

RESEARCH ARTICLE:**Local budgets. Between legal analysis
and practical applications****Anamaria Ciuceanu****ABSTRACT**

The development, approval and execution of the local budgets are governed by several principles, which ensure the uniform and proper conduct of these proceedings.

Some of them are common with those who govern the state budget, namely: the universality, publicity, uniqueness, monetary unity, the annual nature and the budgetary specificity, but others are specific to the local public budgets (the principle of solidarity, the principle of local financial autonomy, the principle of proportionality and the principle of public consultation).

The present paper will analyze these principles and the effects produced.

KEYWORDS: budget, local budgets, public expenditure

1.Introduction

Local budgets, an essential component of the local public finance, is the main way for achieving the autonomy of the local administrative-territorial units, the means and manner to obtain the revenue needed to cover the public expenses¹.

Since January the 1st, 2007, the development, approval and execution of the local budgets is regulated by Law no.273 / 2006 regarding the local public finances². Provisions regarding this category of budgets can be found in other legal documents, namely: Law no.500 / 2002 regarding the public finances³, Law no. 215 / 2001 regarding the local public administration, Law no. 82 / 1991 on accountancy, as well as in other legal provisions regarding the structure and functions of various public entities.

Law no. 273 / 2006 defines the *local budget* as being documents which state and through which are approved the annual revenue and expenditure of the administrative-territorial units⁴, and within this category the budgets of communes, towns, municipalities, districts of Bucharest, counties and Bucharest City⁵. In the specialized literature, it is estimated that the administrative-territorial subdivisions, namely the districts of Bucharest cannot have their own budgets as they do not enjoy local autonomy and, therefore, they have no financial autonomy⁶. The reasons behind this

opinion are based on the Romanian Constitution and on the Law no. 215 / 2001 regarding the local public administration⁷. In Article 3 (3), the republished Romanian Constitution states that the Romanian territory "is organized administratively into communes, towns and counties" and, in article 137 it states that "the national public budget comprises the State budget, the State social security budget and the local budgets of communes, towns and counties".

Pursuant to Article 20 (1) of the Law no. 215 / 2001, republished, regarding the local public administration, "the communes, towns, municipalities and counties are administrative-territorial units where the local autonomy is exercised and where the authorities of the local public administration are created and operate".

The development, approval and execution of the local budgets are governed by several **principles**, which ensure the uniform and proper conduct of these proceedings. Some of them are common with those who govern the state budget, namely: the universality, publicity, uniqueness, monetary unity, the annual nature and the budgetary specificity, but others are specific to the local public budgets (the principle of solidarity, the principle of local financial autonomy, the principle of proportionality and the principle of public consultation).

The principle of solidarity, the principle of local financial autonomy, the principle of proportionality and the principle of public consultation, as stipulated in Articles 15⁸, 16⁹, 17¹⁰ and 18¹¹

¹Minea, M. Șt., Costas, C. F. 2008. *Public Finance Law*, Tome I, Bucharest, Romania: Wolters Kluwer Publishing House, p. 206.

²Published in the Official Journal of Romania no. 618 / 18.07.2006.

³Published in the Official Journal of Romania no. 597 / 13.08.2002.

⁴Article 2, paragraph 7 of Law no. 273 / 2006 on local public finances.

⁵Article 1 (2) of Law no. 273 / 2006.

⁶See Minea, M. Șt., Costas, C. F. 2008. *op.cit.*, pp. 231-232; Popescu, C. P. *The unconstitutional existence of the local budgets and of the local taxes of Bucharest's districts*, published in RRDA No.3/2004, pp. 66-74.

⁷Published in the Official Journal of Romania no. 204 / 23.04.2001 and republished in the Official Journal of Romania No. 123 / 20.02.2007.

⁸Article 15: The principle of solidarity (1) Through the local budgetary policies, administrative-territorial units and individuals, passing through extremely difficult situations, can be helped by allocation of amounts of money from the budget reserve fund established within the local budget.

