

THE INTERCONNECTION OF THE LOCAL DEMOCRACY AND THE FINANCES OF LOCAL SELF-GOVERNMENT

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Abstract

In this paper the author gives a legal vision of the link between the local democracy and finances of the local self-government by comparing the legislation and its impact in France and in Russia, as well as by introducing some comparative elements with Slovenia. The analysis, made essentially on the basis of the Russian federal law n° 131-FZ and the French General Code of Territorial Entities (GCTE), reveals three main aspects of the interaction of the local democracy with local public finances: (1) direct elections of local officials and its impact on the municipal finances, (2) responsibility in front of the population of directly/indirectly elected mayors in the public finances field, (3) participation of the local population in the financial decisions. The practical influence of the legislation on the problem under scrutiny is mainly examined in the Russian case; for France there are normally predictions which are used in order to demonstrate the impact of legal dispositions, because the most of the provisions of French law n° 2010-1563, modified the GCTE concerning the local democracy or local public finances, are not still implemented or the short period of their application does not allow to assess its interconnection.

Keywords: local democracy, public finances, self-government.

Introduction

The local democracy is considered as a school of democracy which contributes into the transformation of individuals into responsible citizens (Zittel, 2008 : 131). There are many factors determining the local democracy: population's involvement in decision-making process, degree of legal and financial autonomy, implementation of minority rights, civil society, media, etc (Gadjanova, 2006: 1). According to the ultimate goals, all these determinants can be divided into two groups:

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those which develop their direct participation in the decisions of the local self-government and those which guarantee the local citizens' representation. According to the content, we can also distinguish the institutional determinants and the procedural ones. The first group consists of the civil society, the political units on the local level, the local authorities, the legal frameworks of the functioning of local self-government, the electoral systems, as well as the media (Gadjanova, 2006: 2). The second group includes the capacity of population to influence on the local decision-making through various tools, the degree of openness of local authorities, as well as the administrative ability to ensure the elections transparency and fairness.

In this paper we will try to combine all these groups of factors of the local democracy in order to analyse how the last one is connected with the local public finances. The scrutiny of the legal, political and economical sciences sources revealed that this question was understudied. Only several references on the existence of such interconnection were found. That is why we would like to study this problem by examining the direct and indirect population's participation in the municipal affairs through the legal frameworks of the local self-government and the citizens' capacity to influence on the municipal politics.

In order to demonstrate not only theoretical, but also practical interaction of the local democracy with the local public finances we chose mainly two States – France and Russia. They have a significant number of differences in the relevant field, so, their comparative study could be useful. Thus, France is a unitary State and an old Western European democracy. Russia is a federation and a young Eastern European democracy. The local self-government (one of the corner stone of the local democracy) in the both countries represents the different models. France is not far from the classic Romanic (continental) model and in Russia the initial model was closer to the Anglo-Saxon model and then acquired some characteristics of the Romanic one and transformed into an intermediate pattern inclined to the German system. It is curious, that in spite of the broaden decentralization movement in France since the beginning of the 1980s, France ratified the European Charter of Local Self-government only in 2006, whereas Russia being a young member of the Council of Europe under the recent decentralization process ratified this international legal act in 1998. However, in the constitutional and legislative provisions of the both countries, adopted even before the ratification, we can observe the influence of the Charter. The reflection of the Charter we can also notice in the Slovenian Constitution (Slovenia ratified the Charter in 1996) (Internet 1). This country has a common communist past with Russia, nowadays this Central European State

represents also a young democracy but its local self-government model is closer to the continental one. Thus, by using the legal and practical experience of these countries we can demonstrate how the local democracy and the local public finances interact within the different legal, political and economical scopes.

The framework of this paper is mainly legal, but the political science point of view will be also applied. The principal legal provisions used in this study are the Federal law of the Russian Federation n°131-FZ on 6th of October, 2003 on the general principles of the local self-government (federal law of 2003), as well as the Organic law of the Republic of France n° 2010-1563 on 6th of December, 2010 on the reform of territorial entities (organic law of 2010).

