Bialystok Legal Studies
Białostockie Studia Prawnicze
2024 vol. 29 no. 1

DOI: 10.15290/bsp.2024.29.01.04

Received: 30.06.2023
Accepted: 10.12.2023

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Independent Fiscal Institutions: Considerations in the Context of Current Challenges in Public Finance and Law

Abstract: This paper discusses the idea of the functioning of an independent fiscal institution (IFI) in Poland according to the EU's requirements. The first section provides an overall description of the institution. Section 2 provides theoretical insights into possible institutional models of IFIs which are established in the EU: the purpose is to discern what lessons can be learnt from IFI models in other EU countries. Section 3 discusses the legal basis of and standards in this area of public-sector control; section 4 addresses how that adoption would look in Poland. The objective of the article is to determine what the challenges in the Polish state fiscal policy are.
Keywords: budgetary institutions, fiscal councils, independent fiscal institutions, legislation, public finances, transparency

Introduction

Various scholars have indicated that it is necessary not only to develop appropriate budgetary procedures but also fiscal rules (Debrun et al., 2008, p. 305; Panfil, 2021, pp. 70–76) and an independent fiscal institution (IFI) (Gołębiowski, 2010, pp. 1–4) as a crucial part of state fiscal policy. One of the reasons to create an IFI in an EU Member State is the obligation to implement the EU budget framework.[1] Member States of the EU were obligated to bring the provisions necessary to comply with

1 According to Article 2 of Directive 2011/85/EU, the 'budgetary framework' should be understood as the set of arrangements, procedures, rules and institutions that underlie the conduct of budgetary policies of general government.

the Council Directive 2011/85/EU of 8 November 2011 on Requirements for Budgetary Frameworks of the Member States into force by 31 December 2013 (Article 15(1) of Directive 2011/85/EU). According to the Directive, strong numerical fiscal rules should be based on reliable and independent analysis carried out by independent bodies or bodies endowed with functional autonomy vis-à-vis the fiscal authorities of the Member States. The question is how Poland has coped with this challenge compared to other EU Member States.

1. The concept and definition of independent fiscal institutions (IFIs)

The European Commission (EC) published a package of legislative proposals to reform the EU's economic governance on 26 April 2023 (European Commission, 2023b). The central objective of these proposals was to strengthen public debt sustainability while promoting sustainable and inclusive growth in all Member States through reforms and investment; this was a continuation of actions taken in 2015. At that time, in response to the financial crisis of the early 21st century (which turned into a budget crisis), there was a search for legal solutions that would allow monitoring and assessment of poor budgetary management. Deficit bias and growing public sector debt have led the governments of some Member States to the necessity of establishing an IFI, usually in the form of independent parliamentary budget offices or fiscal councils (Postuła & Kawarska, 2022, p. 60). The activity of these entities is intended to supplement the regulation on fiscal rules in individual EU Member States.

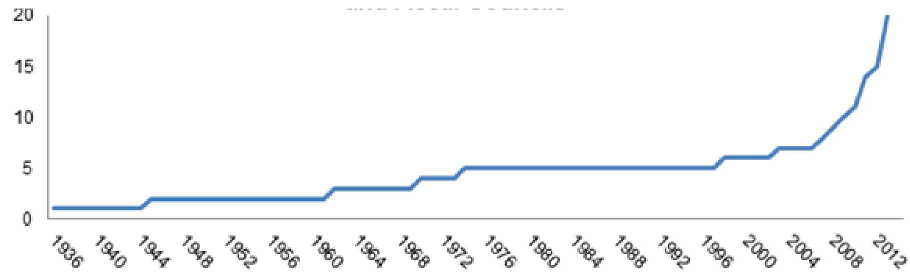
Today, IFIs are considered among the most important innovations in the emerging architecture of public financial management (von Trapp et al., 2015, p. 9). They are also called 'fiscal watchdogs', as they serve to promote sound fiscal policy and sustainable public finances, have the potential to improve fiscal discipline, and promote better budget transparency and accountability. The concept of IFIs is also related to an increase in the quality of public debate on fiscal policy. Independent fiscal institutions are defined by the European Commission as 'non-partisan public bodies, other than the central bank, government or parliament, aimed at promoting sustainable public finances through various functions, including monitoring compliance with fiscal rules, production or endorsement of macroeconomic forecasts for the budget, and/or advising the government on fiscal policy matters. These institutions are primarily financed by public funds and are functionally independent vis-à-vis fiscal authorities' (European Commission, n.d. b). The International Monetary Fund (IMF) characterizes them as 'independent fiscal councils', which are non-partisan, technical bodies entrusted with a public-finance watchdog role (Beetsma & Debrun, 2018; Beetsma et al., 2018, p. 3; International Monetary Fund, 2013; Kopits, 2013). Their analyses and assessments of fiscal policy help clear the smokescreens (intentional or not) often surrounding the public debate about government budgets, including the adequacy of the fiscal stance and the sustainability of public finances. In principle, better-informed voters can more easily reward good policies and sanction bad ones, leading to stronger outcomes on average (Beetsma et al., 2017; Beetsma et al., 2018, p. 3).

