



## CONSOLIDATED LAW

Organic Law 2/2012 of 27 April 2012 on Fiscal Stability and  
Financial sustainability.

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## CONSOLIDATED TEXT

Most recent amendment: 21 December 2013

JUAN CARLOS I

KING OF SPAIN

To all those who

see and hear these presents.

Be it known: That the Cortes Generales have passed, and I am pleased to sanction the following organic law.

### PREAMBLE

Fiscal stability, as enshrined in the Constitution, is a basic premise for growth and job creation in the Spanish economy, in order to guarantee public welfare, create opportunities for entrepreneurs and offer a future outlook of greater prosperity, fairness and solidarity.

Safeguarding fiscal stability is an indispensable instrument for achieving this objective, both in terms of assuring adequate funding for the public sector and the quality public services that underpin the welfare state, and in terms of offering assurance to investors as to the capacity of the Spanish economy to grow and meet our commitments.

The process of fiscal consolidation and reduction of public debt which qualified Spain to accede to the European Economic and Monetary Union was one of the principal assets underpinning the long period of Spanish economic growth up to 2008. However, that year saw the onset of a world-wide economic crisis, which was particularly severe in Europe and whose effects were further aggravated in our own economy by the high rate of unemployment, the highest of all the OECD countries. The sharp deterioration of public finances since that year swiftly left the country

without any room for manoeuvre in fiscal policy and is now forcing it to undertake severe adjustments in order to return to a situation of budgetary balance and honour Spain's commitments to the European Union.

The economic crisis rapidly brought to light the inadequacy of the disciplinary mechanisms in the previous Fiscal Stability Act. Under that Act the deficit of our Public Administrations reached a peak of 11.2 per cent of the Gross Domestic Product in 2009.

At the same time, the financial tensions unleashed in the European markets highlighted the fragility of the institutional fabric of the European Union and the need to move forward in the process of economic integration, which would require greater coordination and fiscal and budgetary responsibility on the part of the Member States. In this context, in the last few months a number of legislative initiatives have been approved at European level for the purpose of reinforcing common fiscal rules and developing more economic and fiscal supervision. The European Fiscal Compact, the increased coordination, surveillance and supervision of budgetary matters, along with the development of the financial stability mechanism to jointly address the tensions in the financial markets, together constitute a framework of economic governance that makes for a stronger European Union, and one capable of dealing with the severe stresses posed by the new international economic scenario.

This situation demands a strong economic policy along two complementary and mutually-reinforcing lines: Fiscal consolidation, that is elimination of the structural public deficit and reduction of the public debt, and structural reforms. But over and above this immediate response, it is necessary to consolidate an economic and fiscal policy framework that will help to assure stable economic growth and job creation. This is a challenge that we have to address in partnership with Europe, as active participants in the design of the policies and strategies defining the new economic governance, and strictly applying the rules deriving from these.

Guaranteeing fiscal stability is one of the keystones of economic policy that will help to restore confidence in the Spanish economy, facilitate financing in better conditions and thus make it possible to return to the path of economic growth and job creation. In this conviction Article 135 of the Spanish Constitution was reformed in September 2011, thus placing at the very heart of our legal system a fiscal rule that limits the country's structural deficit and limits public debt to the reference value set out in the Treaty on the Functioning of the European Union. The new Article 135 mandates the implementation of the same article in an Organic Law by 30 June 2012. The passing of this Organic Law on Fiscal Stability and Financial Sustainability of Public Administrations thus fulfils that constitutional mandate.

But in addition, the reform of the Constitution is intended to manifest Spain's firm commitment to the requirements of coordination and definition of the European Union's common stability framework. Therefore, both the Constitution and the Organic Law make repeated reference to the European stability regulations; what is more, Spain is one of the first countries to have incorporated the European Economic Governance package into its internal law. Furthermore, this Act complies with the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union of 2 March 2012, thus assuring continuous and automatic adaptation to European regulations.

The Act pursues three objectives: to guarantee the financial sustainability of all Public Administrations; to strengthen confidence in the stability of the Spanish economy; and to reinforce Spain's commitment to the European Union as regards fiscal stability. Achieving these three objectives will help to consolidate the framework of an economic policy oriented towards economic growth and the creation of employment.

The first of the new features of the Act is its title, in which financial sustainability is introduced as a guiding principle of financial/economic practice in all Spanish Public Administrations. The aim here is to reinforce the idea of stability, not only at a particular juncture but permanently, which will help pave the way for the challenges facing our welfare system in the medium and the long term.

Unlike the previous legislation, the Act regulates, in a single statute, the fiscal stability and financial sustainability of all Public Administrations, Central, Regional, Local and Social Security. This makes for greater consistency in legal regulation and greater clarity of the law, while conveying an idea of equality in budgetary demands and responsibility and institutional loyalty among all Public Administrations.

This Act comprises 32 articles, 3 additional provisions, 4 transitional provisions, 1 repeal provision and 7 final provisions. It is structured in six chapters. Chapter I (Scope) sets out the object and the subjective scope of the Act. The public sector is delimited in accordance with the European System of National and Regional Accounts, as that is the definition adopted by European regulations.

Chapter II (General principles), dealing with the general principles of the Act, maintains the four principles of the previous legislation - fiscal stability, multiannuality, transparency and effectiveness and efficiency in the allocation of public resources - reinforcing some elements of these, and introduces three new principles: financial sustainability, responsibility and institutional loyalty. The principle of fiscal stability is defined as a situation of equilibrium or surplus. This situation is deemed to be attained when the Public Administrations do not incur a structural deficit. This principle is reinforced by the principle of financial sustainability, which establishes fiscal stability as a permanent feature of all Public Administrations. It is also important to note that the Act includes institutional loyalty as a guiding principle to harmonise and facilitate collaboration and cooperation among the different administrations on budgetary matters.

Chapter III (Fiscal stability and financial sustainability) introduces important novelties in our legislation. All Public Administrations must achieve equilibrium or a surplus and may not incur a structural deficit. However, the State and the Autonomous Communities may sustain a structural deficit in exceptional situations defined in the Act: natural disasters, economic recession or extraordinary emergencies, which situations must be accepted as arising by an absolute majority of the Congress of Deputies.

The chapter further incorporates the spending rule laid down in the European regulations, whereby the expenditure of the Public Administrations may not rise by more than the reference growth rate of the Gross Domestic Product. This rule is supplemented by a stricture that when actual revenues are greater than forecast they may not be used to finance new expenditure, but the surplus is to be used to reduce existing debt.

Also, a ceiling is set on the debt of Public Administrations, which may not exceed the reference value of 60 per cent of the Gross Domestic Product laid down in the European regulations, except in the kind of exceptional circumstances in which a structural deficit is allowable. In addition, payment of the interest and capital of the public debt is awarded absolute priority over any other kind of expenditure, as laid down in the Constitution, which is a solid guarantee for investors.

The criteria for setting fiscal stability and public debt goals are regulated for each Public Administration and individually for the Autonomous Communities.

Finally, provision is made for reports on compliance with fiscal stability, public debt and spending rule targets. Reports will be required on compliance with targets both in draft Budgets and in initial Budgets and their implementation. Verification of compliance in the preliminary stages prior to implementation will make it possible to take preventive action in the event of risk, and if necessary to take corrective measures.

Chapter IV (Preventive, corrective and enforcement measures) sets out these measures in three separate sections. The first section introduces an automatic preventive mechanism to ensure that no structural debt is incurred at the end of each fiscal year, and also sets a preventive debt threshold so that the set limits are not exceeded.

The Act introduces an early-warning mechanism similar to the one in the European regulations, consisting in an alert so that the necessary early corrective action can be taken in the event that there is found to be a risk of non-compliance

with stability, public debt or spending rule targets. If no action is taken, the appropriate corrective measures will be applied.

The next two sections deal with the liability of each Administration in the event of non-compliance with the fiscal stability targets envisaged in Article 135(5)(c) of the Constitution. In the event of failure to meet the stability target, an economic/financial plan will have to be presented so as to correct the deviation within one year. The Act regulates the content (which among other things must identify the causes of the deviation and the measures that will serve to get back on target), the formal procedures and the follow-up of these plans.

The procedure is different in the case of a deficit due to exceptional circumstances (natural disasters, economic recession or extraordinary emergency). In such cases a rebalancing plan must be submitted with which to restore equilibrium, detailing the appropriate measures to address the budgetary consequences of such exceptional situations.

The Act provides for automatic corrective measures. For instance, compliance with stability targets will be taken into account both for authorising of debt emissions and for granting of subsidies or signing of agreements. Moreover, in the event of non-compliance with an economic/financial plan, the administration responsible must automatically place a freeze on credits and lodge a deposit. Finally, in the event of failure by Autonomous Communities to order the freeze on credits or to take the measures proposed by the commission of experts, the Act authorises, by virtue of Article 155 of the Constitution, the adoption of measures to compel compliance. Similarly, it allows for the possibility of taking measures to compel compliance by Local Corporations, or if appropriate to order the dissolution of a Local Corporation.

Chapter V (Transparency) implements the principle of transparency and reinforces its elements, which include the duty of each Public Administration to match its Budget and the national accounts, since this is the information that is sent to Europe to verify compliance with our commitments as regards fiscal stability. Also, before it is approved, each Public Administration must furnish information on the basic outlines of its Budget in order to satisfy the requirements of the European regulations, especially the provisions contained in Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States. Finally, the information to be furnished is expanded in order to improve coordination in the economic/financial action of all Public Administrations.

