

THEORETICAL AND PRACTICAL ASPECTS REGARDING AREARS OF THE ROMANIAN ADMINISTRATIVE- TERRITORIAL UNITS

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ABSTRACT: *This paper analyses the concept of arrears of the administrative-territorial units in the context of the emergence of the concept of financial crisis and insolvency of the administrative-territorial units in Romania in the Romanian local public administration.*

In 2013 the Romanian Court of Auditors presented a “Report regarding the arrears registered on 31.01.2013 by the administrative-territorial units”. Report’s main conclusion was that during 2011-2013 Romanian administrative-territorial units have had serious problems generated by huge arrears.

The Report underlined another troubling conclusion: the main causes that generated the accumulation of arrears were determined by illegal actions, such as: expenses made and incurred without budgetary provisions, invoices regarding goods or services not recorded in the accounting books, prescribed obligations.

The paper presents the reality that the Romanian administrative-territorial units already had problems at the financial level. These financial problems were deepened by the global economic crisis, which affected all the world economies and, implicitly also the public finances, aggravating the financial problems that the administrations already faced.

KEY WORDS: *arrears, local public administration, city, town, municipalities, village, crisis, the Romanian Court of Auditors, report, global economic crisis, public financial management.*

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1. GENERAL AND ETIMOLOGICAL CONSIDERATIONS REGARDING THE ARREARS OF THE ADMINISTRATIVE TERRITORIAL-UNITS

The administrative-territorial units play a key-role in the life of public administration and, as a Report of the Romanian Court of Auditors underlines, strengthening of the credibility of their financial statements has to be a major desire of public financial management¹.

In 2013 the Romanian Court of Auditors presented a “Report regarding the arrears registered on 31.01.2013 by the administrative-territorial units”. The main conclusion of this Report was that during 2011-2013 Romanian administrative-territorial units have had serious problems generated by huge arrears².

In regard to the etymology of the word “arrear”, we make the specification that according to the Explanatory Dictionary of the Romanian language, the two meanings of this word deriving from the word “arriéré” of the French language are specified.

As an adjective and a masculine and feminine noun (arrear, arrears) this means an individual who is mentally disabled, who is underdeveloped from a psychological point of view. Whilst the neuter noun means the unsettled obligation at maturity in contracts also approved as a rule by debtors.

As for the arrears of the administrative-territorial units, which represent the subject of our study, starting from the explanations of the Romanian language dictionary and from the meaning of its French source, we might be tempted to describe them as “deficiencies”, “disabilities” of the local public administration, costs of a local authority, which exceed its capacity of refunding them.

We can find in English as well the term “arrears”, also derived from the word “arriéré” of the French language. The term “arrears” is defined by Cambridge English Dictionaries³ as representing “money that is owed and should already have been paid”.

2. CONCRETE NUMBERS REGARDING THE ARREARS OF SOME ADMINISTRATIVE TERRITORIAL-UNITS

Following these introductory aspects regarding the definition of arrears, we will proceed to the presentation of the legal texts containing this term and we will try to analyse the concept of arrears of the administrative-territorial units in the context of

¹ *** Curtea de Conturi a României, *Raportul public pe anul 2017 (The Romanian Court of Auditors, The public Report on 2017)*, available on-line on <http://www.curteadeconturi.ro/Publicatii/Raportul%20public%20pe%20anul%202017.pdf>, accessed on 17 June 2018.

² *** Curtea de Conturi a României, *Raportul privind situația arieratelor înregistrate la data de 31.01.2013 de către unitățile administrativ-teritoriale (The Romanian Court of Auditors, The Report regarding the arrears registered on 31.01.2013 by the administrative territorial-units)* available on-line on http://www.cdep.ro/bperm/2013/F-483390648-CCon_arierate.pdf, accessed on 3 June 2018.

³ Cambridge English Dictionaries Online, available at dictionary.cambridge.org, accessed at 30 June 2018

the emergence of the concept of financial crisis and insolvency of the administrative-territorial units in Romania.

On 31.01.2013 the balance of arrears for the 3228 Romanian administrative-territorial units⁴ was 1.213.711.294 lei, according to the above mentioned Report of the Romanian Court of Auditors. When writing this Report, the Romanian Court of Auditors has developed multiple technical assistance sessions with World Bank and International Monetary Fund.

As a direct consequence of these data, the Romanian Government has made a number of commitments regarding inventorying and disposing the existing arrears, as well as preventing the accumulation of new arrears. These objectives were presented into two Intention Letters signed by the Romanian authorities and approved by the Executive Board of the International Monetary Fund.