According to the Organisation for Economic Co-operation and Development (OECD), IFIs are independent public institutions with a mandate to critically assess, and in some cases provide non-partisan advice on, fiscal policy and performance; they serve to promote sound fiscal policy and sustainable public finances (von Trapp & Nico, 2017, p. 1). The OECD Principles (OECD, 2014, p. 5) regulate rules and good practices related to existing IFIs and the experiences of countries that have established or are considering establishing such institutions. According to this organization, IFIs are 'publicly funded, independent bodies under the statutory authority of the executive or the legislature which provide non-partisan oversight and analysis of, and in some cases advice on, fiscal policy and performance […] these institutions have a forward-looking *ex ante* diagnostic task' (von Trapp & Nico, 2017, p. 1).

IFIs should produce or endorse objective macroeconomic forecasts for budget preparation. They may independently monitor the execution of the state budget and adherence to fiscal rules and budgetary objectives, as well as assessing fiscal risks through long-term budget projections and pointing to long-term budget costs both to the public and to policymakers. Since these institutions should provide analysis, assessment and recommendations on matters of fiscal policy, studies on IFIs generally focus on international standards and independence (see Calmfors & Lewis, 2011; Debrun et al., 2009; Hagemann, 2011; Hemming & Joyce, 2013). The EC, IMF, OECD and World Bank recommend strong legal protection and operational independence for these institutions. Some scholars have indicated that IFIs should perform an increasingly wide range of tasks, constituting an important link in the process of 'early warning' but also in autonomous supervision of the implementation of state financial strategies (Gołębiowski & Marchewka-Bartkowiak, 2013, p. 2).

Both theory and practice recommend that an IFI can improve the quality of state fiscal policy. It can also help improve fiscal discipline and policy credibility and serve a useful signalling role conducive to more stable expectations and less uncertainty (Debrun et al., 2009, p. 75). Various forms of IFI have existed for decades in countries such as Belgium (since 1936), the Netherlands (1945), Denmark (1962), Austria (1970) and the United States (1974) (von Trapp & Nico, 2017, p. 1). The number of IFIs has increased in recent years (see Figure 1). Today, they are considered among the most important innovations in the emerging architecture of public financial management (OECD, 2014, p. 5).

Figure 1. Growth of independent parliamentary budget offices and fiscal councils.



Source: OECD (n.d.)

2. Institutional models of IFIs

The literature suggests that IFIs can function as either independent fiscal authorities (IFAs) or fiscal councils (FCs) (Debrun et al., 2009, p. 56). An IFA would receive a mandate to decide on specific aspects of fiscal policy within a policy framework previously defined through the political process; an FC could help reduce the deficit bias while leaving full discretion to political representatives (Debrun et al., 2009, p. 56).

