

LAW ON FISCAL RESPONSIBILITY IN THE REPUBLIC OF SRPSKA

CHAPTER I GENERAL PROVISIONS

Article 1

This Law shall regulate fiscal rules, measures and procedures for establishment of fiscal framework, limiting public spending, strengthening accountability for efficient and effective use of budget resources, establishment of the Fiscal Council of the Republic of Srpska and strengthening the system of control and supervision.

Article 2

(1) The purpose of this Law shall be to ensure and maintain fiscal responsibility, transparency and mid-term and long-term fiscal sustainability of the Republic of Srpska.

(2) The provisions of this Law shall pertain to the budget system of the Republic of Srpska.

Article 3

The terms used in this Law shall have the following meaning:

1) the budget means the assessment of budget resources and budget expenses for one fiscal year,

2) the fiscal year covers the period of 12 months, which starts on January 1 and ends on December 31 of the calendar year,

3) budget users mean the institutions, organisations and other entities of the public sector (apart from public companies), financed from the budget of the Republic of Srpska (hereinafter: the Republic budget), the budget of municipalities, cities and funds, and which are under their control pursuant to the law,

4) the funds, for the purposes of this Law, mean the following: the Pension and Disability Insurance Fund of the Republic of Srpska, the Health Insurance Fund of the Republic of Srpska, the Public Child Protection Fund of the Republic of Srpska and the Employment Institute of the Republic of Srpska (hereinafter: fund),

5) the budget system of the Republic of Srpska comprises of the budget of the Republic, the budgets of municipalities and cities and the budgets – financial plans of the funds (hereinafter: the budgets of the funds),

6) budget resources within one fiscal year comprise budget revenues and receipts for non-financial assets, receipts from financial assets and liabilities in the current fiscal year, outstanding earmarked resources of budget grants and transfers from preceding periods, and the surplus allocated pursuant to the decision of the competent institution.

7) budgetary outflows comprise budgetary expenses, outflows for non-financial assets and outflows for financial assets and repayment of debts,

8) financing represents the method of settling the planned or executed budgetary deficit, i.e. the method of allocation of the planned or executed budgetary surplus,

9) net financing represents the balance between the receipts from financial assets and the

borrowing and the outflows for financial assets and repayment of debt,

10) the budgetary framework represents the amount of budgetary outflows in the course of a single fiscal year planned for the purpose of financing budgetary expenses and outflows for non-financial assets, increased by the amount of the negative net financing,

11) the budgetary surplus represents the positive balance between the sum of budgetary revenues and receipts for non-financial assets and the sum of budgetary expenses and outflows for non-financial assets,

12) the budgetary deficit represents the negative balance between the sum of budgetary revenues and receipts for non-financial assets and the sum of budgetary expenses and outflows for non-financial assets,

13) consolidated budgetary deficit represents the total deficit of the budget system of the Republic of Srpska, and it shall be determined as the sum of consolidated budgetary deficits, budget of the Republic, budget of municipalities and cities and budget of funds,

14) Budget Framework Document of the Republic of Srpska (hereinafter: BFD) means an act adopted by the Government of the Republic of Srpska (hereinafter: the Government), in accordance with the budget calendar, which contains macroeconomic projections and forecasts of the budget resources and expenses for the next year and the following two fiscal years, as well as objectives of fiscal policy and a report on realization of fiscal policy objectives laid down by previous BFD,

15) fiscal policy objectives represent precise, numerically expressed targeted values of main fiscal aggregates, which shall be defined in BFD each year, and which the Government tends to realize in the budget system of the Republic of Srpska,

16) fiscal rules represent permanently or temporarily set limitations of fiscal policy, in order to additionally strengthen budgetary discipline, improve coordination between various levels of government and establish long-term sustainability of fiscal policy,

17) fiscal measures represent activities which shall be undertaken with the aim of realization of laid down fiscal rules,

18) fiscal procedures define preparation, submission and publication of reports, forecasts and projections, as well as assessments and opinions of the Fiscal Council,

19) fiscal risks mean short-term and mid-term value deviations of fiscal variables from the values stipulated in the BFD, the budget, financial or other plans and reports or projections of public finance,

20) the Fiscal Council of the Republic of Srpska (hereinafter: the Fiscal Council) means an independent body, established to further improve fiscal responsibility of the Republic of Srpska, through independent expert analysis of fiscal policy,

21) public debt of the Republic of Srpska means the debt of the Republic of Srpska, debt of local self-government units (municipalities and cities) and debt of the funds,

22) natural disaster means events which cannot be influenced by human factor (earthquake, flood, high snow and snowdrifts, windstorm, hail, downpour, landslide, drought, severe cold, and mass phenomena of human, animal and plant diseases), and which are a consequence of the effects of natural phenomena, with extremely negative consequences for human society in the affected area and which exceed the possibilities of the community to eliminate its aftermath.

