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FISCAL RULE ACT (ZFISP)

I. GENERAL

Article 1 (Subject of the Act)

(1) This Act regulates the manner and timeframe for the implementation of the principle of balanced revenues and expenditures of the budgets of the state in the medium term without borrowing (hereinafter: medium-term balance), the criteria for determining exceptional circumstances allowing a deviation from the medium-term balance and the course of action when they arise or cease to exist.

(2) This Act also regulates the functioning of the Fiscal Council as an independent and autonomous state authority.

(3) This Act partially transposes Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States (OJ L 306, 23.11.2011, p. 41) into the legislation of the Republic of Slovenia.

Article 2 (Definitions)

For the purposes of this Act, the following definitions shall apply:

1. "revenues and expenditures of the budgets of the state" shall mean revenues and expenditures as defined by the European system of accounts (hereinafter: ESA methodology);
2. "ESA methodology" shall mean the European System of National and Regional Accounts as provided by the regulation of the European Union (hereinafter: EU) which governs the European System of National and Regional Accounts in the EU;
3. "budgets of the state" shall mean aggregated and consolidated revenues and expenditures accounts of all institutional units of the general government sector;
4. "general government sector" shall include all institutional units, which in accordance with the regulation governing standard classification of institutional sectors are classified in sector S.13;
5. "medium term" shall mean a business cycle in which the actual level of gross domestic product (hereinafter: GDP) shifts from a level that is above the potential level of GDP to a level below and is on average equal to the potential level of GDP;
6. "potential level of GDP" shall mean the estimated level of GDP that an economy could reach by utilizing labour and capital without generating inflationary pressures. The

potential level of GDP is calculated on the basis of a common methodology applicable in the EU as part of procedures for economic policy surveillance on the basis of the treaty on the functioning of the EU;

7. "structural balance of the general government sector" refers to the annual cyclically-adjusted balance of revenues and expenditures of the general government sector net of one-off and temporary measures, as defined in the Stability and Growth Pact;
8. "target balance of the general government sector" shall mean the planned difference between the revenues and expenditures of the general government sector;
9. "medium-term budgetary objective" shall mean the target medium-term structural balance of the general government sector, defined in accordance with assumed international obligations or rules and acts governing economic governance in EU Member States;
10. "public finance budgets" shall mean the state budget, local government budgets, the Pension and Disability Insurance Institute of Slovenia (hereinafter: pension insurance fund budget) and the Health Insurance Institute of Slovenia (hereinafter: health insurance fund budget);
11. "Stability and Growth Pact" is comprised of the EU regulation on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies, and the EU regulation on speeding up and clarifying implementation of the excessive deficit procedure.
12. "output gap" shall mean the difference between actual and potential GDP in a year expressed as a per cent of potential GDP, as defined by the Stability and Growth Pact.
13. "elasticity of the balance of the general government sector to the output gap" shall mean the change in the balance of the general government sector with respect to the economic cycle, as defined by the Stability and Growth Pact.

II. IMPLEMENTING MEDIUM-TERM BALANCE

Article 3 (Implementing medium-term balance)

(1) Revenues and expenditures of the budgets of the state shall be balanced in the medium term without borrowing, if the structural balance of the general government sector in an individual year is not lower than the minimum value as defined in the ratified international treaty on stability, coordination and governance in economic and monetary union, and in the medium term is at least in balance or in surplus.

(2) Medium term balance referred to in the preceding paragraph shall be ensured by limiting planned expenditures of the general government sector to a maximum level subject to planned revenues, which allows for compliance with the rule referred to in the preceding paragraph.

