Conselho das Finanças Públicas

CONTRIBUTIONS TO THE REVISION OF THE FISCAL FRAMEWORK LAW

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The Portuguese Public Finance Council is an independent body, established by Article 3 of Law No. 22/2011 of 20 May, which introduced the fifth amendment to the Fiscal Framework Law (Law No. 91/2001 of 20 August, republished by Law No. 37/2013 of 14 June).

The initiative for its creation followed the publication of the Final Report of the Task Force for the European Council on the economic governance of Europe and was implemented in October 2010 through a protocol between the Government, then supported by the Socialist Party, and the Social Democratic Party. The final version of the CFP's Statutes was approved by Law No. 54/2011 of 19 October.

The CFP began its work in February 2012, with the mission of conducting an independent assessment of the consistency, compliance and sustainability of fiscal policy, promoting its transparency, in order to contribute to the quality of democracy and economic policy decisions and to strengthen the State's financial credibility.

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INTRODUCTION

On 26 February 2026, the Chair of the Parliamentary Committee on the Budget, Finance and Public Administration, MP Rui Afonso, requested the Chair of the Senior Board of the Portuguese Public Finance Council (CFP) to submit *"written contributions, prior to the presentation of legislative initiatives by the Government and Parliamentary* Groups" for the purpose of revising the Fiscal Framework Law (LEO), following the approval of a motion by the Socialist Party Parliamentary Group.

In the CFP's view, the amendments to be introduced into the LEO should focus on three main areas:

a. the transposition into national law of the provisions of Council Directive (EU) 2024/1265 of 29 April 2024, amending Directive 2011/85/EU laying down requirements for the fiscal frameworks of the Member States (hereinafter the Directive), which should have taken place by 31 December 2025;

b. remove the implicitly repealed references to the fiscal rules of the previous version of the Stability and Growth Pact, following the repeal of Council Regulation (EC) No 1466/97;

c. to build on the reforms already introduced and to reflect in the LEO the fiscal provisions already enacted in the Framework Law on Climate (Law No 98/2021 of 31 December), as well as the instrument of public expenditure review as a tool for public financial management (Decree-Law No 87/2025 of 25 July).

This Opinion focuses on the main implications of the transposition of the Directive, particularly with regard to national fiscal rules, the medium-term fiscal framework and the provisions relating to the CFP as an independent Portuguese fiscal institution.

1) National numerical fiscal rules

Directive 2024/1265, together with Regulation (EU) 2024/1263 and Regulation (EU) 2024/1264, forms part of the legislative package reforming the European economic governance framework, adopted in April 2024. The deadline for transposition into national law was 31 December 2025, as set out in Article 2 of the Directive, a deadline which Portugal failed to meet.

The Directive completely recasts Article 5 of Directive 2011/85/EU, now requiring each Member State to establish its own specific fiscal and numeric s in order to effectively promote compliance with its obligations under the Treaty on the

Functioning of the European Union (TFEU) in the field of fiscal policy. These rules should be based on a multiannual period for the general government sector as a whole, and **must**:

- **Promote compliance** with **the deficit and debt reference values** (3% and 60% of GDP) laid down in Article 1 of Protocol No 12 on the excessive deficit procedure, annexed to the Treaty on European Union and the TFEU;
- **Adopt a medium-term fiscal planning horizon** consistent with Regulation (EU) 2024/1263.

Article 7 of the Directive has been completely amended and now requires that Member States' annual fiscal legislation be consistent with the specific numerical fiscal rules in force in each country, thereby reinforcing the binding nature of national rules.

These national fiscal rules "are expressed in terms of a **fiscal performance indicator**, such as the general government deficit, borrowing or debt, or one of their most important components" (Article 2).

With regard to fiscal performance indicators, it should be noted that Regulation (EU) 2024/1263 provides for a single operational indicator (net expenditure), whose reference path for expenditure (proposed by the European Commission) must ensure *ex ante* two safeguards relating to debt and the deficit:

- **a safeguard relating to debt sustainability** (Article 7) which stipulates that the government debt-to-GDP ratio must be reduced annually by at least 0.5 percentage points of GDP whilst the ratio remains between 60% and 90% of GDP;
- and **a deficit resilience safeguard** (Article 8) establishing a common resilience margin, in structural terms, of 1.5% of GDP relative to the 3% of GDP deficit reference value, as well as an adjustment path to achieve this margin based on an annual improvement in the structural primary balance of 0.4 percentage points of GDP (reduced to 0.25 percentage points of GDP in the event of an extension of the adjustment period).

