PROVISION OF PUBLIC SERVICES - PROBLEM ASPECTS OF LAW. CASE STUDY

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Abstract

The author researches the field of public law, namely the subject of the the correct placement of budgetary-fiscal tasks in the Republic of Moldova, of the financial contributions that are collected from citizens, of the provision of public services for a fee by public authorities and institutions. In the research, the author used the following research methods: logical method, systemic and formal-legal analysis, comparative and generalizing methods. Following the scientific investigation, the author considers that the constitutional norms regarding the formation, distribution and use of the public budget are violated, there is an omission to regulate the financial-fiscal field which consists in the law regulating the provision of public services for a fee. In conclusion, the author comes with recommendations mentioning certain regulatory measures that could improve the field of public finances, increasing financial responsibility and discipline.

Keywords*: public law, constitution, tax system, public services.*

JEL Classification: H83, K23

1. Introduction

In the Republic of Moldova - rule of law, public administration represents that national system of public authorities and activities of public interest, through which the decisions of the representative bodies of the people are developed, adopted and implemented.

Thus, as some researchers define, public administration represents "a set of authorities, institutions, public entities which, under the impulse of political power, are intended to ensure the various interventions of the modern state and local authorities in the lives of private individuals, through the central power, its territorial extensions or local public authorities"[2].

In this context, I consider that the activities of the public administration, which of course follow the public interest, are of a legal and systemic nature, but also containing the same requirements, common to the whole national community, but also to each local authority.

At the same time, taking into account the possibilities and capacities of the State, but also the fact that the achievement of public objectives cannot be delegated to the private domain, or are a state monopoly, or have a strategic nature, or may be unprofitable, certain areas, tasks and public needs remain within the competence of the State, being placed in the hands of the respective public administration – local or central.

As a result, public administration carries out social activities, ensures a general public interest, and in this context, the legal regime of activity of public administration is a regime of public power, a regime in which public administration decisions are mandatory for the natural and legal persons, but citizens are not required for their consent, although those decisions will apply to them. It is true that, prior to the adoption of the administrative act, there is the mandatory procedure laid down by law for public consultation of normative decisions to be adopted by the public authority concerned.

It should be noted that in national law the legal notion of the public service exists. Thus, according to Article 2 of the Law on Public Service and the Status of Civil Servants, No.158-XVI of 04.07.2008, the term "public service" means "an activity of public interest, organized and carried out by a public authority".

Currently, public services are organized by public authorities and institutions, and are carried out in various institutional and organizational formats.

It should be noted that the absolute majority of public services provided by public authorities

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[2] Anibal Teodorescu, *Tratat de drept administrativ*. vol. I., 3rd ed., Institute of Graphic Arts, Bucharest, 1929, p.139; Văraru M., *Tratat de drept administrativ român*, Ed. Socec, Bucharest, 1928, p. 91 et seq.; Dragoș Dincă, *Servicii publice şi dezvoltare locală*, Ed. Economica, Bucharest, 2008, p.18; Chevallier J., *Le service public.* Que sais-je, Presses Universitaires de France, Paris, 1987, p. 57.

and institutions are provided in the Republic of Moldova for payment, and the revenue collected is usually used to finance the respective public authority/institution (but some of them can also be income for the state budget). And in the case of income received by state-owned or state-owned enterprises/companies with shares belonging to public authorities/institutions, we can mention that their income is taxed and the remaining profit is used according to the decision of the management bodies of the mutual enterprise/company.

Thus, we consider that in the process of providing public services for a fee, several financial topics and reports can be found, which in our opinion are necessary to be investigated, in order to elucidate scientifically the narrow places at the level of legal norm/legal relationship, legal collision or constitutional inadequacy.

In the context of the topics addressed, it should be noted that in the socialist era, the era of the planned economy where all means of production belonged to the state, public services provided by state authorities and institutions were usually free, because the Soviet state itself was a welfare state and where the social element expressly predominates over other components of state policy, being offered free of charge not only public services, but also goods. It should be noted that at that time, the same rules existed in the Moldovan Soviet Socialist Republic, where the services provided by public authorities were free, being collected only existing taxes and some state fees for some services - state notary services, office services cadastral state, etc.

