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2023/0136 (NLE)

Proposal for a

**COUNCIL DIRECTIVE**

**amending Directive 2011/85/EU on requirements for budgetary frameworks of the  
Member States**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

The proposed amendments to Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States<sup>1</sup> (hereafter the Directive) are part of a package that includes also a proposal for a Regulation replacing Regulation (EC) No 1466/97<sup>2</sup> (the preventive arm of the Stability and Growth Pact) and amendments to Regulation (EC) No 1467/97<sup>3</sup> (the corrective arm of the Stability and Growth Pact). The Directive and the preventive and corrective arms of the Stability and Growth Pact are part of the EU economic governance framework.

#### **Reasons for the proposal**

The EU economic governance framework has helped to create conditions for economic stability, sustainable and inclusive economic growth and higher employment. This framework currently consists of the EU fiscal framework (the Stability and Growth Pact and the Directive), the Macroeconomic Imbalances Procedure, the European Semester for economic and employment policy coordination, and the framework for macroeconomic financial assistance programmes.

In 2011, to take into account the lessons of the global financial crisis and the euro area sovereign debt crisis, and as part of the package known as the “Six-pack”, Regulation (EC) No 1466/97 was amended by Regulation (EU) No 1175/2011<sup>4</sup>, Regulation (EC) No 1467/97 was amended by Regulation (EU) No 1177/2011<sup>5</sup>, and Directive 2011/85/EU was adopted.

They helped to ensure a close surveillance of national budgets while paying greater attention to debt levels. In seeking to remedy the root causes of the crisis, the fiscal framework at EU level was complemented by binding provisions at the national level to foster sound budgetary policies in all Member States. For that purpose, the Directive required Member States, among other things, to have in place national fiscal rules, to have independent monitoring of compliance with fiscal rules at the national level and to introduce multiannual budgetary frameworks. These national provisions entered into force to comply with the Directive.

In 2019, the European Court of Auditors (ECA) published a report on the ‘EU requirements on national budgetary frameworks: need to further strengthen them and to better monitor their

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<sup>1</sup> OJ L 306, 23.11.2011, p. 41.

<sup>2</sup> Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1).

<sup>3</sup> Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 209, 2.8.1997, p. 6).

<sup>4</sup> Regulation (EU) No 1175/2011 of the European Parliament and of the Council of 16 November 2011 amending Council Regulation (EC) No 1466/97 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies ([OJ L 306, 23.11.2011, p. 12](#)).

<sup>5</sup> Council Regulation (EU) No 1177/2011 of 8 November 2011 amending Regulation (EC) No 1467/97 on speeding up and clarifying the implementation of the excessive deficit procedure ([OJ L 306, 23.11.2011, p. 33](#)).

application'<sup>6</sup>. In the report, ECA noted weaknesses regarding the efficacy of medium-term budgeting and independent fiscal institutions (IFIs) and recommended the Commission to reinforce requirements on medium-term budgetary frameworks and IFIs in line with international standards.

In 2020, the Commission published a Communication reviewing the suitability of the Directive (hereafter the suitability review)<sup>7</sup>, highlighting progress and room for improvement in the current set-up of national budgetary frameworks. The suitability review pointed to significant improvements in the number and strength of national fiscal rules, a widespread adoption of medium-term fiscal planning, more reliable forecasts and higher fiscal transparency, also encompassing contingent liabilities. However, the review noted also that medium-term planning remained largely subordinate to annual budgeting, it questioned the usefulness of reporting monthly cash-based fiscal data and underlined the high heterogeneity in the interpretation of provisions on forecast evaluation, tax expenditure and extra-budgetary bodies. Also, the use of public accounting was found to be constrained by the lack of a formal common EU framework.

Finally, in its Communication of 9 November 2022 the Commission put forward its orientations for a reform of the EU economic governance framework<sup>8</sup> aimed at ensuring debt sustainability and promoting sustainable and inclusive growth in all Member States. The orientations envisaged a stronger national ownership, a simplified framework and a move towards a greater medium-term focus, combined with stronger and more coherent enforcement. They also envisaged improving the set-up and performance of IFIs. These orientations also reflected observations that emerged from the public consultation launched in October 2021, which invited other EU institutions and all key stakeholders to engage on the topic<sup>9</sup>.

### **Objectives of the proposal**

This proposal presents some amendments to the Directive. In line with the Commission's orientations of 9 November 2022 for a reform of the EU economic governance framework, the amendments aim at strengthening national ownership and the medium-term orientation of budgetary planning. More specifically, they aim at the following:

- Simplifying existing legislation: provisions on the submission of monthly cash-based fiscal data (Article 3(2))<sup>10</sup> are not useful for strengthening national budgetary frameworks as highlighted in the suitability review. Article 8 on the United Kingdom is not necessary anymore. Provisions in Articles 4(4) and 4(5) will not be necessary

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<sup>6</sup> European Court of Auditors special report of 2019 on the 'EU requirements on national budgetary frameworks: need to further strengthen them and to better monitor their application'. [https://www.eca.europa.eu/Lists/ECADocuments/SR19\\_22/SR\\_Fiscal\\_Stability\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/SR19_22/SR_Fiscal_Stability_EN.pdf).