(3) The maximum level of expenditures of the general government sector in an individual year in which GDP is below its potential level, shall be calculated by deducting from the estimated level of revenues of the general government sector the forecasted potential GDP multiplied by the factor corresponding to the lowest applicable structural balance of the general government sector according to the provision of the ratified international treaty on stability, coordination and governance in economic and monetary union, and the state of the economy in the cycle, or in accordance with the following mathematical formula:

$$E \leq R - k * YP, \text{ where } k = mSS + \acute{a} * OG$$

E = Planned expenditures of the general government sector

R = Estimated revenues of the general government sector

k = Factor corresponding to the lowest applicable structural balance of the general government sector according to the provisions of the ratified international treaty on stability, coordination and governance in economic and monetary union, and the state of the economy in the cycle

YP = Potential GDP forecast

mSS = Factor corresponding to the lowest applicable structural balance in % of GDP

á = Elasticity of the balance of the general government sector to the output gap

OG = Output gap.

(4) The maximum level of expenditures of the general government sector in an individual year in which GDP is above its potential level, shall be calculated by deducting from the estimated level of revenues of the general government sector the forecasted potential GDP multiplied by the factor corresponding to the state of the economy in the business cycle, or in accordance with the following mathematical formula:

$E \leq R - m \cdot YP$, where $m = \acute{a} \cdot OG$;

E = Planned expenditures of the general government sector

R = Estimated revenues of the general government sector

m = Factor corresponding to the state of the economy in the business cycle

YP = Potential GDP forecast

á = Elasticity of the balance of the general government sector to the output gap

OG = Output gap.

(5) The planned level of expenditures referred to in paragraph two of this Article, which must not be above the maximum level of expenditures calculated in accordance with paragraphs three or four of this Article, shall not include expenditures that are, in accordance with the assessment of the European Commission, classified as temporary or one-off expenditures as defined in the Stability and Growth Pact.

(6) If the Stability and Growth Pact is amended or the National Assembly of the Republic of Slovenia (hereinafter: National Assembly) ratifies amendment of the international treaty on stability, coordination and governance in economic and monetary union, the manner of calculating the maximum level of expenditures of the general government sector referred to in paragraphs three and four of this Article shall be changed accordingly.

Article 4

(Precautionary principle regarding planning and estimating the level of revenues and expenditures)

In order to ensure compliance with the medium-term balance referred to in the preceding Article, risks which could negatively impact macroeconomic stability and in turn the revenues and expenditures of the budgets of the general government sector, and long-term sustainability of public finance and debt of the general government sector, must be taken into account when planning and estimating the level of revenues and expenditures of the budgets of the general government sector.

Article 5

(Use of budget surpluses)

(1) Surpluses of an individual institutional unit of the general government sector shall be collected in a separate account.

(2) If an institutional unit of the general government sector is indebted, it may only use the surpluses from the preceding paragraph for the repayment of its debt principals.

(3) If an institutional unit of the general government sector is not indebted, the surpluses referred to in paragraph one of this Article shall be used to finance deficits in periods when GDP is below its potential level, to finance shortfalls in revenues or increases of expenditures due to circumstances referred in paragraph one of Article 12 of this Act, or to finance investments in subsequent years.

(4) Notwithstanding paragraphs two or three, the surpluses referred to in paragraph one of this Article may, in exceptional cases, be used to increase the assets of the institutional unit, subject to prior consent of the founder of an individual institutional unit of the general government sector.

(5) Notwithstanding paragraphs two, three or four of this Article, the founder of an institutional unit of the general government sector may request payment of surpluses of public revenues over public expenses to the budget of the founder according to, and in the instances provided by, regulations governing public finance.

Article 6 **(Framework for drawing up budgets)**

(1) The framework for drawing up budgets of the general government sector (hereinafter: Framework) shall mean an act in which the target balance of the general government sector and the maximum level of expenditures of the general government sector in an individual year are defined in accordance with Article 3 of this Act. The Framework shall be adopted every year for at least the next three years by the National Assembly on the proposal of the Government of the Republic of Slovenia (hereinafter: Government).