The "Report regarding the arrears registered on 31.01.2013 by the administrative-territorial units", written by the Romanian Court of Auditors presented another troubling conclusion. The main causes that generated the accumulation of arrears were determined by illegal actions, such as: expenses made and incurred without budgetary provisions, invoices regarding goods or services not recorded in the accounting books, prescribed obligations.

In this context, during 2013 the Government has emitted two emergency ordinances in the field of the finances and the arrears management of the administrative-territorial units.

As for the arrears of the administrative-territorial units in Romania, the reference to them is made in an excessive way in the exposition of reasons of the emergency ordinances of the Government no. 3/2013⁵ regarding the regulation of measures for reducing arrears in the economy, other financial measures, as well as amending some normative acts and the emergency ordinances of the Government no. 46/2013⁶ regarding the financial crisis and the insolvency of the administrative-territorial units.

Thus, the emergence of the aforementioned ordinances, regarding the reduction of arrears in the economy and the financial crisis and the insolvency of the administrative-territorial units, is motivated by the large volume of arrears registered by the administrative-territorial units or subdivisions towards the suppliers of goods, services and works and of the necessity to unlock the activity of the suppliers of goods, services and works that have to be recovered from the local public administration authorities amounts representing arrears, as well as the provisions of the stand-by agreement between Romania and the International Monetary Fund, regarding the reduction of arrears of administrative-territorial units or subdivisions.

Therefore, on January 30th 2013, the O.U.G. no. 3/2013 provided in art. 1 the obligation to reduce the volume of arrears of the administrative-territorial units, by at least 85%, until March 31, 2013.

⁴ On early January 2013 Romania had 3228 Romanian administrative-territorial units: 2861 villages, 217 towns, 103 municipalities and 41 counties.

⁵ Published on the Official Journal of Romania no. 68 on 31.01.2013

⁶ Published on the Official Journal of Romania no. 299 on 24.05.2013

In case of non-compliance with this obligation, the local budget of the very administrative-territorial unit will not receive the amounts from the quotas recouped from the income tax, as well as the amounts recouped from some revenues of the state budget for balancing the local budgets.

A concrete example of an administrative-territorial unit that could not diminish the volume of arrears within the term provided by the law was the town of Aninoasa from Hunedoara County.

In 2011, the town of Aninoasa had debts in amount of 9,000,000 lei, and at the beginning of 2013, during the entry into force of the O.U.G. no. 3/2013 regarding the regulation of measures to reduce some arrears in the economy, the town of Aninoasa registered arrears of almost 6,000,000 lei.

Given that the incomes of the local budget for a whole year exceeded 4,000,000 lei, it was, from an objective point of view, impossible that within such a short term, respectively three months, provided by the O.U.G. no.3 / 2013, the value of arrears to be reduced by 85%.

Failing to comply with the obligation imposed by the aforementioned emergency ordinance, the General Directorate of Hunedoara County Public Finance ordered the cessation of the supply with sums from the recouped quota for this administrative-territorial unit.

In this regard, on February 7, 2014, the authorities of Aninoasa Town Hall were informed by the representatives of the Ministry of Public Finance, about the fact that, in order to pay the salary rights, the accounts of the institution will not be supplied with recouped quotas from the income tax and with recouped amounts from some revenues of the state budget. The consequences occurred in a very short time, mainly due to the lack of resources for the payment of salaries. The level of own incomes being very low, there were no resources to cover them.

In the same year, 2013, the O.U.G. 46/2013 regarding the financial crisis and the insolvency of the administrative-territorial units came into force, according to the provisions of which the non-payment by an administrative-territorial unit of the payment obligations, liquid and due, older than 120 days, which exceeded 50% of the annual budget, without taking into account the ones in the contractual dispute, as well as the non-payment of the salary rights provided for in the budget of incomes and expenses, it was presumed to be considered a state of insolvency of the respective administrative-territorial unit.

Consequently, the conditions for declaring the state of insolvency being met, in June 2013, the proceedings were initiated with a view to the insolvency of the city of Aninoasa, following the adoption by the Romanian Government of the Ordinance no. 46 regarding the financial crisis and the insolvency of the administrative-territorial units, in which the insolvency procedure of the administrative-territorial units was established.

Thus, on June 17, 2013 the Law Court of Hunedoara admitted the request made by Aninoasa administrative-territorial unit for opening the insolvency procedure in the file no. 4869/97/2013, ordering the opening of the insolvency procedure against the administrative-territorial unit Aninoasa by the civil conclusion with no. 868 / F /

213. Thus, the city of Aninoasa officially became the first city in Romania to go into insolvency.

Until 2013, even if an administrative-territorial unit registered arrears and could not reduce their amount, salaries and operating expenses could be covered, the payment of debts being left in the background. The only way a creditor could exert pressure on the institution was to request the forced execution and blocking of the institution's accounts.