⁹Article 16: The principle of local financial autonomy (1) The territorial units are entitled to sufficient financial resources which the local authorities can use

of Law no.273 / 2006, are consistent with the European principles stipulated in Article 9 of the European Charter of Local Self Government of October the 5th, 1985¹².

The principle of balance¹³, according to which "the budget's expenses are fully covered from the budget's revenues", compels the local administration authorities to size their costs so that those costs can be fully covered from the revenues they can really collect.

At the local budgets level¹⁴, the budget administrators are of three categories, namely main budget administrators, second level budget administrators and third level budget administrators. The main budget administrators are the mayors of the administrative-territorial units, the general mayor of Bucharest City, the mayors of the districts of Bucharest and the chairmen of the county councils, while the second or third level budget administrators are the chief officers of the public institutions with legal personality, whose funds are allocated

while performing their duties pursuant to and within the limits prescribed by the law.

(2) The local authorities have the power to establish the levels of the local taxes according to the law.

(3) Allocation of financial resources for balancing local budgets should not affect the implementation of budgetary policies of the local authorities within their area of competence.

(4) The amounts allocated for special purposes shall be used by the local authorities in accordance with the legal provisions.

¹⁰Article 17: The principle of proportionality

The financial resources of the administrative-territorial units shall be proportional to the responsibilities of local authorities pursuant to the legal provisions.

¹¹Article 18: The principle of consultation

The local authorities, by their associative structures should be consulted on the allocation of the financial resources from the state budget to the local budgets.

¹²Ratified by Romania through the Law no.199 / 1997 concerning the ratification of the European Charter of Local Self-Government, adopted in Strasbourg on October the 15th, 1985, published in the Official Gazette no. 331 / 11.26.1997.

¹³Stipulated by Article 13 of Law no.273 / 2006.

¹⁴Article 21 of Law no.273 / 2006.

from the local budgets, from the internal and foreign loan budgets or from the budgets of external non-reimbursable funds.

2.Local budgetary procedure

Local budgetary procedure involves the drawing up the local budget, the approval of the drafted local budget, the local budget execution and closing the local budget execution.

Drafting the local budget is a complex procedure because it should take into account the following¹⁵:

a) the prognosis elaborated by the competent authorities concerning the key macroeconomic and social indicators for the year the budget is drafted, as well as for the next 3 years;

b) the fiscal and budgetary prognosis, the fiscal policy and the medium-term expenditure framework;

c) the provisions of the concluded internal and external loans agreements, of the financing memoranda or of other signed and / or ratified international agreements;

d) the local and district policies and strategies, as well as the priorities in formulating the budget proposals;

e) the detailed expenditure proposals of the subordinate budget administrators;

f) the programs drawn up by the main budget administrators for financing some actions or some series of actions, which are associated with precise objectives and results and efficiency indicators; the programs are accompanied by the annual performance evaluation of each program, which must include: the actions, the associated costs, objectives, expected results for the next years, measured by precise indicators whose choice is justified;

¹⁵Article 25 of Law no.273 / 2006.

g) the programs for social and economic development prospects of the administrative-territorial unit, which are consistent with the development policies at national, regional, county or local level.

The draft of the local budget is done in several stages. In a first stage, until June the 1st of each year, the county councils and the General Council of Bucharest City shall be informed, through a framework letter of the Ministry of Finance, on the following:

- the macroeconomic context pursuant to which the predicted budget projects will be drawn up;
- the methodology for drafting them;
- the limits of the detailed amounts from certain incomes of the state budget and of the consolidated transfers, for the whole county or for Bucharest, as appropriate.

In the second phase, until July the 1st of each year, the main budget administrators, based on the amounts received, prepare and submit to the regional general directorates of public finance/ the county administrations of the public finances balanced projects of the local budgets and their annexes for the next fiscal year, as well as the prognosis for the next three years.