Following the evolution of Moldovan society in the last thirty years, an evolution that began with the dismemberment of the Soviet Union and the adoption of the Declaration of Sovereignty of the MSSR by the Supreme Soviet of the Soviet Socialist Republic of Moldova for the twelfth legislature, established certain legal relations which, being exposed in the respective normative acts, constitute the national legal framework for the provision of public services by the public authorities/ institutions against cost. In this context, it should be mentioned that the orientation of the public institution towards the provision of paid public services, was achieved in the last period of existence of the Union of Soviet Socialist Republics by the Soviet authorities. At the same time, the implementation of the concept of public service against cost, in our opinion must correspond to the constitutional norms of the Republic of Moldova which provide that they need to be established by law. At the same time, we consider that if the public service is provided for money, it should be established that the cost of the public service to be proportional to the value of the work done by civil servants for its award. Therefore, researching and analyzing the state of affairs in the field of public services provided by public authorities in the Republic of Moldova, we can find some irregularities or nonconformities, which, however, being debated in the scientific and practical environment, could lead to their substantive and legal resolution.

2. General considerations

The normative bases of public services. The topics addressed need to be researched, starting with the presentation of our position on the very legal notion of "public service", a notion that in our opinion is connected and derives from the notions of "public interest", "public authority" and "public institution". In this context, it is necessary to remember that the given notions are expressly found in the legislation of the Republic of Moldova. Thus, given that the legislation on the specialized central public administration establishes that "the specialized central public administration is organized in a single system and no ministry or other central administrative authority, or organizational structure within their sphere of competence can not be outside this system", therefore, we can see that all public authorities in the Republic of Moldova form a single centralized system headed by the Government, which is also a public authority, and which "represents and exercises executive power in the Republic of Moldova". At the same time, we find the notion of public authority in the Administrative Code, which expressly provides that "public authority is considered any organizational structure or body established by law or other normative act, which acts in a regime of a public power in order to achieve public interest".

At the same time, art. 5 of the Administrative Code of the Republic of Moldova provides that

public authorities carry out administrative activity, which "represents the totality of individual and normative administrative acts, administrative contracts, real acts, as well as administrative operations performed by public authorities in public power, through which the application of the law is organized and the law is applied directly". Also, according to the provisions of the Civil Code "The public institution is a legal entity under public law which is established on the basis of an act issued by the public authority and which is financed, in whole or in part, from the latter's budget."

We also find the notion of public interest in art. 18 of the same Administrative Code, which states that "the public interest concerns the rule of law, democracy, guaranteeing the rights and freedoms of persons, as well as their obligations, meeting social needs, achieving skills public authorities, their legal functioning and in good conditions".

In this way, the legislation of the Republic of Moldova deciphers in detail the researched notions, assigning them at the level of definition of both content and legal meaning. Thus, we can see that today, the public services offered by public authorities and institutions have diversified and expanded in all areas of social life. This is exactly what the work of several researchers talk about, who consider that "the extension of the public services sphere was imposed by the inability of economic and social regulation mechanisms, thus creating a myth of the state capable of answering all questions."

In our opinion, which partially supports the opinion of the cited researchers, we can see the financial intervention of state authorities in the services market by creating a new economic sector, which consists in providing public services, and which can permanently generate new and new public services for a fee, being in fact a new format of legal reports of private-public law, which consist in the sale among the population of public services for a fee. However, the public authorities and institutions having in their competence certain areas of public law, being financed from the public budget, in the manner described above, become the legal managers for certain services of public services for a fee.

Thus, the elaboration of administrative acts and the development of the regulatory activity of the public authority/institution, is actually supplemented with income-generating activities, or the provision of the public service itself can vary in cost depending on urgency, circumstances, complexity, etc. And for this intervention of the authorities and public institutions for collecting financial revenues to be legally, budgetary, social fiscal, etc., it requires first of all to submit the legal reports given to the verification and analysis from a constitutional point of view. Therefore, we will mention the provisions of art.107 and 109 of the Constitution which state that "The central specialized bodies of the state are the ministries" (public authorities). "They translate into life, under the law, the Government's policy, its decisions and dispositions, lead the entrusted fields and are responsible for their activity. For the purpose of leading, coordinating and exercising control in the field of economic organization and in other fields that do not directly fall within the attributions of the ministries, other administrative authorities are established under the law" (public institutions). In the same context, "public administration in administrative-territorial units is based on the principles of local autonomy, decentralization of public services, eligibility of local public administration authorities and consultation of citizens on local issues of particular interest."