Chapter VI (Budget management) reinforces budgetary planning by defining a medium-term budgetary framework in line with the provisions of the Directive on budgetary frameworks mentioned above. One major novelty is that the Act extends the obligation to present a spending limit, which hitherto applied only to the State, to the Autonomous Communities and Local Corporations, and the obligation to include an appropriation in their Budgets for a contingency fund to deal with unforeseen non-discretionary eventualities. Finally, it regulates the use to be made of the budget surplus, which must be used to reduce net indebtedness, or in the case of Social Security, added to the Reserve Fund.

In the additional provisions, the Act introduces an extraordinary liquidity support mechanism for Autonomous Communities and Local Corporations so requesting. Access to this mechanism will be contingent upon the submission of an adjustment plan that guarantees compliance with fiscal stability and public debt targets and will be subject to strict conditions as regards follow-up and forwarding of information, and to extraordinary adjustment measures. A Public Administration requesting this aid must forward quarterly information on guarantees, credit lines, commercial debt, transactions with derivatives, etc. Also, any appeals brought against acts and decisions issued in application of this Act will be the competence of the administrative courts.

Another additional provision regulates the principle of liability for non-compliance with the rules of Community law, in the sense that Public Administrations and any other entities belonging to the public sector which, in

the discharge of their competences, fail to comply with obligations deriving from rules of European Union law, thus resulting in penalisation of the Kingdom of Spain, will bear the consequences of such non-compliance to the extent of their responsibility therein.

In its transitional provisions, the Act provides for a transitional period up to 2020 as laid down in the Constitution. During that time the Act provides a scale of reduction of budgetary imbalances until the limits laid down therein are reached: that is structural equilibrium and a public debt equivalent to 60 per cent of the GDP.

The repeal provision explicitly repeals Organic Law 5/2001 of 13 December 2001 accompanying the law on fiscal stability, and likewise the Recast Text of the General Fiscal Stability Act approved by Legislative Royal Decree 2/2007 of 28 December 2007, and any provisions that conflict with those of the present Act.

Lastly, the final provisions include a citation of the constitutional provisions mandating this organic law. They also include the requisite adaptations relating to the particular legal systems of Ceuta and Melilla, Navarre and the Basque Country and empower the Cabinet to draw up whatever provisions may be necessary for the implementation of this organic law.

## CHAPTER I

### Scope

#### Article 1. Purpose

The purpose of this Act is to lay down the guiding principles, binding on all public authorities, that must preside over the budgetary policy of the public sector, which is to be oriented towards fiscal stability and financial sustainability to guarantee sustained economic growth and creation of employment, in implementation of Article 135 of the Spanish Constitution.

Also, it lays down the necessary procedures for effective application of the principles of fiscal stability and financial sustainability so as to guarantee: the participation of the bodies responsible for institutional coordination among Public Administrations in matters of fiscal and financial policy; the setting of limits on the deficit and debt; the exceptional circumstances in which these may be overstepped, and the mechanisms for correction of deviations; and the instruments to ensure effective accountability of each Public Administration in the event of non-compliance, in implementation of Article 135 of the Spanish Constitution and within the framework of the European regulations.

#### Article 2. Subjective scope

For the purposes of this Act, the public sector is deemed to comprise the following units:

1. The Public Administration sector, according to the definition and delimitation set out in the European System of National and Regional Accounts approved by Council Regulation (EC) 2223/96 of 25 June 1996, which includes the following subsectors, again as defined in that system:

a) Central government, which encompasses the State and central administration bodies.

b) Autonomous Communities.

c) Local Corporations.

d) Social Security administration.

2. All other public enterprises, trading companies and other public law entities dependent on public administrations not included in the foregoing paragraph shall

likewise be deemed to belong to the public sector and shall be subject to those provisions of this Act that specifically refer to them.

## CHAPTER II

### General principles

#### Article 3. Principle of fiscal stability.

1. The preparation, approval and implementation of the Budgets and other actions that affect the revenue or expenditure of the various subjects coming within the scope of this Act shall be carried on within a framework of fiscal stability, in line with the European regulations.

2. Fiscal stability of Public Administrations means a situation of equilibrium or structural surplus.

3. For the purposes of the subjects referred to in Article 2(2) of this Act, fiscal stability shall mean a position of financial equilibrium.

#### Article 4. Principle of financial sustainability

1. The actions of Public Administrations and other subjects coming within the scope of this Act shall be subject to the principle of financial sustainability.

2. Financial sustainability is to be understood as the capacity to finance present and future spending commitments within the limits of the deficit, public debt and late payment of commercial debt, as laid down in this Act, the regulations on late payments and in the European regulations.

Sustainable commercial debt is to be understood as existing when the average period for payment to suppliers does not exceed the maximum laid down in the regulations on late payments.

#### Article 5. Principle of multiannuality

The preparation of the Budgets of Public Administrations and other subjects coming within the scope of this Act shall be carried on within a medium-term budgetary framework that is compatible with the principle of multiannuality governing the approval and implementation of Budgets, in accordance with the European regulations.

#### Article 6. Principle of transparency

1. The accounts of Public Administrations and other subjects coming within the scope of this Act, and likewise their Budgets and settlements, must contain enough relevant information to allow verification of their financial situation, compliance with fiscal stability and financial sustainability targets and observance of the requirements laid down in the relevant European regulations. In this connection, the Budgets and general accounts of the various Administrations shall include information on all subjects and entities coming within the scope of this Act.

2. It shall be for the Ministry of Finance and Public Administration to assure the public availability of economic/financial information relating to subjects coming within the scope of this Act, with the scope and at the intervals required under national rules and regulations and under Community provisions.

Public Administrations shall furnish all the information necessary for compliance with the provisions of this Act, or the rules and regulations implementing it, and they shall guarantee the consistency of accounting rules and procedures and the integrity of data collection and processing systems.

3. The forecasts used for budgetary planning and the method, premises and parameters on which these are based, shall likewise be publicly available.

#### Article 7. Principle of efficiency in the allocation and use of public resources

1. Public spending policies must operate within a framework of multiannual planning, scheduling and budgeting, with due regard for the economic situation, economic policy objectives and compliance with the principles of fiscal stability and financial sustainability.

2. The administration of public resources shall be guided by criteria of efficacy, efficiency, economy and quality, to which end policies favouring rationalisation of spending and improvement of public sector administration shall be pursued.

3. Legal and regulatory provisions in the process of preparation and approval, administrative acts, contracts and collaboration agreements, and likewise any other action of subjects coming within the scope of this Act which affect present or future public spending or revenues must assess their repercussions and effects and must be strictly tailored to comply with the requirements of the principles of fiscal stability and financial sustainability.

#### Article 8. Principle of liability

1. Public Administrations which fail to comply with the obligations set out in this Act, and likewise any which cause or contribute to non-compliance with the commitments acquired by Spain under European regulations or provisions in treaties or international conventions to which Spain is a party, shall be held liable to the extent of their part in causing such non-compliance.

In the process of apportioning liability referred to in the foregoing paragraph, the administration or entity concerned shall be assured a hearing in all cases.

2. The State shall not take on or be answerable for the commitments of Autonomous Communities, Local Corporations or bodies included in Article 2(2) of this Act which are connected with or dependent on the former, without prejudice to any mutual financial guarantees for the joint implementation of specific projects.

The Autonomous Communities shall not take on or be answerable for the commitments of Local Corporations or bodies connected with or dependent on them, without prejudice to any mutual financial guarantees for the joint implementation of specific projects.

#### Article 9. Principle of institutional loyalty

The actions of Public Administrations shall adhere to the principle of institutional loyalty. Each Administration must:

a) assess the impact that its actions, in matters coming within the scope of this Act, may have on other Public Administrations.

b) respect the legitimate exercise of the competences vouchsafed to each Public Administration.

c) weigh up, in the exercise of its own competences, all the public interests involved, and in particular those administered by other Public Administrations.

d) furnish other Public Administrations with the information they require on the activity that they carry on in exercising their own competences, and in particular any activity deriving from fulfilment of the obligations concerning the provision of information and transparency within the context of this Act and of other national and Community provisions;

e) within its own sphere of action, actively lend any cooperation and assistance that other Public Administrations may request in order to effectively discharge their competences.

#### Article 10. Provisions for effective implementation of the Act and coordination mechanisms

1. In their budgetary regulations, the subjects coming within the scope of this Act shall be obliged to establish the necessary instruments and procedures to adapt these to the principles set out in this Act.

2. It is for the Government, without prejudice to the competences of the Autonomous Communities' Fiscal and Financial Policy Council and the National Local Administration Commission, and in any case with due regard for the principle of financial autonomy of Autonomous Communities and Local Corporations, to see that these principles are adhered to in all areas where this Act applies.

3. The Government shall introduce mechanisms for coordination among all Public Administrations to ensure that all the principles contained in this Act are effectively implemented in a manner consistent with the European regulations.

## CHAPTER III

### Fiscal stability and financial sustainability

#### Article 11. Practical application of the principle of fiscal stability

1. The preparation, approval and implementation of the Budget and other actions affecting the expenditure or revenues of Public Administrations and other entities forming part of the public sector shall be subject to the principle of fiscal stability.

