

Mateusz KAŻMIERCZAK* – Filip ŽIVANOVIĆ**

Financial Autonomy of Local Self-Governments in the Republic of Serbia and the Republic of Poland – Comparative Analysis

ABSTRACT: *This contribution deals with the concept of financial autonomy of the local self-governments in the Republic of Poland and the Republic of Serbia. The main aim of this contribution is to confirm or disprove the hypothesis that in the abovementioned countries current legal system is in line with the financial autonomy requirements stipulated by the European Charter of Local Self-Governments. The research is conducted by applying basic methods of legal science, especially the method of scientific analysis. First, it provides a brief overview of the Charter's role, constitutional background of Serbia and Poland. Second, it present the regulation on local taxation in the abovementioned countries and its place within the local budgets. Third, it confronts the results of previous analysis with the requirements of the Charter. The authors argue, that in both countries, the requirements of the Charter are only partially met.*

KEYWORDS: *European Charter of Local Self-Governments, Financial Authonomy, Local taxes, Real Estate Tax, Local Budgets*

1. Introduction

In modern societies, the government plays a focal role in the concept of a country. It operates at the intersection of sovereignty, territory and population to provide security and satisfy citizens' needs. Notably, funding is crucial to a government achieving its goals. Thus, one of the basic powers of the government is to collect taxes (in a broad sense) as a basic form of financing public government. The state can delegate its authority to different levels of territorial government, which mainly depends on the constitutional order, that is, the type of territorial organisation. In both Poland and

* PhD student at the University of Gdańsk, specializing in the field of digital taxation. E-mail: mateusz.kazmierczak@phdstud.ug.edu.pl. ORCID: 0000-0001-8827-2550.

** PhD student Faculty of the Law University of Belgrade, specializing construction, FIDIC, tax, insurance and arbitration. E-mail: fzivanovic5@gmail.com. ORCID: 0009-0007-8844-6996.

Serbia, there are local self-government units within this constitutional system. The role of local governments in effectively meeting the needs of citizens cannot be ignored.

During the different historical and constitutional frames, the treatment and regulation of the status of local self-governments has changed and reformed, especially in the context of financing, as a precondition for ensuring efficient performance of activities within the competence of local self-governments. The process of development of the local self-government was aimed to expand the competencies, autonomy and, in finality, expand the quantity of the number of local self-government, '*considering that the existence of a larger number of local governments enables the adjustment of their policies to the preferences of their inhabitants, which has a positive effect on the overall social welfare*'.¹

Nowadays, in democratic states, there is no doubt that local government structures, being closer to citizens, are better able to identify their problems and, consequently, manage public funds more efficiently. However, having sufficient financial resources is essential for being able to perform these tasks. Therefore, it is advisable to ensure that an appropriate proportion of funds go directly to the local government to ensure its independence. Such principles were expressed in the European Charter of Local Self-Government, whose aim was to harmonise the standards of local government rules.

Therefore, the subject of this article is to analyse the general characteristics of the tax system at the level of local self-government in the Republic of Poland and the Republic of Serbia and to provide insight into the normative solutions governing the financing of local self-government, particularly in relation to the original, transferred and shared revenues. In this regard, the constitutional position of local authorities and their tax position and autonomy in relation to central authorities will be analysed, as well as the framework of competencies of local governments in the context of the nature of the revenues that finance local governments.

2. Role of the European Charter of Local Self-Government

In addition to the constitutional framework as a wide and comprehensive source of domestic law, the autonomy of local self-governments can be observed from the perspective of international law. From this perspective, the relevant source is the European Charter of Local Self-Government.² To provide sustainable local adminis-

1 Stigler, 1957, pp. 213-219.

2 This international convention lays down standards for protecting the rights of local authorities and requires the 46 member states of the Council of Europe—which have all ratified it—to comply with a number of principles.

tration, the Charter in Article 9 defines the types and principles of local authorities' financial resources:³

1. Local authorities, in accordance with the country's economic policy, will have the right to appropriate their own sources of financing, which they will dispose of freely, within their powers.
2. Sources of funding for local authorities will be appropriate to their duties prescribed by the constitution or law.
3. At least one part of the funds of the local authorities will come from local taxes and compensation, for which the local authorities, to the extent determined by the statute, have the right to determine the rates.
4. The funding systems on which the sources of funds of local authorities are based should
5. To be different and flexible enough to allow harmonisation, at most measures, with a real assessment of the costs for carrying out their activities.
6. The need to protect financially weak local authorities dictates the establishment of appropriate procedures or measures of financial equalisation, with the goal of correcting the consequences of the unequal distribution of financing sources, that is, the financial burden of local authorities. Such actions or measures may not restrict the rights of local authorities that they have within their jurisdiction.
7. Local authorities will, as appropriate, be consulted on methods on which they will be allocated redistributed funding sources.
8. As far as possible, funds transferred to local authorities will not have the character of earmarked funds. The allocation of these funds cannot jeopardise the discretion of local authorities to conduct policy within their powers.
9. To enable them to take loans for capital investments, it is vital to provide the local authorities with an access to the national capital market in accordance with the law.

As a member of the European Council, the Republic of Serbia joined the Charter in 2007. In the process of delivery of the ratification instruments, the Republic of Serbia gave the following statement: *'The Republic of Serbia, in accordance with Article 12 of the European Charter on Local Self-Government, will be considered obliged to accept the following provisions: Article 2; Article 3, paragraph 1 and 2; Article 4, paragraph 1, 2, 4 and 6; Article 5; Article 7, paragraph 1 and 3; Article 8, paragraph 1 and 2; Article 9, paragraph 1, 2, 3, 4, 5, 6, 7 and 8; Article 10, paragraph 1, 2 and 3; Article 11'*.