According to Article 47 paragraph (1) of the Constitution of the Republic of Moldova, “the state is obligated to take measures so that any person has a decent standard of living, which ensures the health and well-being of himself and his family, including food, clothing, housing, medical care, as well as the necessary social services”.

It should be mentioned that according to art.126 paragraph (1) of the Constitution, the very “economy of the Republic of Moldova is a market economy, of social orientation”. However, we consider that the social orientation of the economy established by the constitutional norm, obliges the public authorities and institutions to apply methodologies for calculating prices for public services provided arising from the constitutional obligations of the state, but also to respect the principle of proportionality of public service cost through the work performed by the respective civil servants.

Thus, we consider it necessary to mention the need to comply with the activity of public authorities and institutions for providing public services for a fee to the provisions of the Constitution

of the Republic of Moldova.

However, the public authorities managing its specialized field are guided by the objectives of the legislation in force, by its regulations and statutes approved according to the law, but in no way having the aim to profit from the activities carried out, and the administrative activity carried out, the public services - is not an entrepreneurial activity, but is a public activity provided to the general public, in the public interest, and to ensure the public interest.

Namely for the reasons stated above, the public service as the public authority/institution, is part of the field of public law, containing some distinct elements: being a social activity, being meant to meet public needs, and is the exclusive competence of the public authority or institution. In this way, we will be able to see that public services provided by public authorities and institutions are able to contribute to the development of living standards, providing satisfaction to the needs of the community, ensuring the public interest and guaranteeing fundamental human rights and freedoms.

From this perspective, we support the opinion of the Romanian researcher Dragoș Dinca, who considers that the state is responsible for the necessary legal framework to ensure the regulation by law not only of public services, but also of their provision by public authorities and institutions[3].

According to art. 7 para. (3) letter a) of Law no. 123 of 18.06.2010 on social services, public associations, foundations, private non-profit institutions - with the field of activity in the social sphere are recognized as private providers of social services. According to art. 26 para. (4) of the same law, the central and local public administration authorities may procure and contract social services under the law. At the same time, art. 13 para. (2) letter d) of the Social Assistance Law no. 547 of 25.12.2003 establishes that the local public administration authorities of the second level support the representatives of the civil society in the activity of elaboration and implementation of the local programs for the development of the social assistance. And further, art. 2 of Law no.179 of 10.07.2008 on public-private partnership, recognizes that the public associations has the right to conclude long-term contracts with the public partner for carrying out activities of public interest.

In the context of the analysis, we will mention Law no. 172/2018 - law elaborated and adopted by the Parliament for the execution of the provisions of art. 85 of the Law of public finances and budgetary-fiscal responsibility no. 181/2014 with its provisions Law no. 172/2018 had the following purposes:

1) Delimitation of competencies and responsibilities in the budgetary process and emphasizing the responsibility of the head of the budgetary authority/institution for managing the budget of the institution and assets public under management (pursuant to art. 18-25 of Law no. 181/2014);

2) Bringing in line with the new terminology and the new rules for managing the revenues collected by the budgetary authorities/institutions, eliminating the treatment of revenues collected as own revenues outside the budget (pursuant to art. 7, 8, 42, 43 and 70 of Law no. 181/2014);

3) Exclusion of the provisions regarding the establishment by normative acts other than the annual budgetary law of certain amounts or percentage quotas from the budget or from GDP for certain fields, sectors or programs (based on art.17 of Law no.181/2014);

4) Carried out tasks established by the Decision of the Parliament on the Annual Report of the Court of Accounts on the administration and use of public financial resources and public patrimony no. 234/2017 (art. 3).

