

Independent Fiscal Institutions as Non-Identified Constitutional Objects?

The Independent Fiscal Institutions (IFIs) – also called fiscal councils – are “publicly funded independent bodies under the statutory authority of the executive or the legislature which provide non-partisan oversight and analysis of, and/or advice on, fiscal policy and performance”. They have been established since the 1950s (like the US) upon recommendations by the Organization for Economic Cooperation and Development (OECD), the International Monetary Fund (IMF) and central banks. In Europe, most fiscal councils have been established since 2009, thus in connection with the financial crisis.

The reform of the economic governance in the EU has triggered remarkable institutional innovations within Member States, in particular those of the Eurozone. One of the most significant changes, though being generally overlooked by legal scholarship and in the public debate, is the mandatory setting up of independent fiscal institutions for the sake of restoring fiscal credibility and preserve sound public accounts. EU and international law, through the Treaty on stability, coordination and governance in the Economic and Monetary Union (TSCG), have set some requirements for the Member States in order to make these fiscal institutions truly independent from budgetary authorities and to enhance the transparency and the consistency of the decision- making revolving around fiscal policies.

While these institutions have been subject to extensive investigation by the economic literature, a constitutional analysis of their prospective and actual impact on national legal systems is lacking. In fact, depending on their design and powers, they could alter the ordinary inter-institutional dynamics on budgetary decisions. IFIs could redress the marginalization of parliaments in budgetary procedures in so far as they are able to offer reliable and independent information from the executive and should mechanisms of “comply or explain” be put in place. By contrast, in the event an IFI operates within the executive branch and is not autonomous in the exercise of its mandate, parliamentary accountability could be further jeopardized. IFIs could also affect democratic rule-making over the budget, should their technocratic determinations be able to replace those of the budgetary authorities. The recognition of this phenomenon that reveals new political tendencies along the line of relationships between the IFIs, the parliament and the government itself is, therefore, of considerable importance in terms of research. The findings made are not only of major cognitive significance, but may also prove to be useful for the purpose of shaping the practice of Poland’s constitutional system. It is worth mentioning here that Poland, as the only EU Member State, has so far not established a Fiscal Council. Bearing such an option in mind, in the process of search for effective solutions, these findings may prove a very useful ‘know-how’ of the government system of Poland.

The main research questions this project seeks to answer are as follows:

- What is the constitutional position of independent fiscal institutions and where they have been established in relation to the system of government?
- Which fiscal council model would be most effective in the Polish system of government?
- Are fiscal councils able to challenge executive dominance and parliamentary and citizens’ marginalization from budgetary decisions?
- What are the constitutional implications of fiscal councils on democratic accountability for budgetary decisions in EU Member States?

Through a comparative constitutional analysis, the research project aims to assess the constitutional impact of IFIs on parliaments, governments and on the democratic accountability of budgetary decisions in EU Member States. The analysis will not be restricted to Eurozone countries, but will also include countries outside the Economic and Monetary Union.