These two safeguards could inform the design of national fiscal rules, but with the necessary adaptations to better suit the reality of the Portuguese economy.

In fact, although national rules can and should take into account the European framework of rules to ensure the normative coherence of the fiscal system, it is important to safeguard the necessary adaptations to national specificities. As already argued by the CFP in October 2024: *"The adoption of coherent numerical fiscal rules specifically designed for the Portuguese context, for the whole of Portugal's general government and for the various subsectors, rather than a carbon copy of EU rules, may also contribute to the achievement of national objectives. Their adoption therefore warrants careful consideration and a broad and in-depth debate."*[1]

[1] Portuguese Public Finance Council, Analysis of the National medium-term fiscal-structural plan (2025–2028), Report No. 11/2024, October 2024.

In **designing these rules**, it is important to seek to reconcile three characteristics:

- **Simplicity** – fiscal rules must be simple to communicate and to assess compliance with, focusing on an objective indicator of fiscal performance;

- **They must allow for counter-cyclical fiscal policies**, countering the deficit bias and pro-cyclical orientation of fiscal policy, and be applicable in both favourable and adverse economic conditions, which requires the prior definition of derogation clauses to avoid arbitrariness;

- They must **promote compliance** – they must be enforceable in terms of implementation and not merely in terms of forecasts, providing for independent monitoring of compliance and consequences in the event of non-compliance, including a corrective path.

Monitoring compliance with the rules

Article 6 of the revised Directive sets out a series of requirements to be taken into account regarding the monitoring of compliance with national numerical rules:

- That **effective and timely monitoring** of compliance with the rules be carried out by independent fiscal institutions (such as the CFP) established under the new Article 8a, or by other bodies with functional autonomy from the fiscal authorities of the Member States;

- That the **derogation clauses** from the numerical rules set out 'a limited number of specific circumstances, consistent with the obligations incumbent on Member States under the TFEU and Regulation (EU) 2024/1263.

Consistency between national rules and those of the sub-sectors

The framework of rules applicable to the regional and local government sub-sectors must be consistent with the rules defined at the level of general government.

2) *Effective Medium-Term Fiscal Framework*

As stated by the CFP in the past, the current multiannual public expenditure framework (Articles 26 to 30 of the LEO) has proved, in practice, to be "ineffective in terms of multiannual fiscal planning", primarily because it does not include binding limits. A medium-term fiscal framework "cannot be subsumed under the presentation of the MTP", which merely defines the target for net expenditure without setting out how to achieve it. Indeed, the Directive defines medium-term fiscal frameworks as "the specific set of national fiscal procedures that extend the horizon of fiscal policies beyond the annual budgeting cycle, including the definition of policy priorities and national fiscal objectives in the medium term" (Article 2).

Consequently, the new Medium-Term Fiscal Framework (QOMP), incorporating expenditure and revenue (current and non-current, consolidated and non-consolidated) of the general government, should establish itself as an effective fiscal planning tool, capable of incorporating a multi-annual framework for public expenditure, setting expenditure limits for each core function of central government and social security, and serves as a fiscal management tool fully aligned with the MTP.

This would fulfil the requirement stipulating that "Member States shall establish an effective and credible national medium-term fiscal framework providing for a fiscal planning horizon of at least three years, in order to ensure that national fiscal planning is part of a multi-annual fiscal planning perspective." This QOMP should assist in adhering to the net expenditure path determined by the Council [of the European Union], and could serve as the instrument for the national transposition of the net expenditure path commitment.

Therefore, to strengthen this QOMP, it is suggested that:

- A minimum time horizon of three years consistent with the time horizon of the MTP;
- That it includes the presentation of macroeconomic and fiscal projections for the same time horizon, including a sensitivity analysis to adverse shocks and, as far as possible, macro-fiscal climate risks;
- That it includes national fiscal targets for the general government sector as a whole, in terms of deficit, debt and any other fiscal indicator, such as expenditure, consistent with the numerical fiscal rules and with the MTP;
- That includes a description of reforms and investments with a significant impact on public finances and growth. In the CFP's view, this description should include the implementation timetable, sources of funding, monitoring indicators and estimated contributions to the adjustment towards the medium-term national objectives and to growth;
- That includes an assessment of how the planned policies may affect the sustainability of public finances in the medium and long term and sustainable and inclusive growth;
- That it includes the multi-annual public expenditure framework, setting out the expenditure limit by core function of the central administration and social security.