But as I have already pointed out, by the entry into force of the O.U.G. no. 3 / 2013 regarding the regulation of measures to reduce arrears in the economy, the state obliged the administrative-territorial units to reduce the volume of arrears by at least 85%, until March 31, 2013, in case of non-compliance with this obligation, the supply of the local budget with sums from the recouped quotas will cease, which actually happened in the case of the town hall of Aninoasa.

Table 1. The value of the payment obligations, liquid and due, older than 120 days of the Romanian administrative-territorial units declared insolvent, starting with year 2013⁷

| The name of the Romanian administrative-territorial | The date of the opening insolvency procedures | The total of the expenses of the general budget of the administrative territorial unit -lei- | The payment obligations, liquid and due, older than 120 days, which exceeded 50% of the annual budget, without taking into account the ones in the contractual dispute -lei- | The weight of the payment obligations in the total of the expenses of the general centralized budget of the administrative-territorial unit % |
|---|---|---|---|--|
| Aninoasa town | 17.06.2013 | 4297650 | 3377629 | 78.59 % |
| Ardeoani village | 10.01.2014 | 1978600 | 5314084 | 268.58 % |
| Nalbant village | 31.01.2014 | 3872000 | 39014873 | 1.007.62 % |
| Naruja village | 25.02.2014 | 1667300 | 1505931 | 90.32 % |
| Călinești Oaş village | 20.08.2015 | 5316000 | 11044045.51 | 207 % |

⁷ According to the situation and the data presented on the official website of the Romanian Public Finances Ministry as presented on-line at <http://discutii.mfinante.ro/static/10/Mfp/buget/sitebuget/ArierateBGCmai2017.xls>, accessed on 15 July 2018

To support my assertions, I will present some concrete figures regarding the payment obligations, liquid and due, older than 120 days of the Romanian administrative-territorial units that after the emergence of the O.U.G. no. 46/2013 opened the insolvency procedure.

From analysing these data, we can see that until the end of 2017 we had 5 administrative-territorial units which due to arrears entered into insolvency. The weight of the payment obligations in the total of the expenses of the general centralized budget of the administrative-territorial unit is very high, and incredibly for one of the administrative territorial unit is reaching 1,007.62%.

3. CONCLUSIONS

I consider that in 2013 the two ordinances which were adopted (O.U.G. no. 3/2013 regarding the regulation of measures to reduce arrears in the economy, other financial measures, as well as the modification of normative acts and O.U.G. no. 46/2013 regarding the financial crisis and the insolvency of the administrative-territorial units), due to the difficult economic situation of Romania, represent a direct consequence of the austerity measures, which were taken not only in our country, but also worldwide, because of the world economic crisis.

Although in the Romanian doctrine we do not yet have studies on the effects of austerity policy on the local public administration, they have already been the subject of research in American (Downhill, 2014, p. 93) and English specialised literature (Dunleavy, Rainford, Tinkler, 2011) literature, pp. 1-20).

In our opinion, the emergence of normative acts containing regulations regarding the taking of measures to reduce arrears in the economy and the financial crisis and the insolvency of the administrative-territorial units are concrete evidence of applying an austerity policy in Romania, which have directly affected the local administration.

Moreover, as shown in a recent study on the effects of the economic crisis in the Balkans, one of the main consequences of the global economic and financial crisis is the deterioration of the public finance situation (Rădulescu, 2012, pp. 27-29).

In my opinion, I believe that the Romanian administrative-territorial units have already had problems at the financial level, and the onset of the global economic crisis, which affected all the world economies and, implicitly also the public finances, only aggravated the financial problems that the administrations faced, thus producing effects on local public finances.

More than that, we can easily observe, analysing the facts presented during this paper, that the Romanian authorities were aware of the increased number of arrears of the Romanian administrative territorial units since 2013.

The main proof is the "Report regarding the arrears registered on 31.01.2013 by the administrative-territorial units" presented by the Romanian Court of Auditors in front of the Romanian Parliament.

This Report's main conclusion was that during 2011-2013 Romanian administrative-territorial units have had serious problems generated by huge arrears and another troubling conclusion was that the main causes that generated the accumulation of arrears were determined by illegal actions, such as: expenses made and incurred without budgetary provisions, invoices regarding goods or services not recorded in the accounting books, prescribed obligations.

So, the financial delicate situation of the Romanian administrative-territorial units was well-known by all the Romanian authorities. But soon will appear a first devastating effect - the insolvency of the first administrative territorial units, as presented in Tabel 1.

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