<sup>7</sup> Article 16 of the Directive required the Commission to publish a review of the Directive to assess the suitability of the statistical requirements, the design and effectiveness of numerical fiscal rules and the general level of transparency of public finances in the Member States. The suitability review is part of the Communication COM(2020) 55 final of 5 February 2020 from the Commission 'Economic governance review, Report on the application of Regulations (EU) No 1173/2011, 1174/2011, 1175/2011, 1176/2011, 1177/2011, 472/2013 and 473/2013 and on the suitability of Council Directive 2011/85/EU'.

<sup>8</sup> Communication COM(2022)583 final of 9 November 2022 from the Commission 'on orientations for a reform of the EU economic governance framework'.

<sup>9</sup> Commission Staff Working Document SWD(2022) 104 final of 28 March 2022 'Online public consultation on the review of the EU economic governance framework - Summary of responses - Final Report'.

<sup>10</sup> Articles refer to the original numbering of the Directive, unless specified as 'new'.

anymore if these requirements feature in the proposal for a Regulation XXX (preventive arm).

- Clarifying provisions: it is proposed that Article 4(6) now specifically refers to independent bodies as those in charge of ex-post evaluation of forecasts, to eliminate an ambiguity detected in the suitability review. It is also proposed that Articles 14(1), 14(2) and 14(3) better specify reporting requirements on general government bodies and funds that are not part of the regular national budgets, requirements on tax expenditure and contingent liabilities. These requirements have been interpreted in very diverse ways by the Member States and some of these interpretations did not fully reflect the original rationale of the Directive.
- Strengthening national ownership: it is proposed to add or clarify requirements on IFIs. In some cases, the proposed new provisions already applied to the euro area Member States and also to Denmark, Bulgaria and Romania, as contracting parties to the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union (hereby the TSCG)<sup>11</sup> (new Article 8). Other proposed provisions aim at adding tasks that would allow IFIs to play a role in the surveillance of the EU fiscal framework at the national level as proposed in the proposal for a Regulation XXX (preventive arm) and also in the proposal for amending Regulation 1467/97 (corrective arm). These include the preparation or endorsement of budgetary forecasts as well as assessing sustainability analyses and the impact of policies. Finally, some proposed provisions ensure the independence and accountability of IFIs to reflect standards identified by international organisations, as recommended in the report of 2019 of ECA.
- Promoting a medium-term orientation: it is proposed that the multiannual budgetary dimension in the forecasts is more systematically specified (Article 4) and so would be the link between the annual budget and medium-term planning (Article 10), which had been found to be weak in the report of of 2019 of ECA and in the suitability review.
- Improving the quality of public finance: a few provisions are proposed to promote the accountability of public budgets and increase the transparency of fiscal risks vis-à-vis climate change. Article 9(2), point d would now require assessing the risks deriving from climate change and the implications of climate policies on public finances. Similarly, Article 14(3) would require Member States to publish data to the extent possible on disaster and climate-related contingent liabilities as well as on economic losses incurred from natural disasters and climate-related shocks. For these shocks, the fiscal costs borne by the public sector and the instruments used to mitigate or cover the shocks would also be reported.

- **Consistency with existing provisions in the policy area**

The proposal is part of a broader package of proposals following the Commission's orientations of 9 November 2022 for a reform of the EU economic governance framework. This package includes also a proposal for a Regulation replacing the preventive arm of the Stability and Growth Pact (SGP) and amendments to the corrective arm of the SGP and aims at establishing a reformed framework that relies on medium-term orientation and national ownership aiming at a credible and substantial reduction of high debt levels and at promoting

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<sup>11</sup> Treaty on Stability, Coordination and Governance in the Economic and Monetary Union of 2 March 2012.

sustainable and inclusive growth. The reformed economic governance framework, thus, retains the fundamental objectives of budgetary discipline and growth promotion of the SGP and its founding provisions in the Treaty on the Functioning of the European Union (TFEU).

At the same time, by aiming at sound and sustainable public finances as well as the promotion of sustainable and inclusive growth, the reformed framework also meets the main objectives of the Fiscal Compact which forms Title III of the TSCG<sup>12</sup>. In addition, other elements of the proposed legislation retain the substance of the Fiscal Compact. With a medium-term orientation anchored on country-specific debt challenges, the proposal for a Regulation replacing the preventive arm of the SGP reflects in part the Fiscal Compact's requirement of convergence to medium-term positions and that the time frame of this convergence is to be proposed taking into account country-specific sustainability risks (Article 3(1), point b, of the TSCG). While emphasising the structural balance, the Fiscal Compact also requires an analysis of expenditure net of discretionary revenue measures for the overall assessment of compliance (Article 3(1), point b, of the TSCG), and this analysis is upheld in the proposal for a Regulation replacing the preventive arm of the SGP. The Fiscal Compact allows for temporary deviations from the medium-term objective or adjustment path towards it only in exceptional circumstances (Article 3(1), point c, of the TSCG), as envisaged in the proposal for a Regulation replacing the preventive arm of the SGP. The Fiscal Compact stipulates that in case of significant observed deviations from the medium-term objective or the adjustment path towards it, measures have to be implemented to correct the deviations over a defined period of time (Article 3(1), point e, of the TSCG). In the same vein, the reformed framework requires corrections of deviations from the net expenditure path set by the Council. Moreover, when deviations result in a deficit in excess of 3% of GDP, the Member State could be placed under the excessive deficit procedure (EDP). For a Member State with debt above 60% of GDP, the debt-based EDP would be strengthened: it would focus on departures from the net expenditure path, replacing the current debt reduction benchmark (the so-called "1/20th rule"), which imposed a too demanding fiscal effort for some Member States. The Fiscal Compact assigns a monitoring role of the compliances with its rules to IFIs, and the provisions on the role and independence of those monitoring institutions, which had to be detailed in common principles proposed by the Commission<sup>13</sup> in accordance with Article 3(2) of the TSCG, are now fully integrated in the proposal amending the Directive. The Fiscal Compact provides that the Commission and the Council play a role in the enforcement process (Article 5 of the TSCG), as stated in the proposed amendments to the corrective arm of the SGP.