In the draft of the local budget, the revenues and expenditures are grouped based on the budgetary classification approved by the Ministry of Finance. The revenues are divided on chapters and subchapters and the expenses are divided on parts, chapters, subchapters, titles, articles and paragraphs and points.

In the next stage, until July the 15th of each year, the drafts of the local budgets for the entire county and for Bucharest City are submitted by the regional general directorates for public finance/ the county administrations of the public finances to the Ministry of Finance.

Finalizing the transfers of public funds to the local budgets is done after the publication of the state budget law in the

Official Gazette of Romania, Part I. Thus, within 5 days of the publication, the Ministry of Finance transmits to the regional general directorates for public finance/ the county administrations of the public finances the amounts detailed for certain revenues of the state budget and consolidated transfers, approved pursuant to the state budget law, which, in turn, within 5 days from their notification, distribute to the territorial-administrative units / subdivisions the amounts deducted from certain revenue of the state budget and transfers, in order the main budget administrators to conclude the drafts of the local budgets. Also, in the same period (5 days), the estimative revenue from the quotas deducted from the income tax is communicated to the administrative units, namely administrative subdivisions.

Within 15 days from the publication of the state budget law within the Official Gazette of Romania, Part I, the draft of the local budget is finished and it shall be communicated to the public by publication in local newspapers or by posting it at the headquarters of the administrative territorial unit. Thus, the public has the opportunity to challenge the drafted budget within 15 days of its publication or display.

3.The approval of the local budget's draft

The drafts of the local budgets, together with their possible contestations are subject to the approval of the deliberative authorities or of the local councils of villages, towns, municipalities, counties and of the General Council of Bucharest City.

After approving the local budgets, the councils can also approve the legislation which has some impact on them, but only after specifying the sources needed to cover the revenue reduction or the increase of the budgetary expenditures for the financial year for which the local budgets have been approved.

During the financial year, the deliberative authorities can approve the adjustment of the local budgets within 30 days from the date when the legal provisions amending the state budget have entered into force and also as a consequence of the substantiated proposals of the main budget administrators. The rectification of local budgets shall be subject to the same procedures as procedures of their initial approval, except the terms of the budget calendar.

If the drafts of the local budgets are not approved within 45 days from the date of the publication of the state budget law in the Official Gazette of Romania, Part I, the general regional directorates of public finance / the county administrations of the public finances request the ceasing of the quotas supply, namely ceasing the supply of the amounts from certain revenues of the state budget and from the consolidated transfers until they are approved by the deliberative authorities. In such situation, the local budgets can make payments only till the limit of other received revenue, except when the deliberative authorities are dissolved or they are within the dissolution procedure and they have not approved their local budgets in due time. In such cases, pursuant to Article 39 (7¹) of Law no. 273 / 2006, the general regional public administration/ the county administrations of the public finances allocate funds from certain revenues of the state budget, till the approval of the local budgets by the new established deliberative authorities and the mayors and the head officers of the county councils, namely the mayor of Bucharest City apply the last year's budget within the current financial year, by adjusting the expenditures within the monthly limit of 1/2 of the last year's budget.

If the state budget law is not adopted within at least 3 days before expiring the financial year, the previous year budget continues to apply till the approval of the new budgets, but the monthly expenditure

cannot usually exceed the 1/12 limit of previous year budget's provisions, except in special cases, duly justified by the budget administrators or, as appropriate, 1/12 of the amounts proposed in the budget's draft, if they are smaller than the one of the previous year.

The general regional directorates of the public finance/ the county administrations of the public finances will grant to the administrative-territorial units amounts from certain revenues of the state budget and consolidated transfers within the monthly limit of 1/12 of the previous year's budgetary provisions.

If necessary amounts from certain revenues of the state budget and consolidated transfers exceed the monthly limit of 1/12 of the previous year's budgetary provisions and after the full use of the revenues and of the quotas from certain incomes of the state budget, the general regional directorates of the public finance/ the county administrations of the public finances can supplement those amounts, based on the main budget administrators' analysis and argumentation.