23) economic recession means downturn phase of economic cycle and represents a period of real gross domestic product decline in at least two consecutive quarters, accompanied by a decline in the number of employees in the same period, and

24) large infrastructure project means a project which has been approved by the National Assembly of the Republic of Srpska, relating to the construction, reconstruction, modernization, adaptation or rehabilitation of infrastructure facilities and systems serving a public purpose,

represent a public good, enable improvement of living conditions of all inhabitants of the Republic of Srpska, financed from public sources, public-private partnership or international financial institutions funds, and whose value accounts for at least 1% of the gross domestic product (hereinafter: GDP) in that year.

CHAPTER II FISCAL STATEMENTS AND FISCAL RULES Article 4

(1) The Fiscal Impact Statement shall be a statement submitted to the Ministry of Finance by a responsible person of the budget user, upon submitting for opinion the acts which, pursuant to laws and bylaws, require approval from the Ministry of Finance, and it shall confirm that the resources required for their implementation may not be higher or that the resources which will constitute budget revenue may not be lower than the amount specified in the statement.

(2) The Fiscal Responsibility Statement shall be a statement submitted to the competent authority, signed and certified by a responsible person of the budget user, when submitting for adoption the budget, i.e. rebalance of the budget of the Republic of Srpska and local self-government units, the budget, i.e. rebalance of the budget of funds or decision on temporary financing.

(3) A responsible person of the budget user, by the statement referred to in paragraph 2. of this Article, under full substantive and criminal liability, shall confirm that he/she shall not create liabilities greater than the resources allocated to them under the budget, i.e. rebalance of the budget or by decision on temporary financing in the current year, after inclusion of transferred liabilities from the previous period in determined framework, as well as that he/she has ensured legal, earmarked and purposeful spending of resources allocated under the budget, while ensuring efficient functioning of the financial management and control system, within the framework of resources determined in the budget.

(4) The Minister of Finance (hereinafter: the Minister), within 30 days from the date of entry into force of this Law, shall adopt a rulebook prescribing the form, content and other issues relating to submitting fiscal statements.

Article 5

(1) Fiscal rules shall be general and specific.

(2) General fiscal rules shall refer to the overall budget system of the Republic of Srpska and shall be defined with this Law.

(3) Specific fiscal rules shall refer to binding, automatic measures in the case if indicators provided by general fiscal rules shall reach threshold value defined by this Law.

Article 6

(1) The general fiscal rules shall be:

- 1) the rule on debt
- 2) the rule on consolidated budget deficit

(2) The rule on debt: Public debt of the Republic of Srpska at the end of fiscal year shall not exceed 55% of GDP realized in that year.

(3) The rule on consolidated budget deficit: Consolidated budget deficit at the end of fiscal year shall not exceed 3% of GDP realized in that year.

Article 7

(1) The specific fiscal rules shall be:

- 1) the debt threshold and
- 2) the consolidated budget deficit threshold.

(2) The debt threshold shall mean that if public debt of the Republic of Srpska at the end of a fiscal year has reached 50% of GDP realized in that year, the budget for the following year shall be with a budget surplus.

Article 8

(1) If any of the general fiscal rules shall not be respected, the Government shall be required to prepare and submit to the National Assembly the Fiscal Consolidation Programme (hereinafter: the Programme), together with the opinion of the Fiscal Council, which shall define the measures and period for returning within the framework of the rules laid down by this Law.

(2) A draft Programme shall be prepared by the Ministry of Finance and it shall be submitted to the Fiscal Council for opinion, within 15 days from the date of determining a breach of rules by the Fiscal Council.