Commonalities between the Fiscal Compact and the reformed economic governance framework also stem from the implementation of the Fiscal Compact into the national legal

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<sup>12</sup> With the aim of strengthening budgetary discipline throughout the economic cycle, on 2 March 2012, 25 Member States ratified the inter-governmental TSCG. In its first paragraph, Article 2 of the TSCG recalls that it *'shall be applied and interpreted by the Contracting Parties in conformity with the Treaties on which the EU is founded, in particular Article 4(3) TEU, and with European law, including procedural law whenever the adoption of secondary legislation is required'*. In its second paragraph, Article 2 of the TSCG recalls that it *'shall apply insofar as it is compatible with the Treaties on which the EU is founded and with EU law. It shall not encroach upon the competence of the Union to act in the area of the economic union'*. Title III of the TSCG, the "Fiscal Compact", is binding on the Member States whose currency is the euro and, on a voluntary basis, on other Member States (TSCG, art. 1(2) and 14(5)). Article 16 of the TSCG provides that *'within five years at most, of the date of entry into force of this Treaty, on the basis of an assessment of the experience with its implementation, the necessary steps shall be taken, in accordance with the TEU and the TFEU, with the aim of incorporating the substance of this Treaty into the legal framework of the EU'*

<sup>13</sup> See Communication COM(2012) 342 final of 20 June 2012 from the Commission 'Common principles on national fiscal correction mechanisms'.

orders. Most Contracting Parties have transposed the TSCG provisions into national laws inserting a direct link with corresponding EU laws<sup>14</sup>. This applies to the medium-term objective and convergence path as well as the assessment of a significant deviation or provisions requiring to follow the recommendations adopted by the Council (all drawn from Regulation No 1466/97).

Considering these commonalities, the proposed reformed economic governance framework can be considered as incorporating the substance of the fiscal provisions of the TSCG into the legal framework of the EU, as per Article 16 of the TSCG.

- **Consistency with other Union policies**

By inserting requirements on the implications of climate-change on national budgetary policies and fiscal risks, the proposal ensures consistency with other Union policies that support actions for climate change mitigation and adaptation in line with the objective of ensuring a fair transition towards climate neutrality. For some Member States, as part of their Recovery and Resilience Plans, several reforms are being implemented that will conduce to improving the budgetary frameworks, for instance through improving the independence of some fiscal institutions, in line with the proposed amendments.

## **2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES**

As part of the economic governance review, the Commission conducted manifold outreach activities inter alia by organising conferences and engaging in more targeted stakeholder exchange. Most prominently, in October 2021 the Commission launched a public consultation<sup>15</sup> inviting other EU institutions and all key stakeholders to engage. Through various fora, including dedicated meetings, workshops and an online survey, citizens and a wide range of participants, including national governments, parliaments, social partners, academia and other EU institutions, expressed their views on how to reform the EU economic governance. Many stakeholders favoured a strengthening of national budgetary frameworks, including through a greater involvement of IFIs in the surveillance of the EU framework. In some cases, the IFIs' involvement was seen as a way to increase the reputational costs of breaking budgetary commitments.

Besides a role in EU surveillance, some stakeholders also advocated for a stronger monitoring role of national fiscal rules for IFIs, to be enforced through an obligation for governments to systematically take into account IFIs' assessments, along with a more structured dialogue between IFIs and EU institutions. An expansion of tasks was in some cases proposed covering the production of inputs for debt sustainability analyses, the production of macroeconomic forecasts (including those for medium-term plans) that could serve as a starting point for national governments to plan their fiscal policy, and the production or validation of budgetary plans. An advisory role on fiscal policy was also suggested, together with a more prominent role in the public debate.

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<sup>14</sup> Report C(2017) 1201 final of 22 February 2017 from the Commission presented under Article 8 of the TSCG.

<sup>15</sup> Commission Staff Working Document SWD(2022) 104 final of 28 March 2022 '[Online public consultation on the review of the EU economic governance framework: summary of responses](#)'.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Legal basis**

The legal basis for the amended Directive is the third subparagraph of Article 126(14) TFEU. Strengthening requirements for national budgetary frameworks in the Member States aims to complement and reinforce the Union policy framework to avoid excessive deficits as established under Article 126 TFEU. The proposal applies to all Member States.

- **Subsidiarity and proportionality**

The proposal is in conformity with the subsidiarity and proportionality principles set out in Article 5 of the Treaty on the European Union. Its objective, namely uniform compliance with budgetary discipline as required by the TFEU, cannot be sufficiently achieved by the Member States and can be better achieved at Union level. In addition, given that the proposed amendments mainly aim at addressing some shortcomings of the Directive or at clarifying its provisions, or at updating them, taking into account in particular the proposal for a Regulation replacing the preventive arm of the SGP and the amendments to the corrective arm of the SGP, they can be best achieved at EU level rather than by different national initiatives.