Before we pass to the analysis of the main elements of the interconnection between the local democracy and the finances of the local self-government, we should give a notion of the local democracy, because firstly, it is usually used by the political or public administration's science, but in this paper we propose a legal vision of the question, and, hence, we should apply the main concepts in their legal sense and, secondly, even in the political science there is no exact definition of the local democracy.

Actually, the local democracy can be understood in two ways: through the institutions of local self-government and through the organizations and activities of civil society (Sisk, 2001: 12). In the ideal situation, local authorities and civil society collaborate closely in order to identify the problems between the local population and municipal authorities and elaborate the appropriate solutions. First time the notion of local democracy was introduced into the French legislation through the law of February 6th, 1992 on the territorial administration of the Republic. According to the concept elaborated by the French legislator of that epoch (part II of the law of 1992), the local democracy was a principle of territorial organization ensured by the territorial entities and the de-concentrated bodies of the State. The sense of this principle was reduced to the information and consultation (participation) rights of population. Thus, initially the local democracy comprehension in France was limited by the direct consultations, as well as to the local population access to the budgetary documents, proceeding of local authorities meetings concerning the economic interventions. Such concept of the local democracy is actually reproduced in the article L2141-1 of the General Code of Territorial Entities (GCTE). It was broaden by the law of February 27th, 2002 on the democracy of proximity, the main objective

of which was the improvement of citizens' participation in the local decisions through a reinforcement of participative democracy.

The examining of the Russian federal, regional and municipal legislative and executive acts did not reveal any definitions or even mentions of local democracy with the exception of the Order of prefect of the South-eastern Administrative County of Moscow city of March 30th, 2011 on the organization of the Week of local democracy. This executive municipal act does not contain any definition of local democracy, but we can observe that the last one is understood within the French meaning of local democracy. Thus, the framework of this event (Week of local democracy) is defined as the federal law of the Russian Federation of February 9th, 2009 concerning the provision of access to information about the activities of state and local self-government authorities. The main measures provided within the Week of local democracy were the meetings of prefect and municipal deputies with local population and representatives of the lowest level of local self-government – responsible persons of each house (block of flats houses).

Thus, for the purposes of our study we will consider the local democracy as a legally stipulated possibility of the local population to participate in a passive way (being informed) or in an active way directly or via their representatives in the decision-making process at the local level in order to provide the normative acts mandatory and/or non-bounding for the local self-government bodies.

Direct elections of local officials and its impact on the municipal finances

The elections of municipal officials is one of the mechanisms of the participatory democracy which is the part of the local democracy. The article L4131-1 of the French GCTE, modified by the organic law on the reform of territorial entities of 2010, provides a creation of territorial councillors instead of the departmental and regional councillors since the March of 2014 which will attend in the departmental and regional councils at the same time. This category of councillors will be elected by the direct universal suffrage. Usually, this measure is represented like a simultaneous contribution to the local democracy and budgetary costs reduction. We could observe a rare balance between the democracy and the economical efficiency but...During the debate in the French Parliament on the reform of the local self-government, the proponents of this measure affirmed that the dismissal of 3903 general councillors and 1757 regional councillors and their replacement by 3493 territorial councillors would in favor of the public expenditures (Pauliat, Deffigier, 2011: 17). However, in the reality it may be more complicated because

the increasing of councillors salary by 20% due to their «double mission» is necessary, as well as the expenditures covering their assistants, travel costs, accommodation, etc.

The article 36 of the Russian federal law of 2003 attributes to the competence of municipality (notably to the statute of municipality) a choice between the election of the municipal mayor directly by the local population and his election from the municipal deputies by the local representative body. We should notice that this federal law became the main step of the municipal reform which is realized in Russia from the beginning of the 1990s and till now. In spite of one of the main ideas of the reform – advancing of the principle of subsidiary – last few years we can observe the tendency of replacement of the elected by local population mayor by the head of local administration chosen from the Council of deputies and the city-manager designated by the deputies. The most important argument of such politics is the economy of budgetary funds.