The Law on public finances and budgetary-fiscal responsibility no.181/2014, is the basic legislative act of regulation in the field and according to the art.2 it applies "to the elaboration, approval, execution, reporting and control of budgets and component funds of the budget national public, as well as to ensure the financial monitoring of the activity of the public authorities/ institutions for self-management, of the state/municipal enterprises and of the commercial companies with integral or majority public capital". At the same time, art. 1 paragraph (2) of the mentioned Law expressly stipulates that the legislative acts that regulate specific fields and/or the activity of some budgetary authorities/institutions, will not include provisions related to the elaboration, approval and

[3] Dragoș Dincă, *Serviciile publice.* Ed. Economică. Bucharest, 2018, p. 9.

execution of budgets, such as and other procedures related to the budgetary process, these being the exclusive object of this law.

Thus, through the provisions of Law no. 172/2018, clear procedures were established for the formation, administration, use of financial resources of the budgetary authority, taking into account the basic rules and principles in the field of public finance, and based on the interpretations and assessments of the Constitutional Court carried out by decisions no. 29/2001, no. 5/2011, no. 6/2014, etc., any regulatory norm provided in the law regarding the possibility of approving the budget of the public authority does not substitute and does not modify the principle of "legislation of budgetary expenditures only on the condition of identifying the sources of financing", which is valid for "all categories of budgets ". Moreover, by the Decision of the Constitutional Court no. 10/2017, the Court emphasized the following:

The financial mechanism of the state, an integral part of the economic mechanism, consists of all structures, forms, methods, principles and economic-financial levers, through which constitute, administer and use the public financial funds of the state, necessary for the fulfillment of its functions and tasks, directed especially for a sustainable economic development and, on this basis, for ensuring an adequate standard of living.

Given the public nature of financial means, fiscal and budgetary policy is subject to discipline and transparency leading to good management of public financial resources. Or, violation of budgetary discipline entails, according to the financial legislation in force, the legal liability of all subjects of law, regardless of whether they are natural or legal persons of public or private law.

At the same time, the budgetary-fiscal legislation must meet certain quality conditions. The requirement of the quality of the law is outlined through the prism of the principle of legal security in the composition of the conditions of predictability and clarity of the law.

In order to meet the three criteria of quality - accessibility, predictability and clarity - the rule of law must be worded with sufficient precision so as to enable the person to decide on his conduct and to provide reasonably according to the circumstances of the case, the consequences of this conduct. In this regard, the Court noted that when elaborating a normative act, the legislator must comply with the norms of legislative technique in order for it to correspond to the quality of the requirements. Thus, in order to exclude any ambiguity, the legislative text must be formulated clearly, fluently and intelligibly, without syntactic difficulties and obscure passages. Predictability and clarity are *sine qua non* elements of the constitutionality of a rule, in the legislative activity they cannot be omitted. Therefore, public authorities and institutions cannot intervene independently in the formation, administration and control of state financial resources, establishing their own budget and its execution, by avoiding the procedures of examination and approval of the limits of budgetary allocations by the Government and the Parliament in accordance with the legal provisions.

Or, no power and no authority in the state with financing from the national public budget can assign such a right, without prejudice to the provisions of art.130 paragraph (1) and art.131 of the Constitution.

3. Legal paradigmas

State policy in the field of public services. The base of the development policy of the Republic of Moldova is the "Moldova 2020" Strategy, preceded by the National Development Strategy (NDS, 2008-2011), which aims to improve national policies and harmonise the legal framework in accordance with the acquis communautaire and European standards. The National Development Strategy sets national targets for achieving the Millennium Development Goals for 2015-2025.

This strategic development program was based on a public service reform program for the years 2012-2015 approved by the Government in 2012, but which was later replaced by another ambitious program, also for public service reform.

Thus, already according to the public service reform program, approved by the Government

in 2014, the reengineering of the public services is one of the most urgent priorities of the Republic of Moldova, but also a major challenge, which requires rethinking and transforming traditional business models of public authorities and institutions.