Such a statement is in accordance with the provision of Article 12 of the Charter, which provides that *'each party undertakes to consider itself bound by at least twenty*

3 Becirovic, 2012, p. 51.

Paragraphs of Part I of the Charter, at least ten of which shall be selected from among the following Paragraphs: Article 2; Article 3; Paragraphs 1 and 2; Article 4 Paragraphs 1, 2 and 4; Article 5; Article 7, Paragraph 1; Article 8, Paragraph 2; Article 9, Paragraphs 1, 2 and 3; Article 10, Paragraph 1; Article 11. In contrast, Poland has ratified the Charter as a whole, with no exceptions.

3. Constitutional regulations

The starting point for all further considerations must be a presentation of the structure of the local self-government. Territorial organisations depend on complex socio-political, historical and cultural factors and, as such, represent a political and legal framework that determines the status and legal position of all levels of government, including local self-government. In other words, the *'territorial and political organization of the state are largely determined by the way it has been formed, its cultural heritage, as well as the socio-political and economic characteristics of society'*.⁴

3.1 Serbia

The Republic of Serbia is defined as a unitary state with two autonomous provinces: the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija. The Constitution of the Republic of Serbia recognises the concept of local self-government by defining that the *'state power is limited by the right of citizens to provincial autonomy and local self-government'* (Article 12 of the Constitution of the Republic of Serbia). Bearing in mind that the Republic of Serbia is organised as a unitary country, with a dominant central government level and sub-central government levels consisting of local self-governments and autonomous provinces, we can divide it into two types of forms of local self-governments: municipalities (normally above 10 thousand citizens) and cities (with more than 100 thousand citizens). These limits on the formation of municipalities and cities can be alleviated for economic, geographical, and historical reasons, meaning that municipalities and cities may be formed even if the total population is less than 10 and 100 thousand, respectively.⁵

According to the Law of Territorial Organization of the Republic of Serbia (2007), the territory of the Republic of Serbia consists of 145 local self-governments: 117 municipalities, 27 cities and the capital city (Belgrade). In addition, in the Republic of Serbia, there are 24 districts, which are defined as administrative units without

4 Randjelovic and Vukanovic, 2021, p. 197.

5 Ibid., p. 199.

real functions and effective budgets. Such a level of governance is not recognised as a constitutional category but instead represents the tendency for the organisational optimisation of public governance.

The Constitution of the Republic of Serbia recognises and gives the right to local self-government for its own revenues, stipulating that *'the funds from which the competences of the Republic of Serbia, autonomous provinces and local self-government units are financed are provided from taxes and other revenues established by law'* (Art. 91, para. 1 of the Constitution of the Republic of Serbia). Additionally, Article 188 of the Constitution of the Republic of Serbia provides that *'the work of the local self-government unit is financed from the own revenue of the local self-government unit, the budget of the Republic of Serbia, in accordance with the law, and the budget of the autonomous province, when the autonomous province has entrusted the local self-government units with the performance of work within its jurisdiction, in accordance with the decision of the assembly of the autonomous province'*.

3.2 Poland

Poland is divided into three types of units. The basic unit of territorial self-government is the municipality (gmina), which in turn comprises districts (powiaty), including voivodships (województwa). Only municipalities and districts are commonly recognised as local governments within the meaning of the European Charter. Voivodships, in turn, are considered regions. Notably, there are also cities with district rights. In this case, there are two 'tiers' of local government in the same territory, each with its own income and expenditure.

The Constitution does not explicitly mention 'financial autonomy', but Article 167 indicates the resources of local self-governments:

1. Local government units shall be provided with a share of public revenues in accordance with the tasks falling to them.
2. The revenues of local self-government units are their own revenues and general subventions and earmarked subsidies from the state budget.
3. Sources of income of local self-government units are specified in the law.
4. Changes in the tasks and competencies of local self-government units shall take place together with corresponding changes in the distribution of public revenues

According to Article 165 sec. 2 of the Constitution: 'The sovereignty of local government units is subject to judicial protection.'

4. Statutory regulations and notion of local taxes

4.1 Serbia

At the lower legislative level, the most relevant source of legislation is the Law on Financing the Local Self-Government. Serbia began its socioeconomic transition after 2001. Within the framework of the overall reform of public administration and the public finance system, the process of fiscal decentralisation was introduced to strengthen the position of local governments. This resulted in the adoption of the Law on Financing the Local Self-Government in 2006. Although the initial law prescribed a systematic framework and objective criteria for the distribution of funds by individual local self-governments, the total level of prescribed funds for local self-government was somewhat higher than necessary⁶ because of the existence of strong political support for the decentralisation process in the fiscally prosperous period before the 2008 economic crisis.

During 2009 (due to the global financial crisis), there was a large increase in the fiscal deficit (at the republic level), which required decisive measures such as savings. As one of the measures, the Government of Serbia prescribed a reduction in the amount of non-purposed transfers to local governments of 15 billion dinars, that is, by approximately 0.5% of GDP. Again, internal political circumstances led to changes in the Law in June 2011 and an excessive increase in the income of local self-government units. With these changes, the total funds of local self-governments increased by 40 billion dinars, which is 25 billion dinars more than the amount prescribed by the initial Law on Local Self-Government Financing in 2006.⁷ Local self-governments' participation in salary tax increased from 40% to 80% (70% for the City of Belgrade), which resulted in regressive effects and was the most beneficial for the most developed local governments.