The OECD also distinguishes two forms of IFIs: independent parliamentary budget offices and fiscal councils. According to the OECD, they vary significantly in terms of their governance provisions, the scope of their mandate and functions, leadership and staff arrangements, and budget. This proves the importance of local needs and the local institutional environment (including, in some cases, capacity constraints) in their design, even for those bodies that were set up to meet the same European requirements (von Trapp & Nico, 2017, p. 1). Core IFI functions, such as assessing or preparing macroeconomic and fiscal forecasts and monitoring and evaluating fiscal plans and outcomes, can help to address biases towards spending and deficits (von Trapp & Nico, 2017, p. 1).

The European Commission recognizes three groups of IFIs:

1. The first consists of a number of entities tasked with the production of macroeconomic and budgetary forecasts, which can help reduce bias in fiscal policy by eliminating politically motivated optimism. In some instances, the government is legally required either to incorporate the fiscal institution's macroeconomic projections or to justify not doing so, while in other countries the independent forecasts serve as a guideline;
2. The second group concerns entities mostly tasked with the assessment of fiscal rules as per the treaty on stability, coordination and governance in the

economic and monetary union and Regulation (EC) No. 473/2013. They are already established institutions, such as the National Audit Office of Finland or the Dutch Council of State;
3. The third group is composed of recently established, lightly staffed stand-alone bodies. Their mandate is often solely focused on fiscal issues, including periodic fiscal policy and rule assessment. An example of such an independent fiscal institution is the Slovak Council for Budget Responsibility (European Commission, 2014, pp. 54–68).

The idea of IFIs is that this institution should not directly determine fiscal instruments but may limit freedom and improve budgetary policy. The experience of some Member States shows that the institution performing the above-mentioned functions does not always have to be a specially appointed body (see Table 1). This role can also be performed by institutions such as parliamentary budget offices or state audit offices, as they have grown in number following the global financial crisis.

Table 1. Three variants of IFIs (fiscal policy councils) according to the form of organization.

Institutional models of IFIs		
stand-alone institution	institution under the executive or legislative branch	associated with other independent institution
– no organic link with policymakers beyond appointment procedures and accountability mechanisms; – often emanate from comprehensive fiscal-responsibility laws that include explicit guarantees of their independence. Examples: Germany, Hungary, Ireland, Portugal, Slovak Republic, Sweden	– a well-defined mandate and strict guarantees of independence to bodies that are an integral part of: a) the parliament (often known as a parliamentary budget office, e.g. Italy); b) a ministry (tending to extract their operational independence from the reputational benefits associated with their non-partisan role in the budget process and public debate). Examples: Belgium, Croatia, Denmark, Netherlands, Slovenia	– can be found in: a) a central bank (e.g. Austria); b) an audit institution (e.g. France); c) an independent statistical agency; – allows the IFI to immediately benefit from the independence of its host and from economies of scale, but requires clear procedures to avoid confusion regarding the respective mandates and functions of the host and the guest.

Source: based on Debrun et al. (2013, pp. 10 & 13).

3. Legal basis

Some of the most important regulations on EU fiscal governance are (i) the Council Directive 2011/85 on requirements for national budgetary frameworks, (ii) the Fiscal Compact, (iii) the 'Two-Pack' Regulation: Regulation (EU) No. 472/2013 of the European Parliament and of the Council of 21 May 2013 on the Strengthening of Economic and Budgetary Surveillance of Member States in the Euro Area Experiencing or Threatened with Serious Difficulties with Respect to Their Financial Stability, and 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. These are the legal bases, which include detailed rules and formalize the tasks of national IFIs in order to foster budgetary discipline and to increase national ownership of EU fiscal rules.

Strong numerical fiscal rules should be based on reliable and independent analysis carried out by independent bodies or bodies endowed with functional autonomy vis-à-vis the fiscal authorities of the Member States (Recital 16 of Directive 2011/85/EU). According to Article 3(1) of Directive 2011/85/EU, '[p]ublic accounting systems shall be subject to internal control and independent audits'. One of the vital matters in EU law is the effective and timely monitoring of compliance with rules, based on reliable and independent analysis carried out by independent bodies or similar bodies (Article 6(1)(b) of Directive 2011/85/EU). Member States were obligated to bring the provisions necessary to comply with Directive 2011/85/EU into force by 31 December 2013 (Article 15(1) of Directive 2011/85/EU) and should present the text of those provisions to the Commission.