If the amounts proposed in the draft of the state budget to be allocated from certain income of the state budget and consolidated transfers are lower than the ones of the previous year, the monthly limits are granted till 1/12 of the amounts proposed by the state budget's draft.

4. Budget execution

Budget execution means cashing the budget revenues and paying the expenses approved according to the budget.

Local budgetary execution¹⁶ ends each year on December the 31st. The revenue which was not cashed and the accrued expenses, liquidated and ordered by the budgetary provisions and unpaid until December the 31st will be cashed or paid,

¹⁶Article 2 (29) of Law no.273 / 2006.

if appropriate, on the next year's budget account. The budget credits unused till the end of the financial year are canceled pursuant to the legal provisions, while the available amounts remaining at the end of the budget year in the accounts of the implementation structures from the external loans and the ones from public funds for co-financing the European Community financial contribution shall be transferred to the next year's budget with the same purpose.

The execution of local budgets is governed by the principle of the special destination of the budget credits¹⁷, the exceptions being established by the Law no.273 / 2006. Thus, the transfers of budgetary credits from one chapter to another chapter of the budgetary classification and from one program to another program are approved by the deliberative authorities based on the corresponding justifications of the main budget administrators, starting with the third quarter of the fiscal year.

The operational section's payments for the development section can be approved only if they fully provide the scheduled revenue needed to cover the expenditure of the operational section.

If the financing responsibilities, actions or institutions are transferred to the local authorities¹⁸, they are accompanied by the transfer of budgetary credits, the Ministry of Finance being authorized to introduce appropriate changes in the volume and structure of the state budget without affecting the budget balance and the deliberative authorities will approve the changes within their budgets and structure, and the ones for the subordinate public institutions.

Regarding the advanced payments, they can only be paid up to 30% for certain categories of expenditure.

For canceled or delayed responsibilities, the budgetary credits are

canceled by the local deliberative authorities' decision, thus the budgetary reserve fund is increased with these amounts.

In 2013, the amendment of Law no. 273 / 2006 regulated the mandatory verification of subsuming the commitments within the limits of the approved budgets¹⁹. According to these provisions, the projects of the legal commitments resulting in public investment expenditures initiated by the territorial-administrative units/subdivisions and the public institutions subordinated to them, regardless of the funding system, are transferred to the territorial units of the State Treasury in order to be approved by including these amounts into the commitment and budget credits which remained available. The territorial-administrative units / subdivisions may conclude new commitments only for such approved projects.

In order to eliminate arrears²⁰, within 30 days of the approval of local budgets and of the approval of budget amendments, the budget administrators are required to inform the service providers, operators and suppliers with whom they have concluded agreements about the limit of the maximum value for which they can provide and perform services and deliver the goods, which is calculated as the difference between the budget credits and the corresponding outstanding payments. Furthermore, the budget administrators together with the providers, operators and suppliers are required to prepare and update, in physical and in value terms, the execution / delivery graphics, contract addenda, related to the fiscal year, according to the maximum calculated value.

Using the local public financial resources is subject to the financial control stipulated in the Article 24 of Law no.273 / 2006, namely the preventive financial

¹⁷Minea, M. Șt., Costas, C. F. 2008., op.cit., p. 240.

¹⁸Article 52 of Law no.273 / 2006.

¹⁹Article 4² of Law no.273 / 2006.

²⁰Article 4¹ of Law no.273 / 2006.

control, internal control, internal public audit and the public control after the Court review.

5.The preventive financial control

The preventive financial control, regulated by the Government Ordinance no. 119/1999 concerning the internal control and the preventive financial control, republished²¹, aims to identify the transactions that do not comply with the conditions of legality and regularity and / or, where appropriate, with the conditions and the destination of the budget and commitment credits through which performance would harm the public domain and / or public funds²².

The public internal audit represents the functional independent and objective activity of advice and issuance designed to add value and to improve the public entities' activities. This helps the public entity to achieve its objectives through a systematic and methodical approach that assesses and improves the efficiency and the effectiveness of the risk management, the control and governance processes²³.