With the changes in tax laws in mid-2013, most funds extracted from the republic budget were transferred back from the local to the republic level of government. In May 2013, the salary tax rate decreased from 12% to 10%, whereas the social contribution rate increased from 22% to 24%.⁸ As mentioned above, the total amount of taxes and contributions on wages remained practically unchanged, but 20 billion dinars were effectively returned from the local to the central level of government (since the salary tax belongs predominantly to municipalities and cities).⁹

Changes to the law in 2016 managed to reestablish the fiscal balance between the central and local levels of government, but the problem of horizontal imbalances

6 Fiscal Council of Republic of Serbia, 2017, p. 18.

7 *Ibid.*, p. 19.

8 *Ibid.*, p. 20.

9 *Ibid.*, p. 20.

between individual local governments remained intact. Due to amendments to the Law on Financing of Local Self-Governments in 2016, 5 billion dinars were transferred from the local government to the central government, which, after many years, again established a vertical fiscal balance between the republic and local governments in practice.

In 2018, these percentages changed again. Thus, the percentages of local self-government participation in salary tax (ceded revenue) on this basis are as follows:

- 74% participation of local self-governments
- 77% participation of cities
- 66% participation of the City of Belgrade

Based on the above, it may be concluded that in the fiscal relations between the central and local governments, two trends can be observed, which have been dominant from 2001 until today:¹⁰

1. The trend of fiscal decentralisation from 2001 to 2008, the phase which adopted the two most important laws for local self-government, the Law on Local Self-Government (2002 and 2007) and the Law on Financing Local Self-Government (2006), and adopted the current constitution of the Republic of Serbia (2006). The State Administration Reform Strategy in the Republic of Serbia was also adopted in November 2004, by which the Republic of Serbia opted for higher (fiscal) decentralisation and included it in the basic principles of the reform. During this period, the role of cities and municipalities and their fiscal autonomy were strengthened through the continuous transfer of competencies and funds, that is, sources of income for financing those competencies.
2. Trends of fiscal centralisation and pseudo-decentralisation between 2009 and 2015. The continuous suspension of the Law on Financing Local Self-Government and frequent changes in regulations caused the collapse of the local finance system and a significant decrease in city budgets and municipalities. This period was marked by:
 - a) The abolition, reduction or change in local self-government revenues, both the original revenues of municipalities and ceded revenues and transfers from the Republic level;
 - b) The transfer of new duties, expenses and costs without providing appropriate funds for financing at the Republic level; and
 - c) The vertical imbalance between income and expenditure caused by poor nonstrategic management of the transfer of competencies and accompanying sources of income for financing.

10 Aleksic, 2018, pp. 241-260.

4.2 Poland

Before conducting a similar analysis of Polish law, one point must be made: Under Polish law, it is not at all obvious which taxes constitute local taxes. Admittedly, there exists in the Polish legal system the Act of 12 January 1991 on local taxes and charges, which describes a certain catalogue of local taxes and charges. However, many authors assume that this catalogue does not exhaust all local taxes in the Polish legal system. Moreover, ‘the definition of local taxes and charges is not contained in any legal act’.¹¹

However, there is no universally accepted definition of local tax in the doctrine. The starting point for the definition of this concept must undoubtedly be the definition of a tax contained in Article 6 of the Tax Ordinance, according to which a tax is a public, gratuitous, compulsory and non-refundable pecuniary benefit for the benefit of the State Treasury, a province, a district or a municipality resulting from a tax act.

It is worth noting that in the Polish legal system, there is also an institution of self-taxation by the inhabitants of a municipality, which can be done through a municipal referendum, as referred to in Article 2(2)(2) of the Local Referendum Act of 15 September 2000. However, the doctrine recognises that, contrary to its name, self-taxation cannot be considered a tax because of structural differences. First and foremost, because of its voluntary rather than compulsory introduction, and also the fact that it is known for what purpose the funds from self-taxation are intended (and, therefore, a certain gratuity).¹²

Article 1 of the Local Taxes and Fees Act identifies property tax and vehicle tax as local taxes and market fees, local fees, spa fees, advertising fees and dog ownership fees as fees. Despite the difference in name, the fees described in this law are nevertheless taxes, as they fulfil the characteristics indicated in the abovementioned definition.¹³ According to Prof. Etel, there is no basis for the statement that ‘the local taxes and fees referred to in Article 168 of the Constitution are only those that are regulated by the referred law’.¹⁴ In his view, this constitutional norm must be interpreted in light of the wording of the European Charter of Local Self-Government, which, in Article 9, stipulates the criterion that local taxes contribute to local budgets. Thus, he considers that local taxes are those benefits that meet two criteria together: ‘they constitute revenue for the local government budget and the local government unit can determine their amount’.¹⁵ Prof. Etel contrasts taxes that meet these two criteria with state taxes. According to him, the catalogue of local (self-government) taxes is as

11 Popławski, 2003, p. 5, cited in Etel, 2004, p. 42; Pahl, 2017, p. 19.

12 Etel, 2004, p. 24.

13 Pahl, 2017, p. 64.

14 Etel, 2004, p. 42.

15 *Ibid.*, p. 43.

