



Fiscal Council's Opinion on the legislative proposal for completing the Law no. 95/2006 on health care reform republished and for modification of the Government Emergency Ordinance no. 114/2018 regarding establishing public investment and fiscal measures, amending and supplementing regulations and extending deadlines – b531/2021

On December 3, 2021, the Fiscal Council received the address of the Romanian Senate no. XXXV/5602 dated 15.11.2021, by which it is requested, in accordance with the Fiscal Responsibility Law no. 69/2010 (FRL), the opinion on a legislative proposal for completing the Law no. 95/2006 on health care reform republished and for modification of the Government Emergency Ordinance no. 114/2018 on the establishment of measures in the field of public investment and fiscal measures, amending and supplementing normative acts and extension of deadlines – b531/2021.

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 subject to examination by the Fiscal Council envisages the collection of the "additions" tax, as defined by GEO no. 114/2018, directly in the budget of the Ministry of Health, these contributions to be used afterwards to finance health expenditure (acquisition of medical equipment and apparatus for equipping hospitals, rehabilitating hospitals infrastructure, funding of national health programs). Initiators of the legislative proposal argue that allocations to health programs compete with other priorities because the "additions" tax is currently collected in the budget of the Ministry of Finance. Its collection in the budget of the Ministry of Health would allow, in the opinion of the initiators, a better traceability of the destination of the funds.

Budgetary impact of the proposal

The legislative proposal is not accompanied by an estimate of its impact on the general consolidated budget. In this context, it should be borne in mind that, although the legislative proposal does not intend to the increase of budget expenditures, possible allocation of the amounts collected from the “addictions” tax for supplementing health spending will lead to an increase in budget outlays if not it is offset by reducing allocations for other categories of expenditure.

Assessment of the Fiscal Council regarding the legislative proposal

- Regarding the opportunity of the legislative proposal, the Fiscal Council has no attributions in deciding, because the establishment of the modalities of financing the public health system in Romania is the prerogative of the Parliament and the Government. However, the Fiscal Council agrees that the public health system is underfunded and has argued in its Opinions to remedy this situation even in the context of the necessary process of budgetary consolidation.
- Regarding the subject of the legislative proposal aimed at collection and allocation direct amount of the proceeds from the “addictions” tax to finance health expenses, preventing allocations to health programs from competing with other budgetary priorities, it should be mentioned that the principle of universality, stipulated by art. 8 of Law no. 500/2002 on public finances, stipulates that *budget revenues cannot be directly affected by a specific budget expenditure, except for donations and sponsorships, which they have established distinct destinations.*
- Regarding compliance with the FRL, the Fiscal Council finds that the information presented are not sufficient to determine whether the provisions of the FRL are complied with. In this sense, two possibilities can be identified:
 - If the adoption of this legislative initiative will not generate additional allocations to finance health spending, then there would be no impact on the general consolidated budget. However, such a situation would question the usefulness of the legislative proposal because its adoption wouldn't improve the problem of underfunding the public health system;
 - If the adoption of this legislative initiative will generate additional allocations for the financing of health expenses, then the provisions of art. 15 of the FRL which provides that *in the case of proposals for the introduction of measures/policies/legislative initiatives which adoption attracts the increase of budget expenditure, the initiators are required to submit:*

- a) *the financial statement provided in art. 15 of Law no. 500/2002, with the modifications and subsequent completions, accompanied by the assumptions and calculation methodology used;*
 - b) *statement that the increase in expenditure is compatible with the strategic objectives and priorities specified in the fiscal-budgetary strategy, with the annual budgetary law and with the expenditure ceilings presented in the fiscal-budgetary strategy.*
- Given the above, as well as the fact that the legislative proposal is not accompanied by the documents mentioned in art. 15 of the FRL, the Fiscal Council considers that the information available is not sufficient to rule on the above-mentioned legislative proposal with a view to the possibility of affecting budgetary targets in the medium term.

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 January 21st, 2022.

21st January 2022

Chairman of the Fiscal Council
Professor DANIEL DĂIANU