

THE PRINCIPLE OF LOCAL FINANCIAL AUTONOMY

Octavia-Maria CILIBIU
PhD, University Lecturer,
University “Constantin Brâncuși” of Târgu-Jiu
Faculty of International Relations, Law and Administrative Sciences

ABSTRACT: *THE ADMINISTRATIVE AUTONOMY OF LOCAL AUTHORITIES WOULD NOT BE POSSIBLE WITHOUT THEIR FINANCIAL AUTONOMY ENSURE THE FUNCTIONING OF LOCAL AUTHORITIES.*

KEY-WORDS: *LOCAL AUTONOMY, FINANCIAL AUTONOMY, LOCAL BUDGET, LOCAL FINANCIAL RESOURCES.*

The public administration in territorial-administrative units is organized and operates under the principle local autonomy.

The Local autonomy or the local self-government is defined by the European Charter of Local Self-Government, adopted in Strasbourg on 15 October 1985, ratified by Romania by Law no. 199/1997[1], as: “the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population” [2].

„This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them”[3].

. „The principle of local self-government shall be recognised in domestic legislation, and where practicable in the constitution” [4].

Under the provisions of art. 120 of the Constitution, revised “public administration in territorial-administrative units is based on the principles of decentralization, local autonomy and devolution of public services”.

On the basis of constitutional Law. 215/2001 on local public administration[5], with subsequent amendments[6], regulate currently general regime of local autonomy and the organization and functioning of local government. Thus, according to art. 2, paragraph 1 of the Law of local public administration, public administration in territorial-administrative units is organized and operates under the following principles: decentralization, local autonomy, devolution of public services, the eligibility of local public administration, law and consulting citizens in solving local problems of interest special.

Local autonomy is “the modern form of expression of the principle of administrative decentralization” [7].

Under the provisions of art. 3 of the Law on local public administration, the local autonomy means the right and effective capacity of local authorities to address and manage, on behalf and in the interest of local communities that they represent, public affairs, according to the law. This right shall be exercised by local councils and mayors, and county councils and their presidents, local government authorities be elected by universal, equal, direct, secret and freely expressed.

In accordance with the European Charter of Local Self-Government, Law no. 215/2001 establishes local government local autonomy components, namely the eligibility of local authorities, the adoption of the settlement, the organizational charts and staffing and organization of public services of local councils, and the right to financial resources (local taxes) that local authorities they do, they manage and use them to fulfill their duties and powers.

The literature has highlighted the essential elements of a genuine local autonomy, as “constitutional foundation and consecration of the principle of decentralization of the central government to the local community, the existence of administrative territorial units, of elected local councils who have organ executive accountable to the community, the establishment of some form of direct citizen participation in making the important decisions clear regulation powers and responsibilities of local authorities, consulting them in taking measures which concern them protect their territorial limits, adequacy of structures and resources administrative tasks they incubate, providing resources for local communities, the right of association and legal protection”[8]. We note that among these elements is providing resources for local communities, a real pillar of local autonomy.

Article 4, paragraph 1 of the Act expressly recognizes local government financial autonomy of local authorities, with administrative autonomy. According to these provisions, local autonomy is only administrative and financial, is exercised on the basis and within the limits provided by law.

The local autonomy the organization, functioning, powers and duties, and managing resources by law belong to the village, town, city or county, as appropriate.

The administrative autonomy of local authorities would not be possible without their financial autonomy ensure the functioning of local authorities..

The principle of local autonomy “allows and even requires the organization of a system for resource management and local needs, in each administrative units that financial autonomy” [9].

The objectives of fiscal decentralization aimed at “efficient allocation of financial resources, equitable provision of public goods in different geographical areas, ensuring macroeconomic stability and promote economic growth. Financial autonomy is achieved mainly through the income and expenditure of local and distinct organization of public finances based on fiscal decentralization can: relieving public finances a number of expenses; reduction of financial flows between the central and local authorities to create a clearer picture of the management of national public finances” [10].

Local financial resources are made of “all methods of training and use of local funds is both budgetary and extra or special” [11].

In a free market economy in most countries local budgets are the main component of local public finances, since they are in fact the main lever for achieving local autonomy

of administrative units, middle or how the obtained revenue needed to cover local public expenditures [12].