The proposed amended Directive does not go beyond what is necessary in order to achieve that objective. With a view to reduce the administrative burden for the Member States, some amendments propose simplification of the requirements of the Directive, and coherence with the proposal for a Regulation replacing the preventive arm of the SGP and the amendments to the corrective arm of the SGP is ensured. Proportionality is also ensured by those amendments aiming at clarifying concepts and definitions which ease the implementation of the Directive. Similarly, many IFI-related provisions are drawn from existing rules applying to some but not all Member States, i.e. the TSCG or Regulation No 473/2013. As a result, in many Member States, these provisions are already implemented. In addition, reporting climate-related risks and losses is required taking into account ongoing national efforts and the need to adapt these practices to country specific needs and preferences. Finally, by allowing Member States to transpose these provisions in their national legal order, the proposed amended Directive is also a suitable tool to achieve its objective, as it enables Member States to adapt the requirements to their own specificities.

### **4. BUDGETARY IMPLICATIONS**

The proposal does not have implications for the Union budget.

Proposal for a

## **COUNCIL DIRECTIVE**

### **amending Directive 2011/85/EU on requirements for budgetary frameworks of the Member States**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 126(14), third subparagraph, thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Central Bank,

Whereas:

- (1) In order to ensure Member States' compliance with the obligations under the Treaty on the Functioning of the European Union (TFEU) in the area of budgetary policy, and in particular with regard to avoiding excessive government deficits, Council Directive 2011/85/EU<sup>16</sup> laid down detailed rules concerning the characteristics of the budgetary frameworks of the Member States.
- (2) Building upon the experience gained with the economic and monetary union since Directive 2011/85/EU came into force, it is necessary to amend its requirements regarding the rules and procedures forming the budgetary frameworks of the Member States.
- (3) In 2019, the European Court of Auditors published a report examining the Union requirements on national budgetary frameworks and recommending the Commission to review those requirements, taking into account international standards and best practice. The European Court of Auditors proposed specific actions to improve the scope and effectiveness of national budgetary frameworks, particularly as regards medium-term budgetary frameworks and independent fiscal institutions<sup>17</sup>.
- (4) Commission Communication of 5 February 2020<sup>18</sup> pointed to substantial but uneven progress in the development of national budgetary frameworks considering that Union law only sets minimum requirements and that implementation and compliance

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<sup>16</sup> 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).

<sup>17</sup> European Court of Auditors special report of 2019 on the 'EU requirements on national budgetary frameworks: need to further strengthen them and to better monitor their application'.

<sup>18</sup> Communication COM(2020) 55 final of 5 February 2020 from the Commission 'Economic governance review, Report on the application of Regulations (EU) No 1173/2011, 1174/2011, 1175/2011, 1176/2011, 1177/2011, 472/2013 and 473/2013 and on the suitability of Council Directive 2011/85/EU'.



with national provisions had been very diverse. That Communication also considered the extent to which the framework would support economic, environmental and social policy needs related to the transition towards a climate-neutral, resource-efficient and digital European economy, complementing the key role of the regulatory environment and structural reforms.

- (5) Commission Communication of 11 December 2019 on the European Green Deal<sup>19</sup> called for a greater use of green budgeting tools to redirect public investment, consumption and taxation to green priorities and away from harmful subsidies. The European Climate Law sets a Union-wide climate neutrality objective by 2050 and requires Union institutions and Member States to progress in enhancing adaptive capacity. The Commission committed to working with the Member States to screen and benchmark green budgeting practices. Commission Communication of 24 February 2021 on the new EU strategy on adaptation to climate change<sup>20</sup> pointed to the macro-fiscal relevance of climate change and highlighted the need to increase Union's resilience to the impacts of climate change. The European Semester provides an additional framework to support such efforts and the Technical Support Instrument offers practical assistance for their implementation.
- (6) Commission Communication of 9 November 2022 on orientations for a reform of the EU economic governance framework<sup>21</sup> highlighted the need to strengthen debt sustainability and reduce high public debt ratios while promoting sustainable and inclusive growth in all Member States. The key objectives of the orientations are to improve national ownership, simplify the framework and move towards a greater medium-term focus, combined with stronger and more coherent enforcement.
- (7) In order to enhance compliance with the provisions of the TFEU, and to avoid in particular the procedure for excessive government deficit laid down in Article 126 TFEU, there should be specific provisions in the law of the Member States to strengthen national ownership, in accordance with the Commission Communication of 9 November 2022 on orientations for a reform of the EU economic governance framework, beyond those currently required by Directive 2011/85/EU. Building on the evidence of implementation of that Directive, amendments should also cover provisions on transparency and statistics, forecasts and medium-term budgeting to address weaknesses identified during implementation.
- (8) This Directive is part of a package together with Regulation (EU) [XXX]<sup>22</sup> of the Parliament and of the Council replacing Regulation (EC) No 1466/97<sup>23</sup> (the preventive arm of the Stability and Growth Pact) and Council Regulation [XXX]<sup>24</sup> amending Council Regulation (EC) No 1467/97<sup>25</sup> (the corrective arm of the Stability and Growth Pact). Together, they establish a reformed Union economic governance

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<sup>19</sup> Communication COM(2019) 640 final from the Commission 'The European Green Deal'.