2. No Public Administration may incur a structural deficit, defined as a deficit adjusted to the cycle and not including exceptional or temporary measures. However, in accordance with European regulations, in the case of structural reforms with long-term fiscal effects it shall be allowable to incur a structural deficit for all Public Administrations together equivalent to 0.4 per cent of the national Gross Domestic Product expressed in nominal terms, or the level laid down in the European regulations where this percentage is smaller.

3. Exceptionally, the State and the Autonomous Communities may incur a structural deficit in the event of natural disasters, severe economic recession or extraordinary emergencies which, in the judgement of an absolute majority of the members of the Congress of Deputies, are beyond the control of the Public Administrations and seriously impair their financial situation or their economic or social sustainability. Such a temporary deviation may not endanger fiscal sustainability in the medium term.

For the foregoing purposes, severe economic recession is to be defined in accordance with European regulations. In any case, there must be real negative annual growth of the Gross Domestic Product according to the annual national accounts.

In such cases, a rebalancing plan must be approved to correct the structural deficit, taking account of the exceptional circumstance that gave rise to the non-compliance.

4. Local Corporations must maintain a situation of budgetary equilibrium or surplus.

5. Social Security Administrations shall maintain a situation of budgetary equilibrium or surplus. They may exceptionally incur a structural deficit subject to the purposes and conditions laid down in the Social Security Reserve Fund regulations. In such an event, the maximum allowable structural deficit for the central administration shall be reduced by the amount of the Social Security deficit.

6. The structural deficit shall be calculated by the method used by the European Commission in the context of the regulations on fiscal stability.

#### Article 12. Spending rule

1. Variation in the eligible expenditure of the Central Administration, Autonomous Communities and Local Corporations may not exceed the reference rate of medium-term growth of the Spanish economy's Gross Domestic Product.

Nonetheless, where there is a structural imbalance in the public accounts or a public debt in excess of the target set, the growth of eligible public expenditure shall

be adjusted to follow the lines laid down in the respective economic/financial and rebalancing plans referred to in Articles 21 and 22 of this Act.

2. Eligible expenditure for the purposes of the foregoing paragraph shall mean non-financial uses as defined in the terms of the European System of National and Regional Accounts, not including debt servicing, non-discretionary expenditure on unemployment benefits, the part of expenditure financed with assigned funds from the European Union or from other Public Administrations and transfers to Autonomous Communities and Local Corporations tied to financing systems.

3. It is for the Ministry of Economy and Competition to calculate the reference rate of medium-term growth of the Spanish economy's gross domestic product following the method used by the European Commission in accordance with its rules. This rate shall be published in the progress report on the Spanish economy referred to in Article 15(5) of this Act. It shall be the benchmark used by the Central Administration and each Autonomous Community and Local Corporation when drawing up their respective Budgets.

4. When regulatory changes entailing permanent increases in revenue are approved, the level of eligible expenditure resulting from application of the rule in the years when such increases in revenue occur may be raised accordingly.

When regulatory changes entailing decreases in revenue are approved, the level of eligible expenditure resulting from application of the rule in the years when such decreases in revenue occur must be reduced accordingly.

5. All revenue in excess of forecasts shall be devoted entirely to reducing the level of public debt.

#### Article 13. Practical application of the principle of financial sustainability

1. The aggregate volume of public debt, defined in accordance with the Protocol on Excessive deficit procedure, of all Public Administrations may not exceed 60 per cent of the national Gross Domestic Product expressed in nominal terms, or the level set by European regulations.

This limit shall be distributed in the following percentages, expressed in nominal terms, of the national Gross Domestic Product: 44 per cent for the Central Administration, 13 per cent for all the Autonomous Communities together and 3 per cent for all Local Corporations together. If a debt limit other than 60 per cent should have to be set as a consequence of the obligations deriving from European regulations, then it shall be distributed between the Central Administration, Autonomous Communities and Local Corporations in the same proportions as above.

The limit on the public debt of any single Autonomous Community may not exceed 13 per cent of its regional Gross Domestic Product.

2. Any Public Administration that oversteps the public debt limit may not engage in transactions producing net indebtedness.

3. Public debt limits may only be overstepped in the circumstances and in the terms set out in Article 11(3) of this Act.

In such cases a rebalancing plan must be approved to bring the debt down to the limit, taking account of the exceptional circumstance that gave rise to the non-compliance.

4. The State and the Autonomous Communities must be authorised by law to issue public debt or contract credit.

When the State authorises Autonomous Communities to carry out credit and debt emission operations pursuant to Article 14(3) of the Autonomous Communities Financing Act, Organic Law 8/1980 of 22 September 1980, it shall take account of compliance with fiscal stability and public debt targets and likewise of compliance with the principles and other obligations deriving from the application of this Act.

5. When the State authorises Autonomous Communities, or the latter authorise Local Corporations, to carry on credit and debt emission operations pursuant to Article 53 of the Recast Text of the Local Finance (Regulation) Act, approved by Legislative Royal Decree 2/2004 of 5 March 2004, it shall take account of

compliance with fiscal stability and public debt targets, and likewise of compliance with the principles and other obligations deriving from the application of this Act.

6. The Public Administrations must publish their average period of payment to suppliers and must have a financial budget that includes, as a minimum, information on forecast payments to suppliers in such a way as to guarantee compliance with the maximum period set by the regulations on late payments. The Public Administrations will take care to ensure that the expenditure commitments they make are in line with the implementation of the financial budget.

Where, according to published data, the average payment period of a Public Administration exceeds the maximum period laid down in the regulations on late payments, the Administration must include in its updated financial budget immediately following the said publication, the following, as part of the budget:

a) The amount of resources that will be devoted each month to paying suppliers so as to reduce its average payment period to the maximum period laid down in the regulations on late payments.

b) A commitment to adopt the quantified measures for reducing expenditure, increasing revenue or other measures for managing receipts and payments, enabling it to generate the finance required to reduce its average payment period to suppliers to the maximum period laid down in the regulations on late payment.

#### Article 14. Absolute priority of payment of public debt

Budgetary credits to pay the interest and capital of Administrations' public debt shall be deemed in all cases to be included in the statement of expenditure in their Budgets and may not be amended or altered as long as they comply with the conditions of the Law on emission.

The payment of interest and capital of the public debt of Public Administrations shall be given absolute priority over any other expenditure.

#### Article 15. Setting of fiscal stability and public debt targets for all Public Administrations considered jointly

1. In the first half of each year the Government shall, by Cabinet resolution, at the proposal of the Minister of Finance and Public Administrations and in the light of a report by the Autonomous Communities' Fiscal and Financial Policy Council and the National Local Administration Commission as regards their areas of competence, set fiscal stability targets in terms of capacity or need of financing according to the definition contained in the European System of National and Regional Accounts, and the public debt target for the following three fiscal years, both for all the Public Administrations together and for each of their subsectors. These targets shall be expressed in terms of percentages of the nominal national Gross Domestic Product.

For the purposes of the foregoing paragraph, before 1 April each year the Ministry of Finance and Public Administrations shall forward the respective target proposals to the Autonomous Communities' Fiscal and Financial Policy Council and the National Local Administration Commission, which must deliver their reports in a maximum of 15 days counting from the receipt of the proposals at the General Secretariat of the Autonomous Communities' Fiscal and Financial Policy Council and the secretariat of the National Local Administration Commission.

The Cabinet resolution shall include the limit on non-financial spending in the National Budget as referred to in Article 30 of this Act.

2. In setting the fiscal stability target, account shall be taken of the spending rule set out in Article 12 of this Act and the structural balance reached in the fiscal year immediately before.

3. The public debt target shall be set in a manner consistent with the fiscal stability target. If in the circumstances envisaged in Article 13(3) the limits laid down

in Article 13(1) of this Act should be overstepped, the target must guarantee a downward path of public debt in line with the European regulations.

4. In setting fiscal stability and public debt targets account shall be taken of the recommendations and opinions issued by European Union institutions on Spain's Stability Programme or as a result of other European supervision mechanisms.

5. The proposal of fiscal stability and public debt targets shall be accompanied by a report which assesses the forecast economic situation for each of the years considered within the time horizon for the setting of such targets.

This report shall be drafted by the Ministry of Economy and Competition, following consultation with the Bank of Spain and taking account of the forecasts of the European Central Bank and the European Commission. It shall include the multiannual economic outlook, which shall specify, among other variables, the forecast of Gross Domestic Product growth, the output gap, the reference rate of the Spanish economy as set out in Article 12 of this Act, and the aggregate cyclical balance for all the Public Administrations, distributed among their subsectors.

6. The Cabinet resolution setting out the fiscal stability and public debt targets shall be sent to the Cortes Generales along with the recommendations and the report referred to in paragraphs 4 and 5 of this article. Following the requisite debate in Full Session, the Congress of Deputies and the Senate in succession shall pronounce themselves in favour or against the targets proposed by the Government.

If the Congress of Deputies or the Senate reject the targets, the Government shall have a maximum of one month in which to submit a new resolution, which shall be subject to the same procedure.

7. Once the fiscal stability and public debt targets have been approved by the Cortes Generales, the Budget proposals of the Public Administrations must be drawn up in line with these targets.

8. The report of the Fiscal and Financial Policy Council referred to in paragraph 1 of this article, and the resolutions that the Council issues for implementation of the fiscal stability and public debt targets, shall be published for general information.

