

## BUDGETARY PRINCIPLES AND RULES ACCORDING TO THE LAW ON PUBLIC FINANCES

Lecturer Ph.D. Mihai-Adrian OPRESCU

“Constantin Brâncoveanu” University of Pitești, Romania

E-mail: mihaiadrianoprescu@yahoo.com

***Abstract:** The principle, as a general concept, is a basic rule of maximal generality, on which is based a scientific theory, a political system, a rational construction, any principle being the beginning of an action. Principles are found in all socio-professional and, implicitly, financial law. The law on public finances does not define the notion of principle, summing up only to enumerate them, without developing them in its content. Thus, budgetary principles can be defined as indicative norms underlying the achievement of the entire budgetary process, with the aim of establishing clear rules for the preparation and implementation of the budget.*

***Key words:** budget, principle, public finances, budget execution.*

***JEL Clasification:** K00, K34.*

### 1. Introduction

The principle, as a general concept, is a basic rule of maximal generality, on which is based a scientific theory, a political system, a rational construction, any principle being the beginning of an action.

Etymologically, the principle word comes from the Latin principle, which had the meaning of a central axis, a fundamental element, but also a source of generalization of experimental facts. If generalization is so covert that it concerns an entire system of rules, we are in the presence of a general principle.

### 2. Definitions and clasifications

"The principle is born in an intellectual value selection process, starting from common elements of individual acts, going to their essence. Ultimately, the logical construction of principles is the last expression of refined abstraction, but in a pragmatic vision, opposite to the Kantian one, the principle is meant to be a source, a cause of action, an operational working instrument and a model to follow " (Grădinaru, Mihalcea and Stancea, 2017).

"Since the time of ancient thinkers, every principle was considered to be directly related to concrete existential reality. In its metaphysical sense, the principle had the first sense of origin and development of things, and according to its epistemological sense, the principle was considered to be a fundamental supposition of knowledge, thought, and ultimately action" (Colinson, 1995).

In order to emphasize their particular meaning in relation to the other rules, the principles have received different forms of expression; thus, for Pythagoras, the principles were represented by numbers, in Plato's case, the principles personalized their ideas, and in Kant's case the principles stood at the basis of its axioms and postulates (Grădinaru, Mihalcea and Stancea, 2017).

A general principle is concretized over time, as a result of repeated social experiences, reflects the objective needs of evolution of the respective society, normalization of the rules of social cohabitation. In the process of normative elaboration, the principle is the spirit of regulation.

So principles are found in all socio-professional fields and, implicitly, in the field of financial law. The law on public finances does not define the notion of principle, summing up only to enumerate them, without developing them in its content.

Thus, budgetary principles can be defined as indicative norms underlying the achievement of the entire budgetary process, with the aim of establishing clear rules for the preparation and implementation of the budget.

Article 7 of Law no. 273/2006 of local public finances regulates the principle of universality, establishing that it implies that the revenues and expenditures are included in the budget in full, without omissions, in gross amounts, and the budgetary revenues can not be directly affected by a certain budgetary expenditure, except for the donations and sponsorships, which have established distinct destinations.

The principle of budgetary universality, as regulated by the Public Finance Act, ensures that there are some correlations that must exist between revenues and expenditures, the latter being in close connection and at the same time a tool for facilitating financial control, but without establishing a link between a particular expense and a certain income.

According to the principle of budgetary universality, public revenues and public expenditures, their total amounts, should be included in the state budget, ie it should not be conceived as a public income or expenditure to be done outside the budgetary framework. This is because receiving public revenues generates certain expenses, it is mandatory for the revenues to be recorded in the budget with their gross output and budget expenditures in total figure, not the difference between the two; the gross budget is the budget drawn up in accordance with the principle of budgetary universality.

And the revised Constitution of Romania in 2003 enshrines in Article 15, in the framework of the principle of universality, that "citizens enjoy the rights and freedoms enshrined in the Constitution and other laws and have their obligations".