The scope of the internal audit covers all the activities performed within the public bodies in order to fulfill their objectives, including the evaluation of the management control system.

The Court of Accounts exercises the control over the creation, administration and use of the financial resources of the state and of the public sector using external public audit procedures set out in its own audit standards, developed in accordance

with the generally accepted international auditing standards.

6.Local budget revenues.

According to the Law no.273 / 2006, the revenues of the local budgets²⁴ consist of:

- a) their own revenue consisting of: taxes, fees, contributions, other taxes, other income and allowances derived from the income tax;
- b) amounts derived from certain revenues of the state budget;
- c) subventions received from the state budget and other budgets;
- d) donations and sponsorships;
- e) amounts received from the European Union and / or other donors for the effective payments and pre-financing activities.

To ensure the necessary revenues of the local budgets, the financial resources collected from the local taxes are supplemented by transfers from the state budget, particularly from the income tax and from the cashed VAT, which maintain a certain degree of dependence from the central resources.

According to Article 5 (2) of the Law no. 273 / 2006, the revenues of the local budgets must rely on finding, assessment and inventory of taxable and tax base assets which is calculated based on the related taxes and fees, the evaluation of the provided services and revenues obtained in this manner and other specific items, in order to correctly assess the revenue.

a) **Local budgets own revenues.** The local taxes and fees are the most important sources of own revenues for the local budgets. Establishing the taxes and fees that can be collected and the taxes base is decided at the central level, so that the possibility of establishing this by the local government is limited, the local

²⁴Art. 5 (1) and Annex 1 of Law no.273 / 2006 on local public finances.

²¹Published in the Official Gazette no. 430 / 31.08.1999 and republished in the Official Journal of Romania no.799 / 12.11.2003.

²²Saguna, D.D. 2012. *Financial public law*, Edition 5, Bucharest, Romania: CH Beck Publishing House, 2012, p.261.

²³Article 2 (1) of Law No. 672/2002 concerning the public internal audit, published in the Official Journal of Romania no.953 / 24.12.2002 and republished in the Official Journal of Romania no. 856 / 05.12.2011.

administration being allowed to decide only certain categories of exemptions or facilities pursuant to the provisions of article 286 of the Tax Code.

As regarding the level of the local taxes established by the Tax Code, the financial literature also stated that it is a minimal level, "designed to ensure a minimum of financial resources for the local communities, thus the local authorities cannot establish local taxes below the level established by the Fiscal Code²⁵", but this level can be increased up to 20% compared to the levels approved by Government Decision²⁶, except for stamp fees and extrajudicial stamp fees, excluding the equivalent expenses for the dissemination of fiscal stamps²⁷. The increase is done by the deliberative authority of the local government, at the executive authority's proposal, according to economic, social, and geographical criteria and according with the local budgetary needs.

If the degree of achieving its own revenues at the local budgets scheduled within the last 2 years is less than 97% per year, the budget administrators are required to substantiate the revenue for the current fiscal year up to the previous year level of incomes.

In Romania, the local fees and taxes are established in Chapter IX of the Tax Code and they include: taxes on real estates; land tax; vehicles tax; fee for issuance of certificates, permits and licenses; fee for the use of public advertising and publicity; entertainment tax; hotel taxes; special taxes; other local taxes. The local deliberative authorities can only decide upon the "special taxes" and "other local taxes", but their purpose and cashing procedure are limited by the provisions of the articles 282 - 283 of the Tax Code.

²⁵Minea, M. Șt., Costas, C. F. 2008., p.243

²⁶Article 287 of the Fiscal Code.

²⁷Article 287 in conjunction with article 295 (11) c) and d) of the Fiscal Code.

