

CRITICAL REVIEW OF DETERMINING THE PRINCIPLES OF LEGALITY OF PUBLIC ADMINISTRATION IN THE ASPECT OF FINANCIAL MANAGEMENT AND CONTROL

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Review article

SUMMARY

*The paper analyzes the establishment of the functional work of public administration, with special reference to local self-government units. The application of appropriate principles of public administration, appropriate to the *acquis communautaire*, but also the establishment of financial management and control, ensures the desired effects, which are expected from public administration and other users of budget funds. The existing legal framework, as well as guidelines for internal control in the public sector, are a guarantee of the establishment of a modern and high-quality public administration, as the public wishes. The aim of this paper is to analyze the principles of legality of public administration, the extent to which the principles are in the legal norms of a particular legal system, and the extent to which financial management and control affect the realization of the legality of public administration. The dogmatic method shows the legality of public administration, while the comparative method compares the application of the principles of administrative procedure with the outcomes of the established appropriate functional system of financial management and control of public administration, with special reference to the satisfaction of public administration users, all employees and budget managers.*

Keywords: *principle of legality, financial management and control, public administration*

INTRODUCTION

By public administration we mean all institutions that perform activities in the public interest, for which reason it is assumed that it is part of the executive branch, where depending on the organization and structure of the state we meet with different powers of state administration, of which, in decentralized states, its lowest level delegated to local self-government units [1]. In the Republic of Croatia, the right to local and regional self-government is based on the Constitution of the Republic of Croatia, which entitles it to independently perform tasks of local importance, which gives local self-government units the right to own revenues and independent disposal [2]. The system of local self-government, organized through counties, cities and municipalities, is based on the principle of autonomy of government, the exclusive right of the local self-government unit to govern itself, according to independently adopted regulations, on the principle of subsidiarity, which means making and executing decisions [3]. The scope of work of the local self-government unit is the same for everyone, with municipalities and cities performing tasks of local importance, and the county of regional importance, which is not within the scope of state bodies [4].

By strengthening the role of local and regional self-government, it contributes to economic development and general development of society, which requires a rational and efficient public administration [5]. The process of real decentralization of public administration is directly correlated with its participation in public revenues and expenditures, to perform entrusted public functions, and therefore it is necessary to establish adequate transparency and accountability of funding sources for central government and local and regional self-government. Doubts about the transparent management of entrusted sources of public revenues or expenditures for the performance of public functions are often emphasized through the media, by reporting on various scandals. At the same time, citizens criticize the public administration with their

complaints, and entrepreneurs, for inefficiency in order to ensure conditions for business and investment.

Supervision over the acts and work of local self-government units is regulated by the Law on Local and Regional Self-Government [6]. In order to check the work of the public administration and eliminate suspicions of irregularities, administrative and inspection inspections are carried out. While administrative supervision is carried out exclusively by state administration bodies, inspection supervision may also be carried out by other organizations. Administrative supervision supervises the legality and regularity of administrative activity, while the subject of inspection supervision is compliance with legal regulations, and therefore administrative supervision, as supervision of legality and purposefulness, is broader in intensity than inspection supervision as supervision of legality [7]. Legality, as a way of working, ensures strict compliance of all parties with the legal requirements of the law and implies the rule of law, and the issuance of acts exclusively by bodies with special powers for this purpose, which is directly related to social development and guarantee of human and civil rights. constant monitoring of law enforcement. Observing the principle of legality through the protection of the legal basis, institutions and principles, it can be said that the exercise of rights is carried out exclusively on the basis of the Constitution and its laws [8].

PRINCIPLE OF LEGALITY IN THE SERVICE OF RESPONSIBILITY OF PUBLIC ADMINISTRATION MANAGEMENT

The principle of legality prevents the will of individuals, holders of certain functions with public authority. Through the principle of legality, the action of the state is placed in the legal framework, so that the general interest, defined by law, outgrows individual interests, the executive or the judiciary, which by its abuse of power would lead to legal uncertainty. In order to ensure the principle of legality, it is necessary to delimit the space in which the law can intervene, ensure the order of subordinate legal norms to the law, determine the legal norm for application in a particular case and the powers it provides to public administration [9]. Citizens' trust in the rule of law and legality implies a synergy of beliefs, values, norms and actions, and

enables respect for the legal system, both by citizens and by those who apply the law with their powers. The principle of legality ensures the rule of law, primarily by limiting the activities of public administration with the aim of exercising the rights and freedoms of citizens. As legality is manifested through positive legal regulations, so legality refers to the holder of power, creating responsibility for justice and correctness. Also, legality is the main guarantee of their right not to be abused, and legitimacy is the foundation of their power [10].

Qualitative progress in terms of the rule of law, economic and transitional development, is supported and strengthened by the integration of the state into the European Union, especially in achieving the functioning of the state administration system, primarily through established principles of its work. As the stated principles, especially the principle of legality, are not specified by the Law on the State Administration System, it can be seen, in the part where it states that the purpose of the state administration system is legal, purposeful, efficient and effective performance of state administration [11]. Although the provisions of the Act define the obligation of the Government to issue a decree regulating the principles of work and the internal organization of the state administration, the principles are not defined separately [12]. Only implicitly, the Decree states the principle of transparency as a general rule of publicity, while the principles of public administration are assumed to be implemented directly from the European Charter of Local Self-Government, where EU members directly apply in international law all international legal acts have been ratified or are in force in the European Union.