In article 9 of the European Charter of Local Self-Government provided the general principles on the financial resources of local authorities, such as:

- Local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.

- Local authorities' financial resources shall be commensurate with the responsibilities provided for by the constitution and the law.

- Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate.

- The financial systems on which resources available to local authorities are based shall be of a sufficiently diversified and buoyant nature to enable them to keep pace as far as practically possible with the real evolution of the cost of carrying out their tasks.

- The protection of financially weaker local authorities calls for the institution of financial equalisation procedures or equivalent measures which are designed to correct the effects of the unequal distribution of potential sources of finance and of the financial burden they must support. Such procedures or measures shall not diminish the discretion local authorities may exercise within their own sphere of responsibility.

- Local authorities shall be consulted, in an appropriate manner, on the way in which redistributed resources are to be allocated to them.

- As far as possible, grants to local authorities shall not be earmarked for the financing of specific projects. The provision of grants shall not remove the basic freedom of local authorities to exercise policy discretion within their own jurisdiction.

- For the purpose of borrowing for capital investment, local authorities shall have access to the national capital market within the limits of the law.

Local financial autonomy includes the right to have their own budgets (local budgets, documents that are provided and approved each year revenue and expenditure administrative units), budgets developed and approved by local authorities and whose income is in mainly from local taxes.

In the literature, the local budget is defined as “program providing for and approved annual income and expenditure of municipalities, aimed at achieving local burdens and meet the needs of local interest, a program that is adopted by a judgment of the local public administration authority competent” [13].

Law on Local Public Finances no. 273/2006[14], with subsequent amendments[15], provides in Chapter II, Section 1, “Principles and budgetary rules”, ie universality, transparency and publicity, the principle of unity, the principle monetary unit, the principle of specialization budget balance principle, the principle solidarity, the principle of proportionality, the principle of consultation and the principle of local financial autonomy. This last principle is laid down in article 16.

According to the principle of local financial autonomy, administrative units are entitled to sufficient financial resources that local authorities can use in their duties on the basis and within the limits provided by law. Local authorities have the power to establish levels of local taxes under the law. Resource allocation to balance local budgets should not affect the application of budgetary policies local authorities in their area of competence.

Under the law, local budget revenues consist of [16]: own revenues consisting of: taxes, fees, contributions and other payments, other income and allowances deducted from income tax; amounts from certain revenues of the state budget; grants received from the state budget and other budgets; donations and sponsorships; amounts received from the European Union and / or other donors made payments and pre.

Local autonomy allows grounding, sizing and distribution of local budget expenditures on authorizing officers by purpose, ie the actions, activities, programs, projects, objectives, shall be made in accordance with the powers conferred to local authorities, they set priorities in order to operate their respective local interest.

Substantiation and approval of local budget expenditures shall be made in strict correlation with the real possibilities of local budget revenue collection, estimated to be achieved.

The principle of local financial autonomy expresses the “essence of decentralization of public finances, and according to which, between local budgets no relationship of subordination” [17].

Under local autonomy and legal provisions, local authorities are recognized following powers and duties regarding the local public finances:

- a) development and approval of local budgets under budget balance, and according to deadlines established by this Law;
- b) determination, finding, monitoring, tracking and collection of local taxes and any other income of the administrative units by their own departments specialized in the law;
- c) tracking and reporting execution of budgets and rectified during the fiscal year, the budget balance conditions;
- d) determining and tracking the performance of activities of local public services, including the option of passing or not these services under the responsibility of specialized operators or local public services, aiming to streamline the benefit of local communities;
- e) efficient management of assets of public and private ownership of administrative units;
- f) direct contracting of internal and external loans, short term and long term, and
- g) ensuring internal and external loans, short term and long term, and follow the payment at follow the payment at maturity of the payment obligations arising therefrom; maturity of the payment obligations arising from those loans by the beneficiaries;
- h) management of local public funds during budget execution, in terms of efficiency;
- i) establishment of options and priorities in approving and local public expenditures;
- j) Developing, approving, modifying and in achieving development programs in perspective of administrative units as the basis of annual local budget management;
- k) the carrying out of the duties, powers and responsibilities provided by law.

The principle of local autonomy is a basic principle of local government as a result of decentralization of public financial resources, part of administrative decentralization.

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