The real estate tax²⁸ is an annual tax due by people who own buildings located on the Romanian territory. For the buildings which are the public or private property of the state or of the territorial administrative units and that are leased, rented, or which are administrated or used by other legal entities than the public legal entities, the real estate fees represent the fiscal responsibility of the licensees, lessees, holders of the administrative rights or use rights, in similar conditions as the tax on real estates.

The real estate tax and fee is due to the local budget of the village, town or municipality where the building is located, and in the case of Bucharest City to the local budget of the district where the building is located.

The land tax²⁹ is due annually by the persons who own land situated on the Romanian territory. Similar to the building situation, for the lands which are the public or private property of the state or of territorial administrative units and that are leased, rented, or which are administrated or used by other legal entities than the public legal entities, the land fees represent the fiscal responsibility of the licensees, lessees, holders of the administrative rights or use rights, in similar conditions as the tax on real estates.

The tax and fee on land is due to the local budget of the village, town or municipality where the land is located, and in the case of Bucharest City to the local budget of the district where the land is located.

The tax on vehicles³⁰ is due annually by the persons who own means of transport that have to be licensed / registered in Romania.

If a vehicle is subject to a finance lease, on the whole term of the contract the tax on vehicles is the responsibility of the tenant.

²⁸Regulated by the articles 249 - 255 of the Tax Code.

²⁹Regulated by the articles 278 - 281 of the Tax Code.

³⁰Regulated by the articles 256 - 260 of the Tax Code.

The tax on vehicles is paid to the local budget of the territorial administrative unit where the natural or legal person has its home address, registered office or place of business.

The fee for issuance of certificates, permits and licenses³¹ must be paid before the release of such documents in order to obtain the needed licenses, permits or other authorizations from the specialized departments of the local governments. Such fees are charged for issuing zoning permits, building permits, drilling and excavation permits, permits needed for organizing construction sites and other similar permits, as well as there can be charged fees for issuing permits for conducting an economic activity or other similar authorizations.

The fee for using the means of advertising and publicity³² includes the tax and fees charged for advertising and publicity services for the display of advertising and publicity.

The fee for advertising and publicity services shall be paid by persons receiving such services of advertising and publicity in Romania pursuant to a contract or another kind of agreement concluded with another person, except for the advertising and publicity services carried out through written and audiovisual mass media means. This fee is payable to the local budget of the administrative-territorial units on which territory the services and advertising and publicity services are provided.

The fee for advertising and publicity display an annual fee paid by people who are using a display panel or a display structure for advertising and publicity, except those that are due pursuant to the fee for advertising and publicity services to the local budget of the town, city or municipality where the display panel or display structure is located. In Bucharest, this kind of local tax has to be paid to the

district budget where the display panel or display structure is located.

The entertainment tax³³ is paid to the local budget of the territorial-administrative unit where takes places such artistic performance, sportive competition or other type of entertainment by the people who are organizing such activities.

The hotel tax³⁴ is established for using the services of an accommodation unit in a village where the local council exercises its authority and this tax is paid to that particular local budget.

Special taxes are stipulated by the provisions of the article 282 of the Fiscal Code, and they may be charged for the functioning of certain public services³⁵ created for the benefit of natural persons and legal entities. Article 30 of Law no. 273 / 2006 stipulates the conditions and procedure of establishing these categories of taxes. According to these legal provisions, such taxes can be charged only for the expenses incurred for the establishment of local public services and for financing the current expenditures for

³³Regulated by the articles 273 - 277 of the Tax Code.

³⁴Regulated by the articles 278 - 281 of the Tax Code.