CHARACTERISTICS OF POLITICAL CONTROL AND SUPERVISION OF LEGALITY OF PUBLIC ADMINISTRATION

Public administration bodies are expected to act on the principles of legality, independence, responsibility, efficiency, effectiveness, publicity, etc., which is related to the increase in their role and the need for instruments of

financial control over the spending of funds at their disposal. By defining the principles of work of the administration and local self-government, administrative bodies and persons with public authority, regulations governing their work, the ideological and political foundations of establishing good administration are provided, from the area of constitutionality and legality of acts it adopts, which the local self-government brings at lower levels. The public expects that all public administration bodies, at all levels, are responsible for the legality, economy and transparency of the funds at their disposal. At the same time, it is necessary to take into account that individual and particular interests, in terms of controlling their work, must not be an obstacle to community development.

The responsibility of local self-government bodies is great in terms of the adequacy of decisions granting certain rights and obligations, because subsequent return of rights granted must not be if the legal principle *iura quæta salva esse debent* (prohibition of encroachment on legally acquired rights) is respected. refers to decisions at the disposal of financial and other material resources [13]. The economic determinants of the organization and functioning of local self-government are correlated with its growth and development, and the citizens' perception is reasonable that the issue of fairness is reduced to the principles of legality, economy and efficiency of work. In this context, through the principle of legality, the system of local self-government would exercise public authority as a body of government close to the citizens, while higher bodies would hold the function of corrector of illegal work, with a supervisory role. The principles of public administration derive from European Union documents, such as reliability and predictability, openness and transparency, accountability and efficiency, as "the lowest common denominator of European public administration" [14].

Legal and efficient conduct of public administration, according to the interest of citizens, in accordance with laws and prescribed procedures, is the basis of the concept of good administration. Modern administration is expected to be a service of economic and civic services, where there is freedom of action, with norms of commercial law and obligation, where it is a public service to provide conditions necessary for the development of education, social policy, health care, scientific

research and economic development [15]. Public and local self-government should strive for criteria applied in the private sector, through appropriate deregulation, protection of legality, raising the quality of work, improving the cost-benefit ratio and improving the administration service [16]. In an effort to ensure these achievements, public administration with human resources, as the main factor influencing the efficiency, material and financial position of local governments, has a generosity of funding, and it is necessary to ensure verification of the legality of its work, primarily related to financial management mechanism and control. When determining the source of funding and allocating budget revenues for the purpose of performing activities of importance to the local community, it is necessary to follow an appropriate funding model in order to ensure stable functioning and balanced socio-economic development. The issue of material basis is an important issue of local and any other self-government.

Funding, as a fundamental issue of the material basis of the work of local government, is an important aspect of work, with the aim of financial independence. Funding, from independent adoption to budget execution, according to the envisaged procedures, undergoes double control of budget elements, by the legislature and the central government, which hinders independence in regulating relations in the field of finance. There is a problem of control over the adoption of the budget, which in addition to the control of constitutionality and legality can be a limiting factor, as well as the establishment of norms of responsible behavior, which are important for holders of administrative powers and duties, with appropriate legal weight. At the same time, responsibility is a mirror of certain social relations, and society is as progressive and stable as the principles and patterns of responsible behavior are followed in everyday practice [17]. Apart from the legal aspect, the legality of the work of public administration bodies is also performed from the economic and financial aspect, using financial management and control. Sources of financial management and control are contained in the

Guidelines for Internal Control in the Public Sector of the International Organization of Supreme Audit Institutions, the European Commission's Internal Control Standards, and the Integrated Internal Control Framework: Committee of Sponsoring Organizations of the Tradeway Commission. The legal solution is based on these sources, with the aim of improving financial management, increasing employee satisfaction, due to clearly defined roles and responsibilities, with clear requirements of all processes and their supervision, for appropriate decision-making and gathering information based on facts. As financial management and control is carried out in accordance with legally determined norms, appropriate management of public spending is ensured and the responsibility of heads of budget units towards budget funds is strengthened, and an effective system of control and supervision is ensured in order to achieve fiscal responsibility. As a comprehensive system of policies, procedures and activities, financial management and control is the answer to the questions needed to manage risks and achieve the goals of the institution in a proper, cost-effective, efficient and effective way. Properly established and functional system of financial management and control is a guarantee of achieving goals and reducing the risk of budget users, with a high level of service quality and set goals, and effective control of strategic goals, for which the head of the budget unit is responsible, statement of fiscal responsibility. Accountability is not of a formal nature but implies legal, purposeful and purposeful planning and use of budget funds, which is guaranteed by a statement and questionnaire on fiscal responsibility, and a plan to eliminate weaknesses and irregularities and a report on remedied irregularities identified in the previous year. and controls [18].

CONCLUSION

It is difficult to build a system of public administration, which will suddenly and fully meet the principles of budget users, to ensure transparency, efficiency and legality. In the search for appropriate solutions to improve the work of public administration, financial management and control is the solution that provides the most effects. Financial management and control is a system of policies, procedures and activities that seek to adequately manage the risks and objectives of the institution, strategic, general and specific, in a proper, economical, efficient and effective way. The

responsibility of the manager is to establish a functional system of financial management and control, which will successfully guide the budget user, the local government unit, and ultimately guarantee the quality and legality of work by a statement of fiscal responsibility.

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