

## **ROMANIAN ADMINISTRATIVE-TERRITORIAL UNITS IN FINANCIAL CRISIS**

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**ABSTRACT:** *The nowadays economic and financial crisis seems to be unprecedented. We consider that financial crisis of administrative-territorial units is related to global economic crisis and reflects a deregulation of market mechanisms, having, in the same time, some particularities. So, we can see that financial crisis can be felt not only in private sector, but also in public sector, especially in the administrative-territorial units. The financial crisis of administrative-territorial units represents that situation, when its patrimony is characterized by the existence of financial difficulties and the severe shortage of cash, which leads to non-payment of amount liabilities, during a certain time period. In this article we try to present a few legislative aspects regarding the financial crisis of Romanian administrative-territorial units.*

**KEY WORDS:** *financial crisis, administrative-territorial units, patrimony, fiscal legislation, financial difficulties.*

**JEL CLASIFICATION:** *M10.*

### **1. INTRODUCTORY CONSIDERATIONS**

Law no. 273/2006 on local public finances is the first regulatory act which introduces at legislative level the notion of financial crisis, dedicating a section of Chapter VI particularly to this law. Although the final provisions of this law stipulate that within six months of its entry into force, the special bill regarding the procedure for the application of the financial crisis and insolvency of administrative- territorial units should be brought in and adopted, one can notice it was adopted in more than six years away, in the year 2013, through the Government Emergency Ordinance No. 46 from 2013.

We believe that it is worth mentioning that the two above-mentioned normative acts have occurred in the context of the imminence of a new stand-by

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arrangement with the IMF. In order to close this agreement, Romania had to reduce the arrears of the territorial administrative units to suppliers of goods, services and works.

## **2. DEFINING THE CONCEPT OF FINANCIAL CRISIS ACCORDING TO THE LEGISLATION IN FORCE**

In accordance with the legal provisions in force, administrative- territorial units enter the financial crisis when the patrimony of the administrative-territorial unit is characterized by financial difficulties, a severe shortage of liquidities, which leads to outstanding payments due in a certain period of time (Szasz, 2008, pp. 245-250).

The financial crisis is presumed to occur in the following situations:

- (a) outstanding payments that are 90 days past due, and exceeding 15% of the general budget of administrative-territorial units, except for those which are in commercial litigation;
- (b) failure to pay salaries forecasted within the local budget of revenues and expenditures or within the budgets of institutions or public local or County services, where applicable, for a period greater than 90 days after the due date.

## **3. THE ROLE AND TASKS OF THE DESIGNATED AUTHORITIES IN THE CASE OF FINANCIAL CRISIS**

The state of financial crisis can be declared by the Chief Authorizing Officer of the administrative territorial unit, by the head of the finance and accounting department within the specialized apparatus of the local public administration authorities, by the Secondary Authorizing Officers and other authorizing officers from public services subject to the local Council, by heads of companies or autonomous entities within the local Council, by various creditors, by the Director of the General Directorate of the County's Public Finance, of Bucharest respectively and by territorial structures of the Court of Auditors

It must be specified that the only person laid under the obligation to declare the financial crisis is the Chief Authorizing Officer who, in case of idleness will be sanctioned for this contravention according to article 114 paragraph (1) of the Government Emergency Ordinance No. 46/2013. It appears that the Chief Authorizing Officer must make the declaration, unlike other authorized persons who have the obligation to acknowledge the state of financial crisis.

The notification is made to the General Directorate of the County's Public Finance or of the District of Bucharest and to the Chief Authorizing Officer of the administrative territorial unit which is in a state of financial crisis.

Within 30 days of the request of any interested party, the Chief Authorizing Officer of the administrative-territorial unit shall provide economic and financial reports and the conclusion whether to attribute or not the state of financial crisis, provided by the law.

Within five working days of acknowledging the financial crisis, the Chief Authorizing Officer shall summon the deliberative authority and shall notify the

General Directorate of the County's Public Finance or of the district of Bucharest, respectively.