#### Article 16. Setting of individual targets for the Autonomous Communities

Once the Government has approved the fiscal stability and public debt targets according to the conditions laid down in Article 15 of this Act, the Ministry of Finance and Public Administrations shall, having received a report from the Independent Fiscal Responsibility Authority, draw up a proposal of fiscal stability and public debt targets for each Autonomous Community.

On the basis of that proposal, the Government shall set the fiscal stability and public debt targets for each one in the light of a report by the Fiscal and Financial Policy Council, which must give its opinion within no more than fifteen days following receipt of the proposal at the secretariat of the Autonomous Communities' Fiscal and Financial Policy Council.

#### Article 17. Reports on compliance with fiscal stability, public debt and spending rule targets

1. The Independent Fiscal Responsibility Authority shall, before 15 October, make public, as general information, the report produced on how the draft National Budget and the information referred to in Article 27, which may include recommendations if any deviation is found, fit in with stability, debt and spending rule targets. The Ministry of Finance and Public Administrations may draw up any additional recommendations it deems appropriate.

2. Before 1 April each year, the Independent Fiscal Responsibility Authority shall present the Government with a report on the level of compliance with fiscal stability and public debt targets in the initial Budgets of the Public Administrations. The report shall likewise comment on compliance of the Budgets of the Central Administration and the Autonomous Communities with the spending rule. The Ministry of Finance

and Public Administrations may draw up any recommendations it deems appropriate regarding the extent to which the objectives have been met.

3. Before 15 April each year, the Minister of Finance and Public Administrations shall present the Government with an initial report on the level of compliance with fiscal stability and public debt targets and the spending rule from the preceding fiscal year, and on the real performance of the economy and any deviations from the initial forecast contained in the report referred to in Article 15(5) of this Act. This report will be produced on the basis of the information which, under European regulations, must be submitted to the European authorities and, when compliance is evaluated, account will be taken of a reasonable margin that covers variations with regard to the report referred to in the following paragraph deriving from the timetable of data availability.

4. Before 15 October each year, the Minister of Finance and Public Administrations shall present the Government with a second report on the level of compliance with fiscal stability and public debt targets and the spending rule from the preceding fiscal year, and on the real performance of the economy and any deviations from the initial forecast contained in the report referred to in Article 15(5) of this Act. For the production of this report, account will be taken of the information which, under European regulations, must be submitted to the European authorities and the updated information submitted by the Autonomous Communities to the Ministry of Finance and Public Administrations.

That report shall also include a forecast of the level of compliance in the current fiscal year, which must be consistent with the information forwarded to the European Commission in accordance with European regulations.

5. The Minister of Finance and Public Administrations shall report to the Autonomous Communities' Fiscal and Financial Policy Council and to the National Commission on Local Administration, in their respective areas of competence, on the level of compliance with the fiscal stability and public debt targets and the spending rule.

The reports referred to in this article shall be published for general information.

## CHAPTER IV

### Preventive, corrective and enforcement measures

#### Section 1.<sup>a</sup> Preventive measures

##### Article 18. Automatic preventive measures

1. Public Administrations shall monitor budgetary implementation data and shall adjust public expenditure to ensure that the fiscal stability target is met at the close of the fiscal year.

2. When the volume of public debt exceeds 95 % of the limits laid down in Article 13(1) of this Act for each Public Administration, the only debt operations permitted to the Public Administration concerned shall be treasury transactions.

3. The revaluation and adjustment mechanisms that are necessary in order to guarantee budgetary balance and financial sustainability in the Social Security system will be established through provisions having the rank of law. The Government will monitor the application of the revaluation and adjustment mechanisms relating to the pensions system, to ensure that budgetary balance and financial sustainability is achieved in the Social Security system.

4. The Ministry of Finance and Public Administrations will monitor compliance with average periods of payments to suppliers by the Autonomous Communities.

Where the average payment period to suppliers by an Autonomous Community exceeds the maximum period laid down in the regulations on late payments by more than 30 days for two consecutive months, starting from the updating of its financial plan in accordance with the provisions of Article 13(6), the Ministry of Finance and

Public Administrations will issue a warning notification, indicating the amount which must be devoted each month to paying suppliers and the quantified measures for reducing expenditure, increasing revenue or other measures for managing receipts and payments that must be adopted to enable it to generate the finance required to reduce its average payment period to suppliers. The Autonomous Community must include all of this in its financial plan in the month following the said warning notification.

Once the Ministry of Finance and Public Administrations has issued a warning notification, as referred to in the preceding paragraph, it will remain in effect until the Autonomous Community complies with the maximum payment period laid down in the regulations on late payments.

5. The Local Corporation's controlling body will monitor compliance with the average payment period to suppliers.

For Local Corporations included in the scope of Articles 111 and 135 of the Recast Text of the Local Finance (Regulation) Act, where the controlling body ascertains that a Local Corporation's average payment period exceeds the maximum payment period laid down in the regulations on late payments by more than 30 days for two consecutive months, starting from the updating of its financial plan in accordance with the provisions of Article 13(6), the controlling body will issue a warning notification within 15 days of ascertaining the fact to the Administration with overall responsibility for the financial affairs of the Local Corporations and to the Local Corporation's governing body. The administration with overall responsibility for financial affairs may lay down quantified measures for reducing expenditure, increasing revenue or other measures for managing receipts and payments, which the Local Corporation must adopt to enable it to generate the finance required to reduce its average payment period to suppliers. Where it is the Autonomous Community that has overall responsibility for the above-mentioned financial affairs, it must notify the Ministry of Finance and Public Administrations of these actions.

Once the above measures have been applied, if the maximum payment period laid down in the regulations on late payments continues to be exceeded by more than 30 days, the relevant body of the General State Administration may, having consulted the Autonomous Community where that body has responsibility for the financial affairs of the Local Corporation, withhold resources deriving from State taxes to meet the outstanding payment obligations of the Local Corporations towards their suppliers. In order to do this, it will collect from the Local Corporation the information required to quantify and determine the share of commercial debt to be paid by using the above-mentioned resources.

#### Article 19. Non-compliance risk warning

1. Should the central government identify a risk of non-compliance with the fiscal stability target, public debt target or spending rule of Autonomous Communities or Local Corporations it shall, at the proposal of the Minister of Finance and Public Administrations, present a reasoned warning to the Administration responsible, following a hearing thereof. Once the warning has been presented, the Government shall so advise the Fiscal and Financial Policy Council if the warnee is an Autonomous Community, or the National Local Administration Commission if it is a Local Corporation. This warning shall be made public, for general information.

2. The Administration thus warned shall have one month in which to take the necessary risk prevention measures, which must be intimated to the Ministry of Finance and Public Administrations. If the measures are not taken or the Ministry of Finance and Public Administrations deems them insufficient to correct the risk, the corrective measures provided in Articles 20 and 21 and 25(1)(a) shall be applied.

## Section 2.<sup>a</sup> Corrective measures

### Article 20. Automatic corrective measures

1. Should the Government learn through the reports referred to in Article 17 of this Act that an Autonomous Community has failed to comply with fiscal stability, public debt or spending rule targets, all debt operations of that non-complying Community shall require the authorisation of the State for as long as it continues to fail to comply. The authorisation may be granted gradually, by tranches, and shall be mandatory until the Ministry of Finance and Public Administrations ascertains that the fiscal stability, public debt and spending rule targets have been complied with.

Once the economic/financial plan submitted by the Autonomous Community for failure to comply with the fiscal stability, public debt or spending rule targets has been deemed suitable by the Fiscal and Finance Policy Council, short-term credit operations that are not considered to be external financing shall not require State authorisation.

2. In the event of non-compliance with the fiscal stability or public debt target by Local Corporations within the subjective scope defined in Articles 111 and 135 of the Recast Text of the Local Finance (Regulation) Act, all long-term debt operations of the Local Corporation concerned shall require the authorisation of the State, or, where appropriate, of the Autonomous Community that has oversight of its financial affairs.

3. In the event of non-compliance with the fiscal stability target, public debt target or spending rule, the granting of subsidies or the signing of agreements by the Central Administration with non-complying Autonomous Communities shall be subject to a prior favourable report from the Ministry of Finance and Public Administrations.

The Laws on General State Budgets shall lay down the criteria that will serve as the basis for the issuing of the report governed by this paragraph; in any case it must take into account the extent of performance of the measures that have to be applied by the Autonomous Community to correct the non-compliance.

4. The measures provided for in the preceding paragraphs shall likewise apply in the case of presentation of a warning as provided in Article 19 of this Act.

5. Where the average payment period to suppliers by an Autonomous Community exceeds the maximum period laid down in the regulations on late payments by more than 30 days for two consecutive months, starting from the updating of its financial plan in accordance with the provisions of Article 18(4), the Ministry of Finance and Public Administrations will issue a warning notification to the Autonomous Community, indicating that as of that date:

a) All budget amendments that involve a net increase in the non-financial expenditure of the Autonomous Community and which, under the regional government laws in force are not financed by the contingency fund or with a reduction in other credits, will require the adoption of a decision to freeze credits in an equal amount. The Ministry of Finance and Public Administrations will be notified of this, with an indication of the credit involved, the expenditure measure underpinning it and the budget amendment that is giving rise to it.

b) All its long-term debt operations shall require the authorisation of the State. Such authorisation may be granted gradually, by tranches.

c) The Autonomous Community must include new measures to achieve the maximum payment period laid down in the regulations on late payments in its next updated financial plan.