Fiscal councils should not be confused with national audit offices, parliamentary budget and accounts committees and various other public review committees that meet periodically on fiscal matters (Hemming, 2013; see also von Trapp et al., 2015). Entities of this sort function alongside fiscal councils and participate in fiscal policy matters.

The global financial crisis has exposed weaknesses in economic and budgetary governance in the economic and monetary union. In light of this, the European Commission proposed two acts on 23 November 2011 aimed at strengthening the surveillance mechanisms in the euro area (European Commission, 2012). The EU Parliament and the Council have adopted directly binding regulations: Regulation (EU) No. 472/2013 and Regulation (EU) No. 473/2013. Additionally, the OECD Council adopted a recommendation on principles for IFIs on 13 February 2014, so their vital role has also been recognized in the OECD Recommendation on budgetary governance (2015).

Firstly, the European Commission proposed the creation of an advisory European Fiscal Board (EFB) in 2015 (European Commission, 2015). This new advisory entity coordinates and complements the national fiscal councils that have been set up in the context of the EU Directive on budgetary frameworks (European Commission, 2015, p. 14). It provides a public and independent assessment at European level of how budgets and their execution perform against the economic objectives and recommendations set out in the EU fiscal-governance framework (European Commission, 2015, p. 14). The EFB is also obligated to coordinate the network of national IFIs and has the same standard of independence, an important factor that should lead to better compliance with the common fiscal rules, more informed public discussion and stronger management of national fiscal policies. Secondly, the heads of European Union IFIs signed an agreement on the establishment of a network of EU IFIs (https://www.euifis.eu) on behalf of their national institutions. The IFI network was established at the EU level on 11 September 2015 (EU Independent Fiscal Institutions, 2015).

The European Court of Auditors proposed actions to improve the scope and effectiveness of national budgetary frameworks, particularly as regards medium-term budgetary frameworks and IFIs (Court of Auditors, 2019, p. 10). It is worth emphasizing that the European Commission published its proposals for fiscal reform under the economic governance review on 26 April 2023, pointing at a stronger role for IFIs (see European Commission, 2023a, Recitals 12, 13 & 14). The European Commission recommended that Article 8 of Directive 2011/85/EU should be replaced by the following: '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' (see European Commission, 2023a, Article 8)

4. Is there an IFI in Poland?

There were several proposals to introduce a fiscal policy council in the context of Poland's entry into the euro area (Gołębiowski, 2010, pp. 1–4; Sławiński, 2008). One such proposal was an act in 2012 to establish an advisory institution (Sejm, n.d.); the matter has also been discussed in the literature.[2] Currently, individual types of activity falling within the scope of a fiscal institution are assigned to the Analysis Office of the Sejm (Biuro Analiz Sejmowych), the Social Dialogue Council (Rada Dialogu Społecznego), the Joint Commission of the Government and Local Government (Komisja Wspólna Rządu i Samorządu Terytorialnego) and the National Bank of Poland (Narodowy Bank Polski), as they perform advisory and consultative functions.

Powers similar to those of a fiscal council have been exercised by the Government Centre for Strategic Studies (Rządowe Centrum Studiów Strategicznych) and the Council for Social and Economic Strategies (Rada Strategii Społeczno-Gospodarczych) (Janecki, 2015; Postuła & Kowarska, 2022, p. 97). The Social Dialogue Council constitutes an institutional social dialogue consisting of three partners:

2 On whether an independent fiscal policy council should be set up in Poland, see, amongst others, Ciak & Głuchowski (2015, pp. 451 ff.); Gołębiowski & Marchewka-Bartkowiak (2013, pp. 1–5); and Krzak (2015).

employers, employees and government (see Pest, 2022, pp. 265–271). It cannot be considered an IFI because it does not have the required features, especially independence from government and technical and analytical support, as Article 6 of Directive 2011/85/EU requires an IFI to be functionally independent from the fiscal authorities of the Member State.