Thus, for example, in 2010 the proponents of the abolition of direct city mayor's elections in Perm (Urals) noted that it would allow to the municipal budget to save approximately 25 million roubles (610 thousand euros). In their opinion, such costs were inefficient due to the lack of the population interest and a low turnout of voters (Usoltseva, 2010). Political experts, in the contrary, highlighted that the purpose of the municipal reform was a convergence of local authorities with population. The abolition of electivity of any officials is an opposite process, hence, contradictory to the main purpose of the municipal reform. Besides, the argument of budgetary expenditures reducing gets weaker, if we take into consideration that normally the elections are organized once per five years, 610 thousand euros are spent on 1 million voters, hence, each voter costs 12 cents per year or 1 cent per month. Therefore, there is a question whether the local democracy costs so expensive. However, already in one and half year after the abolition of direct elections of the mayor and the introduction of the institute of the city-manager, the local authorities of the city Perm decided to restore a status quo. Nowadays by discussing the new changes in the statute of municipality Perm, the local authorities do not refer to the argument of «economical efficiency versus democracy». In the contrary, a current head of the administration emphasised that «Perm is one of the most democratic territories, where the level of civil society is high enough », thus, the local population should be involved in a decision-making process (Internet 2).

In Russian practice we can find the examples, when the removal of the tool of directly elected mayor from the arsenal of the local democracy not only does not mean the economy of budgetary money, but in the contrary entails the increasing of municipal expenditures. Thus, in the first half of the year 2012 a possibility of mayor's direct elections abolition was discussed in Angarsk municipal district (Irkutsky region, Eastern Siberia). However, for their organization the budget for 2012 provided the costs of half a million roubles (13 thousand euros), whereas by certain estimations of experts a salary of city-manager would be around 200 thousand roubles per month (4,8 thousand euros) (Internet 3). Recently the Angarsk district Duma (representative body) adopted at the extraordinary meeting the amendments to the municipal statute. The practice will show, whether the taken decision has positive impact at least on the socio-economical development of the municipality due to the designation of professional city-manager.

Within the framework of the reform of the French local self-government in 2010 the article L5211-6 of the GCTE provides that from March 2014 public institutions of intermunicipal cooperation with own taxation (PIIC, établissements publics de coopération intercommunale à fiscalité propre) with own taxation (metropolises, urban communities, agglomerated communities and communities of municipalities) are administered by a deliberative organ composed by delegates of the member municipalities elected by the direct universal suffrage. The following article establishes a uniform and common frame for the definition of number and the distribution of places of these delegates. According to the study of impact made within the framework of the reform of 2010, an implementation of new rules should entail a significant reduction of the number of community delegates (Internet 4). So, the total number of delegates would pass from 92091 to 71496, hence reduce at 22%. Here we can observe a classic dilemma «democracy versus economical efficiency». Thus, with a decreasing of delegates by 3678, the agglomerated communities will lose in average a quarter of seats which may entail a reducing of indirect participation of the population in local affairs. Besides, the French legislator provided a limitation of the weight of every municipality within the municipal council up to 50%. On the one side, this measure allows to ensure a comparable rate of the municipal representation, hence the equality between municipalities. On the other side, in certain cases connected to the demographic situation, a municipality represents more than a half of the population of intermunicipal entity and, consequently, this legislative limitation may restrict the local democracy.

This measure, potentially negative for the local democracy, may contribute to the reduction of the expenditures of local authorities. According to the study of impact, an agglomerated community, where an approximate amount of habitants is 85000 and the number of vice-presidents will pass from 18 to 12, would reduce the expenditures by 29%. A community of municipalities, where an approximate amount of the habitants is 8000 and the number of vice-presidents will decrease from 8 to 4, would entail a reduction of its expenses by 38%. Thus, by the conservative estimation made within the framework of the study of impact, for these two types of the municipalities the reduction of 49 % of the number of vice-presidents and thus, a reduction of only 20% of the salary costs would save 36 million euros.