Vertically organized public institutions, operating within the strict limits of the competencies established by normative acts, will be restructured into a single system, which will eliminate institutional barriers, develop horizontal links and cooperation tools that would provide an efficient organization of public services. for citizens and entrepreneurs and a judicious use of the resources of central and local public authorities. This is necessary as a result of the rapid development of technological innovations as well as the growing demands of society.

We will specify that the program has identified two main groups of problems related to public service reform:

- The first group covers the service system itself and refers to such issues as the quality of services, accessibility of information on services, the time needed to obtain a particular service, the possibility to choose the channels of service delivery to beneficiaries, respect for the state in the provision of services, reasonable costs for citizens and businesses, the culture of services, the provision of infrastructure for the provision of services, the organization of economically efficient services.

- The second group of issues concerns public service reform itself and covers issues such as the quality of reform policies by setting clear objectives, policy principles and tools, planned activities and measures, their fairness and coherence with other government initiatives, firstly, with the e-Transformation agenda, ensuring resources, establishing efficient mechanisms for coordinating and managing the reform, raising awareness among civil servants, both at the management level and at the level of experts, of the essence and complexity of the reform.

Thus, in present, for achieving the objectives related to the modernization of public services set out in the Public Administration Reform Strategy for 2016-2020 and the Activity Program of the Government of the Republic of Moldova 2016-2018, as well as for honoring commitments to development partners, the Government of the Republic of Moldova approved the Action Plan on the reform of modernization of public services for 2017-2021. Within the actions regarding the reform of modernization of public services, universal public service centers will be created, universal public service centers will be institutionalized and their creation at local level, public services subject to the reengineering process will be digitised. But in this context, the task of approving the Framework Methodology for setting tariffs for public services provided for a fee, with an emphasis on ensuring the accessibility of services for socially vulnerable sections of the population, seems to be particularly important. However, only one entity - the Public Services Agency, currently provides 465 public services, of which 98 are aimed at registering and keeping the evidence of the population, 24 - registration and licensing of law units, 99 services are in the field of real estate registration and 50 services in the field of vehicle registration and driver qualification.

In conclusion, we can see in this chapter that currently the public authorities and institutions of the Republic of Moldova provide thousands of public services, without existing until present a law regulating the provision of public services by public authorities and institutions, a single state methodology for setting tariffs for public services provided against payment, a single record and regulation of revenues collected from the provision of public services by public authorities and institutions in the Republic of Moldova.

3.1. The fiscal system of the Republic of Moldova and its tasks in the context of the activity of public authorities and institutions for providing public services

We note that in accordance with Article 132 (1) of the Constitution of the Republic of Moldova "taxes, fees and any revenues of the state budget and insurance budget state social security, of the budgets of districts, cities and villages are established, according to the law, by the respective representative bodies".

Thus, the representative bodies that have the constitutional competence to establish taxes, fees

and any revenues to the state budget and the state social insurance budget, to the budgets of districts, cities and villages, are respectively the Parliament of the Republic of Moldova, but also the elective bodies of districts, cities and villages.

At the same time, the constitutional norm stipulates that taxes, fees and any revenues of the state budget and the state social insurance budget, of the budgets of districts, cities and villages are established according to law, and not according to other normative acts, such as government decision or ministerial order.

This conclusion is also fortified by the provisions of art. 130 of the Constitution of the Republic of Moldova, which states that "the formation, administration, use and control of financial resources of the state, administrative-territorial units and public institutions are regulated by law." We note that the term used in the Constitution for "formation of the financial resources of public institutions" expressly indicates that any financial resource obtained by the public institution must be regulated by law. However, only the law can establish some payments that would make revenue to the respective budget, which means that only the law can establish the amount of payments incurred by the person to whom the public service was provided.

At the same time, it becomes clear that Article 132 of the Constitution of the Republic of Moldova called "Fiscal System" establishes the three components of the fiscal system and a ban.

Thus, the fiscal system of the Republic of Moldova consists of:

a) Laws regulating the fiscal system, meaning the state taxation;

b) Representative bodies that can establish according to the law the revenues of the state budget and of the state social insurance budget, of the budgets of districts, cities and villages;

c) Revenues to the budget that can be taxes, fees and any other revenues of the state budget and the state social insurance budget, of the budgets of districts, cities and villages.