follows: real estate tax, agricultural tax, forest tax, vehicle tax, PIT in the form of a tax card, inheritance tax, all local fees and stamp duty. Importantly, the proceeds from all these taxes go to the municipalities. Currently, in Poland, neither the county nor the province has 'their own' taxes.¹⁶ He also points out that agricultural tax and forest tax are outside the scope of the Local Taxes Act because a separate Act on agricultural tax and forest tax had not yet existed in Poland in 1991. Meanwhile, the creation of the Local Taxes Act simply rewrote the content of the old Local Taxes Act, which existed during the Communist era, rather than creating a new comprehensive regulation.¹⁷

Prof. Chojna-Duch points out that 'the real differentiation of local taxes and fees from state taxes in Poland (before 1986 called field taxes) can be talked about from the moment when municipal budgets were separated from the state budget economy and municipalities were granted constitutional guarantees of independence of financial management. This is because prior to that period local taxes and fees were in fact state sources of revenue, transferred to lower levels of state administration'.¹⁸ She distinguishes between the concepts of a narrow scope of taxes and local fees covered by the Local Taxes and Fees Act—and a broader scope. Her understanding of the broader scope of local taxes corresponds to the definition of local taxes proposed by Prof. Etel. However, she would also include in this catalogue the mining fees regulated by the Act of 4 February 1994—Geological and Mining Law and Betterment Levy (*opłata adiacencka*) regulated by the Real Estate Management Act of 21 August 1997.¹⁹

B. Pahl believes that the characteristic feature of local taxes and charges is 'first and foremost the source of their revenue'.²⁰ In so doing, he considers only those benefits that are entirely influenced by local government units. For this reason, he does not consider the participation of local government units in the PIT and CIT local taxes, although they are undoubtedly an important source of revenue.²¹ It is also worth pointing out that there is also a divergence of views as to whether these receipts are a municipality's own revenue (so e.g. Ruśkowski) or an influence of a different nature (so e.g. Denek, Chojna-Duch).²²

Another important feature, in his view, is the right of local authorities to set the amount of taxes, interpreted broadly as influencing the elements that translate into the final amount, that is, both the tax rate and the tax base, allowances or exemptions.²³ As a result, the catalogue of local taxes in the broad sense includes, in his view,

16 *Ibid.*, pp. 26-27.

17 Etel, 2011, p. 21.

18 Chojna-Duch, 1998, p. 346.

19 *Ibid.*, p. 347.

20 Pahl, 2017, p. 20.

21 *Ibid.*, p. 20.

22 Sygut, 2018, pp. 130-131.

23 Pahl, 2017, p. 21.

taxes and fees from the Local Taxes and Fees Act, in addition to agricultural tax, forest tax, inheritance tax, stamp duty and PIT in the tax card form.²⁴ B. Pahl believes that the concept of local taxes and fees should be understood narrowly by the catalogue of levies indicated in the Local Taxes and Fees Act.

In summary, the following criteria are given in the doctrine to define the concept of local taxes and fees: the competence of local bodies to determine the elements of the tax construction, the budget into which the taxes flow in their entirety, the relationship with the tasks of local bodies, direct implementation by the financial apparatus of the municipality and links with the environment and local relations. However, three predominate: the possession of tax authority by local bodies, the impact of revenues on the local budget, and the criterion of indications in the Law on Local Taxes and Revenues. An attempt to summarise the catalogues of local taxes and charges due to the application of one of these three criteria is presented in the following table.

Table 1 – Comparison of different catalogues of the local taxes in the doctrine.

Criterion	Local taxes	Local fees
Tax authority of local government	<ol style="list-style-type: none"> 1. real estate tax 2. vehicle tax 3. agricultural tax – regulated by the Act of 1 November 1984 on the Agricultural Tax 4. forest tax – regulated by the Act of 28 September 1991 on the Forest Tax 	<ol style="list-style-type: none"> 1. market fee 2. local fee 3. spa fee 4. advertising fee 5. dog ownership fee
Explicitly mentioned in the Act on local taxes and fees	<ol style="list-style-type: none"> 1. real estate tax 2. vehicle tax 	<ol style="list-style-type: none"> 1. market fee 2. local fee 3. spa fee 4. advertising fee 5. dog ownership fee
The tax goes entirely to the local government budget	<ol style="list-style-type: none"> 1. real estate tax 2. vehicle tax 3. agricultural tax 4. forest tax 5. Tax on inheritance and donations regulated by the Act of 28 August 1983. 6. income tax paid in the form of a tax card – regulated by the Decree of the Minister of Finance of 17 December 1996 on the tax card 7. Tax on civil law transactions – regulated by the Act of 9 September 2000 on the Tax on civil law transactions 	<ol style="list-style-type: none"> 1. market fee 2. local fee 3. spa fee 4. dog ownership fee 5. stamp duty 6. mining fees – regulated by the Act of 4 February 1994 – Geological and Mining Law

Instead of introducing budgetary transfers between various segments of the local government, a system based on the allocation of specific taxes (and other revenues, as

discussed below) was created. Within these taxes, the key concept is the tax authority. The tax authority is defined in the Polish tax law doctrine as 'the granting to a public law entity of the right to take independent decisions in tax matters'.²⁵ It refers to competencies such as: 'legislating on taxes, collecting tax revenues for their own benefit and administering these revenues'.²⁶ Significantly, the Constitution guarantees tax authority to local government units only to a limited extent with regard to certain structural elements of the tax and to the extent designated by law.

Taxes are mostly administered by local authorities. However, state bodies administer Inheritance Tax, the Tax on Civil Law Acts and the Income Tax in the form of tax cards, albeit as municipal revenue. The rationale for doing so is that these benefits have a complex structure, and as a result, municipal tax authorities are not prepared to assess and collect them. Accepting this argument as valid undermines the need for municipal taxation authorities.