The Deliberative Authority takes note of the state of financial crisis, by adopting a decision, authorizes the chief credit officer to elaborate a financial recovery plan, and analyzes preliminary strategic proposals that are to be included in the financial recovery plan presented by the Chief Authorizing Officer.

The Chief Authorizing Officer requests that the decision of the deliberative authority declaring the financial crisis should be registered within 5 working days of its adoption, in the local register of financial crisis situations of administrative-territorial units, which is managed by the General Directorate of the County's Public Finance or of Bucharest, respectively. They inform the Ministry of Public Finance, on a monthly basis, about the starting and the ending of registered financial crises.

Within 5 working days of the adoption of the decision by which the state of financial crisis was declared, it is established the Committee for Financial Crisis Situations, by order of the prefect. It shall be convened by the prefect. The Committee includes the following persons: the Mayor or the President of the County Council, of the administrative-territorial unit or of its subdivision which is in financial crisis, the head of the finance and accounting department of the administrative-territorial unit or of its subdivision which is in financial crisis, the head of the local public service that generated the financial crisis, a representative of the deliberative authority of the administrative-territorial unit or its subdivision which is in financial crisis, a representative of the General Directorate of the County's Public Finance or of the district of Bucharest, a representative of the associative structure of local public administration authorities which has operational responsibility over the administrative-territorial unit in question.

The Committee for financial crisis situations is legally formed in the presence of all members, and decisions shall be taken by a simple majority vote.

Within 30 calendar days of the adoption of the decision by which the state of financial crisis was declared, the Chief Authorizing Officer together with other members of the Committee for financial crisis situations must prepare a financial recovery plan of the administrative-territorial unit, with the approval of the Territorial Board of Auditors.

We can see in this context that, although originally the law establishes that the deliberative authority delegates the Chief Authorizing Officer to draw up the draft of the financial recovery plan, as it has been mentioned earlier, the legal text stipulates that the plan shall be drawn up by the Chief Authorizing Officer in collaboration with the members of the Committee for crisis situations. Under these circumstances, one can conclude that the Chief Authorizing Officer draws up a draft of the plan, then, the final elaboration is based on that certain draft. Here arises the problem of the period of time necessary to elaborate this plan, since the legal provisions do not contain any indication in this regard.

The financial recovery plan includes economic - financial and budgetary planning during the financial recovery procedure, which involves:

1. an overview of the economic and financial situation of the administrative-territorial unit;

2. measures to ensure the supply of main public services by the local public administration authorities for the duration of the implementation of the financial recovery plan;

3. measures to improve the financial management and the inspection mechanisms necessary to streamline the supply of main public services;

4. measures to increase revenue collection, as well as generate additional income;

5. measures to reduce costs;

6. economic – financial and budgetary planning during the financial recovery procedure, which implies:

a) analysis of all budgetary revenue and expenditure, recommendations for increasing revenue and reducing expenditure, as well as setting up local budget rectifications;

b) projection of revenue and expenditure for the current year and for the next two years;

c) restructuring of management, of the organization and the management of the specialized body within the Mayor's office, of the County Council respectively, of services and local public institutions or cross county institutions, where appropriate;

7. establishing targets for carrying out the provisions of the financial recovery plan structured according to goals, people in charge and deadlines.

The financial recovery plan is submitted for approval to the deliberative authority within 3 working days of its elaboration and it will be adopted not later than 5 working days of its submission. In case the financial recovery plan is not adopted, the deliberative authority shall meet within 3 working days from the date of the debate in the last session for reconsideration. If the financial recovery plan is not adopted, it is considered to be approved in the form proposed by the initiator.

When elaborating the financial recovery plan, the tasks of the Committee for financial crises are to verify the estimate revenue of administrative-territorial units, to analyze the degree of collecting their income, estimating the revenue based on income tax and amounts set aside to balance local budgets and to investigate the causes of the shortage of funds and to provide solutions regarding the method of financing activities in order to the carry out the tasks of the local public authorities.

