior Board

1 – The remuneration of the members of the Senior Board is determined by a Remunerations Committee comprising three members and appointed by a decision of the Minister of Finance on a joint proposal of the President of the Tribunal de Contas and the Governor of the Banco de Portugal.

2 – When establishing the remuneration of the members of the Senior Board, the committee, while safeguarding its independence, shall take into account the financial and budgetary situation of the State and the limit arising from Law No 102/88 of 25 August 1988.

3 – The members of the Senior Board shall benefit from the social security system that they had on the date of their appointment or, in its lack, from the general social security system.

SECTION III

Executive Committee

Article 21

Executive Committee

The Executive Committee will ensure the day-to-day management of the Council.

Article 22

Composition

- 1 – The Executive Committee comprises, by reason of the respective functions, the President of the Senior Board, the executive member of the Senior Board and the Head of the staff of the Council.
- 2 – The President of the Senior Board presides at the Executive Committee.
- 3 – The executive member shall replace the President of the Executive Committee in his absence or impediment, but only as far as the executive functions are concerned.

SECTION IV

Auditor

Article 23

Auditor

The auditor is responsible for the control of the financial and asset management of the Council and due legal procedures.

Article 24

Appointment, term of office and remuneration

- 1 – The auditor shall be a chartered accountant or an audit firm, appointed by a decision of the Minister of Finance, on a joint proposal of the President of the Tribunal de Contas and the Governor of the Banco de Portugal.
- 2 – The auditor is appointed for a period of five years, non-renewable, and will remain in office until its replacement.

- 3 – The remuneration of the auditor is set through a joint proposal of the President of the Tribunal de Contas and the Governor of the Banco de Portugal.

Article 25

Responsibilities

It is incumbent on the auditor:

- a) To accompany and oversee the financial and asset management of the Council;
- b) To make regular examination of the financial and economic situation of the Council and ensure that there is in compliance with the norms that govern its activity;
- c) To issue a prior opinion within a maximum period of 10 days on the acquisition, encumbrance, rental or disposal of any of the Council's fixed assets;
- d) To issue an opinion on the management report and accounts of the Council;
- e) To issue an opinion on any matter that is submitted by the Senior Board or by the Executive Committee;
- f) To inform the rightful authorities of any irregularity detected.

CHAPTER III

Organization of the services

Article 26

Staff

- 1 – The Council has the staff required for carrying out its tasks, and its appropriation, organization, functioning and competencies will be set in an internal regulation.
- 2 – There is a Head of staff.
- 3 – The Head of staff is appointed from among the staff, on commission, for periods of three years, renewable, following a decision of the Senior Board.
- 4 – The Head of staff carries out the tasks delegated by the Executive Committee.
- 5 – The terms for recruitment are defined by the Executive Committee, priority being given to the mobility of staff within the public administration, without prejudice to international recruitment.

6 – The staff of the Council is hired under the terms of an individual labour contract and is covered by the general social security system.

7 – The staff of the Council holding a public employment relationship shall carry out their functions on a public interest secondment basis, under Law No 12-A/2008 of 27 February.

8 – The remuneration of the staff shall be settled by the Remunerations Committee.

9 – The staff of the Council is hired on an exclusive basis and cannot hold any other posts in public or private entities.

CHAPTER IV Financial regime

Article 27 Revenue and expenditure

1 – The revenue of the Council derives from State Budget appropriations.

2 – In addition, the Council has the following own resources:

- a) Subsidies, grants, inheritances, legacies and endowments in favour of the Council by public or private entities, accepted under the legal terms;
- b) Proceeds from the sale of own property or constitution of rights attaching to them;
- c) Any other revenue allocated by law, contract or any other means.

3 – State budget appropriations can only be reduced in duly justified exceptional circumstances.

4 – The expenditure of the Council derives from charges and responsibilities inherent to its functioning, as well as any other required for the performance of its tasks.

5 – Appropriation balances assessed for each year shall be carried forward to the following year, to the amount and under the terms to be defined each year by the decree-law regulating the budget outturn.

Article 28 Binding of the Council

1 – The Council shall be legally bound by the signatures of:

- a) Two members of the Executive Committee, unless otherwise decided by the Senior Board;
- b) The members who have been duly authorised for the purpose, under the terms and within the scope of the respective mandate.

2 – The actions relating to day-to-day affairs can be signed by any member of the Executive Committee or by members of the staff that have been expressly authorised to do so.

Article 29 Budget

The Senior Board is responsible for preparing the budget of the Council, this being subject to a favourable opinion issued jointly by the President of the Tribunal de Contas and by the Governor of the Banco de Portugal.

CHAPTER V Auditing of accounts

Article 30 Auditing by the Tribunal de Contas

The Council shall be subject to the jurisdiction and financial control of the Tribunal de Contas.

Article 31 Responsibility

1 – The holders of posts on the Council and the staff are responsible in civil, criminal, disciplinary and financial terms for their actions and omissions committed during the performance of their functions.

2 – The Financial responsibilities are determined by the Tribunal de Contas, in the terms of the Law.

Article 32 Council's webpage

1 – The analyses carried out and the reports drawn up by the Council are made available to the general public on the Council's webpage, in Portuguese and in English, and shall contain:

a) Relevant data on the Council, specifically the relevant legal instruments, its internal regulations, the composition of its governing

bodies, including biographical details, and the management reports and accounts.

b) The technical reports expressly stipulated in this Law, along with the analytical documentation produced by the Council.

c) Information on failure to provide any material requested, under the provisions of clause 5 of Article 8.