We can summarize that the abolition of the municipal elections does not always mean a significant reducing of public costs, in the contrary sometimes their increasing is observed. The reducing of the number of local elected officials does not entail indisputably the economy of municipal budget funds as well.

Responsibility in front of the population of directly/indirectly elected mayors in the public finances field

The local democracy assumes the local population possibility not only to participate in the decision-making, but also influence on the decisions already taken independently by the mayor and/ or the municipal representative body. One of the main goals of the municipal reform in Russia was the broadening of legal² or political³ responsibility of local elected officials. The article 74-1 of the Russian federal law of 2003 stipulates an indirect responsibility in front of the municipality's inhabitants, this is the innovation introduced in 2009 within the municipal reform of the Russian self-government. Actually, a dismissal of the mayor is an intermediary form of responsibility, because a Council of deputies is able to dismiss the mayor by the initiative of deputies on the one hand (responsibility in front of the people), or by the initiative of the head of region on the other hand (responsibility in front of the State). Such responsibility is based on the mayor's decisions, actions (inaction) entailed inter alia a municipal past-due indebtedness exceeded 30% of own revenues and/or 40% of state grants, as well as a misapplication of budgetary funds during the exercise of certain state powers transferred at the local level. We can find in the Russian practice some cases which

2 Legal in lato sensu, because the forms of responsibility were provided by the law.

3 Political in stricto sensu, because these forms do not represent the financial, criminal or civil liability.

prove a direct influence of this tool of local democracy on the public finances through ceasing the infractions and preventing the further ones in this field. Thus, on the 2nd of October, 2009 the deputies of the Blagoveshchensky district (Amursky region, border with China) dismissed their mayor because firstly, he had not fulfilled his obligations of decision-making on the local affairs and had not exercised his powers provided by the federal laws and the statute of the Blagoveshchensky district during more than three months and secondly, a past-due indebtedness of the municipality had exceeded 30% of own budgetary revenues in this financial year (Soloviev, Tchetvergova, 2011). On the one hand, this sanction could be considered as harmful for the direct local democracy because the mayor, dismissed by the deputies, had been chosen directly by the population. On the other hand, here we can observe a protection of the local population interests by their representatives (indirect local democracy). It seems to be efficient due to the fact that even if the federal law of 2003 (article 24) provides a possibility of the local elected officials' recall by at least 50% of registered voters by their initiative through the local referendum; in the reality a real mechanism of deputy's/mayor's recall does not exist.

As regards to France, there is no direct possibility for the population or its representatives to recall a mayor of their municipality. The article L2122-16 of the GCTE stipulates that the work of the mayor and his assistants, providing the oral or written explanations on the accusing facts, can be suspended only by a motivated ministerial decree for a maximum term of one month. The mayor and his assistants can be dismissed only by a motivated decree taken in the Council of Ministers. As for the members of the municipal council, under the article L2121-5, they can be dismissed in the case of non-compliance of their functions without an appropriate reason only by an administrative tribunal.

It is not rare in the world practice when the local population can not directly dismiss their mayor or dissolve the representative body. In Slovenia, according to the Local Self-Government Act, only the National Assembly is able to dissolve a municipal council at the government's suggestion in certain cases including the adoption of budget out of the legal time limits or to remove mayors from office under certain conditions. However, we should always remember about such tool of the local democracy as elections. Thus, the re-election of the mayor of the city Ljubljana is considered as a sign of the satisfaction expressed by the local citizens with regard to the local policy and the activities of the municipality, including financial decisions (Internet 1).

We should notice that the dismissal of the mayor by the municipal representative body may become a tool of the political pressure of the legislative power on the executive one. Besides, we can see in this sanction the intervention of one branch of power into the competence of another which is hardly compatible with the theory of the separation of powers – one of the main bases of the democracy.