It is generally accepted that municipalities and districts constitute local communities within the Charter. However, their situation in Poland, in terms of having 'their own' taxes, is strongly differentiated. Specifically, municipalities are entitled to receipts from shares in the PIT (39.34%) and CIT (6.71%), real estate tax, agricultural tax, forest tax, vehicle tax, PIT in the form of a tax card, tax on inheritance and donations and tax on civil law transactions. Districts are entitled only to receipts from shares in the PIT (10.25%) and CIT (1.40%). Thus, it is evident that the scope of receipts in the district is significantly lower. The doctrine points out that this is probably due to the history of the formation of local governments in Poland. Municipalities still existed in the Polish People's Republic (when laws creating the first local taxes were created). Contrastingly, districts (and voivodeships) did not appear in Poland until 1 January 1999. At that point, it was no longer possible to create new taxes specifically for districts (as all relevant sources of taxation were already covered by taxes) or to deprive the municipalities of the taxes granted to them (especially as this already provides limited budget revenue, as discussed below).²⁷

This disproportion was even more significant in cities with district rights. As A. Borodo rightly notes, 'districts have no tax source of their own (they only have shares in state taxes), cities with districts rights have more shares in state taxes (two as municipalities and two as districts) and a dozen or so of their own taxes'.²⁸ Interestingly, Poland also has a system of subsidies and contributions (which are generally considered to meet Charter standards). In the case of cities with district rights, there may be a situation in which the same single entity will, for example, be

25 Glumińska-Pawlic, 2003, p. 130, cited in Święch-Kujawska, 2015, p. 449.

26 Święch-Kujawska, 2015, p. 450.

27 Bury, 2000, p. 21.

28 Borodo, 2015, p. 32.

entitled to receive a subvention as a municipality and, at the same time, be obliged to pay a contribution as a district.²⁹

5. Place of the local taxes within the local budgets

5.1 Serbia

Pursuant to Article 2 of the Law on Financing the Local Self-Government, three groups of local self-government financing instruments exist.

1. own-source revenues
2. ceded revenues
3. central-government grants (transfers)

Own-source revenues are revenue-raising instruments created, imposed and collected by local self-governments, which means that local self-governments are relatively free to decide on their characteristics, parameters and amounts. Such revenues include taxes and fees such as property taxes, local administrative and communal taxes, tourist fees, concession fees and certain fines and penalties.

From a theoretical perspective, local self-government revenues can be divided as follows:³⁰

- common taxes (taxes administered at the central level at a rate that is determined at the central level, and income is shared with the local self-governments which collect taxes).
- block transfers (central government transfers that are not intended for specific purposes);
- local taxes (including property tax); and
- fees and charges.

These revenues are structured in the following manner when it comes to data on the local self-government disbursement of revenues per capita:³¹

Sources of budgetary incomes of local self-governments, 2010 (RSD per capita)			
	Belgrade	Other 3 cities	Sample from 10 smaller units of local self-government
Income tax	14 184	9 921	6 840

²⁹ Ibid., p. 32.

³⁰ World Bank Report no. 76855-YF, 2013, p. 18.

³¹ Ibid.

Sources of budgetary incomes of local self-governments, 2010 (RSD per capita)			
	Belgrade	Other 3 cities	Sample from 10 smaller units of local self-government
Property transfer tax	2 190	1 441	679
Transfers	3 340	3 808	4 889
Property tax	10 055	4 151	2 720
Fee for the usage of construction plots	5 112	3 437	698
Selling of goods and services	3 766	2 654	690
Voluntarily transfers	1 240	113	164
Mixed and non-defined income	2 123	648	326
Sale of immobility	309	51	18
Loans	7 104	252	1 030
Total	54 856	29 665	20 943

Assigned revenues represent the instruments created, imposed, and collected by the central government, which are then assigned to local self-governments based on statutory criteria. There are several types of assigned revenues, such as certain percentages of salary tax revenues, the full amount of other personal income taxes, inheritance and gift taxes and property transfer taxes. Central government grants are transfers provided from the central government budget to local self-government budgets in the form of non-purposed or purposed grants.

Non-purposed grants are divided into:

1. Equalization grant
2. General grant
3. Compensating grant
4. Solidarity grant

The main goal of non-purpose grants is to finance equalisation, which is aimed at assisting local self-governments in events when they underperform in terms of assigned revenues, causing their underdevelopment. In this respect, an equalisation grant is paid to local self-governments that have per-capita assigned revenues below 90% of the average per-capita assigned revenues of all local self-governments in the Republic of Serbia.

Compensation grants are designed to compensate local self-governments which lose revenue due to changes in the tax legislation imposed by the central government. This grant is aimed at compensating local self-governments for a small part of the

foregone (assigned) tax revenues so that the relative decline in the central and local governments' tax revenues remains the same.

The general grant is provided to all local self-governments. The maximum amount of the general grant is derived by subtracting the equalisation and compensation grants from the total amount of non-purposed grants. According to Article 42 of the Law on Local Self-Government Financing, there are several criteria based on which the amount of the general grant per local self-government is calculated:

Criteria	Percentage of the general grant
Local self-government population	65%
Total land area of local self-government	19.3%
Number of classes in the primary schools	4.56%
Number of primary schools	1.14%
Number of classes in the high schools	2%
Number of high schools	0.5%
Number of children entitled to childcare service	6%
Number of childcare institutions	1.5%

The amount of equalisation, compensation and general grants for each local self-government are corrected by the development coefficient, which ranges from 0.5 to 1, in order to protect underdeveloped local self-governments and to foster their economic growth. The amount of equalisation, general and compensation grants intended for the City of Belgrade are used to set funding amounts for solidarity grants disbursed to other local self-governments based on their level of development.