(2) The Government shall submit the Framework proposal to the National Assembly and the Fiscal Council no later than 20 days before the end of the period for submitting the Stability Programme to the European Commission, together with the draft Stability Programme. Stability Programme shall mean an act comprising the description of the policies and actions to reach the targets referred to in paragraphs one and three of this Article, and also defining the medium-term fiscal objective. The National Assembly shall adopt the Framework no later than five days before the end of the period for submitting the Stability Programme to the European Commission.

(3) The Framework shall also define the following for each year:

- target balance and the maximum level of expenditures of the state budget,
- total target balance and the total maximum level of expenditures of local government budgets,
- the maximum level of expenditures of the pension insurance fund budget,
- the maximum level of expenditures of the health insurance fund budget.

(4) After the Framework is adopted, the Government shall adopt the Stability Programme, which must be in compliance with the Framework, and shall submit it to the European Commission.

(5) If the National Assembly does not adopt the Framework within the period referred to in paragraph two of this Article, the Government shall adopt a Stability

Programme which must be in compliance with the last adopted Framework. If the last adopted Framework does not specify the targets referred to in paragraphs one and three of this Act for the years covered by the Stability Programme, the Government shall specify them in accordance with Article 3 of this Act.

(6) If the Government determines by September 15 of the current year that the circumstances which had been the basis for adopting the Framework have changed, it shall submit to the National Assembly and the Fiscal Council, together with the government budget proposal or its amendments, a proposed amendment of the Framework. The National Assembly shall adopt the amendment of the Framework when adopting the government budget or its amendments.

(7) The method by which the targets defined in the Framework are taken into account in all stages of drafting the budgets of the general government sector, shall be laid down in detail in the regulations governing public finance.

III. FISCAL COUNCIL

Article 7 (Status and tasks of the Fiscal Council)

(1) The Fiscal Council is an independent and autonomous state authority which prepares and makes publicly available assessments which may contain recommendations regarding compliance of fiscal policies with fiscal rules as defined in this Act, the regulations governing public finance, or EU regulations governing economic governance in Member States.

- (2) The Fiscal Council shall perform the following tasks:
1. assess the sustainability and compliance of fiscal policies with fiscal rules on the basis of the draft Stability Programme referred to in paragraph two of the preceding Article,
 2. prepare an assessment of compliance with the fiscal rules on the basis of the government budget proposal, proposed state budget amendments or the proposal for a revised state budget which was submitted to the National Assembly for adoption,
 3. regularly monitor implementation of the government budget, local government budgets and the health and pension insurance fund budget,
 4. prepare an assessment of compliance of the implemented budgets of the general government sector with fiscal rules,
 5. assess the adequacy of the proposal to change the Framework and the proposal of the corrective action plan to eliminate deviations from the medium-term balance referred to in paragraph two of Article 11 and paragraph two of Article 14 of this Act,
 6. assess the compliance of implementing the elimination of deviations referred to in paragraphs one and two of Article 11 and paragraphs one and two of Article 14 of this Act with regulations and other acts,
 7. assess whether circumstances referred to in paragraph one of Article 12 of this Act have arisen or whether circumstances referred to in paragraph one of Article 12 of this Act have ceased to exist,
 8. assess the adequacy of the proposal to change the Framework referred to in paragraph two of Article 13 of this Act taking into account the nature of the circumstances referred to in paragraph one of Article 12 of this Act,
 9. perform other tasks necessary to execute its competences.

(3) The Fiscal Council shall prepare the assessments referred to in the preceding paragraph and submit them to the Government and the National Assembly:

1. as regards point 1 of the preceding paragraph – after the draft Stability Programme has been submitted for notification and the Framework proposal referred to in paragraph two of the preceding Article has been submitted to the National Assembly for adoption,
2. as regards point 2 of the preceding paragraph – after the government budget proposal or amendments or revised state budget have been submitted to the National Assembly for adoption,
3. as regards point 4 of the preceding paragraph – on the basis of consolidated accounts of the general government sector, received from the ministry responsible for finance by no later than 30 June of the current year for the previous year,
4. as regards point 5 of the preceding paragraph – after the proposal to change the Framework and the proposal of the corrective action plan referred to in paragraph two of Article 11 and paragraph two of Article 14 of this Act have been submitted to the National Assembly for adoption,
5. as regards point 8 of the preceding paragraph – after the proposal to change the Framework referred to in paragraph two of Article 13 of this Act has been submitted to the National Assembly for adoption,
6. as regards points 3, 6, 7 and 9 of the preceding paragraph – on the basis of a request from the National Assembly, the Government or at its own discretion.

(4) The Government shall draw up a written reasoned opinion on the assessment of the Fiscal Council and shall submit it to the National Assembly. The National Assembly may order the Government to draft amendments of the proposed act or additional measures on the basis of the Fiscal Council's assessment.

(5) The activities of the Fiscal Council shall be prescribed in detail in the Act governing public finance.

Article 8 (Composition of the Fiscal Council)

(1) The Fiscal Council shall have three members, appointed by the National Assembly on the proposal of the Government.

(2) The function of a member of the Fiscal Council shall be incompatible with holding a public office and activities of managing, supervising or representing direct and indirect spending units of the budgets of the general government sector.

(3) Appointed members of the Fiscal Council shall be experts in the field of macroeconomics, public finance or economy, and at least one member must be expert in the field of macroeconomics and at least one an expert in the field of public finance. A person with at least a university degree or a degree attained in a second-cycle study programme in accordance with the Act governing higher education, and with at least 10 years of work experience in their field of expertise, shall be deemed an expert in the field of macroeconomics, public finance or economy, taking into account their business performance, performance in positions to date and reputation.

(4) A person who has been finally convicted with a sentence exceeding six months in prison for premeditated criminal offences prosecuted *ex officio* may not be appointed as a member of the Fiscal Council.

(5) Members of the Fiscal Council shall be appointed for a period of five years, but for not more than two consecutive periods. A member of the Fiscal Council may be subject to early termination of office only if:

1. they submit a statement of resignation to the National Assembly,

2. they are convicted of a criminal offence with a prison sentence,
3. they permanently lose the capacity to perform their function,
4. they no longer fulfil the conditions required for a member of the Fiscal Council as provided in this Act,
5. grounds for the incompatibility of office arise,
6. they fail to comply with the Constitution or an act.

(6) A member of the Fiscal Council shall be subject to early termination of office and their function shall cease, if the National Assembly determines that a reason referred to in points 1, 2, 3, 4 or 5 of the preceding paragraph arises, or if the National Assembly terminates their office based on the grounds referred to in point 6 of the preceding paragraph. A motion for the termination of office of a member of the Fiscal Council on the basis of point 6 of the preceding paragraph may be lodged by at least 15 deputies of the National Assembly. The motion must include a description of the alleged violation of the Constitution or an Act and proposed evidence of the violation of the Constitution or an Act. The President of the National Assembly shall immediately notify the Government of an early termination of office.

Article 9 **(Selection procedure for members of the Fiscal Council)**

(1) The President of the Fiscal Council shall notify the Government six months prior to the expiry of the office of members of the Fiscal Council.

(2) After the receipt of notification on the expiry of office or after the receipt of notification that the proposed candidate for member of the Fiscal Council has not obtained the required majority or was subject to early termination of office, the Government shall immediately publish in the Official Gazette of the Republic of Slovenia a call for applications from candidates.

(3) A candidate's application shall be sent to the Government within a period which may not be less than 30 days following the publication of the call, or in the case of early termination of office and in the case referred to in paragraph seven of this Article, a period which may not be less than 15 days following the publication of the call. The application must be substantiated. A written statement by the candidate declaring their willingness to accept the candidature must be attached.

(4) The Government shall propose candidates for the President and members of the Fiscal Council to the National Assembly from the candidates that applied.