Participation of the local population in the financial decisions

Finally we arrived to the direct decision-making by the local population in the field of municipal finances. In certain Russian regions the legislation provides such type of own municipal revenues as a self-taxation. Under the federal law of 2003, the self-taxation funds are the once-only payments of citizens collected in order to finance the concrete questions of local significance. According to the article 56 (al. 2) of the above-mentioned federal law, this question should be decided by the population through the local referendum. But in the practice this tool of local democracy is expensive and complicated from the organizational point of view. Therefore, sometimes the municipalities could not use this revenue source legally provided (Internet 6). Nevertheless, recently the local referendum is applied quite actively in order to involve the local population in the financial decision-making process concerning a self-taxation. Thus, on March 14th, 2010 145 municipalities of 6 Russian regions organized such referenda (Republic Northern Osetia (Caucasus), Stavropolsky region (South of Russia), Rostovsky region (South of Russia), Kurgansky region (Southeast of Russia), Kirovsky region (Center of Russia), Altajsky region (Southeast of Russia)). The turnout of voters was relatively high, between 52,41% and 74,21%, only in 16 municipalities a low participation rate entailed recognition of the referenda as non-taking place (Internet 5).

Thus, in Kirovsky region the self-taxation became a source of the municipal budgets which is actively used since 2006. Already during that year the local referenda were organized in 10 municipalities and brought 268 thousand roubles (6 536 euros). In 2006-2008 the local budgets of Kirovsky region received 1 million 700 thousand roubles (41 463 euros) due to the self-taxation. For example, in the rural settlement Pishchalsky the local population decides through the local referendum about the self-taxation and hence, certain municipal expenditures since 2009. The inhabitants voted for the annual payment of 100 roubles (2,43 euros) by each voter. 25% of total revenue is spent for a roads cleaning, 32% – for a street lighting, the rest – for a garbage disposal (Trukhina, 2011).

In Russia the local population may decide not only about the self-taxation and some municipal expenses but also about the main

directions of the budgetary and tax policy of municipality. Thus, the gathering of local population in the Utainsky ⁴ adopted the Decree «About the elaboration, adoption, implementation and monitoring of execution of the perspective financial plan of the municipality» in 2009 (Internet 7). Besides, several versions of the perspective financial plan proposing by the Financial-Treasury Department of the Sakha Ministry of finances should be approved by the local population gathering. The results of the monitoring of execution of the perspective financial plan are also examined by the gathering and taken into consideration during the elaboration and adoption of the next three-year perspective financial plan.

We did not find any forms of the local inhabitants participation in the financial field of the municipalities explicitly provided by the French legislation. But since the law of 2004 adopted within the constitutional reform of 2003, the municipal voters may be consulted on the decisions appropriate to the competence of this municipality (article L1112-15 of the GCTE). Such consultation is organized by a relevant decision of municipal representative body but the initiative belongs to the one fifth (one tenth in some cases) of the registered voters (article L1112-16 of the GCTE). Besides, the article L2143-1 of the GCTE provides such form of participation of the population in the municipalities with 80000 inhabitants and more as a council of quarter. Such councils may be consulted by the mayor and may make proposals on the all questions concerning the quarter of the town. Therefore, by applying the above-mentioned articles of the GCTE, the local population can participate directly in the decisions concerning the public finances. According to the data of the Ministry of the Interior of France, between 2008 and 2009 17 municipalities organized the consultations with the voters concerning inter alia the following questions (Internet 8):

- municipal budget revenues including the reducing of public expenditures – exploitation of the sand pit, destruction of micro power plant, removal of the church bells, project of sustainable and solidary development of the municipality (both municipal budget revenues and expenditures);
- municipal budget expenses – maintenance of the church, project of sewerage.

However, we should remind that this is only the consultations, hence, the decision taking by the population through this tool of local democracy does not bound the local authorities.

⁴ Nasleg is the municipal (former family) settlements in the Republic Sakha (Yakutiya), the utmost North of Russia

For comparison: in Slovenia the local referendum can be hold on all questions except the budget, municipal taxes and other contributions (Internet 1), so we may consider the population participation in the municipal financial decision as zero.