6. Once the measures laid down in paragraph 5 above have been applied, if the average payment period to suppliers by an Autonomous Community exceeds the maximum period laid down in the regulations on late payments by more than 30 days

for two consecutive months, starting from the updating of its financial plan referred to in point (c) of the above paragraph 5, the Ministry of Finance and Public Administrations will initiate the procedure to withhold the amounts to be paid through funding schemes in order to make direct payments to suppliers. In order to do this, it will collect from the Autonomous Community the information required to quantify and determine the share of commercial debt to be paid by using the above-mentioned resources and will notify the Fiscal and Finance Policy Council of this, for information.

7. The measures laid down in paragraphs 5 and 6 above will remain in effect until the Autonomous Community has complied with the maximum payment period laid down in the regulations on late payments for six consecutive months.

#### Article 21. Economic/financial plan

1. In the event of non-compliance with the fiscal stability, public debt or spending rule targets, the Administration concerned shall draw up an economic/financial plan to achieve compliance with the targets or the spending rule over the course of the current and subsequent year, with the content and scope set out in this article.

2. The economic/financial plan shall contain at least the following information:

a) The causes of non-compliance with the target concerned, or with the spending rule, as the case may be.

b) The forecasts for income and expenditure trends, assuming that there are no changes in fiscal and spending policies.

c) A description, quantification and schedule for implementation of the measures contained in the plan, indicating the budget items or extra-budgetary entries in which they are to be counted.

d) The forecasts for the economic and budgetary variables assumed by the plan, and the assumptions on which these forecasts are based, in line with the terms of the report referred to in Article 15(5).

e) A sensitivity analysis considering alternative economic scenarios.

3. If they are currently subject to a European Union Excessive Debt Procedure or other European supervisory mechanisms, the plan must include any further information that is required.

#### Article 22. Rebalancing plan

1. Any Administration in the situations envisaged in Article 11(3) of this Act shall submit a rebalancing plan including the content referred to in Article 21(2), and also the path proposed to achieve the fiscal stability target, with a breakdown of the forecast revenues and expenditure, and the principal items thereof, that will make it possible to realise that path.

2. Any Administration in the situations envisaged in Article 11(3) of this Act shall submit a rebalancing plan including the content referred to in Article 21(2), and also the following information:

a) The path proposed to achieve the public debt target, with a breakdown of the development factors that will make it possible to realise that path.

b) An analysis of public debt dynamics, which shall also include the variables determining its course, other risk factors, and an analysis of average debt maturity.

3. If they are currently subject to a European Union Excessive Debt Procedure or other European supervisory mechanisms, the plan must include any further information that is required.

## Article 23. Processing and follow-up of economic/financial plans and rebalancing plans

1. Following a report from the Independent Fiscal Responsibility Authority, economic/financial plans and rebalancing plans shall be submitted to the bodies indicated in the following paragraphs within a maximum, respectively, of one month from the date on which the non-compliance is reported or the circumstances envisaged in Article 11(3) arise. These plans shall be approved by the said bodies within a maximum of two months following their submission, and they must be set in motion not more than three months after the date on which the non-compliance is reported or the circumstances envisaged in Article 11(3) arise.

In calculating the maximum of one month provided for above, the time between the request for and the issue of the report by the Independent Fiscal Responsibility Authority shall not be included.

2. The economic/financial plan and the rebalancing plan of the Central Administration shall be drawn up by the Government, at the proposal of the Minister of Finance and Public Administrations, and it shall be referred to the Cortes Generales for approval, following the procedure laid down in Article 15(6) of this Act.

3. The economic/financial plans and the rebalancing plans of the Autonomous Communities shall be referred to the Fiscal and Financial Policy Council, which shall verify whether the measures included are suitable and the forecasts meet the targets that have been set. The assessment of their suitability shall take account of their capacity to regulate in fiscal matters.

If the Fiscal and Financial Policy Council should consider that the measures contained in the plan submitted do not guarantee correction of the imbalance, it shall require the Autonomous Community concerned to submit a new plan.

If the Autonomous Community fails to submit the new plan within the stipulated time or the Council considers that the measures contained in it are not sufficient to achieve the targets, the enforcement measures provided in Article 25 shall be applied.

4. The economic/financial plans drawn up by Local Corporations must be approved by a plenary session of the Corporation. Plans of corporations coming within the subjective scope defined in Articles 111 and 135 of the Recast Text of the Local Finance (Regulation) Act shall be referred to the Ministry of Finance and Public Administrations for final approval and follow-up, unless the Statute of Autonomy of the Autonomous Community in whose territories the Local Corporation is situated empowers it to oversee the financial affairs of local authorities.

In the latter case, the plan shall be submitted to the Autonomous Community concerned, which shall be responsible for its approval and follow-up. The Autonomous Community must forward information to the Ministry of Finance and Public Administrations on these plans and on the results of its follow-up thereof.

The economic/financial plans shall be forwarded to the National Local Administration Commission for its information. These plans shall be publicised in the manner laid down in the law for the authority's Budgets.

5. The Ministry of Finance and Public Administrations shall publicise economic/financial plans, rebalancing plans and the effective adoption of the measures approved, with follow-up of their observed impact.

## Article 24. Follow-up reports on economic/financial plans and rebalancing plans

1. The Ministry of Finance and Public Administrations shall draw up a quarterly follow-up report on the implementation of the measures contained in the current economic/financial plans and rebalancing plans, for which it shall gather the necessary information.

2. The Minister of Finance and Public Administrations shall forward that report to the Autonomous Communities' Fiscal and Financial Policy Council and to the National Commission on Local Administration, in their respective areas of

competence, for their information regarding the level of compliance with the said targets.

3. If the follow-up reports should show a deviation in the implementation of the measures, the Minister of Finance and Public Administrations shall order the Administration responsible to justify such deviation, implement the measures, or, if appropriate, include new measures to guarantee compliance with the stability target.

If in the quarterly report following the one in which the order was issued the Ministry of Finance and Public Administrations finds that the non-compliance with the stability target persists, the enforcement measures set out in Article 25 shall be applied.

4. In the case of entities coming within the subjective scope defined in Articles 111 and 135 of the Recast Text of the Local Finance (Regulation) Act, the follow-up report on Local Corporations shall be compiled half-yearly, by the Ministry of Finance and Public Administrations, or, where appropriate, by the Autonomous Community that has oversight of its financial affairs.

If the report finds that the measures included in the plan have not been implemented and this causes non-compliance with the stability target, the enforcement measures set out in Article 25 shall be applied.

5. The reports referred to in this article shall be published for general information.

### Section 3.<sup>a</sup> Enforcement measures

#### Article 25. Enforcement measures

1. Where the economic/financial plan or rebalancing plan has not been submitted, has not been approved or has not been complied with, or where the average payment period to suppliers by an Autonomous Community exceeds the maximum period laid down in the regulations on late payments by more than 30 days for two consecutive months, starting from the notification referred to in Article 20(6), the relevant Public Administration must:

a) within 15 days of the event of non-compliance, approve the freezing of credits and carry out the corresponding withholding of credits to guarantee compliance with the target set. This agreement must detail the measures for reducing expenditure and must identify the budget credit involved, and may not be annulled during the budget year in which it is approved, or until measures have been adopted that guarantee compliance with the target set. The agreement may not give rise to an increase in the expenditure entered in subsidiary accounts, and to ensure this, the information will be specifically monitored. In addition, where it is necessary to fulfil fiscal consolidation commitments with the European Union, the regulatory powers vouchsafed to the Autonomous Communities in connection with devolved taxes shall be exercised by the State.

b) when requested by the Ministry of Finance and Public Administrations, lodge an interest-bearing deposit in the Bank of Spain equivalent to 0.2 % of its nominal Gross Domestic Product. The deposit shall be cancelled when the measures guaranteeing compliance with the targets are implemented.

If the plan has not been submitted or approved or the measures have not been implemented within 3 months of the lodging of the deposit, no interest shall accrue on it. If the non-compliance persists at the expiry of a further 3-month period, it may be decided to convert the deposit into a coercive fine.

2. If any of the measures referred to in paragraph (a) above are not adopted or should they prove inadequate, the Government may decide to send a commission of experts, under the direction of the Ministry of Finance and Public Administrations, to assess the economic/budgetary situation of the administration concerned. This commission may request, and the administration concerned shall be obliged to

furnish, any data, information or background regarding items of revenue and expenditure. The commission must submit a proposal of measures, and its conclusions shall be made public within one week. The measures proposed shall be binding upon the non-complying administration.

#### Article 26. Compulsory measures

1. In the event that an Autonomous Community fails to adopt the decision to freeze credits set out in Article 25(1)(a), to lodge the mandatory deposit set out in Article 25(1)(b) or implement the measures proposed by the commission of experts as set out in Article 25(2), the Government, by virtue of Article 155 of the Spanish Constitution, shall order the President of the Autonomous Community to see that, within the time stipulated therefor, the decision to freeze credits is adopted, the mandatory deposit laid down in Article 25(1)(b) is lodged or the measures proposed by the commission of experts are implemented.

If this order is not heeded, the Government shall, subject to the approval of an absolute majority of the Senate, take the measures necessary to compel implementation by the Autonomous Community. The Government may issue instructions to all the authorities of the Autonomous Community for enforcement of the measures.