At the same time, the constitutional norm from art. 132 paragraph (2) expressly establishes that "any other services are prohibited". Thus, the constituent legislator expressly established that the person, as a taxpayer or payer of the budget, cannot be taxed with payments outside the law, and in its turn all payments received under the law are made as a revenue to the respective classified public budget.

Of course, it can be argued that public authorities and institutions provide non-compulsory public services, and those who apply for a public service do so voluntarily and personally interested. However, we consider that in this case it is an indirect taxation, as it is necessary to issue a criminal record to be presented to another state body, to apply an apostille to present the state act in other foreign jurisdictions, to legalize the authenticity of the judge's signature, etc.

In the above-mentioned context, we note that according to the provisions of the Fiscal Code, "public authorities and public institutions are exempt from tax." Please note that the public authorities and institutions are not fully exempted from payments in the budget, remaining in force only the respective taxes (value added tax, road tax, etc.) or "the tax is a mandatory payment free of charge, but which is not taxed". Also, here we note that the Fiscal Code indicates that "other payments made within the limits of the relations regulated by non-fiscal legislation are not part of the category of mandatory payments, called taxes and fees." In this way, the provisions of the Fiscal Code also indicate the respective legal regime related to the provision of public services, which may state according to the non-fiscal law some payments.

With reference to taxes, fees and payments, both as a notion and as a legal regime, we consider that these categories of financial contributions are quite well established in the rules of national law. Even if in some cases some notions need to be given some legal interpretations, it still needs to be recognise that the provisions of art. 6 of the Fiscal Code no. 1163/1997 expressly establish that the tax is a "mandatory payment free of charge, which does not relate to determined and concrete actions of an authorised body or of a person with positions of responsibility in relation to the taxpayer who paid this payment". In the same vein, we could say that voluntary payments to the public budget or the public institution for public services provided for a fee, are an instrument with which the state and its institutions mobilise their financial resources to perform its specific functions and is an important source of financing public expenditures. Or all payments to the public budget, made free of charge or

voluntarily obligated represent a mandatory or allegedly non-compulsory monetary contribution, non-reimbursable, due/paid to the state budget/budget of the public authority or institution by individuals and legal entities for their income/the goods they possess and the services they are obliged to procure.

In this context, it is necessary to note that the relations related to the respective taxes and fees are regulated by the Constitution, the Fiscal Code and other normative acts adopted in accordance with it. At the same time, we will indicate that previously, the provisions of Law no. 1198/1992 on the bases of the fiscal system (currently repealed) indicate in art.1 paragraph (1) and (2), that the fiscal system of the Republic of Moldova "represents the totality of taxes, fees, receipts and other payments, collected in accordance with the legislation in force". And if the Law referred to taxes, fees, receipts and other payments, naming them all "taxes that constitute mandatory payments in the state budget or in local budgets or in the extra-budgetary funds of legal and natural persons in the manner, in size, in the term and under the conditions established by the fiscal legislation", then regarding concretely the receipts, the legal norm from Law no.1198/1992 defined them as "payments, established by the local public administration authorities "which" are paid by enterprises and special persons in the budgets for certain types of services provided".

Thus, although Law no. 118/1992 is currently repealed, this practical approach regarding the mandatory receipts in the state budget or in the local budgets or in the extra-budgetary funds of legal and natural persons for certain types of services provided, continues to be applied in the budgetary-fiscal system of the Republic of Moldova.

In this context, we will draw attention to the fact that according to par. (2) of Article 58 of the Constitution, "the legal system of taxation must ensure the fair settlement of tax burdens".

In this way, as other researchers from the Republic of Moldova quoted, the Constitution of the Republic of Moldova establishes and provides for a constitutional limit on the taxpayer's obligation to contribute to both public revenues and public expenditures.