The Council of the European Union recommended the introduction of a fiscal council and its tasks in Poland in 2014. According to the Council, the fiscal framework would benefit from the introduction of a fully fledged independent fiscal council, responsible for *ex ante* checks of compliance with fiscal rules, an assessment of macroeconomic and budgetary forecasts and an analysis of the long-term sustainability of public finances, as well as an *ex post* assessment of compliance with fiscal rules (Point 9 of the Council Recommendation of 2014). The OECD also gave a recommendation that one of the tasks (in macroeconomic policy) for Poland is creating an independent institution to conduct *ex ante* assessment of the government's fiscal plans and long-term fiscal-sustainability analyses (OECD, 2020, p. 57).

Considering the need for an analytical background, an IFI could be established alongside the National Bank of Poland, the Parliament or the Supreme Audit Office. On the other hand, a good legal solution seems to be the establishment of an institution composed of representatives of the above-mentioned bodies, as it could be a new independent institution. A newly established fiscal council would have the most weaknesses, especially regarding those of an organizational and legal nature. It also implies high costs from the state budget because of the need to create an independent research and technical base from scratch.

The Monetary Policy Council of the National Bank of Poland meets this condition, as it is not a part of the budgetary authorities and is constitutionally independent; however, according to the definition used by the European Commission, a fiscal institution should be independent not only from the legislative and executive authorities but also from the central bank (see Delivorias, 2020, p. 3; European Commission, n.d. b). The existing differences between monetary and fiscal policy mean that the position of the IFI must be different from that of a central bank (Krzak, 2015, p. 94; Wren-Lewis, 2011).

The Supreme Audit Office (Najwyższa Izba Kontroli) plays a significant role in the control of the public finances (see Ruśkowski, 2020). In reference to local-government budgets, the undisputed position is occupied by the regional chambers of audit (*regionalne izby obrachukowe*) (see Zawadzka-Pąk, 2014, pp. 109–125). It is worth pointing out that the Scope Index of Fiscal Institutions (SIFI), introduced by the Directorate-General for Economic and Financial Affairs (the Commission department responsible for EU policies promoting, inter alia, economic growth, stable public finances and financial stability), is used to measure IFIs. The SIFI is calculated only for 'core IFIs', based on information reported by these institutions themselves. Six separate groupings of tasks constitute the SIFI score: monitoring of compliance with fiscal rules; macroeconomic forecasting; budgetary forecasting and policy costing; sustainability assessment; promotion of fiscal transparency; and normative recommendations on fiscal policy (European Commission, n.d. a).

The Polish Supreme Audit Office is included in the calculation of the SIFI (see Table 2), but the EU authorities indicate that this cannot be considered a final solution, although attaching the IFI to the control authority works in Finland (OECD, 2021, p. 42). Combining the control function of the state budget execution with the advisory and analytical function is not a good solution;[3] however, the International Organisation of Supreme Audit Institutions aims to promote independent and effective auditing by supreme audit institutions (ISSAI, 2019, p. 4).

Table 2. Independent fiscal institutions according to the EC in 2020.

EU Member State	Name of institution	Tasks						SIFI by institution 2020
		monitoring compliance with fiscal rules	macroeconomic forecasting	budgetary forecasting and policy costing	analysis of long-term sustainability of public finances	promotion of fiscal transparency	normative recommendations on fiscal policy	
Austria	Austrian Fiscal Advisory Council	●	▲	●	●	●	●	63.57
	Austrian Institute of Economic Research	-	●	-	●	-	○	32.50
Bulgaria	Fiscal Council	●	●	●	-	○	○	55.18
Belgium	High Council of Finance (Public-Sector Borrowing Requirement Department)	●	-	-	●	-	●	40.00
	Federal Planning Bureau	-	●	●	●	-	-	30.00
Cyprus	Fiscal Council	●	●	●	-	▲	▲	66.79
Czech Republic	Czech Fiscal Council	●	●	●	●	○	●	51.25
Germany	Independent Advisory Board to the Stability Council	●	●	●	-	○	●	51.96
Denmark	Danish Economic Council	●	●	●	●	○	▲	46.25
Estonia	Estonian Fiscal Council	●	●	●	-	-	-	51.43

3 As a side note, it can be pointed out that in autumn 2022, an opinion on the planned budget for 2023 was issued by the Supreme Audit Office for the first time.