(5) The Government shall propose candidates within 30 days of the expiry of the period referred to in paragraph three of this Article. The proposed candidature must be substantiated and accompanied by a written statement by the candidate declaring their acceptance of the candidature.

(6) The National Assembly shall vote on the proposed candidates for members of the Fiscal Council within thirty 30 days of the submission of the proposal by the Government. The proposed candidate is appointed if a two-thirds majority vote of all deputies are cast in their favour.

(7) If a proposed candidate for member of the Fiscal Council has not received the necessary majority of deputies' votes, the President of the National Assembly shall immediately notify the Government thereof.

Article 10
(Functioning of the Fiscal Council)

(1) The Fiscal Council shall be represented by the President, who also manages and organises its work.

(2) The Fiscal Council shall adopt rules of procedure governing its business. The rules of procedure shall be published in the Official Gazette of the Republic of Slovenia.

(3) The Fiscal Council shall take decisions by a majority of all members.

(4) The funds required for the operation of the Fiscal Council shall be provided in the budget of the Republic of Slovenia on the proposal of the Fiscal Council. The Fiscal Council shall independently decide on the use of budget appropriations.

(5) The President of the Fiscal Council shall be employed with the Fiscal Council for at least 50 percent of full-time employment. The members of the Fiscal Council shall be employed with the Fiscal Council for not more than 50 percent of full-time employment.

(6) Not more than four public employees may be employed by the Fiscal Council, performing expert support for members of the Fiscal Council. Administrative and technical tasks for the Fiscal Council shall be performed by the services of the Court of Audit of the Republic of Slovenia.

(7) All institutional units of the general government sector must submit to the Fiscal Council all information, data and analysis at their disposal and which are required for the execution of tasks of the Fiscal Council referred to in paragraph two of Article 7 of this Act. The Fiscal Council may conclude cooperation agreements with institutional units of the general government sector to provide provision of data, analysis and other information free of charge, which an individual institutional unit of the general government sector according to its competences may provide to the Fiscal Council for the performance of its tasks.

(8) The Fiscal Council shall submit a report annually on its work to the National Assembly for its consideration by the end of May each year.

IV. ELIMINATION OF DEVIATIONS AND EXCEPTIONAL CIRCUMSTANCES

Article 11
(Correction mechanism)

(1) If the Government, on the basis of an assessment by the Fiscal Council, determines that the medium-term balance shall not comply with Article 3 of this Act, or if the Republic of Slovenia is the subject of a recommendation or a notice from the Council due to a deviation from the provisions of the Stability and Growth Pact, the minister responsible for finance shall implement measures as defined in the Act governing public finance for the purpose of balancing public finance in the medium term.

(2) If the measures referred to in the preceding paragraph do not restore the medium-term balance in accordance with Article 3 of this Act or ensure compliance with the recommendation or notice from the Council, the Government shall, on the basis of a proposal from the minister responsible for finance, submit to the National Assembly a proposed amendment of the Framework and proposal for a corrective action plan, which

shall reinstate compliance with the medium-term balance, by no later than three months following the determination by the Government referred to in the preceding paragraph or the receipt of the recommendation or notice from the Council. The Government shall at the same time submit both proposals referred to in the preceding sentence to the Fiscal Council. The drawing up of the proposed corrective action plan to reinstate compliance with the medium-term balance, shall be deemed a regular duty of the Government.

(3) A corrective action plan referred to in the preceding paragraph shall include measures in the extent that is proportionate to the determined deviation from the medium-term balance or the determined deviation from the planned elimination of deviations from the medium-term balance, and is in compliance with the provisions of the Stability and Growth Pact.

Article 12 **(Criteria for determining exceptional circumstances)**

(1) A deviation from the medium-term balance shall only be permitted provided that it does not endanger fiscal sustainability in the medium term, and only in:

1. periods of severe economic downturn or
2. the case of an unusual event outside the control of the party concerned which has a major impact on the financial situation of the general government sector, as defined by the Stability and Growth Pact.