We also consider that this limit can be recognised as an additional constitutional guarantee of the property right, because any contribution affects the property right, and can be treated as a violation of the property right protected by art. 6 ECHR. However, by the fair placement of tax burdens we can understand the subordination of the system of taxes, fees and payments to fundamental principles of fundamental human rights and interests, such as equal opportunities, the right to property, the right to be informed, the obligation to make legal contributions and the right not to be subject to discrimination, etc. Only in this way, we consider that the principle of social justice can be respected, which corresponds to the social character of the state economy established by art. 126 paragraph (1) of the Constitution of the Republic of Moldova, especially considering the need to protect the socially vulnerable part of the Moldovan population. Only in this way, only in approaching the issue of fair tax burdens, the spirit of the Constitution of the Republic of Moldova can be observed, which obliges the state to differentiate between the citizens of the country according to their income and expenses.

3.2. Citizens' financial contributions – the basic financial responsibility of the public budget

As laid down in Article 5 of the Constitution, and as commented by some researchers, the objective of meeting public needs and fulfilling the role and functions of the state require the State to oblige citizens to make financial contributions.

In accordance with Article 5 of Regulation (EEC) No Article 58(1) shall be replaced by the following: (1), 'citizens are obliged to contribute, through taxes and taxes, to public expenditure'. It should be noted that similar provisions contain all the laws of the countries of the world and even international acts relating to fundamental human rights and freedoms.

For that purpose, it is common ground that such provisions are set out in principle, in order to be further developed in the inferior hierarchical normative acts. At the same time, this normative provision expressly indicates that one of the most important sources of the State's income is the

imposition of natural and legal persons with payment obligations, which allows all the states of the world to form public budgets and regulate those pressures. At the same time, the resources collected are necessary to cover certain financial expenditures necessary both for the national community if it concerns the national/central public expenditure block and to the territorial administrative communities if it concerns local public expenditure.

Starting from the fact that the constitutional rule is one of direct application, we consider that the contribution of the citizen to public expenditure is a constitutional duty, and it emerges from this, it is achieved by paying the taxes and taxes established by law.

It should be noted that the provisions of Article 58 of the Constitution in conjunction with the provisions of other articles [Article 107(3)] shall be replaced by the following: Article 109, art.130-132 of the Constitution, clearly denotes the exposures and conclusions set out during the research, but also impugn to some important considerations, including in relation to certain notions used by the constituent legislator, such as the state budget, public budget, public expenditure, tax system, taxes and other revenues.

In the commentary of the Constitution of the Republic of Moldova noted by the researcher Ion Creangă, it mentions the constitutional confusion in Article 58 of the Constitution that concerns only the citizens of the Republic of Moldova, and does not recall other persons – legal persons, individuals with multiple citizenship, etc. At the same time, having regard to the collective subjects of law, I will mention that Article 5 of the Tax Code establishes that the Taxpayer, the subject of taxation, is "a person who, according to the tax legislation, is obliged to calculate and/or pay to the budget any taxes and charges, penalties and fines; a person who, under tax law, is obliged to withhold or collect from another person and pay the payments indicated on the budget" and "Person is any natural or legal person"[4].

Thus, we support this conclusion of the researcher I. Creangă, or according to the Constitution of the Republic of Moldova, all persons are obliged to respect the law (including collective subjects of law made up of natural persons - citizens), or the principle of equality laid down by the constituent legislator in art.16 must be respected. Especially in the case of the establishment by constitutional rule of the obligation of a person to pay financial contributions, or the non-indication of legal persons could create a confusion of interpretation of the constitutional principle of universality of taxation of individuals, both natural and legal. Although at this chapter it is underlined the fact that the tax of a legal person is borne, albeit indirectly, by those in whose interest the legal person manages and uses his property.

However, given that interpretations and abuses can be accepted, we support the conclusion of the researcher I. Creangă to amend the constitutional text in such a way that it is clear that it refers to both natural and legal persons.

Therefore, the legal norm in force requires any person (category of legal and natural persons) who obtains income from any sources located in the Republic of Moldova. In this way, the tax obligation, designed to cover public expenditure incurred by public authorities in the general interest of the company, is also levied. In order to fulfil its role and functions, the State shall form a public budget, mobilise its financial means, impose tax obligations in a variety of ways, and make those financial expenditures in a determined manner.