Purposed grants can take the form of functional or purposed grants in a narrow sense. Functional grants are aimed at providing funds to local self-governments needed to finance additional expenditures incurred by local self-governments due to a shift in the functions of powers from the central government to local self-governments. Similarly, the central government may provide purposed grants in a narrow sense to local self-governments, requiring them to use those grants solely to execute a specific duty as set out by the law. To ensure the transparency of disbursements, data on non-targeted grants provided to each local self-government must be disclosed in the state fiscal strategy. However, in practice, such data are not regularly disclosed publicly.

Additionally, considering the constantly developing urbanisation and the continuous necessity for the improvement of local self-governments, it has been noted that original revenues have become increasingly insufficient to satisfy the budgetary

needs of local self-governments.³² Therefore, local self-governments are forced to use secondary sources of financing, such as bank loans and financing through the issuance of municipal bonds (which may be divided into short- and long-term bonds depending on the date of their effectiveness).³³

5.2 Poland

At the level of the Constitution, Article 167 Sec. 2: The revenues of local government units are their own revenues, general subventions and earmarked subsidies from the state budget.

1. general subventions
2. earmarked subventions
3. own revenues
4. local taxes and fees
5. revenues from economic activities carried out by local units
6. shares in state taxes

Article 3 of the Act of 3 November 2003 on revenues of local government units stipulates that the revenues of local government units are their own revenues, general subvention, earmarked subsidies from the state budget and shares in revenues from personal income tax and corporate income tax. The revenues of local government units may include funds from nonrecoverable foreign sources, funds from the European Union budget and other funds specified in separate regulations.

It is, therefore, worth observing what the revenue structure data look like, as well as the structure of tax revenue of municipalities in Poland in 2021. The data are presented in the tables below.

Table 2. Structure of income in municipalities in Poland in 2021.

Type of income	Value in Polish zlotys	Percentage
Services	5 586 420 022.34	2.21%
Income from assets	9 391 504 699.52	3.72%
Earmarked subsidies	78 673 887 718.83	31.18%
Educational part of the general subvention	41 395 426 249.00	16.41%
General subvention (other than the educational part)	22 286 470 913.00	8.83%

³² Jakšić, 2023, p. 53.

³³ Jakšić, 2022, p. 88.

Type of income	Value in Polish zlotys	Percentage
Taxes	93 243 331 270.78	36.95%
Other	1 743 194 928.64	0.69%
Total	252 320 235 802.11	100.00%

Table 3. Structure of the income from taxes in municipalities in Poland in 2021.

Tax	Value in Polish zlotys	Percentage
Agricultural tax	1 649 122 841.54	1.769%
Forest tax	306 470 071.61	0.329%
Real estate tax	26 117 025 842.63	28.010%
Vehicle tax	1 238 614 545.88	1.328%
Tax on inheritance and donations	418 026 345.10	0.448%
Tax on civil law actions	4 482 687 087.89	4.808%
PIT in form of the tax card	184 766 374.08	0.198%
Shares in PIT	53 157 792 929.00	57.010%
Shares in CIT	4 720 406 528.93	5.062%
Stamp duty	578 973 629.45	0.621%
Mining fee	387 601 503.20	0.416%
Market fee	1 843 571.47	0.002%
Total	93 243 331 270.78	100.000%

Unfortunately, the data show a huge share of earmarked subsidies and education as part of the general subsidy. Among tax revenues, the PIT and CIT shares dominate. Only income from property tax plays a significant role in municipality taxes. Thus, municipal budgets are effectively based on funding sources over which local communities have no influence.

6. Summary and remarks

6.1 Serbia

The description of the local self-government financing scheme suggests that the size of the local self-government budget depends on its size, level of development, functions, features of public services and so on, whereas the efficiency of expenditure size of the budget (structure of expenditures) and local tax revenue-raising efforts have no direct impact on revenue allocation by local self-governments. This means

that the local self-government financing scheme creates no systemic (positive) incentives in terms of (own-source) revenue or productive allocation of resources.³⁴ The total revenues of local self-governments in the Republic of Serbia (including central government grants) in 2019 amounted to EUR 2.7 billion, which is equivalent to 5.9% of the GDP.³⁵ In relative terms, local self-government revenues in the Republic of Serbia are considerably below the EU average (9.9% of GDP). However, when benchmarked against countries from the new EU member states of Central and Eastern Europe (CEE), which are comparable to the Republic of Serbia, the difference is notably smaller. Local self-government revenues in the Republic of Serbia account for 14% of consolidated government revenues, which is significantly below the EU-27 average (22%) and the new EU member state average (20.7%). This is a consequence of variations in territorial organisation as well as the vertical allocation of government functions.³⁶ As a result of changes in local self-government financing regulations and revenue collection efforts, the total local self-government revenue in the Republic of Serbia in 2019 rose by 15% in real time. In general, it can be determined that the position of local self-governments depends on several factors, of which the degree of urbanisation and population concentration is key, implying that the question of different positions of local self-government cannot be solved exclusively in the domain of local finances, but must be placed in the wider context of economic regional development.³⁷