The financial recovery plan can be modified, at the request of the chief authorizing officer, whenever necessary, in case there new data, information or unknown facts come to light at the time of its approval, and if they are liable to impede the process of financial recovery. The new plan is drawn up by the chief authorizing officer together with the members of the Committee for financial crises and it is subject to the approval of the deliberative authority.

Implementing the financial recovery plan is compulsory for the local public administration authority involved and for the institutions and for local or regional public services, regardless of the form of financing, which falls into the hands of the chief authorizing officer.

The chief authorizing officer shall be required to ensure the efficient and effective functioning of essential public services during the procedure for recovery from a financial crisis (Szasz, 2009, pp. 263-266).

Moreover, the chief authorizing officer shall, at least once a month, send a detailed report on the implementation of measures and activities contained in the financial recovery plan to the deliberative authority and to the members of the Committee for financial crises.

During the implementation of the financial recovery plan, the chief authorizing officer may not, without the approval of the deliberative authority and without the advisory consent of the Committee for financial crises, take any decision that would lead to increased financial obligations, may not initiate the establishment of new public services or institutions, may not hire additional staff, may not order the payment of any contracted financial obligations that are not included in the financial recovery plan for resolving the situation of financial crisis, may not borrow funds, except for refinancing loans, may not participate in setting up or financing inter-community development associations or any other forms of association, may not invest capital in companies or in increasing the registered capital of the existing ones.

The task to control the execution and completion of the measures contained within the financial recovery plan falls under the responsibility of the Committee for financial crisis situations.

#### **4. ENDING THE FINANCIAL CRISIS**

The deliberative authority declares, at the request of the chief authorizing officer and with the approval of the Committee for the financial crises, that the financial situation has ceased, taking the form of a decision, if:

- a) the criteria listed previously have not been met/found for 180 calendar days;
- b) the criteria for the declaration of insolvency are met, as provided by law, in which case the administrative-territorial unit is subject to insolvency proceedings.

The financial crisis situation, namely its termination, shall be registered within 5 days of its declaration by the chief authorizing officer or of the approval of its termination, in the local registry of financial crises of the administrative-territorial units, which are managed by the General Directorates of the Regional Public Finance, or of Bucharest, respectively. They will communicate monthly the starting points and the closing of financial crises registered with the Ministry of Public Finance, in order to be recorded in the national register for financial crises within administrative-territorial units, as well.

#### **5. CONCLUSIONS**

It can be noted that the financial crisis is not a judicial procedure, but a purely administrative one which is triggered by the deliberative authority who, as a result of this decision, delegates the authorizing officer to draw up a financial recovery plan.

The main effect of entering a financial crisis is that the administrative-territorial unit will be managed during the period of the financial crisis on the basis of the recovery plan in order to improve the financial situation.

The concept of financial crisis covers one essential aspect of the relationship between local public authorities and various parties, with which they are in

collaboration, aiming to unfreeze the activity of providers of goods, services and works which have to collect debts from local public administrations.

We consider that the local public administration played its role in the European integration process through the reforms that were implemented. However, beyond the progress registered after 1990 and because of the need to set up new and modern foundations and in terms of obeying the principle of legality, it is necessary to continue the reform. We believe that one of the main objectives should be to take further measures to strengthen the financial capacity of administrative-territorial units.

We may take this stand because a real decentralization and autonomy cannot be achieved in the absence of financial resources, meaning that as long as local funds are still dependent on transfers from the State budget, the local autonomy of administrative-territorial units is limited and is likely to remain just a propagandistic concept, whereas small and poor territorial collectivities will never be truly autonomous, but will remain indefinitely dependent on aid given by the State to be able to survive, or, as we could remark that through the adoption of legislative measures which have introduced new concepts in the year 2013, territorial-administrative units may be susceptible to financial crises or even insolvency.

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