³⁵The Public Service means the activity performed or authorized by an administrative authority, through which the public interest social needs are carried out. See Apostol Tofan, D. 2008, *Administrative Law*, Tome I, 2nd Edition, Bucharest, Romania: CH Beck Publishing House, p.8; Vedinaş, V. 2007, *Administrative Law*, 3rd Edition, revised, Bucharest, Romania: Universul Juridic Publishing House, p.226; Matei, A. 2003, *Public Economics. Economic analysis of public decisions*, Bucharest, Romania: Economic Publishing House, p.180; Săraaru, C. S. 2009, *Administrative contracts. Legal provisions, doctrine, legal precedents*, Bucharest, Romania: CH Beck Publishing House, p.202 et seq.; Stoica, e. C., Grigore, M., Bragaru, Ctin. 2009, *Public Budget and Treasury*, Bucharest, Romania: University Publishing House, p.12; Dumitru, F., Tanasescu, D. 2009, *Public Policies in the European Community*, Targoviste, Romania: Bibliotheca Publishing House, p.118; Prisăcaru, V. I. 2001, *Administrative law legal documents and deeds*, Bucharest, Romania: Lumina Lex Publishing House, p.51; Manda, C. C., Manda, C. 2007, *Local communities law*, Third Edition, revised, Bucharest, Romania: Lumina Lex Publishing House, p.426 et seq.

³¹Regulated by the articles 266 - 269 of the Tax Code.

³²Regulated by the articles 270 - 272 of the Tax Code.

the maintenance and operation of these services.

The special taxes are collected only from the beneficiaries of the services offered by the institution / public service of local interest, according to the organization and functioning rules of these services, or from those who are compelled by the law to carry out activities that subscribe to the scope of this type of service. The decision taking authorities cannot enforce special local taxes for the concessionaire from the public utilities area (gas, water, electricity), for the existence of the public / private territory of the administrative-territorial units of the water networks, networks for transmission and distribution of electricity and of natural gas³⁶.

Other local taxes can be imposed for the purposes stipulated in article 283 of the Fiscal Code, namely for the temporary use of public places and museums, memorials, historical archaeological and architectural monuments and other such places, for the possession or use of equipment and tools destined to obtain income by using the local public infrastructure, on the territory of the town where they are used, as well as for activities with an environmental impact and for carrying out the divorce procedure by administrative means. Also, local deliberative authorities may set fees for the thermal rehabilitation of blocks of flats and houses, which are allocated amounts according to the shares of contribution paid by the owners, pursuant to the Government Emergency Ordinance no. 18 / 2009 concerning the increase of the energy performance of the blocks of flats.

The quotas from the income tax represents another revenue source for the local budgets. According to article 32 of the Law no.273 / 2006, from the income tax collected to the state budget in each administrative-territorial unit within the previous month and excluding the taxes on pensions, there is allocated monthly share:

- 41.75% to the local budgets of communes, towns and municipalities on whose territory operate the income tax payers;
- 11.25% to the local budget of the county;
- 18.5% to a separate account for the Treasury of the capital of the county, in order to balance the local budgets of the communes, towns and municipalities, and the local county budget.

For Bucharest City, the share of 71.5% of the income tax, except the tax on pensions, is distributed as it follows:

- 20% to the local budgets of Bucharest's districts;
- 44.5% to the local budget of Bucharest City;
- 7% to a separate account opened at the General Directorate of Public Finance of Bucharest City and at Bucharest City Treasury for the balance of the local district budgets and local budget of Bucharest City. The allocation is done proportionally with the amounts distributed and approved for this purpose within the respective budget, as it follows:
 - 25% to the local budget of Bucharest City;
 - 75% shall be allocated to local budgets of Bucharest's districts.

The amounts available to the county councils and for the General Council of Bucharest City, for balancing the local budgets are allocated to the local communities based on complex economic criteria, pursuant to the procedure stipulated by article 33 of the Law no.273 / 2006³⁷. Imposing these strictly economic criteria (financial capacity, surface of the territorial entity) according to which the distribution of funds is allocated to the local communities is likely to eliminate the influence of the political factors in this process.

³⁶Articles 282 of the Tax Code.

³⁷Minea, M. Șt., Costas, C. F. 2008., p.249.

Under special circumstances, according to the state budget law, the quotas allocated from the income tax may be increased.

In the same category of the local budgets revenues can be included the revenues made from the sale or exploitation of resulting materials after demolition, dismantling or decommissioning of fixed assets or from the sale of material assets belonging to public institutions, entirely funded from local budgets.