In the Report 'CG33'³⁸ of 18 October 2017 conducted by Monitoring Committee of European Council, it was noted that Serbia has responded positively to most of the previous recommendations made by the Congress of Local and Regional Authorities of the Council of Europe in 2011, in particular by ratifying the European Outline Convention on Trans-frontier Co-operation between Territorial Communities or Authorities and by signing the Additional Protocol to the European Charter of Local Self-Government on the right to participate in the affairs of a local authority. In addition, several important legislative steps have been taken to modernise and strengthen local self-government, notably the adoption of laws dealing with the status of local government staff. The report underlines the importance of further implementing the Public Administration Reform Strategy and encourages Serbian authorities to continue their efforts to fight corruption, including at the local level. The report drew the authorities' attention to the temporary ban on the recruitment of public administration, the possibility of the dismissal of local government assemblies and the lack of transparent criteria for allocating State grants and resources

34 Randjelovic and Vukanovic, 2021, p. 201.

35 Ibid, p. 201.

36 Ibid, p. 201.

37 Brnjas, Dedeic, and Stosic, 2009, p. 224.

38 Congress of Local and Regional Authorities, 2017.

from reserve funds. The Congress of Local and Regional Authorities of the Council of Europe recommends that Serbian authorities provide adequate resources for local governments to perform their functions and maintain full responsibility for healthcare and education at the local level.

In the author's opinion, from a legislative point of view, it is necessary to ensure social and political support to reestablish the horizontal balance between individual local self-governments based on objective, measurable and transparent criteria (i.e. to introduce a legal framework enabling the development of local self-governments), and to legally prevent the central level of government from meeting the expectations of individual local governments, on an ad hoc basis, and granting them additional transfer funds beyond the amount prescribed by the Law on Local Self-Government Financing. From the perspective of compliance with the existing legal framework, it is necessary to establish an effective approach for firm and credible budget constraints at the local level that will prevent delays and irregular settlement of local self-government obligations. It is necessary to significantly increase the transparency and supervision of funds that local self-governments can spend without approval from the assembly (i.e. from their budget reserves).

6.2 Poland

At the constitutional level, the Charter's requirements have been met. However, the actual implementation of some of its provisions is questionable. Indeed, practice points to shortcomings in funding that lead to an inability to adequately implement the tasks of local governments.³⁹ At the municipal level, objections are formulated not so much in terms of the quantity but the quality of the powers granted. Unfortunately, at the county level, national regulations do not align with the requirements of the Charter,⁴⁰ leaving the district currently 'as strong (or weak) as the municipalities covered by it'.⁴¹

Paragraphs 1, 2, and 7 of Article 9 of the Charter are problematic. Paragraph 1 states that local authorities are entitled, within the framework of national economic policy, to appropriate their own financial resources, which they may freely dispose of within the scope of their powers. Paragraph 2 stipulates that the financial resources of local authorities should be commensurate with the obligations provided for in the Constitution and law. Paragraph 7, in turn, indicates that, as far as possible, grants to local authorities shall not be used to finance specific projects. The provision of grants

39 Teklak, 2013, pp. 118-119; Kowalik, 2013, p. 120.

40 Święch-Kujawska, 2015, p. 458.

41 Borodo, 2015, p. 31.

does not deprive local authorities of the fundamental freedom to implement policies within their own remit.

Regarding Paragraph 4 of the Charter (the principle of differentiation and flexibility), local governments have little influence on the rules for allocating subsidies. The system provides different sources of revenue; however, its flexibility is questionable. Flexibility is not provided by subsidies or general subvention, much of which is allocated to education.⁴² In this context, an increase in the PIT and CIT shares can be viewed positively.⁴³

J. Kowalik argues that the wording of Article 9(7) of the Charter (in particular, the words 'insofar as possible') means that 'no proportion of earmarked grants to other revenues of local governments can be considered inappropriate'.⁴⁴

Article 9(5) of the Charter is implemented in Poland through a system of contributions.⁴⁵ Unfortunately, the consultation principle of Article 9(6) of the Charter is violated by both state and local governments in their relations with their residents.⁴⁶ By contrast, access to the capital market (Article 9(8) of the Charter) is possible, but there is a debt limitation of up to 60% of municipal income, which makes it practically impossible to use the capital market to any significant extent.⁴⁷

J. Kowalik argues that 'none of the titles indicated in the Act meet the definition of own income, but only income similar to own income' because local governments do not influence in shaping their amount. In her view, this situation does not contradict Article 9(1) of the Charter, but neither does it fully meet this standard.⁴⁸

The *de lege ferenda* comments of the doctrine can be summarised as follows. It is widely acknowledged that state taxes are not suitable for transfer to local government units because they are complex constructions with an elaborate system of implementing regulations and thus unsuitable for local governments' administration. In Poland, it is currently impossible to enact new tax revenues for districts. All real tax sources are taxed in our country.