(3) The Fiscal Council shall discuss the draft Programme and it shall give its opinion to the Ministry of Finance within seven days from the day of receipt of the draft Programme.

(4) Upon receiving the opinion of the Fiscal Council, the Ministry of Finance shall prepare the Programme proposal and within seven days of receipt of the opinion of the Fiscal Council it shall submit the Programme proposal to the Government for approval.

(5) The Government shall approve the Programme proposal with the opinion of the Fiscal Council within seven days from the date of receipt of the opinion, and they both shall be together submitted to the National Assembly for consideration.

(6) If any of the recommendations of the Fiscal Council has not been taken into consideration in the Programme proposal approved by the Government, it shall be obligatory to note so and provide an explanatory note for such a decision.

CHAPTER III FISCAL MEASURES

Article 9

(1) When proposing to the Government drafts and proposals of laws and strategies, decrees, decisions, conclusions, as well as other regulations and general acts, the ministries shall be obliged to submit the Fiscal Impact Statement referred to in Article 4, paragraph 1 of this Law, signed by a responsible person of the budget user, which is proposing such regulation or act, and opinion of the Ministry of Finance, when it is necessary to secure financial resources for their implementation or if changes in financial or fiscal system have been proposed.

(2) Executive municipal and city administrative bodies may not propose to the Municipal or City Assembly budget draft, i.e. budget rebalance, if they have not complied with the recommendations of the Ministry of Finance, i.e. they may not propose budget proposals and budget rebalance if they have not obtained approval from the Ministry of Finance.

(3) A Fund may not propose a budget or a budget rebalance of the Fund to the Government, if the guidelines given in BFD and the opinion of the Ministry of Finance have not been complied with, and it may not submit it for approval to the competent body of the Fund, without obtaining the approval of the Government.

Article 10

(1) When submitting the budget, i.e. the budget rebalance of the Republic, the budget, i.e. the budget rebalance of local self-government units, and the budget, i.e. the budget rebalance of funds or a decision on temporary financing to the competent authority for adoption, the responsible person shall be obliged, under full substantive and criminal liability, to submit a signed and certified Fiscal Responsibility Statement referred to in Article 4, paragraph 2 of this Law.

(2) The competent authority may not consider the budget, i.e. budget rebalance of the Republic and local self-government unit, the budget, i.e. budget rebalance of fund or a decision on temporary financing if a responsible person has not submitted signed and certified Fiscal Responsibility Statement referred to in Article 4, paragraph 2 of this Law.

(3) Budget users, municipalities, cities, i.e. funds, defined by this law, shall be allowed to create liabilities and to use the resources for intended use only and up to the amount of available resources allocated by the budget.

(4) If a budget user, a municipality, a city or a fund, contrary to paragraph 3 of this Article, creates liabilities on any ground exceeding the level of resources allocated by the budget, they shall be obliged to cover the amount that constitutes the difference up to the level of the envelope allocated to them at the expense of the budget for the following fiscal year.

Article 11

(1) If an authorized person of a budgetary user or fund has violated any of the fiscal measures that have been prescribed in Article 9 and 10 of this Law, the Budgetary Inspection Service shall notice the Fiscal Council and the body that has appointed authorized person, and it shall take actions prescribed by the law regulating the budget system of the Republic of Srpska, within seven days from the date of determining the facts in the case.

(2) If an authorized person of municipality or city has violated any of the fiscal measures that have been prescribed by Article 9 and 10 of this Law, the Budgetary Inspection Service shall notice the Fiscal Council and Municipal or City Assembly, and it shall take actions prescribed by the law regulating the budget system of the Republic of Srpska, within seven days from the date of determining the facts in the case.

TITLE IV GRANTING TEMPORARY DEROGATION

Article 12

(1) The National Assembly may, by a justified Government proposal, make a decision on approval of a temporary derogation from some of the fiscal rules.

(2) In justified decision referred to in paragraph 1 of this Article, the Government shall be obliged to submit a report on temporary derogation to the National Assembly, together with the opinion of the Fiscal Council, which shall contain:

- 1) reasons for departing from the fiscal rules,
- 2) measures which the Government plans to undertake in order to reestablish compliance with the fiscal rules and
- 3) the time limit in which the situation shall be aligned with the fiscal rules.