2. In the event that a Local Corporation fails to adopt the decision to freeze credits or to lodge the mandatory deposit set out in Article 25(1)(b) or implement the measures proposed by the commission of experts as set out in Article 25(2), the Government, or where appropriate the Autonomous Community responsible for overseeing the Local Corporation's financial affairs, shall order the President of the Local Corporation to see that, within the time stipulated therefor, a decision to freeze credits is adopted, the mandatory deposit laid down in Article 25(1)(b) is lodged or the measures proposed by the commission of experts are implemented. If this order is not heeded, the Government, or where appropriate the Autonomous Community responsible for financial oversight, shall take the necessary measures to compel implementation of the measures contained in the order.

If the Autonomous Community responsible for financial oversight fails to take the measures referred to in this paragraph, the Government shall order their implementation via the procedure set out in paragraph 1.

3. Persistent failure to comply with any of the obligations referred to in the foregoing paragraph, where this entails non-compliance with the fiscal stability target, the public debt target or the spending rule, may be considered severely harmful to the general interest, and it may be decided to dissolve the organs of the non-complying Local Corporation, pursuant to Article 61 of the Local Government (Bases) Act, Law 7/1985 of 2 April 1985.

## CHAPTER V

### Transparency

#### Article 27. Practical application of the principle of transparency

1. The Budgets of each Public Administration shall be accompanied by the information necessary to match the resulting balance of revenue and expenditure in the Budget to the capacity or need for financing according to the rules of the European System of National and Regional Accounts.

2. Before 1 October each year, the Autonomous Communities and Local Corporations shall send information to the Ministry of Finance and Public Administrations on the basic outlines of their Budgets, in order to satisfy the requirements of the European regulations.

3. The Ministry of Finance and Public Administrations may collect the necessary information from the Autonomous Communities and Local Corporations to assure

compliance with the provisions of this Act and to meet any other requirement for information demanded by the Community regulations.

The information that is supplied shall include at least the following documents depending on the period that is considered:

a) Information on initial Budget proposals or initial financial statements, indicating the basic outlines of the proposed content of these documents.

b) General budget or initial financial statements as the case may be, and annual accounts of Autonomous Communities and Local Corporations.

c) Settlements of revenue and expenditure, or balance sheet and profit and loss account as the case may be, of Local Corporations as provided for in the regulations.

d) Monthly settlements of revenue and expenditure of Autonomous Communities.

e) Non-periodically, details of all dependent corporations of Autonomous Communities and Local Corporations coming within the scope of the Act.

f) Any other information necessary to calculate budgetary implementation in terms of the national accounts.

4. The specifics, procedure and deadline for forwarding of the information to be furnished by Autonomous Communities and Local Corporations, and likewise the documentation to be made public for general information, shall be included in an Order of the Minister of Finance and Public Administrations, subject to a prior report from the Autonomous Communities' Fiscal and Financial Council and the National Local Administration Commission, within their respective purviews.

5. In order to satisfy the principle of transparency and the publicity obligations under the Act, the Ministry of Finance and Public Administrations may publish economic/financial information of Public Administrations with whatever scope, method and frequency is required by national rules and regulations and Community provisions.

6. The Public Administrations and all the entities or bodies connected with or dependent on them shall make public their average payment period to providers in the way laid down by Order of the Ministry of Finance and Public Administrations.

7. Non-compliance with transparency obligations and obligations in respect of furnishing information, in terms of the deadlines laid down, the correct content and suitability of the data and the method of sending them, emanating from this Act may lead to application of the measures provided for in Article 20.

#### Article 28. Central information office

1. The Ministry of Finance and Public Administrations shall maintain a public central information office to provide information on the economic/financial activity of the various Public Administrations.

2. For these purposes, banks, savings banks and other financial institutions, and likewise the various Public Administrations, shall forward the necessary details as prescribed in the regulations.

3. The Bank of Spain shall cooperate with the Ministry of Finance and Public Administrations by furnishing the information that it receives in connection with the credit operations of Autonomous Communities and Local Corporations. Notwithstanding the foregoing, the Ministry of Finance and Public Administrations may order the Bank of Spain to secure other particular data relating to the debts of Autonomous Communities and Local Corporations in the terms laid down in the regulations.

4. The information held at the central office referred to in this article shall be available to the Autonomous Communities' Fiscal and Financial Policy Council and the National Local Administration Commission in those spheres that concern them.

5. The Minister of Finance and Public Administrations shall, subject to a prior report from the Autonomous Communities' Fiscal and Financial Council regarding the information concerning them, issue an Order specifying the data and documents to be held at the central information office, the timing and procedures for forwarding,

including telematic procedures, and also the information that is to be published for general information and the timing and the manner of their publication.

## CHAPTER VI

### Budgetary administration

#### Article 29. Medium-term budgetary framework

1. A medium-term budgetary plan will be prepared, to be included in the Stability Programme, which will act as a framework for the preparation of the annual budgets, and through which budgetary programming that is consistent with the budget stability and public debt targets and which complies with the spending rule will be guaranteed.

2. The medium-term budgetary plan shall cover a minimum of three years and shall, among others, contain the following parameters:

a) The fiscal stability, public debt and spending rule targets of the respective Public Administrations.

b) The forecasts for the principal revenue and expenditure items, taking account both of their growth trends, i.e. based on policies not subject to modifications, and of the impact of the measures proposed for the period considered.

c) The principal assumptions on which the revenue and expenditure forecasts are based.

d) An evaluation of how the measures planned may affect the long-term sustainability of public finances.

3. The projections used in the medium-term budget plan shall be based on macro-economic and budget forecasts prepared in accordance with the methodologies and procedures laid down in the annual budget process.

4. Any amendment made to the medium-term budget plan or any deviation from it must be explained.

#### Article 30. Limit on non-financial expenditure

1. The State, Autonomous Communities and Local Corporations shall approve, in their respective purviews, an upper limit on non-financial expenditure that is consistent with the fiscal stability target and the spending rule, which shall mark the ceiling for allocation of resources in their Budgets.

The limit on non-financial expenditure shall exclude transfers linked to the financing systems of Autonomous Communities and Local Corporations.

2. Before 1 August each year, the Ministry of Finance and Public Administrations shall report to the Fiscal and Financial Policy Council on the non-financial expenditure ceiling in the National Budget.

3. Before 1 August each year, the Autonomous Communities shall forward information to the Fiscal and Financial Policy Council on the non-financial expenditure ceiling that each one of them has approved.

#### Article 31. Contingency fund.

The State, the Autonomous Communities and the Local Corporations coming within the subjective scope of Articles 111 and 135 of the Recast Text of the Local Finance (Regulation) Act shall include a differentiated appropriation in their Budgets, to be used where appropriate to meet any non-discretionary needs that may arise in the course of the fiscal year for which there is no provision in the Budget as initially approved.

The amount and the conditions of application of that appropriation shall be determined by each Public Administration within its own purview.

#### Article 32. Use of budget surplus

1. In the event that the budgetary settlement produces a surplus, this shall be used, in the case of the State, Autonomous Communities and Local Corporations, to reduce the level of net debt, always within the limit of the volume of debt, if this is lower than the amount of the surplus to be used for debt reduction.

2. In the case of the Social Security system, the surplus shall be applied primarily to the Reserve Fund in order to meet future needs of the system.

3. For the purposes of this Article, 'surplus' shall be deemed to mean the financing capacity according to the European system of accounts, and 'debt' shall be deemed to be the public debt for the purpose of the excessive deficit procedure as defined in European regulations.

#### First additional provision. Additional financing mechanisms for Autonomous Communities and Local Corporations

1. Those Autonomous Communities and Local Corporations that ask the State for access to extraordinary liquidity support measures or have so requested in 2012 shall be obliged to agree with the Ministry of Finance and Public Administrations on an adjustment plan to guarantee compliance with the fiscal stability and public debt targets. With the consent of the Government's delegated committee for economic affairs, it shall be possible to extend these periods in view of difficulties in accessing the financial markets by the Autonomous Communities and Local Corporations or other socio-economic circumstances giving rise to a need to extend the said measures on an exceptional basis.

2. Before receiving access to these mechanisms, the Autonomous Community or Local Corporation must accept specific conditions as regards follow-up and the relaying of information and any other conditions that may be laid down in the orders or agreements ordering the implementation of the mechanisms, as well as the adoption of extraordinary adjustment measures, where appropriate, to comply with the fiscal stability targets, public debt ceilings and payment obligations to suppliers included in Law 3/2004 of 29 December 2004 introducing measures to combat default in commercial transactions.

3. The adjustment plan shall be public and shall include an exact calendar for approval, implementation and supervision of the measures agreed. The agreed financial aid shall be disbursed in tranches following that calendar.

4. During the lifetime of the adjustment plan, the responsible administration must send quarterly data to the Ministry of Finance and Public Administrations for general information, on the following points:

a) Public guarantees received and transactions or credit lines contracted, identifying the institution, total available credit and credit taken up.

b) Commercial debt acquired, classified by seniority and maturity. It shall also include information on contracts concluded with credit institutions to facilitate payment of suppliers.

c) Operations with derivatives.

d) Any other contingent liabilities.

5. Failure to send the information, or unfavourable assessment of or non-compliance with the adjustment plan by an Autonomous Community or Local Corporation shall cause application of the enforcement measures provided in Articles 25 and 26 in the event of non-compliance with the Economic/Financial Plan.

6. The Local Corporations must submit, annually, to the Ministry of Finance and Public Administrations a report from the controller on the implementation of adjustment plans.