(2) The Government shall determine whether exceptional circumstances referred to in the preceding paragraph exist or have ceased to exist, after obtaining the assessment of the Fiscal Council. The Fiscal Council shall provide the assessment as to whether circumstances exist or have ceased to exist in no later than 15 days, if the assessment is requested by the Government.

Article 13 **(Extent of permitted deviations from the medium-term balance)**

(1) The extent of permitted deviations from the medium-term balance in the case of determined circumstances referred to in paragraph one of Article 12 shall be defined by the National Assembly by adopting an amended Framework.

(2) The Government shall submit the proposed amendment of the Framework to the National Assembly and submit it to the Fiscal Council.

Article 14 **(Correction mechanism after exceptional circumstances have ceased to exist)**

(1) If the Government, on the basis of an assessment of the Fiscal Council, determines that circumstances referred to in paragraph one of Article 12 of this Act have ceased to exist and that the structural balance of the general government sector is lower than the minimum value as defined in paragraph three of Article 3 of this Act, the minister responsible for finance shall implement measures as defined in the Act governing public finance for the purpose of balancing public finance in the medium term.

(2) If the measures referred to in the preceding paragraph do not ensure that the

structural balance of the general government sector is at least equal to the minimum value referred to in paragraph three of Article 3 of this Act, the Government shall on the basis of a proposal from the ministry responsible for finance, by no later than three months from the determination by the Government referred to in the preceding paragraph, submit to the National Assembly for adoption a proposed amendment of the Framework and a proposal for a corrective action plan, which shall reinstate compliance with the medium-term balance. The Government shall at the same time submit both proposals referred to in the preceding sentence to the Fiscal Council.

V. TRANSITIONAL AND FINAL PROVISIONS

Article 15

(Implementing the medium-term balance in the period of adjustment towards the medium-term budgetary objective)

(1) As long as the Republic of Slovenia is adjusting towards the medium-term budgetary objective it shall be deemed that the budgets of the state are balanced in the medium term, if the structural balance of the general government sector is adjusting to the medium-term budgetary objective in accordance with the pace determined on the basis of the Stability and Growth Pact.

(2) In the period of adjustment towards the medium-term budgetary objective referred to in the preceding paragraph, the medium-term balance shall be ensured by limiting planned expenditures of the general government sector to a maximum level subject to planned revenues, which allows for the adjustment of the structural balance of the general government sector towards the medium-term budgetary objective at the pace referred to in the preceding paragraph.

Article 16

(Period for initiation of the procedure to select members of the Fiscal Council and to adopt the rules of procedure)

(1) The Government shall publish a call for applications from candidates for members of the Fiscal Council in the Official Gazette of the Republic of Slovenia within 15 days of the entry into force of this Act.

(2) The Fiscal Council shall adopt its rules of procedure within the period of three months from the appointment of members of the Fiscal Council.

Article 17

(Adoption of the first Framework and funds required for the operation of the Fiscal Council in 2015)

(1) The Government shall submit the first Framework proposal, together with the draft Stability Programme, to the National Assembly and the Fiscal Council by no later than 20 days before the end of the period for submitting the Stability Programme to the European Commission in 2016.

(2) In 2015 the funds required for the operation of the Fiscal Council shall be provided in the budget of the Republic of Slovenia for 2015.

Article 18
(End of validity)

On the day this Act enters into force, Section 10.a Fiscal Council and Articles 106.a and 106.e of the Public Finance Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 11/11 – official consolidated text, 14/13 – corr. and 101/13) shall cease to be in force.

Article 19
(Entry into force)

This Act shall enter into force on the day following its publication in the Official Gazette of the Republic of Slovenia.

No. 411-01/14-55/27
Ljubljana, July 10 2015
EPA 227-VII

National Assembly

of the Republic of Slovenia
dr. Milan Brglez m.p.
President