(3) The National Assembly may pass the decision referred to in paragraph 1 of this Article solely under the following circumstances:

- 1) natural disasters,
- 2) economic recession and
- 3) implementation of large infrastructure projects.

Article 13

(1) Draft report on temporary derogation shall be prepared by the Ministry of Finance and submitted to the Fiscal Council for opinion, within 15 days from the day of the adoption of the decision referred to in Article 12, paragraph 1 of this Law.

(2) The Fiscal Council shall consider a draft report on temporary derogation and it shall give its opinion to the Ministry of Finance within seven days from the day of receipt of the draft report.

(3) Upon obtaining the opinion of the Fiscal Council, the Ministry of Finance, in accordance with the recommendations of the Fiscal Council, shall prepare a proposal of a report on temporary derogation and within seven days from the day of receipt of the opinion, shall submit the proposal to the Government for approval.

(4) If any of the recommendations of the Fiscal Council have not been complied with in the report on temporary derogation adopted by the Government, it shall be obligatory to state so and provide an explanatory note for such a decision.

Title V
FISCAL COUNCIL OF THE REPUBLIC OF SRPSKA

Article 14

(1) Under this Law, The Fiscal Council shall be established, which shall independently assess the credibility of fiscal policy from the standpoint of respecting laid down fiscal rules, measures and procedures and thus provide transparency and accountability of conducting fiscal policy.

(2) The Fiscal Council shall be an independent body, responsible to the National Assembly for carrying out activities under its competence.

(3) The Fiscal Council shall have a legal personality, with headquarters in Banja Luka and a seal in accordance with law.

Article 15

(1) The Fiscal Council shall be comprised of the Chairperson and two members, appointed by the National Assembly.

(2) The proposal for the appointment of the Chairperson and members of the Fiscal Council shall be submitted to the National Assembly by the President of the Republic of Srpska, based on previously conducted competition in accordance with law.

(3) Members of the Fiscal Council shall not be employees of the Fiscal Council.

Article 16

(1) For a member of the Fiscal Council may be elected a person who is a national of the Republic of Srpska, who does not hold any public office, has not been convicted and who holds a degree of master (MA), master (M.Sc.) or PhD in the field of economics, has published scientific papers in the field of macro-economics, microeconomics, fiscal policy, public finance or accounting, has at least ten years of work experience and at least five years of professional experience in the field of public finance.

(2) In addition to the requirements referred to in paragraph 1 of this Article, the Chairperson of the Fiscal Council shall be a person who holds a PhD in the field of economics and has at least five years of experience in managerial tasks.

(3) A member of the Fiscal Council may not perform other engagements or paid duties for any of the budgetary users in the Republic of Srpska, with the exception of the scientific, educational or editorial work.

(4) A member of the Fiscal Council may not be a member of a political party, nor may he/she be guided by political beliefs in his/her work.

Article 17

(1) Members of the Fiscal Council shall be elected for a term of five years and may not be elected more than twice.

(2) The membership in the Fiscal Council for the Chairperson or a member shall cease before the expiration of the mandate:

- 1) if he/she has started to hold a public office,
- 2) if he/she has become a member of a political party,
- 3) if he/she has met requirements for retirement,
- 4) if he/she has resigned,
- 5) if he/she has been sentenced unconditionally by a final court decision to at least six months imprisonment,
- 6) if he/she has been deprived of legal capacity by a final court decision,
- 7) due to death,
- 8) if he/she has been dismissed.

(3) The National Assembly may dismiss a member of the Fiscal Council if he/she is unable to perform duties due to a health condition or he/she fails to act pursuant to the Constitution of the Republic of Srpska and law.

Article 18

(1) Upon occurrence of the reasons for termination of mandate or dismissal, the Fiscal Council shall, without delay, inform the National Assembly.

(2) An initiative for the dismissal of a member of the Fiscal Council shall be submitted by at least 20 Members of Parliament.

(3) The initiative shall be submitted in writing, with an explanatory note and evidence of the occurrence of reasons referred to in Article 17 of this Law.

(4) The Fiscal Council member whose dismissal has been proposed shall have the right to address the National Assembly in writing or orally, at the session at which dismissal initiative is being discussed.

(5) Following the discussion and voting, the National Assembly shall decide on the dismissal of the Fiscal Council member or on the rejection of the initiative.