In the case of Local Authorities coming within the subjective scope defined in Articles 111 and 135 of the Recast Text of the Local Finance (Regulation) Act, the above report must be submitted on a quarterly basis.

The Autonomous Communities must submit the information laid down in paragraph 4 on a monthly basis, through their general audit offices or equivalent units, and must, in addition, submit to the Ministry of Finance and Public Administrations updated information on the implementation of their adjustment plans, and this must include, at least, the following elements:

- a) Monthly budgetary implementation of the expenditure and revenue chapters.
- b) The extent to which the adjustment plan is tailored to the actual situation, and evaluation of the measures being taken.
- c) Evaluation of the short-term and medium-term risks in connection with the fulfilment of the targets of the adjustment plan. Specifically, the liquidity forecasts and the debt needs shall be analysed.
- d) Analysis of the deviations made in implementing the adjustment plan.
- e) Recommendations, if applicable, for amending the adjustment plan with the aim of meeting the budget stability and financial sustainability targets.
- f) Updated information on their financial plans.

The Ministry of Finance and Public Administrations shall be competent to follow up the adjustment plans, and may request any information that may be relevant for this purpose, and shall report the result of its assessment to the Ministry of Economy and Competition. In order to guarantee reimbursement of amounts outstanding from debt operations, depending on the risk assessment in the adjustment plan follow-up reports or the extent to which the conditions referred to in paragraph 2 have been met, it may be decided to have it monitored by the General Audit Office of the State Administration, with such content and scope as the latter shall determine. For the purposes of monitoring, the General Audit Office of the State Administration may enlist the cooperation of other public bodies, and in the case of monitoring activities in Autonomous Communities, it may conclude agreements with their own General Audit Offices.

In the case of monitoring activity in Local Corporations, the General Audit Office of the State Administration may enlist the cooperation of private auditing firms, which must follow the rules and instructions laid down by the former. The necessary financing for these activities shall be provided from the same funds as are used for extraordinary liquidity support measures.

7. Following the application of the measures laid down in Article 20(5), the Ministry of Finance and Public Administrations may propose to the Autonomous Community that it may access the additional financing mechanisms in force. If, a month after the proposal made by the Ministry of Finance and Public Administrations, the Autonomous Community has not given a refusal and set out its reasons for this, it shall be deemed to have been automatically included in the additional financing mechanism proposed. The Autonomous Community may only justify its refusal by showing that it can obtain liquidity at a lower price than that provided by the mechanism proposed by the State.

8. Following the application of Article 18(5), if the Local Corporations included in the scope of Articles 111 and 135 of the Recast Text of the Local Finance (Regulation) Act are still not complying with the maximum payment period laid down in the regulations on late payments, the Ministry of Finance and Public Administrations may decide on mandatory admission of the Local Corporation to the additional financing mechanisms in force.

9. The credit operations agreed by the Autonomous Communities relating to the additional financing mechanisms whose financial terms and conditions have been approved in advance by the Government's delegated committee for economic affairs,

provided that they are for not more than ten years, shall not require a mandatory authorisation from the Cabinet, and the restrictions laid down in Article 14(2) of the Autonomous Communities Financing Act, Organic Law 8/1980 of 22 September 1980, and in the third transitional provision of that Law shall not apply to them.

By way of exception, the time limits contained in the third transitional provision of that Law may be deemed not applicable to the credit operations referred to in the preceding paragraph if the Cabinet so decides when authorising the said operations.

Second additional provision. Liability for failure to comply with provisions of European Union law or of international treaties or agreements to which Spain is a party.

1. Public Administrations and any other entities mentioned in Article 2(2) of this Act which, in the discharge of their competences, fail to comply with obligations deriving from rules of European Union law or from international treaties or agreements to which Spain is a party, with the result that the Kingdom of Spain is penalised by European institutions or held responsible by international courts or by arbitration bodies shall be held liable, to the extent attributable to them, for the consequences of such non-compliance, in accordance with the terms of this provision and such regulatory provisions as may be enacted in implementation hereof.

2. It shall be for the Cabinet, after hearing the Administrations or entities concerned, to adjudicate liability for the non-compliance referred to in the preceding paragraphs and where appropriate to order compensation or withholding of such debts from the amounts that the State is due to transfer to the responsible Administration or entity for any purpose, be it budgetary or non-budgetary. The declaration shall take account of the facts and the considerations set out in the decision of the European institutions, international courts or arbitration bodies and shall reflect the criteria for allocation on which the declaration of liability is based. The decision shall be published in the Official State Gazette.

3. The Government is empowered to enact legislation implementing this provision, regulating the special cases applicable to the different Public Administrations and entities referred to in paragraph 1 of this provision.

Third additional provision. Control of constitutionality

1. In the terms provided in the Constitutional Court Act, Organic Law 2/1979 of 3 October 1979, the laws, regulatory provisions or acts of Autonomous Communities having the force of law, and likewise regulatory provisions not having the force of law and decisions issued by any organ of the Autonomous Communities that violate the principles laid down in Article 135 of the Constitution and implemented in this Act, may be challenged in the Constitutional Court.

2. In the event that in application of Article 161(2) of the Constitution a challenge to a Budget Act should cause it to be suspended, the Budget for the previous year shall automatically be deemed to be extended pending the passing of the Budget for the year following the suspended one, the passing of a law repealing, amending or replacing the challenged provisions, or the lifting of the suspension as the case may be.

Fourth additional provision. Enforcement of payment of instalments due of financial debts

1. The Public Administrations must draw up financial plans that set out their capacity to meet the payments of the instalments due of financial debts, with specific plans for interest and capital payments for public debt.

2. The situation of risk of non-payment of instalments due on financial debt, evaluated by the Government on a proposal by the Ministry of Finance and

Public Administrations, shall be deemed to be severely harmful to the general interest, and steps shall be taken in accordance with Article 26.

Fifth additional provision. Period of payment to suppliers

The references in this Act to the maximum period laid down by the regulations on late payments for payment to suppliers shall be deemed to have been made to the period laid down by the said regulations as in force at any given time. At the time of entry into force of this Act, this period is thirty days.

Sixth additional provision. Special rules for the use of budget surplus

1. The provisions in the following paragraphs of this additional provision shall apply to Local Corporations when the following two circumstances exist:

a) They comply with or do not exceed the limits set by the legislation governing local finance with regard to the authorisation of debt operations.

b) In the preceding financial year, they simultaneously submit a surplus in terms of the national accounts and a positive cash residue for general expenditure, discounting the effect of the special financing measures applied within the context of the first additional provision of this Act.

2. In 2014, for the purposes of applying Article 32, regarding the use of budget surplus, the following shall be taken into account:

a) The Local Corporations must first of all use the surplus in the national accounts or, if this is too little, the cash residue for general expenditure to meet the outstanding budget obligations entered into the accounts on 31 December of the previous financial year in the account 'Creditors for operations not yet applied to the budget' or equivalents in the terms laid down in the accounting and budgetary regulations applicable, and to then cancel the remaining payment obligations outstanding with suppliers, accounted and applied at the closure of the previous financial year.

b) In the event that, once the obligations referred to in point (a) above have been met, the amount set out in point (a) above should still be positive, and the Local Corporation opts for the application of the provisions of point (c) below, a percentage of this balance must be used to amortise debt operations that are current and this must be at least the amount required to ensure that the Local Corporation does not go into deficit in terms of the national accounts in the said financial year 2014.

c) If, having complied with the provisions of points (a) and (b) above the Local Corporation the amount set out in point (a) should still be positive, this may be used to finance investments provided that throughout the investment's useful life it is financially sustainable. For these purposes, the Act shall determine both the formal requirements and the parameters that enable an investment to be described as financially sustainable, and in this respect its contribution to long-term economic growth shall be given particular value.

For the application of the provisions of the preceding paragraph, it will also be necessary for the Local Corporation's average period for payment to suppliers not to exceed the maximum period laid down in the regulations on late payments, according to published data.

3. By way of exception, Local Corporations that in the 2013 financial year meet the requirements of paragraph 1 regarding the settlement of their budget during the 2012 financial year, and which also in the 2014 financial year comply with the provisions of paragraph 1, may in the year 2014 apply the surplus in national accounts or, if this is less, the cash residue for general expenditure deriving from the 2012 settlement, in accordance with the rules in paragraph 2 above, if their governing body consents to this.

4. The amount of expenditure carried out in accordance with paragraphs 2 and 3 of this provision shall not be considered to be expenditure for the purposes of the application of the spending rule defined in Article 12.

5. In relation to financial years subsequent to 2014, under the Law on General State Budgets authorisation may be given, in view of the economic situation, for the extension of the implementation period laid down in this Article.

#### First transitional provision. Transitional period

1. The limits laid down in Articles 11 and 13 of this Act must be complied with in 2020, to which end:

a) The ratio of public debt to GDP for each Administration shall be reduced at the average annual rate necessary to achieve the limit laid down in Article 13 of this Act in any case. The path for reduction of the volume of debt must further meet the following requirements:

1.º The variation in non-financial uses of each Administration may not exceed the real growth rate of the Gross Domestic Product of the Spanish economy.

2.º Once the national economy achieves a real growth rate of at least 2 per cent per annum or generates net employment with growth of at least 2 per cent per annum, the ratio of public debt shall be reduced annually by at least 2 percentage points of the national Gross Domestic Product.