<sup>20</sup> Communication COM(2021) 82 final from the Commission 'Forging a climate-resilient Europe - the new EU Strategy on Adaptation to Climate Change'.

<sup>21</sup> Communication COM(2022) 583 final from the Commission 'on orientations for a reform of the EU economic governance framework'.

<sup>22</sup> Regulation (EU) of the European Parliament and of the Council of [insert date] [insert full title] (OJ L ..).

<sup>23</sup> Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1).

<sup>24</sup> Regulation (EU) of the Council of [insert date] [insert full title] (OJ L ..).

<sup>25</sup> Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 209, 2.8.1997, p. 6).

framework that incorporates into Union law the substance of Title III ‘Fiscal Compact’ of the inter-governmental Treaty on Stability, Coordination and Governance (TSCG) in the Economic and Monetary Union<sup>26</sup>, in accordance with Article 16 thereof. Title III is binding on the Member States whose currency is the euro and, on a voluntary basis, on Bulgaria, Denmark and Romania. By building on the experience with the implementation of the TSCG by the Member States, the package retains the Fiscal Compact’s medium-term orientation as a tool to achieve budgetary discipline and growth promotion. The package includes a strengthened country-specific dimension aimed at enhancing national ownership, including by means of a stronger role for independent fiscal institutions, which draws on the Fiscal Compact’s common principles proposed by the Commission<sup>27</sup> in accordance with Article 3(2) of the TSCG. The analysis of expenditure net of discretionary revenue measures for the overall assessment of compliance required by the Fiscal Compact is set out in Regulation [XXX] replacing Regulation (EC) No 1466/97. As in the Fiscal Compact, temporary deviations from the medium-term plan are allowed only in exceptional circumstances in Regulation [XXX] replacing Regulation (EC) No 1466/97. Similarly, in case of significant deviations from the medium-term plan, measures should be implemented to correct the deviations over a defined period of time. The package strengthens fiscal surveillance and enforcement procedures to deliver on the commitment of promoting sound and sustainable public finances and sustainable growth. The economic governance framework reform, thus, retains the fundamental objectives of budgetary discipline and debt sustainability set out in the TSCG.

- (9) Complete and reliable public sector accounting practices for all subsectors of general government are a precondition for the production of high-quality statistics that are comparable across Member States. The availability and quality of the European System of Accounts (ESA 2010) based statistics is crucial to ensure the proper functioning of the Union’s fiscal surveillance framework. ESA 2010 relies on information provided on an accrual basis. It is therefore necessary to improve the collection of accrual data and information needed to generate accrual-based statistics in a way that is integrated, comprehensive and harmonised across all subsectors of general government.
- (10) The availability of high frequency data can reveal patterns warranting closer surveillance and improve the quality of budgetary forecasts. Member States and the Commission (Eurostat) should publish cash-based data, quarterly deficit and debt data applying the definitions set out in Article 2 of the Protocol (No 12) on the excessive deficit procedure annexed to the Treaty on European Union (TEU) and to the TFEU. Publication of budgetary data with higher frequency that are tailored to national budgetary definitions should be determined on the basis of national transparency requirements and user needs, to improve national ownership.
- (11) Biased and unrealistic macroeconomic and budgetary forecasts for the annual and multiannual budget legislations can considerably hamper the effectiveness of fiscal planning and consequently impair commitment to budgetary discipline. To improve baseline assumptions and provide unbiased assessments of the fiscal impact of

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<sup>26</sup> Treaty on Stability, Coordination and Governance in the Economic and Monetary Union of 2 March 2012.

<sup>27</sup> Communication COM(2012) 342 final of 20 June 2012 from the Commission ‘Common principles on national fiscal correction mechanisms’.

various policy measures, the macroeconomic and budgetary forecasts of the Member States should be endorsed or produced by an independent fiscal institution.

- (12) Macroeconomic and budgetary forecasts should be subject to regular, objective and comprehensive evaluations performed by an independent body in order to enhance their quality. Those evaluations should include scrutiny of the economic assumptions, comparison with forecasts prepared by other institutions, and evaluation of past forecast performance.
- (13) Independent bodies charged with monitoring public finances in the Member States are an essential building block of effective budgetary frameworks. Regulation (EU) No 473/2013 of the European Parliament and of the Council<sup>28</sup> requires Member States whose currency is the euro to have independent fiscal institutions tasked with the endorsement or production of macroeconomic forecasts and establishes specific safeguards regarding their independence and technical capacity. Given the positive contribution to public finance of independent bodies, those requirements should be extended to all Member States. In order to foster fiscal discipline and strengthen the credibility of fiscal policy, such bodies should also contribute to budgetary planning by either producing or endorsing the forecasts and debt analyses used by the government, and by carrying out independent assessments of fiscal policies and monitoring compliance with the fiscal framework.
- (14) In order to achieve strengthened responsibility in fiscal policy, fiscal institutions should have a high degree of operational independence, the necessary resources to perform their tasks and extensive and timely access to necessary information.
- (15) To improve budgetary planning, due attention should be paid to the macrofiscal risks from climate change and to the implications of climate-related policies on public finance over the medium and long term. Understanding the channels through which climate-related shocks affect the economy and public finance is key to national strategies to limit and manage the fiscal risk stemming from climate change and from related disasters.
- (16) A single-year perspective for budgetary planning provides a limited basis for sound fiscal policies, as most measures have implications that go well beyond the annual budgetary cycle. As such, effective multiannual fiscal planning strengthens the credibility of fiscal policy while taking into account debt sustainability. Effective medium-term planning rests on a clear and consistent definition of national budgetary objectives over the medium term, which are presented in national medium-term plans. In order to enhance a multiannual budgetary perspective, planning of annual budget legislation should be consistent with the multiannual objectives established in medium-term budgetary frameworks.
- (17) To be effective in promoting budgetary discipline and the sustainability of public finance, budgetary frameworks should comprehensively cover public finances. For that reason, particular attention should be given to operations of those general government bodies and funds which do not form part of the regular budgets at subsector level and that have an immediate or medium-term impact on Member States' budgetary positions. The values of the combined impact on general government balances and debts of those operations should be presented in the