(6) By entry into force of the decision on dismissal, a mandate of the Fiscal Council member shall be terminated and all of his/her rights in that respect.

Article 19

(1) The functions of the Fiscal Council shall be:

- 1) analyzing macroeconomic and fiscal assumptions and projections used for the preparation of BFD, draft and proposal of the budget of the Republic and economic policy,
- 2) providing an independent and credible assessment of economic policy measures proposed by the Government in order to achieve the quantitative fiscal targets, set by the Government,
- 3) estimating underlying fiscal risks and the likelihood that the Government shall meet its

fiscal targets for the upcoming fiscal year and the following two fiscal years,

4) assessing the extent to which the Government has respected and met set fiscal targets in the previous fiscal year, as well as fiscal rules defined by this Law,

5) assessing whether there are grounds for granting a temporary derogation and whether there is likelihood for the Government plan of adaptation to enable a return to respect fiscal rules and

6) examining the adequacy of economic classification in order to ensure proper measurement of quantitative fiscal targets.

(2) The tasks of the Fiscal Council shall be:

1) providing opinions and analysis to the National Assembly regarding the draft and proposal of the budget and budget rebalance of the Republic of Srpska and economic policy,

2) providing opinions and estimates to the National Assembly regarding drafts and proposals of laws regulating fiscal policy issues,

3) providing opinions and analysis to the National Assembly regarding reports on the Republic budget execution, and consolidated reports on the budget execution of the Republic,

4) submitting to the Government opinion on the Programme and

5) submitting to the Government opinion on report on discharge of obligation.

Article 20

(1) The Fiscal Council may at any time, on his own initiative or at the request of the National Assembly or the Government, give advice on matters relating to fiscal policy and public finance management.

(2) All the analyses, reports, recommendations, opinions, estimates and advice prepared by the Fiscal Council shall be publicly available on the website of the Fiscal Council on the same day when they are submitted to the Government or the National Assembly.

(3) Analyses, reports, recommendations, opinions, estimates and advice prepared by the Fiscal Council shall also be, as needed, published on the website of the National Assembly, the Government, the Ministry of Finance or local self-government unit.

Article 21

(1) The Fiscal Council shall have the authority to request from the budget users, local self-government units and funds to submit relevant economic and fiscal data, assessments and analyses needed by the Fiscal Council in order to perform its functions and tasks prescribed by this law.

(2) The Fiscal Council may request from the Ministry of Finance to prepare and submit to the Fiscal Council fiscal projections based on alternative assumptions and projections.

(3) The Fiscal Council shall have the authority to request information from all public sector entities, including public enterprises, if such information is essential to the work of the Fiscal Council.

Article 22

(1) The Chairperson of the Fiscal Council shall:

1) chair the Fiscal Council,

- 2) convene sessions of the Fiscal Council and determine the agenda,
- 3) represent the Fiscal Council,
- 4) manage the Fiscal Council,
- 5) approve the publication of analysis, reports, recommendations, opinions, estimates and advices by the Fiscal Council and
- 6) be accountable to the National Assembly for the reliability of analyses, reports, recommendations, opinions, estimates and advices produced by the Fiscal Council.

(2) The Fiscal Council shall, within 30 days of taking office, adopt rules of procedure, which shall regulate the manner and procedure for the Fiscal Council for exercising its competence, decision-making process and other matters set forth in this Law that are relevant to the work of the Fiscal Council.

Article 23

(1) For performing administrative tasks, the technical service of the Fiscal Council shall be formed.

(2) The manner of operation, organizational structure and job classification of the technical service shall be regulated by an act of the Fiscal Council.

(3) Persons employed in the professional service of the Fiscal Council shall have the status of a civil servant or government employee.

Article 24

(1) The Fiscal Council may, in order to perform certain activities within its competence, engage external experts.

(2) An external expert may be a natural or legal person with relevant expertise and experience.

(3) As an external expert may be hired a foreign national, provided that he/she is a recognized expert in the area of importance for the performing activities within the competence of the Fiscal Council.

(4) All the rights regarding documents produced by an external expert shall belong to the Fiscal Council.

Article 25

(1) The Chairperson of the Fiscal Council shall be entitled to remuneration equal to the salary of an Assistant Minister.