However, as long as the maximum debt figure set by the European Union is not reached by that date, if any Administration oversteps the debt limit set out in Article 13, having complied with the structural balance target, it must annually reduce the deviation between its debt ratio and the limit thereon. The overall length of the adjustment period may not exceed that provided in the European regulations as from the entry into force of this Act.

b) The aggregate structural deficit of all Public Administrations must be reduced by at least an annual average of 0.8 per cent of the national Gross Domestic Product. This reduction shall be distributed between the State and the Autonomous Communities on the basis of the percentages of structural deficit that they registered at 1 January 2012. In the case of an Excessive Debt Procedure, the reduction of the deficit shall be adjusted to the terms thereof.

2. These limits shall not apply in the event of any of the circumstances and in the terms set out in Articles 11(3) and 13(3) of this Act.

3. The structural deficit and public debt ceilings referred to in paragraph 1 above shall have the same effects and consequences that the Act envisages for the ceilings set out in Articles 11 and 13, particularly with respect to the preventive and corrective mechanisms referred to in Chapter IV.

4. In 2015 and 2018 the paths for reduction of the public debt and structural deficit shall be reviewed for purposes of updating to bring them into line with the economic and financial situation, in order to achieve the limits set out in Articles 11 and 13 of this Act by 2020.

Second transitional provision. Elaboration of the method for calculating forecast trends of revenue and expenditure on the assumption that there are no changes in policies or the reference growth rate.

In the 15 calendar days following the passing of this Act, the Ministry of Economy and Competition shall regulate the application of the method referred to in Article 21(2)(b) on the calculation of forecast trends and in Article 12 on the reference growth rate.

### Third transitional provision. Debt authorisations

Until 2020, if owing to extraordinary circumstances it should become necessary to guarantee the coverage of essential public services, credits may be arranged on an exceptional basis for a period of between one and ten years without having to apply the restrictions set out in Article 14(2) of the Autonomous Communities' Financing Act, Organic Law 8/1980 of 22 September 1980. Any credits arranged by virtue of this exception must in any case be authorised by the State, which shall assess whether the circumstances referred to in this provision arise.

### Fourth transitional provision. Exclusion from the scope of Article 8(2) of the Act

Any additional financing mechanisms that the State has authorised or may authorise pursuant to the first additional provision to enable Autonomous Communities and Local Corporations to honour payment obligations with their suppliers, to finance their debt instalment payments or to give liquidity to the Autonomous Communities shall be excluded from the scope of Article 8(2) of this Act.

### Sole repeal provision. Repeal of the Stability Act

1. Organic Law 5/2001 of 13 December 2001 supplementing the General Fiscal Stability Act, and likewise the Recast Text of the General Fiscal Stability Act approved by Legislative Royal Decree 2/2007 of 28 December 2007, are hereby repealed.

2. All provisions which conflict with this organic law are hereby repealed.

### First final provision. Legal authority

This Organic Law is approved by virtue of Article 135 of the Constitution.

### Second final provision. Implementing Legislation

1. The Cabinet is empowered, within its purview, to issue such regulatory provisions as may be necessary to implement this Act, and to order such measures as may be necessary to ensure effective implementation of the provisions hereof. In particular, under a Royal Decree the Cabinet will develop the conditions and the procedure for withholding amounts to be paid through the funding schemes of the Autonomous Communities in order to make direct payments to suppliers, as well as the remaining measures required for the application of the provisions of this Act in relation to the sustainability of commercial debt.

2. To effectively comply with the principle of transparency, the Minister of Finance and Public Administrations shall, in the light of a report by the Autonomous Communities' Fiscal and Financial Policy Council and the National Local Administration Commission, issue an Order setting out the details and documents that are to be periodically published for general information, the timing of their publication and the manner in which they are to be published.

3. By Order of the Ministry of Finance and Public Administrations, following a report from the Fiscal and Financial Policy Council, the methodology for calculating the average period of payment to suppliers of the Public Administrations will be calculated in accordance with homogenous criteria; it will take into account payments made and pending payment transactions.

4. The rules for preparation of the National Budget, and for multiannual budgetary scenarios, shall be approved by Order of the Minister of Finance and Public Administrations.

5. Those regulations issued by the General State Administration in implementation of this Act which are basic in nature shall be explicitly announced as such.

Third final provision. Public finance of the Historic Territories

1. In consideration of its customary law system, the provisions of this Act shall be applied to the Foral Community of Navarre in the manner laid down in Article 64 of the Organic Law on Reincorporation and Revision of the Navarre Legal System, pursuant to the Economic Agreement between the State and the Foral Community of Navarre.

2. In consideration of its customary law system, the application of the provisions of this Act to the Autonomous Community of the Basque Country shall be without prejudice to the provisions of the Economic Agreement Act.

Fourth final provision. Amendment of the Autonomous Communities Financing Act, Organic Law 8/1980 of 22 September 1980.

The Autonomous Communities Financing Act, Organic Law 8/1980 of 22 September 1980, is hereby amended in the following terms:

One. Article 11(f) now reads as follows:

"(f) Special Manufacturing Taxes, on a partial basis with an upper limit of 58 per cent each, except for the Electricity Tax and the Mineral Oils Tax."

Two. Article 11(j) now reads as follows:

"(j) The Mineral Oils Tax, on a partial basis with an upper limit of 58 per cent for the general national rate, and totally for the special national rate and the regional rate."

Three. Article 12(1) now reads as follows:

"One. The Autonomous Communities may introduce surcharges on State taxes that are susceptible of devolution, except for the Mineral Oils Tax. They may add surcharges to any other excise taxes and to the value added tax where they are competent to regulate tax rates."

Four. Article 19(2)(g) now reads as follows:

"(g) In the Mineral Oils Tax, regulation of the regional rate."

Five. A seventh additional provision is added to the Autonomous Communities' Financing Act, Organic Law 8/1980 of 22 September 1980, to read as follows:

"Seventh additional provision. Incorporation of the Tax on Retail Sales of Certain Mineral Oils into the Mineral Oils Tax

As a result of the incorporation of the Tax on Retail Sales of Certain Mineral Oils into the Mineral Oils Tax, in accordance with Fiscal and Financial Policy Council Decision 3/2012 of 17 January 2012, the State's tranche of that tax is replaced by the special national rate of the Mineral Oils Tax, and the regional tranche of the Tax on Retail Sales of Certain Mineral Oils is replaced by the regional rate of the Mineral Oils Tax.

All references in the regulations to the Tax on Retail Sales of Certain Mineral Oils shall be understood to refer to the special national rate and the regional rate of the Mineral Oils Tax."

Six. An eighth additional provision is added to the Autonomous Communities Financing Act, Organic Law 8/1980 of 22 September 1980, to read as follows:

"Eighth additional provision. Deduction or withholding of funds from the financing system of common-regime Autonomous Communities and Autonomous Cities.

1. The State may deduct or withhold from the amounts paid for all funds in the financing system of common-regime Autonomous Communities and Autonomous Cities, the amounts necessary to back the guarantees agreed as part of credits arranged by the Autonomous Communities and Autonomous Cities with the *Instituto de Crédito Oficial* or in application of the additional financing mechanisms provided for in the Organic Law on Fiscal Stability and Financial Sustainability, always provided that it is allowed for in the financial mechanism approved by the State.

In the above event, the maximum monthly deduction or withholding may not exceed 25 per cent of the net amount of the payment on account or settlement in favour of the Autonomous Community or Autonomous City.

2. Liquidated, matured and due debts acquired with the State Exchequer by Autonomous Communities and by public-law entities dependent thereon, in respect of taxes for whose application the State is responsible and of Social Security contributions, may likewise be subject to deductions or withholdings on the amounts paid for all the funds in the financing system, according to the procedure set out in the first additional provision of Law 53/2002 of 31 December 2002 on fiscal, administrative and social order measures, or in the national legislation having the rank of law that regulates it."

Fifth final provision. Rules for the Autonomous Cities of Ceuta and Melilla

In matters of fiscal stability, the Autonomous Cities of Ceuta and Melilla shall be governed by those provisions of this Organic Law that are applicable to Local Corporations, without prejudice to the special circumstances deriving from their status as members of the Autonomous Communities' Fiscal and Financial Policy Council, and from the fact that, pursuant to Article 13(5) of this Act, account must be taken of the debt regulations laid down in their respective Statutes of Autonomy, in which respect the Recast Text of the Local Finance (Regulation) Act, approved by Legislative Royal Decree 2/2004 of 5 March 2004 shall be supplementary.

Sixth final provision.

In the case of local corporations, the deposit referred to in Article 25(1) shall be 2.8 % of the non-financial revenue of such corporations.

Seventh final provision. Entry into force.

This Organic Law shall enter into force on the day following its publication in the “Official State Gazette”.

However, the ceilings set out in Articles 11 and 13 of this Act shall enter into force on 1 January 2020.

The amendment of the Autonomous Communities Financing Act, Organic Law 8/1980 of 22 September 1980 set out in paragraphs one to five, both inclusive, of the fourth final provision, shall enter into force on 1 January 2013.

For the purposes of follow-up and implementation, such economic/financial and rebalancing plans as have been submitted during the 2012 fiscal year, and likewise the targets set for 2012 pursuant to the previous Act, shall be governed by the provisions of this Act.

Therefore,

I command all Spaniards, individuals and authorities alike, to observe and see to the observance of this organic law.

Madrid, 27 April 2012.

JUAN CARLOS R.

The President of the Government,  
MARIANO RAJOY BREY