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<sup>28</sup> Regulation (EU) No 473/2013 of the European Parliament and of the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area (OJ L 140, 27.5.2013, p. 11).

framework of the annual budgetary processes and in the medium-term budgetary plans, capturing impacts stemming from future operations and outstanding and expected new liabilities.

- (18) Similarly, transparency regarding the type and size of tax expenditures and resulting revenue losses is necessary to provide a more profound understanding of the extent to which fiscal policy and budgetary planning are aligned with government priorities.
- (19) Green budgeting tools can help redirect public revenue and expenditure to green priorities. In that respect, reliable and regular reporting of comprehensive, useful, and accessible information improves budget deliberations. This means reporting data on how revenues reflect the need to ensure that the “polluter-pays” principle is reflected, and in turn on how expenditure reflects both favourably and unfavourably green priorities. Member States should publish the information on how the relevant elements of their budgets contribute to achieving climate and environmental national and international commitments and the methodology used. Member States should publish data and descriptive information separately for expenditure, tax expenditure and revenue items. Member States are invited to publish information on the distributional impact of budgetary policies and take into account employment, social and distributional aspects in the development of green budgeting<sup>29</sup>.
- (20) Due attention should be paid to the existence of contingent liabilities. More specifically, contingent liabilities encompass possible obligations depending on the occurrence of an uncertain future event, or present obligations where payment is not probable or the amount of the probable payment cannot be measured reliably. They comprise, for instance, government guarantees, non-performing loans, liabilities stemming from the operation of public corporations, and potential expenses and obligations arising from court cases and disaster-related contingent liabilities.
- (21) Natural disasters and extreme weather events have affected most Member States and climate change is expected to amplify the frequency and intensity of such events. Governments invest in climate adaptation measures and step in to cover disaster costs for emergency relief, recovery and reconstruction and to act as insurer of last resort in some cases. Considering the existing and future challenges for the sustainability of public finances, particular attention should be paid to government obligations and risks to government finances stemming from natural disasters and climate-related events, starting with collecting and publishing information on the economic losses and fiscal cost of past events as well as information on the budgetary arrangements and financial instruments used for that matter.
- (22) The Commission should continue to regularly monitor the implementation of Directive 2011/85/EU. Best practices concerning the implementation of the provisions of that Directive should be identified and shared.
- (23) Directive 2011/85/EU should therefore be amended accordingly,

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<sup>29</sup> Communication COM(2022)494 final of 28 September 2022 from the Commission ‘Better assessing the distributional impact of Member States’ policies’ and Article 6(3), point (d), of Regulation (EU) No 473/2013 of the European Parliament and of the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area (OJ L 140, 27.5.2013, p. 11).

HAS ADOPTED THIS DIRECTIVE:

Directive 2011/85/EU is amended as follows:

(1) Article 2 is amended as follows:

(a) in the first paragraph, the second sentence is replaced by the following:

‘The definition of subsectors of general government set out in Annex A to Regulation (EU) No 549/2013 of the European Parliament and of the Council shall apply.\*

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\*OJ L 174, 26.6.2013, p.1.’

(b) the second paragraph is amended as follows:

(i) point (a) is replaced by the following:

‘(a) systems of public sector accounting and statistical reporting;’

(ii) point (c) is replaced by the following:

‘(c) country-specific numerical fiscal rules that contribute to the consistency of Member States’ conduct of fiscal policy with their respective obligations under the TFEU, expressed in terms of a summary indicator of budgetary performance, such as the government budget deficit, borrowing, debt, or a major component thereof;’

(iii) point (e) is replaced by the following:

‘(e) medium-term budgetary frameworks as a specific set of national budgetary procedures that extend the horizon for fiscal policy-making beyond the annual budgetary calendar, including the setting of policy priorities and of national budgetary objectives over the medium-term;’

(iv) the following point (h) is added:

‘(h) independent fiscal institutions as bodies structurally independent or bodies endowed with functional autonomy as regards the budgetary authorities of the Member States established in accordance with Article 8.’

(2) Article 3 is replaced by the following:

‘1. As concerns national systems of public accounting, Member States shall have, by 2030, integrated, comprehensive and nationally harmonised accrual financial accounting systems covering all subsectors of general government and containing the cash and accrual information needed to prepare data based on ESA 2010. Those public sector financial accounting systems shall be subject to internal control and independent audits.