Not only the application of the tools of local democracy influences on the public finances of the local self-government, but sometimes this process is opposite. Thus, one of the objectives of the municipal reform in France in 2010 was the delimitation and clarification of competences in order to reduce the crossed financing or co-financing made by the regional and departmental authorities which injure the principles of responsibility of the elected officials in front of the citizens and transparency of the public activity because the co-financing and crossed financing schema did not allow to identify the authors of the investments (Internet 9).

Besides, we can see some links between the tax autonomy of municipalities and the local democracy. Remind, that the tax autonomy is a part of the financial autonomy which is on of the main determinants of the local democracy. By using the preparatory documents for the constitutional law of 2003 (French constitutional reform of 2003), we can consider by the tradition shared between the majority and at least a part of opposition of the French Parliament a local tax autonomy as an inseparable part of the responsibility of executives officials in front of the voters (Internet 10). If the Center gives to the local self-government a possibility to develop the own tax revenues through a vote of local taxes even within the legislative limits, this measure can potentially serve to the responsibility of local elected officials by maintaining a narrow connection between these last ones and the citizens-taxpayers. Through this link the local population can observe for which services and equipments and how the local authorities spend their money and possibly influence on the supplied public services. Such measures foster the local self-government to use their finances more effectively. On the other side, there are certain apprehensions connected to the interaction of the tax autonomy, the local democracy and the municipal finances.

The local authorities can be under an excessive pressure from the part of the local population and in this case the municipal expenditures suffer from the degradation. Usually, from the economic point of view, the strengthening of influence provided by a local taxpayer on the tax decisions of local authorities is considered as a positive consequence of strong tax autonomy. From the legal point of view (Internet 11), such influence is examined as the counterargument. Thus, this link between taxpayer and administration limits a margin of tax action of local authorities, entails a heavy pressure exercised by a local voter on the

self-government and force the last one to reduce necessary public expenditures and hence, its freedom of choice of expenses even if an income is guaranteed. However, this negative impact can be significantly diminished by using some legal tools: the national legislator may stipulate the local self-government expenditures, mandatory for all municipalities (as the French legislator did). In the contrary, the Russian experts distinguish only a positive impact of the broaden tax autonomy on the local level on the increasing of the responsibility of the both local elected officials and voters (Internet 12). Thus, they consider that the possibility of the municipal competence to establish the taxes non-provided by the federal legislation can entail a growth of responsibility of the local self-government regarding the municipal financial policy and a decrease of «parasitism» spirits in the municipality, as well as an increasing of the voters responsibility for the results of their own electoral activity. And actually they are not wrong, the tax autonomy can really contribute to the dialogue between the local population and municipal authorities. This is “only” a challenge to find a golden mean of the tax autonomy of the local self-government.

Conclusion

The purpose of this paper was to reveal in which aspects and how the local democracy was connected with the finances of the local self-government from the legal point of view. We distinguished three main fields of interaction.

The analysis of the first one, the direct elections of local officials and its impact on the municipal finances, allows concluding that the abolition of the municipal elections does not always lead to a significant decreasing of public expenditures, in the contrary sometimes their increasing is observed. The reducing of the number of local elected officials does not obviously save the municipal budget money as well.

As regards the second aspect, the responsibility in front of the population of directly/indirectly elected mayors in the public finances field, the existence of legally provided tools of the mayor dismissal by the population through their representatives – deputies of the municipal council – can entail a political pressure and the non-compliance with the separation of powers principle. When the recall/dismissal possibility is in the hands of the local population directly, it can cause the excessive voters pressure on the local authorities, which is sometimes harmful for the structure of municipal revenues and expenditures.

Finally, as for the third aspect, the participation of the local population in the financial decisions, such participation in the direct form is relatively

rare. Normally the financial decision are taken by the representative bodies and/or mayors. On the one hand, this situation can be considered as a restriction of the local democracy. On the other hand, we can argue that such decisions and especially their consequences should be taken and evaluated by the specialists. But immediately we have to remember the problem of the local elected officials professionalization. However, this possible discussion is more in the study field of sociologists: it seems that they are able to make a research on the educational and professional background of the municipal deputies and mayors in order to determine whether the financial policy of the municipalities is elaborated and implemented by the specialists.

Resources

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