At European level, the principle of budgetary universality finds transposition in the Final Act 2019/333 of the general budget of the European Union for the financial year 2019 stating that "The principle of universality implies that total revenue covers total payment appropriations, with the exception of certain revenues , determined in a limited way, allocated to finance certain expenses. Revenues and expenditures are fully booked in the budget without being adjusted to each other".

At the same time, budgetary universality also correlates with the principle of budgetary transparency that is so necessary in this area, a clear vision of those entitled to analyze and approve the budget, and the possibility of real control over it.

The principle of transparency and publicity foresees that the budgetary process is open and transparent, through:

a) publishing in the local press on the public institution's website or displaying the local budget project and its annual execution account at the respective local public administration authority;

b) the public debate of the draft local budget, on the occasion of its approval;

c) presentation of the annual budget execution account in public session<sup>1</sup>.

As regards the principle of budgetary transparency, it is necessary to provide better information on budgetary implementation and accounting. In order to comply with the principles of transparency and sound financial management, public sector bodies or bodies carrying out public service tasks entrusted with budget implementation tasks must have transparent procurement procedures, effective internal controls, a system of presentation accounts different from the rest of their activities and an external audit.

Public transparency should be understood as an obligation that empowers each public authority or institution to present objectively, openly and timely information of public interest.

---

<sup>1</sup> Article 8 of Law no. 273 of 29 June 2006 on local public finances.

It follows that the principle of transparency is a principle by which public authorities and institutions have an obligation to operate in an open manner to the public where free and unhindered access to information of public interest is the rule and the limitation of access to information is exception, under the law (Televca, 2012).

A first condition for transparency in the budgeting process is publishing in the local press, on the public institution's website, or displaying the local budget project and its annual execution account at the respective local government authority.

Also, the public debate of the draft local budget is under the provisions of Art. 7 of the Law 52/2003 on the transparency of decision-making in public administration, as subsequently amended and supplemented, and it is an obligation of the public administration authorities, and the presentation of the annual budget execution account in public session is the next stage that ensures and fully guarantees applying the principle of transparency and publicity in the budgetary process.

The principle of unity in the budgetary process states that budget revenues and expenditures are part of a single document in order to ensure the efficient use and monitoring of local public funds. Retention and use of extrabudgetary income, as well as the constitution of local public funds outside local budgets, are prohibited unless the law provides otherwise<sup>1</sup>.

Implementing the principle of budgetary unity leads to a clear budget and efficient use and permanent monitoring of public funds; a unitary budget ensures that the legislative authority has a precise horizon with regard to the structure and volume of expenditures proposed by the Government, and can thus take full knowledge of the decision to approve or reject some expenses considered inappropriate, thus providing a framework conducive to rigorous control over the way budget revenues and expenditures are executed.

Article 10 of the Public Finance Act states in the monetary unit principle that all budget operations are expressed in national currency.

According to art. 11, the principle of annuality implies that budget revenues and expenditures are approved under the law for a period of one year corresponding to the budget year and all the operations of payments and payments made during a budgetary year to the budget account belong to the corresponding execution year of that budget.

The principle of budgetary annuality defines the budget's time dimension and is the first rule in the budgetary field. This principle refers both to the periodicity of budget preparation and approval, and to the budget exercise, that is, to the period of time that the budget must be executed. The ad hoc transposition of this principle takes into account that the Government has the obligation, within a determined period of time, to draft the draft state budget and the legislative authority must analyze it and then submit it to the debate and approval in the plenary of the committees. A realistic annual budget forecast is difficult to achieve in the existing political climate and especially in the context of economic, legislative and financial instability. In this respect, the Government has budgetary rectifications through the Ministry of Public Finance, but this instrument can not be used too much.

The principle of budgetary specialization takes into account that budget revenues and expenditures are registered and approved in the budget by sources of origin and respectively by categories of expenditures, grouped according to their economic nature and their destination.

---

<sup>1</sup> Article 9 of Law no. 273 of 29 June 2006 on local public finances.

For the practical application of this principle, the Ministry of Public Finance should elaborate and approve the so-called budget classification - a scheme that includes all budget revenues and expenditures.