(2) Members of the Fiscal Council shall be entitled to remuneration equal to the salary of an advisor to the Minister.

(3) Persons employed in the administrative service shall be entitled to a salary in accordance with the regulations governing the salaries of civil servants and government employees.

(4) A decision on employment and termination of employment in the Fiscal Council shall be taken by the president of the Fiscal Council.

Article 26

(1) The resources for the work of the Fiscal Council and its services shall be provided in the budget of the Republic.

(2) The Fiscal Council shall submit a work plan proposal and a financial plan to the National Assembly for approval.

CHAPTER VI SUPERVISION AND PENALTY CLAUSES

Article 27

(1) Administrative supervision over enforcement of this law shall be conducted by the Ministry of Finance.

(2) Inspection supervision over enforcement of this law shall be conducted by the Budgetary Inspection Service.

Article 28

(1) The Fiscal Council shall submit to the National Assembly a report on enforcement of this Law, as well as on identified irregularities, i.e. identified and potential departures from the fiscal rules and breach of fiscal measures, for the period from January 1 to June 30, i.e. from January 1 to December 31 twice a year.

(2) The Fiscal Council shall submit to the National Assembly a report on its activities annually.

(3) Audit of financial operations of the Fiscal Council shall be carried out by the Audit Office of the Public Sector.

Article 29

(1) A pecuniary penalty ranging between 4,000 KM and 20,000 KM shall be imposed on a responsible person, if:

1) he/she has violated any of the fiscal rules (Article 6),

2) the Government has failed to prepare and submit to the National Assembly Programme with the opinion of the Fiscal Council, which shall define measures and period for returning to the framework of rules prescribed by this Law (Article 8),

3) a Ministry, when proposing to the Government drafts and proposals of laws and strategies, decrees, decisions, conclusions, as well as other regulations and general acts, has not submitted the Fiscal Impact Statement, signed by the responsible person of the budget user, proposing of such regulation or act, and opinion of the Ministry of Finance, when it is necessary to secure financial resources for their implementation or if changes in financial or fiscal system have been proposed (Article 9, paragraph 1).

4) he/she has proposed to the Municipal or City Assembly budget draft, i.e. budget rebalance, without first abiding by the recommendations of the Ministry of Finance, i.e. he/she has proposed budget proposal and budget rebalance without obtaining approval from the Ministry of Finance (Article 9, paragraph 2).

5) he/she has proposed the budget or the budget rebalance of a fund to the Government, without complying with the guidelines given in BFD and the opinion of the Ministry of Finance, and if he/she shall submit it for approval to the competent authority of the fund, without obtaining the consent of the Government (Article 9, paragraph 3).

6) the responsible person has not submitted, under full substantive and criminal liability, a signed and certified Fiscal Responsibility Statement, when submitting the budget, i.e. the budget rebalance of the Republic, the budget, i.e. the budget rebalance of local self-government units, and the budget, i.e. the budget rebalance of funds or a decision on temporary financing for adoption (Article 10 paragraph 1),

(7) the competent authority has considered the budget, i.e. budget rebalance of the Republic and local self-government unit, the budget, i.e. budget rebalance of fund or a decision on temporary financing without a signed and certified Fiscal Responsibility Statement (Article 10 paragraph 2),

(8) he/she has created liabilities on any ground, exceeding the amount of available resources established by the budget (Article 10 paragraph 3),

(9) he/she shall has not submitted requested data to the Fiscal Council (Article 21) and

(10) he/she shall has not prepared a long-term plan for discharging liabilities from the previous period.

CHAPTER VII TRANSITIONAL AND FINAL PROVISIONS

Article 30

Budget users, municipalities, cities and funds, which at the entry into force of this Law, have liabilities carried forward from the previous period, shall prepare a long-term plan for discharging liabilities, accompanied by the opinion of the Fiscal Council, to be adopted by competent authority in charge of adopting the budget, not later than 90 days following the day of the entry into force of this Law.

Article 31

This Law shall become effective on the eighth day following its publication in the “Official Gazette of the Republic of Srpska”.

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Date: 29 October 2015. године

CHAIRPERSON OF THE
THE NATIONAL ASSEMBLY

Nedeljko Cubrilovic