This framework must be updated annually during the first phase of the fiscal process.

3) Portuguese Public Finance Council

The framework for the CFP is set out in Article 7 of the LEO, which assigns it functions relating to the independent assessment of fiscal policy. However, the current law does not expressly provide for the functions referred to in the new Article 8-A of the Directive:

- **Consultation with the CFP** on the MTP, the annual progress reports on the trajectory of net expenditure, and on the adequacy of measures in the event of an excessive deficit procedure (functions provided for in Article 11, Article 15(3) and Article 23 of Regulation (EU) 2024/1263, Article 3(5) of Regulation (EC) No 1467/97 and Article 8a(5)(c) of the Directive). The Government acknowledged in the 2025 State Budget report that one of the amendments to be introduced into the LEO concerns the "provision for the involvement of the CFP" in the assessment of the MTP and the annual progress reports;

- The function of **assessing the consistency, coherence and effectiveness of the national fiscal framework** as a new express responsibility;

Article 8a(6) of the Directive requires the Government to implement a binding **'comply or** explain' mechanism with a two-month deadline in relation to the CFP's assessments. Indeed, that paragraph states that: "Member States must comply with those assessments [issued by independent fiscal institutions in the context of their remit] or must explain why they do not. That explanation must be made public and submitted within two months of the date of issue of those assessments";

The Directive also provides that independent fiscal institutions must be subject to periodic external evaluations by independent evaluators (with specific funding allocated to finance this). The stability and predictability of the CFP's resources must also be guaranteed, a *sine qua non* for the institution's independence. This must include broad autonomy, particularly with regard to staff recruitment, without the need for ministerial authorisation.

4) Other aspects

The Directive includes provisions on Transparency, Forecasting and Accounting (Articles 3, 4, 12 and 14 of the Directive) which deserve to be considered and incorporated into the LEO.

Although not detailed in this opinion, the CFP also considers it critical to incorporate into the LEO, and regulate therein, the terms for implementing some of the principles of green budgeting and, in particular, the provisions of Article 29 of the Framework Law on Climate (fiscal programming), which states:

> *"1 - Without prejudice to its inclusion in various sectoral budgetary programmes, the fiscal allocation for climate policy purposes must be consolidated in an account of the State Budget.*
>
> *2 - The Government shall ensure the integration of climate scenarios into the models underpinning the macroeconomic forecasts and scenarios on which the State Budget is based, and shall explicitly include a forecast of greenhouse gas emissions for the financial year in question.*
>
> *3 - The State Budget shall, in the accompanying report:*
>
> *a) Identify the measures to be adopted by the Government in relation to climate policy;*

b) Indicate the consolidated fiscal allocation to be made available for the implementation of climate policy across the various fiscal programmes; and

c) Present an estimate of the contribution of the measures included towards meeting the targets set out in this law;

d) Identify contingent liabilities arising from natural disasters and climate change.

4 - The General State Account shall, in the accompanying report:

a) Identify the measures implemented by the Government in the field of climate policy;

b) Indicate the consolidated fiscal implementation of climate action initiatives across the various budgetary programmes; and

c) Present an estimate of the achieved or projected reduction in greenhouse gas emissions for each of the measures.

5 - The CAC shall issue an opinion on the State Budget and on the General State Account, in accordance with the provisions of this law."

In the CFP's view, it will be incumbent upon LEO to incorporate these new legal requirements into the current fiscal system, particularly during the fiscal process (preparation, organisation and approval of the State Budget) and within the framework of the *ex post* political oversight procedure for fiscal implementation (preparation, organisation and approval of the General State Accounts).

CONCLUSION

With this opinion, the CFP aims to make a positive contribution to the ongoing discussion on the Portuguese fiscal system in its regulatory dimension, highlighting the urgency of adopting the new European economic governance framework, approved in 2024, and in particular the need to transpose its new Directive as soon as possible. The changes have been far-reaching, requiring the 'cleansing' of the LEO of references, procedures and fiscal rules that are now obsolete. The transposition of the new European framework into domestic law is also an opportunity to strengthen the national framework of fiscal rules, which we believe has become all the more necessary in a context where the new European regulations point towards greater flexibility and discretion in fiscal matters, which nonetheless poses a risk to the preservation of discipline and the long-term sustainability of public finances. It is important that the LEO helps to establish a national culture of fiscal responsibility and rigour, binding all actors and sub-sectors, as we see in the most developed countries in Europe and the world.