



**Fiscal Council's Opinion on the legislative proposal - Law amending and complementing the Government Emergency Ordinance no. 114/2018 on the establishment of measures in the field of public investments and fiscal-budgetary measures, amendment and completion of some normative acts and extension of deadlines - b490/19.10.2021**

On November 2, 2021, the Fiscal Council (FC) received the address of the Romanian Senate no. XXXV/5502 dated 26.10.2021, by which it is requested, in accordance with the article 53 paragraph (2) letter e) of the Fiscal Responsibility Law no. 69/2010 republished (FRL), the opinion on a legislative proposal - Law for amending and complementing the Government Emergency Ordinance no. 114/2018 on the establishment of measures in the field of public investments and fiscal-budgetary measures, amendment and completion of some normative acts and extension of deadlines (b490/19.10.2021).

According to the article of law to which reference is made, the attributions of the Fiscal Council are:

*e) analysis and elaboration of opinions and recommendations, both before the approval by the Government and before the transmission to the Parliament, on the annual budgetary laws, on the budgetary revisions, as well as on other legislative initiatives that may have an impact on the budgetary expenditures, as well as the assessment of their compliance with the fiscal principles and rules provided by this law.*

***Brief description of the legislative proposal***

The legislative proposal submitted to the Fiscal Council envisages the extension of the fiscal facilities applicable - until 31.12.2028 - to employees in the construction sector also to employees in the agricultural sector (CAEN codes 01 and 02).

Specifically, it is proposed for employees in the agricultural sector to reduce by 3.75% the social security contribution (from 25% to 21.75%, respectively with the share transferred to the Pension Pillar Two) and the exemption from the payment of health insurance contributions (in the amount of 10% of the gross salary), as well as from the payment of income tax (in the amount of 10% of the gross salary excluding due contributions and personal deductions). These facilities are accompanied by the increase of the minimum gross salary in this sector to 3,000 lei, similar to

the current facilities granted to the construction sector. The proposal is projected to be applied starting with 1.01.2022.

### ***Budgetary impact of the legislative proposal***

The legislative proposal is not accompanied by the financial statement in which its impact on the general consolidated budget is presented. The authors of the legislative initiative mention in the Explanatory Memorandum the difficult conditions in which workers in the agricultural sector work and highlight the net wage gap between the agricultural and construction sectors, the latter benefitting from the facilities listed above (1774 compared to 2362 lei) at the same gross salary (3000 lei).

According to FC calculations based on statistical data for September 2021<sup>1</sup>, the proposal to extend the facilities granted to employees in the construction sector also to employees in the agricultural sector implies a significant negative budgetary impact, equivalent to a reduction of budget revenues in 2021 of about 1.4 billion lei. Considering also the increase of gross salaries estimated for 2022 at the level of the whole economy by the National Commission for Strategy and Prognosis<sup>2</sup>, the budgetary impact of the proposal in 2022 would be about 1.5 billion lei (including the impact of raising the minimum wage to 3,000 lei/month).

Considering the above, the provisions of this legislative proposal will lead to a decrease in budget revenues in the period 2022-2028.

### ***Assessment of the Fiscal Council regarding the legislative proposal***

- Regarding the opportunity of the legislative project, the Fiscal Council has no attributions in deciding, given that the establishment of ways to support certain sectors of activity is the prerogative of the Parliament, the Government or other competent

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<sup>1</sup> NIS (Tempo online) data for 2021 on the following statistics: Average number of employees by activities of the national economy (sections and divisions) CAEN Rev. 2, sex, macro-regions, development regions and counties; Average monthly gross earnings by activities (sections and divisions) of the national economy CAEN Rev. 2; Average gross monthly nominal earnings, by categories of employees, forms of ownership, activities (sections and divisions) of the national economy CAEN Rev. 2 and by sex. For estimating the expenses generated by the increase of the minimum gross salary, NIS data was used at the level of 2019 from the statistics: Number of full-time employees who were paid throughout the month, basic gross salary and gross income achieved in October, by groups major occupations (ISCO-08) and age groups updated to 2021 with the increase of gross salaries according to the NCSP forecast.

<sup>2</sup> About 8.7% according to the Projection of the main macroeconomic indicators 2021 - 2025 (November 2021).

institutions. However, the FC notes that this proposal is not in line with the Government's commitments in Romania's National Recovery and Resilience Plan (NRRP) on "simplifying fiscal rules to facilitate compliance and administration, as well as eliminating exemptions and preferential treatment".

- Regarding the present request, the provisions of art. 21 of the FRL are relevant, according to which "in cases where proposals are made for normative acts that lead to a decrease in budget revenues, the financial statement will be prepared according to the provisions of art. 15 of Law no. 500/2002, as subsequently amended and complemented, which must meet at least one of the following conditions:
  - a) to have the approval of the Ministry of Public Finance and of the Fiscal Council, according to which the financial impact has been taken into account in the budget revenue forecast and does not affect the annual and medium-term budgetary targets;
  - b) to be accompanied by proposals for measures to compensate for the respective financial impact, by increasing other budgetary revenues."
- Regarding the compliance with the provisions of art. 21 of the FRL described above, the Fiscal Council has the following observations:
  - o The legislative proposal is not accompanied by the financial statement in which its impact on the general consolidated budget is presented. In the opinion of the FC, based on the calculation of the budgetary impact of this proposal, it can be considered significant, as shown above.
  - o The endorsement of the legislative proposal by the FC requires the following premises to be met:
    - The proposal must be accompanied by an impact on the budget revenue forecast, together with an indication of the factors preventing annual and medium-term budgetary targets from being affected, or
    - The proposal should be accompanied by measures to compensate for the respective financial impact, by increasing other budget revenues.
  - o The Fiscal Council considers that this legislative proposal can have a considerable negative budgetary impact. According to the FC calculations presented above, considering the estimate of budget revenues from social contributions and income tax in 2021, the difference between the application of the current legislation and the extension of facilities for employees in the construction sector also to employees in the agricultural sector may have a negative impact on the general consolidated budget by 1.4 billion lei, respectively by 1.5 billion lei in 2022.

o Given that no sources of compensation are foreseen for the measure's negative financial impact on the general consolidated budget (impact that the FC considers to be significant), as well as in the absence of a financial statement or a complete budget projection showing that the proposal does not affect the medium-term budgetary targets, the FC cannot endorse this legislative proposal.

Moreover, this initiative does not reflect the FC's vision regarding the elimination of exemptions and preferential tax treatments, the institution's approach being in line with the commitments undertaken in this regard by the Government within the NRRP.

The opinions and recommendations formulated above by the Fiscal Council were approved by the Chairman of the Fiscal Council, according to the provisions of art. 56, para (2), letter d) of Law no. 69/2010 republished, after being agreed by Council members, through vote, in the meeting of November 23, 2021.

November 23, 2021

Chairman of the Fiscal Council

Professor DANIEL DĂIANU