2. Member States shall ensure timely and regular public availability of fiscal data for all subsectors of general government as set out by Regulation (EU) No 549/2013 of the European Parliament and of the Council\*. In particular, Member States shall publish quarterly debt and deficit data separately for central government, state government, local government and social security funds, before the end of the following quarter or after publication of the relevant data by the Commission (Eurostat).

3. The Commission (Eurostat) shall publish the quarterly government finance statistics data in accordance with tables 25, 27 and 28 of Annex B to Regulation (EU) No 549/2013, every 3 months.

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\*OJ L 174, 26.6.2013, p. 1.’

(3) Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that annual and multiannual fiscal planning is based on realistic macroeconomic and budgetary forecasts using the most up-to-date information. Budgetary planning shall be based on the most likely macrofiscal scenario or on a more prudent scenario. The macroeconomic and budgetary forecasts shall be either produced or endorsed by independent fiscal institutions established in accordance with Article 8. They shall be compared with the most updated forecasts of the Commission. Significant differences between the macroeconomic and budgetary forecasts of the Member State and the Commission’s forecasts shall be explained, including where the level or growth of variables in external assumptions departs significantly from the values contained in the Commission’s forecasts.’

(b) paragraph 4 is deleted.

(c) paragraphs 5 and 6 are replaced by the following:

‘5. Member States shall specify which institution is responsible for producing macroeconomic and budgetary forecasts. At least annually, the Member States and the Commission shall engage in a technical dialogue concerning the assumptions underpinning the preparation of macroeconomic and budgetary forecasts.

6. The macroeconomic and budgetary forecasts for annual and multiannual fiscal planning produced by the national institutions shall be subject to regular, objective and comprehensive evaluation by an independent body, including *ex post* evaluation. The result of that evaluation shall be made public and taken into account appropriately in future macroeconomic and budgetary forecasts. If the evaluation detects a significant bias affecting macroeconomic forecasts over a period of at least 4 consecutive years, the Member State concerned shall take the necessary action and make it public.’

(d) paragraph 7 is deleted.

(4) Article 5 is replaced by the following:

#### ‘Article 5

Each Member State shall establish its specific numerical fiscal rules to effectively promote compliance with its obligations deriving from the TFEU in the area of fiscal planning over a multiannual period for the general government as a whole. Such rules shall promote in particular:

- (a) compliance with the reference values and provisions on deficit and debt set in accordance with the TFEU;
- (b) the adoption of a multiannual fiscal planning period, consistent with the provisions of Regulation [XXX preventive arm of the SGP].\*

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\* Regulation (EU) of the European Parliament and of the Council of [insert date] [insert full title] (OJ L ..).’

(5) Article 6 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

‘(b) The effective and timely monitoring of compliance with the rules, based on reliable and independent analysis carried out by independent fiscal institutions established in accordance with Article 8.’;

(b) paragraph 2 is replaced by the following:

‘If numerical fiscal rules contain escape clauses, such clauses shall set out a limited number of specific circumstances, consistent with the Member States’ obligations deriving from the TFEU and Regulation [XXX preventive arm of the SGP], and stringent procedures in which temporary non-compliance with the rules is permitted. Escape clauses shall have clear time limits.’

(6) Article 7 is replaced by the following:

‘Article 7

The annual budget legislation of the Member States be consistent with the country-specific numerical fiscal rules in force.’

(7) In Chapter V, the title is replaced by ‘INDEPENDENT FISCAL INSTITUTIONS’

(8) Article 8 is replaced by the following:

‘Article 8

1. Member States shall ensure that independent fiscal institutions, such as structurally independent bodies or bodies endowed with functional autonomy as regards the budgetary authorities of the Member States, are established by national laws, regulations or binding administrative provisions.

2. The institutions referred to in paragraph 1 shall be composed of members nominated and appointed on the basis of their experience and competence in public finances, macroeconomics or budgetary management, and by means of transparent procedures.

3. The institutions referred to in paragraph 1 shall:

(a) not take instructions from the budgetary authorities of the Member State concerned or from any other public or private body;

(b) have the capacity to communicate publicly about their assessments and opinions in a timely manner;

(c) have adequate and stable own resources to carry out their mandate in an effective manner, including any type of analysis within their mandate;

(d) have adequate and timely access to the information needed to fulfil their mandate;

(e) be subject to regular external evaluations by independent evaluators.

4. Member States shall ensure that the institutions referred to in paragraph 1 have the following tasks:

(a) producing the annual and multiannual macroeconomic and budgetary forecasts underlying the government’s medium-term planning or endorsing those used by the budgetary authorities;



(b) producing debt sustainability assessments underlying the government's medium-term planning or endorsing those provided by the budgetary authorities;

(c) producing assessments on the impacts of policies on fiscal sustainability and sustainable and inclusive growth or endorsing those provided by the budgetary authorities;

(d) monitoring compliance with country-specific numerical fiscal rules in accordance with Article 6;

(e) monitoring compliance with the Union fiscal framework in accordance with Regulations [XXX preventive arm of the SGP] and [XXX corrective arm of the SGP] \*;

(f) conducting, on a regular basis, reviews of the national budgetary framework, in order to assess the consistency, coherence and effectiveness of the framework, including mechanisms and rules that regulate fiscal relationships between public authorities across sub-sectors of general government;

(g) participate in regular hearings and discussions at the national Parliament.