According to the budget balance principle, budget expenditures are fully covered by the budget revenue.

This principle refers in particular to the fact that the public budget must be balanced, the revenue covering the expenditure in full. The ideal balance of budget is rarely encountered, and it is the situation where all spending on budget revenues is fully covered and a balance is maintained throughout the budget execution period. As a rule, the budget is deficient, with spending higher than revenue.

Budgeting rules:

- It is forbidden to make payments directly from the proceeds earned, unless the law provides otherwise.

- Budget expenditures have a precise and limited destination and are determined by the authorizations contained in special laws and annual budget laws.

- No expenditure may be entered in the budgets set out above nor can it be committed and made out of these budgets if there is no legal basis for that expenditure.

- No local public expenditure can be committed, authorized, and paid if it is not approved under the law and if it does not have budgetary provisions and sources of funding.

- After approving the local budgets, normative acts with implications on them can be approved, but only by specifying the sources for covering the decrease of the incomes or the increase of the budgetary expenditures related to the budget year for which the respective local budgets were approved<sup>1</sup>.

Other principles under the Public Finance Act are:

- The principle of solidarity, according to which local budget policies can help the administrative-territorial units, as well as the individuals in a situation of extreme difficulty, by allocating amounts from the budgetary reserve fund constituted in the local budget. From the budget reserve fund established in the local budget, the local councils, the county councils or the General Council of the Municipality of Bucharest, as the case may be, may approve the granting of aids to the administrative-territorial units in extremely difficult situations at the public request of the mayors of these administrative or territorial units own initiative.

The principle of local financial autonomy stipulates that the administrative-territorial units have the right to sufficient financial resources, which the local public administration authorities can use in the exercise of their attributions, on the basis and within the limits stipulated by the law. The local public administration authorities have the competence to set the levels of local taxes and duties, according to the law. The allocation of financial resources for the balancing of local budgets should not affect the application of the budgetary policies of the local public administration authorities in their area of competence. Sums for special purpose use are used by local government authorities in accordance with legal provisions<sup>2</sup>.

The principle of proportionality refers to the financial resources of the administrative-territorial units, which must be proportionate to the responsibilities of the local public administration authorities established by law, and the principle of consultation requires that local public administration authorities, through their associative structures, be

<sup>1</sup> Article 14 of Law no. 273 of 29 June 2006 on local public finances.

<sup>2</sup> Article 16 of Law no. 273 of 29 June 2006 on local public finances.

consulted on the process of allocating of the financial resources from the state budget to the local budgets.

### 3. Conclusions

Therefore, the acts underlying the consecration of the principles of law originate from the experience of human cohabitation, and in order to transpose in principle, successive evaluations of the conduct of individuals are required in relation to the requirements of everyday life.

The complexity of the law-making process is revealed if we consider the continuous and reciprocal transitions from the concrete normative plan into that of the ideal, the subtle and reciprocal ties between the needs of everyday life and the criteria of appreciation by which one realizes and expresses the position, the role of a particular group in the determined society (Djuvara, 1995).

Whilst any normative act may undergo changes, correlations or abrogations, the principles of law can not be changed in their letter and spirit and can not be derogated from. Moreover, any modification, correlation, repeal of any normative act must be done in compliance with the principles underlying that regulation.

### References

1. Act of final adoption 2019/333 of the general budget of the European Union for the financial year 2019.
2. Colinson, D., 1995. *Small Dictionary of Western Philosophy*. Bucharest: Nemira Publishing House.
3. Djuvara, M., 1995. *General Theory of Law*. Bucharest: All Beck Publishing House.
4. Grădinaru, N., Mihalcea, I. and Stancea, I., 2017. *General Theory of Law*. Pitești: Economic Independence Publishing House.
5. Law no. 273 of 29 June 2006 on local public finances. Act published in the Official Gazette of Romania no. 618 of 18 July 2006. Updated form valid on: April 5, 2019.
6. Televca, O., 2012. Principle of transparency and publicity. *Studia Universitatis*, 3(53), p.78.
7. The Constitution of Romania, revised in 2003.