The question then arises as to whether there is a realistic possibility of granting districts and voivodship tax revenues, the shape of which, as required by the European Charter of Local Self-Government, would have an influence. Prof. Etel believes that the only possibility for realising this postulate is to provide districts and voivodships with tax allowances and shares in state tax revenues, but in such a way that, unlike the current legal form of shares, they could be regarded as constituting their

42 Kowalik, 2013, p. 124.

43 Ibid., p. 125.

44 Ibid.

45 Ibid., p. 126.

46 Ibid., p. 127.

47 Ibid., p. 127; Szewc, 2006, p. 145.

48 Kowalik, 2013, p. 119.

own income from these local government units. It is unrealistic to take away a part of the taxes from the municipalities and give them to the districts, as these local taxes are small; there is nothing to take from them. Prof. Etel believes that there should be more optional taxes and fees on the basis that their construction is fixed in the law and the municipal council only decides whether to levy this tax/fee in their territory. This would be beneficial because of the greater tax authority of municipalities and no increase in the risk of bad tax laws due to unprepared officials writing laws. He also proposes to make PIT in the form of lump sum and PIT from the clergy as local taxes (because of their similarities to the tax card) and give these revenues to districts and eliminate the taxes where the costs of administration exceed revenue – and not only in terms of taxes as such, but in the context of specific obligations, such as when the forest tax liability amounts to PLN 5 and it is more expensive just to serve the decision, or by changing assessment decisions into taxpayers' declarations, as the costs of annual assessment are high.

6.3 Final word

The above analysis shows that the Republic of Poland and the Republic of Serbia have tried to achieve the same objectives using different legislative measures. These differences give rise to different focus points in terms of interpretative doubts and problems with the application of the law. Despite these discrepancies, both systems face similar universal problems in providing local governments with financial autonomy. Thus, it seems, unfortunately, that in both countries, the requirements of the European Charter of Local Self-Government have only been partially met.

Bibliography

- Aleksic, V. (2018) *Fiskalna decentralizacija u Republici Srbiji*. Belgrade: Pravni fakultet Univerziteta Union u Beogradu.
- Becirovic, S. (2012) *Fiskalna decentralizacija u Srbiji*. Novi Pazar: Ekonomski izazovi.
- Borodo, A. (2015) 'Dochody powiatu a Europejska Karta Samorządu Lokalnego' in Ofiarska, M. (ed.) *Europejska Karta Samorządu Lokalnego a prawo samorządu terytorialnego*. Szczecin: Wydawnictwo Uniwersytetu Szczecińskiego
- Brnjas Z., Dedeic P., Stosic I. (2009) *Sistem finansiranja lokalne samouprave u Srbiji – stanje i perspective*. Belgrade: Beogradska bankarska akademija.
- Bury, A. (2000). 'Dochody powiatów i województw w świetle postanowień Europejskiej Karty Samorządu Terytorialnego', *Samorząd Terytorialny*, 2000/3.
- Etel, L. (2004) *Uchwały podatkowe samorządu terytorialnego*. Białystok: Temida 2.
- Etel, L. (2011) '20 lat ustawy o podatkach i opłatach lokalnych – kilka refleksji.', *Przegląd podatkowy*, 2011/4.
- Fiscal Council of Republic of Serbia (2017), *Local Public Finance: Problems, Risks and Recommendations*.
- Chojna-Duch, E. (1998) 'Problematyka podatków i opłat lokalnych w polskim systemie prawnym' in Piekara, A. (ed.) *Samorząd terytorialny. Zagadnienia prawne i administracyjne*. Warszawa: Wydawnictwo prawne.
- Glumińska-Pawlic, J. (2003) *Samodzielność finansowa jednostek samorządu terytorialnego w Polsce: studium finansowoprawne*, Katowice: Wydawnictwo Uniwersytetu Śląskiego.
- Kowalik, J. (2013) 'Finanse gminne w Polsce w świetle standardów Europejskiej Karty Samorządu Lokalnego' in Jaskiernia, J. (ed.) *Wpływ standardów międzynarodowych na rozwój demokracji i ochronę praw człowieka* Warszawa: Wydawnictwo Sejmowe
- Pahl, B. (2017) *Podatki i opłaty lokalne. Teoria i praktyka*. Warszawa: Wolters Kluwer.
- Popławski, M. (2003) 'Pojęcie podatków lokalnych', *Przegląd Podatków Lokalnych i Finansów Samorządowych*, 2003/7-8.
- Randjelovic S., Vukanovic S. (2021) *Fiscal Decentralization and Local Public Investment Policy in the Republic of Serbia*. Belgrade: Economic Horizons.
- Report of Congress of Local and Regional Authorities, "Local and regional democracy in Serbia", 18th October 2017.
- Stigler, G. (1957) *The Tenable Range of Functions of Local Government in Federal Expenditure Policy for Economic Growth and Stability*. New York: Columbia University.
- Sygut, E. (2018) 'Znaczenie podatków i opłat lokalnych w strukturze dochodów własnych gmin' in Ciupek, B. (ed.) *Podatki, finanse, przedsiębiorstwo*, Katowice: Wydawnictwo Uniwersytetu Ekonomicznego.

- Szewc, T. (2006) *Dostosowanie prawa polskiego do zasad Europejskiej Karty Samorządu Terytorialnego*. Bydgoszcz-Katowice: Branta.
- Święch-Kujawska, K. (2015) 'Dochody podatkowe jednostek samorządu lokalnego a standardy wynikające z Europejskiej Karty Samorządu Lokalnego' in Ofiarska, M. (ed.) *Europejska Karta Samorządu Lokalnego a prawo samorządu terytorialnego*. Szczecin: Wydawnictwo Uniwersytetu Szczecińskiego.
- Teklak, P. (2013) *Obowiązywanie, wykładnia oraz realizacja przepisów Europejskiej Karty Samorządu Lokalnego w polskim porządku prawnym*. Wrocław: Prawnicza i Ekonomiczna Biblioteka Cyfrowa.
- World Bank Report no. 76855-YF (2013) *Srbija: Pregled finansija i rashoda lokalnih samouprava*, Belgrade.