5. Member States shall ensure that the budgetary authorities of the Member State concerned comply with the assessments or opinions issued by the institutions in the context of the tasks referred to in paragraph 4. Where such budgetary authorities do not comply with those assessments or opinions, they shall publicly justify the decision not to comply within a month from the issuance of such assessments or opinions.

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\* Regulation (EU) of the Council of [insert date] [insert full title] (OJ L ..).

(9) Article 9 is amended as follows:

a) paragraph 1 is replaced by the following:

‘1. Member States shall establish a credible, effective medium-term budgetary framework providing for the adoption of a fiscal planning period of at least 4 years to ensure that national fiscal planning follows a multiannual fiscal planning perspective.’

b) paragraph 2 is amended as follows:

(i) point (a) is replaced by the following:

‘(a) comprehensive and transparent multiannual budgetary objectives as referred to in Article 2, point (e) in terms of the general government deficit, debt and any other summary fiscal indicator such as expenditure, ensuring that they are consistent with any country-specific numerical fiscal rules as provided for in Chapter IV of this Directive and the relevant provisions of Regulation [XXX preventive arm of the SGP].’;

(ii) point (c) is replaced by the following:

‘(c) a description of medium-term policies, including investment and reforms, envisaged with an impact on general government finances and sustainable and inclusive growth, broken down by major revenue and expenditure item, showing how the adjustment towards the national budgetary objectives over the medium term as referred to in Article 2, point (e), is achieved compared to projections under unchanged policies.’;

(iii) point (d) is replaced by the following:

‘(d) an assessment as to how in the light of their direct medium-term and long-term impact on general government finances, the policies envisaged are likely to affect the medium-term and long-term sustainability of the public finances and sustainable and inclusive growth. The assessment shall specify, to the extent possible, the macrofiscal risks from climate change and their environmental and distributional impacts, and the implications on public finance of climate-related mitigation and adaptation policies over the medium-term and long-term.’;

c) paragraph 3 is deleted;

(10) Articles 10 and 11 are replaced by the following:

#### ‘Article 10

Annual budget legislation shall be consistent with the national budgetary objectives over the medium term as referred to in Article 2, point (e). Any departure shall be duly explained.’;

#### Article 11

This Directive shall, in no way, prevent a Member State’s new government from updating its medium-term budgetary plan to reflect its new policy priorities. In such case, the new government shall indicate the differences between the previous and the new medium-term budgetary plan.’;

(11) in Chapter VI, the title is replaced by the following: ‘TRANSPARENCY OF GENERAL GOVERNMENT FINANCES’

(12) Article 12 is replaced by the following:

#### ‘Article 12

Member States shall ensure that any measures taken in compliance with Chapters II, III and IV are consistent across, all subsectors of general government and cover comprehensively those subsectors. To that effect Members States shall, in particular, require consistent public sector accounting rules and procedures, and the integrity of their underlying data collection and processing systems.’;

(13) Article 14 is replaced by the following:

‘Article 14

1. Within the framework of the annual and multiannual budgetary legislation processes, Member States shall publish bodies and funds which do not form part of the regular budgets but are part of the general government, including subsectors of general government. Member States shall also publish values corresponding to the combined impact on general government balances and debts of those bodies and funds whereby the impact on the balances shall include past and expected future operations and the impact on debts shall include outstanding and expected new liabilities.
2. Member States shall publish detailed information on the impact of tax expenditures on revenues for the national budgetary objectives as referred to in Article 2, point (e), based on a transparent methodology.
3. For all subsectors of general government, Member States shall publish relevant information on contingent liabilities with potentially large impact on public budgets, including government guarantees, non-performing loans, and liabilities stemming from the operation of public corporations, potential expenses and obligations arising from court cases, including the extent thereof. Member States shall also publish information on disaster and climate-related contingent liabilities to the extent possible. Member States shall publish information on past calls on one-off guarantees and expenditure recorded for standardised guarantees. Published information shall include information on economic losses incurred due to disasters and climate-related shocks, including the fiscal costs borne by the public sector and the instruments used to mitigate or cover them. Member States shall publish information on the participation of general government in the capital of private and public corporations in respect of economically significant amounts.’

(14) Article 14a. is added as follows

‘Article 14a.

1. By 14 December 20XX the Commission shall publish a review of the effectiveness of this Directive.
2. By 31 December 2025, the Commission shall report on the state of play and future direction of public sector financial accounting in the Union, taking into account the progress made since its 2013 assessment of the suitability of the International Public Sector Accounting Standards for the Member States.’

(15) Article 15 is replaced by the following:

‘Article 15

1. Member States shall bring into force the provisions necessary to comply with this Directive by 31 December 202X. They shall forthwith communicate to the Commission the

text of those provisions. The Council encourages Member States to draw up, for themselves and in the interests of the Union, their own correlation tables which will, as far as possible, illustrate the correlation between this Directive and the transposition measures, and to make them public.

2. When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

3. The Commission shall prepare an interim progress report on the implementation of the main provisions of this Directive on the basis of relevant information from Member States, which shall be submitted to the European Parliament and to the Council by 14 December 20XX.

4. Member States shall communicate to the Commission the text of the main provisions which they adopt in the field covered by this Directive.’

(16) Article 16 is deleted.

Done at Brussels,

*For the Council*  
*The President*