The proceeds from the sale of seized goods are considered revenues to the local budget, according to their subordination to the authorities that have ordered their confiscation.

Also, the proceeds from the concession or lease of goods belonging to public or private domain of the territorial administrative units constitute revenues of local budgets.

The amounts resulting from the sale of assets belonging to the private domain of the territorial administrative units are considered revenues of local budgets, but they are included in the local budget after its amendment and only after chasing them.

b) The amounts allocated from certain revenue of the state budget are approved pursuant to the state budget law. They are designed to finance public expenditure caused by the decentralization of certain activities, namely for balancing the local budgets.

The amounts allocated from certain revenue of the state budget for balancing the local budgets and the percent of 18.5% of the income tax is allocated proportional to the amounts allocated and approved for this purpose in the local budgets, as it follows: 27% is allocated to the budget of the county; 83% shall be allocated to local budgets of communes, towns and municipalities.

c) Donations and sponsorships represent a category of income with a small

percentage in the local budgets. They are included in the income and expenditure budget only after receiving them, through the amendment of the local budget.

7. Local budget expenditures³⁸

Local revenues are used to finance local administration programs, projects, activities, actions, objectives, etc.

Budget expenditures have a precise and limited destination; the amounts provided in chapter expenditures of the local budgets represent the upper limits that cannot be overcome³⁹. The creation, calculation and distribution of the local budget expenses according to the budget administrators, destinations, namely according to the actions, activities, programs, projects, goals are carried out in accordance with the powers conferred to local authorities, with the priorities determined by them, in order to operate them pursuant to the local interests.

The importance of local public investments caused the legislative power to adopt special regulations on local public investment expenses⁴⁰.

The expenditures for public investment and other expenses for investments funded form the local projects are included in the budget pursuant to the public investment program of each administrative-territorial units, as an annex to the initial budget, namely to the rectified and approved budget by the deliberative authorities. Including the investments in the annual investment program is made based on technical-economic documentation or on notes regarding the necessity and appropriateness of the expenses associated with investments, developed and approved according to the law. The public investment program includes only those

³⁸They are detailed in the Annex 2 of the Law no. 273/2006.

³⁹Article 4 (2) of the Fiscal Code.

⁴⁰Articles 41-48 of the Fiscal Code.

investment objectives for which funding sources are fully assured by the project of the multiannual budget.

Also, pursuant to the provisions of article 14 (6) of the Law no.273 / 2006 the measure to prevent the arrears is represented by the obligations imposed on the budget administrators and on the deliberative authorities to provide distinct budget settlements of the outstanding payments at the end of the preceding financial year for which the budget has been drawn up.

Only after closing the overdue payments at the end of the previous financial year, namely the arrears in execution of the current financial year, the budget administrators may dispose new legal commitments, within the approved budgetary provisions. As an exception to this rule, the budget administrators can engage new legal commitments even if they record arrears when they are created because of the amounts not granted according to the contractual funding of the projects run through the national programs.

Funding of urgent or unforeseen expenditure during the fiscal year in order to eradicate the effects of natural disasters and for granting of aids to the administrative units in case of extreme difficult situations is made from the budgetary reserve fund which is at the disposal of the local councils, county councils and the General Council of Bucharest and Bucharest's district councils, in a percentage of up to 5% of the total local expenses, based on decisions of the respective councils.

8.Conclusion

At present, although the distribution of funds from the state budget to local budgets is done on economic criteria (financial capacity, surface of the territorial entity), thus eliminating the influence of political factor during this process, the dependence of these budgets on the resources of the central budget is overwhelming.

Accelerating the decentralization and devolution of the public services have accentuated the need to develop certain analysis to identify the optimal solutions to balance the local budgets, increasing the level of self-financing and decentralization of expenditure⁴¹.

⁴¹See <http://www.mdrap.ro/administratie/politici-fiscale>

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