Greece	Hellenic Fiscal Council	●	●	▲	-	-	-	48.57
Spain	Independent Authority for Fiscal Responsibility	◘	●	●	●	●	●	68.93
Finland	National Audit Office (Fiscal Policy Evaluation Function)	●	●	●	-	▲	▲	37.50
France	High Council of Public Finances	●	●	●	-	-	-	46.43
Croatia	Commission on Fiscal Policy	●	●	-	-	-	○	42.50
Hungary	Fiscal Council of Hungary	●	●	●	-	-	-	51.43
Ireland	Irish Fiscal Advisory Council	●	●	●	▲	▲	●	68.21
Italy	Parliamentary Budget Office	●	●	●	●	●	-	74.29
Lithuania	National Audit Office (Budget Policy Monitoring Department)	●	●	▲	○	▲	-	55.71
Luxembourg	National Council of Public Finance	●	-	●	▲	○	▲	46.96
	National Institute of Statistics and Economic Studies of the Grand Duchy of Luxembourg	-	●	▲	-	-	-	20.00
Latvia	Fiscal Discipline Council	●	●	-	▲	▲	-	52.50
Malta	Malta Fiscal Council	●	●	●	-	●	●	72.14
Netherlands	Netherlands Bureau for Economic Policy Analysis	-	●	●	▲	-	-	39.29
	Council of State (Advisory Division)	●	-	-	-	○	▲	31.25
Poland	Supreme Audit Office	▲	-	-	-	-	●	17.50
Portugal	Public Finance Council	●	●	●	●	●	-	66.43
Romania	Fiscal Council	●	●	●	-	●	●	69.29
Sweden	Swedish Fiscal Policy Council	●	▲	▲	●	●	▲	42.86
Slovenia	Institute of Macroeconomic Analysis and Development	-	●	-	-	-	-	20.00
	Fiscal Council	●	●	●	-	○	○	55.18
Slovakia	Council for Budget Responsibility	◘	-	▲	●	●	-	44.64

Symbols:

a) ● – tasks stipulated in legal remit

b) ▲ – own-initiative tasks – proven and regular output *c) ◘ – solution between a and b*

d) ○ – own-initiative tasks – sporadic output

Source: own research based on Fiscal Institutions database (European Commission, 2017), accessed 02.01.2024.

Conclusion

Steps have been taken to improve the Polish fiscal framework in the recent past. Poland is the only EU Member State that has not introduced regulations that would allow a separate IFI to act. In accordance with the arrangements suggested in this paper, such an IFI should be understood as a publicly funded, independent institution, other than the central bank, government or parliament, that provides non-partisan oversight and analysis of fiscal policy.

One of the basic and urgent challenges in the area of financial management in Poland is the appointment of such a body. As a Member State of the European Union, Poland is obliged to implement the new budget framework, and within it, to create an IFI which will forecast and monitor public revenues and spending. It could effectively complement other budgetary institutions, increase the effectiveness of numerical fiscal rules, support fiscal discipline and influence budget performance by informing the public about the fiscal policy pursued. It should ensure the greatest possible transparency and avoid the politicization of the management of public funds and prudence in spending those funds, in particular considering the long-term perspective.

National IFIs, as fiscal watchdogs, play a significant role in EU fiscal governance. They contribute to increasing public interest in the redistribution of budgetary resources. There is no 'one size fits all' model for IFIs; the concept of an IFI as an institutionalized forum for the cooperation of several subjects with an expert background seems the best solution for Poland, since an IFI will not function properly and effectively without a broad and reliable analytical background.

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