At the same time, the activity of spending public money must be strictly in line with public needs, the regulation of the provenance and of the public financial resources, but also in accordance with the tasks and functions of the respective authorities and public institutions, central and local. In this context, we will note that the establishment of the public budget from revenue, as well as the carrying out of public expenditure, are the most important components of a state organisation. That is to say, Article 4 (1) of the Law no. 181/2014 establishes that 'public finances comprise all financial resources accumulated on behalf of the State and distributed by the State for the performance of its functions and tasks'.

[4] Ion Creangă, Alexandru Armeanic, *Constituția Republicii Moldova: comentariu*, Ed. Arc, Tipogr. „Europress", Chisinau, 2012, p. 75.

It is also worth mentioning the similar provisions of Article 2 of the Law no. 397/2003 on local public finances, which establishes that they "are an integral part of the national public finance system and include the budgets of the first-level administrative-territorial units and the budgets of the second level administrative-territorial units, which represent the total revenue and expenditure for the performance of the functions which are within their competence according to the legislation and functions delegated by the Parliament at the proposal of the Government".

With reference to paragraph 1, the Commission shall, in accordance with the procedure laid down Article 3 No. 58 of the Constitution, which establishes a limit on the obligation to contribute to public expenditure, is expressly held that "any other benefits are prohibited, other than those laid down by law". In connection with this prohibition for public authorities to impose on citizens additional payments to cover public expenditure, a prohibition contained in Article 132 (2) of the Constitution, we consider that this oblige the authorities and the public institutions to the following:

1. Any benefits of public authorities other than taxes, fees and other revenues to the public budget are prohibited a priori.

2. All taxes, fees and other revenues to the public budget are established by law. So, other taxes, other benefits can be imposed, but they can only be established by law.

3. The constitutional norm protects citizens from possible abuse by public authorities and institutions, which would require payment for the provision of services, or would require certain benefits from citizens, conditions that would increase the imposition of financial contributions to citizens.

4. The provision by public authorities and institutions of public services against payment, services that are not expressly established by law, which are revenue to the budget of the public authority or institutions, to the state budget or to any other public budget, leading to an increase in both budget revenues, as well as public expenditures, denotes only the application by public authorities and institutions of double taxation of the taxpayer citizen, consumer of public services.

4. Conclusions

Following the research and analysis, the following conclusions were reached:

1.The public authority is obliged to serve the citizens in accordance with the law.

2. Any activity of a public authority or institution is to contribute directly or indirectly to the realisation of a public interest in order to continuously and permanently satisfy the needs of the members of the society.

3. Public services provided by public authorities and institutions over time have diversified and expanded in all areas of social life. At the same time, the majority of public services provided by public authorities are currently provided against payment, and the revenues collected are usually used to finance, but some of them can be made and as a revenue to the state or local budget.

4. The financial intervention of state authorities in the services market through the real creation of a new economic sector where public services are provided for a fee, is in fact a new format of legal relations of private-public law, the essence of which is to trade the public services to the population.

5. The provision by public authorities and institutions of public services against payment, services that are not established by law, denotes only the application by public authorities and institutions of a double taxation of the taxpayer citizen, the consumer of public services.

6. The constituent legislator, has expressly established that the person, as a taxpayer or a public-interest payment, cannot be imposed on payments by law, and in his turn all payments received by virtue of the law, revenue shall be made to the public budget.

7. The provision of public services against money may take place only under the terms of the law, and only law can expressly determine the cost of the public service provided by the public authority and institution.

8. The social orientation of the economy established by the constitutional rule obliges authorities and public institutions to apply methodologies for calculating the prices of the public services provided as a basis for the constitutional obligations of the State, but also to respect the initial

proportionality of the cost of the public service rendered valuable to the work of the civil servants concerned.

9. The term used in the Constitution of 'formation of financial resources of public institutions' expressly indicates that any financial resources obtained by the public institution must be regulated by law. Only the law can determine which payments would be made to the budget, meaning that only the law can determine the amount of the payments to be paid by the person to whom the public service was provided.

10. All financial resources obtained by the public authority or institution, including revenues from public services, are to be an income to the state or local budget. In its turn, all the public spendings are to be included in the public budget so that financial discipline and legislation of public finances could be met.

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