

Legal framework amendment in tax system in the Republic of Kosova as a condition for sustainable development in tourism in Dukagjini region

Dr.sc. Armand KRASNIQI, prof.ass.

Professor in the University of Prishtina

Msc. Majlinda BELEGU

Assistant in the Faculty of Applied Sciences of Business in Peja

Abstract

The Republic of Kosova urgently need to review the fiscal legislation and the same need to be partialy amended in order to give more competences to the municipalities, if really considers necessary the municipalities' development in the areas where they have capacities and resources. The city of Peja for several years, in the context of economic development strategies, has been dedicated to a sustainable tourism development. Not only this municipality but also the others have not included which are the fiscal policies that will guarantee the success of this strategies. Currently there is a discrepancy between the development strategies policies, legal framework and the perception of interests groups. Initially, to improve the situation in this direction, in our country must exist a national tourism organisation that will through advocacy, presson, communication and other forms, influence in the awareness of all the participation for tourism development and its relation with the central and local taxes system. For this is required to work in three aspects: in real strategies, effective policies and legal framework.

Key word: legal framework, taxes, fees, tourism, sustainable, system, decentralization.

Preamble

Tourism as a business activity for a great part of Kosova municipalities, is considered an important part, even essential, for local economic development. In this aspect, the environment constitutes a basic component of tourism industry assets. Usually, in a normal country the tourism incomes very often are used to evaluate the economic values of protected zones. There are other local incomes that are not easily measurable, because not for all tourists, either local or foreign, the expenditures are not officially registered in the macroeconomic statistics. A part of tourism incomes come from informal employment, as street vendors, small manufacturer and non registered guiders. The positive side of informal and not reported employment is that the gained money turn back in the local economy and have multiplier effect because are spent time by time. Is proved and there is not dilemma that tourism can contribute directly in the preservation of regions and sensitive habitats, particularly in potential areas. While the incomes from the fees for parks and specific areas and from similar resources can be used for the protection and sensitive environment areas management in many places, and for this issue in our country we even can not talk. In our case the central government collects money in certain ways without any direct relationship with specific areas or protection areas. While the utilization fees, income taxes, sales or renting taxes of recreation equipments and the tariffs for activities authorization as hunting or fishing could not be provided by local governments in Dukagjini Region and in this way is imposible to realize the sufficient funds to manage the natural resources and consequently a qualitative local development.

Taking decision and positive actions about environment and development some tourism specific activities, today more then ever represent an obligation, that clearly and powerfully must differentiate the competent institutions in all government level of the Republic of Kosova. Finally, we should say that environment degradation, especially during the transitional period is a continuous problem. This negative trend will influence in the life of everybody. We have responsibilities to change such negative influence toward a positive sense. In this meaning "the environment needs the contribution of all", the state and the government, can not achieve all by themselves. The other institutions, as the Parliament with the voice of citizens represented by NGOs, interests groups of civil society, media, academic institutions, etc. can be another mobility and important power in the movement for citizen quality of life protection, sustainable economic development, tourism advancement and the general social development.

Tax legislation in the Republic of Kosova

The rule of tax law is a citizen's essential responsibility. Kosova is pretending to be a modern country and expects from the citizens to fulfill the tax laws and other obligations that are financed by government programs, offering public services, protection and the highest standards of education, standards of living, health, social support, law enforcement and general infrastructure. All these can be provided only by collecting taxes in an appropriate way. This is emphasized also in the Constitution of the Republic of Kosova, citation: "to every person is required to pay the fees and other contributions prescribed by law" – Article

119. Is a duty and an obligation for every taxpayer to respect and implement the legislation of tax provisions²⁷⁹

The taxes and tariffs regime in the Republic of Kosova consists in a set of laws, rules, tariffs agreement that reflect all types, levels, calculations, procedures, methods and tariffs control forms, included in Kosova tariffs system. The taxes legislation is a subject of continuous amendments as a result of rapid economic developments and social transformation process.²⁸⁰

Should be mentioned that in 2008, regarding business environment, has been started with some initiatives and concrete work to improve, respectively amending of some economic circumstances. Therefore, after a long pressure period and requests for fiscal policies reforms from business community, the government took the decision to amend the taxes rates for the corporations, in personal incomes and VAT. Furthermore, has been amended and completed the Law on Tax Administration and the Procedures as a additional element for a better environment. In 2008 the taxation for corporations from 20% became 10%; taxation on personal income from 0,5, 10 and 20% became 0,4,8 and 10%; VAT from 15% became 16%. The new norms entered into force on 1st of January 2009, from that period has been expected that these changes will influence in expanding the base of Kosovars taxpayers, attracting the new investors and gradually filling the budget of Kosova. The personal income taxes are considered as the lowest compared with all the countries in the region. Furthermore, the law on Tax Administration and the procedures are considered an instrument that will greatly facilitate the performance of tax obligations.²⁸¹ Looking at the system and the country taxes structure, at first sight, is concluded that is a contemporary and appropriate fiscal mechanism that the Government of Republic of Kosova respectively the Ministry of Finance is taking measures to draw fiscal policies that will be in function of country economic development.²⁸² Has to be emphasized that the municipalities have autonomy in their budget planning, but still this process is been done by the central level to the municipality level.²⁸³ But, is not clear why in any report of this ministry are not mentioned and analyzed the fields, the system and the structure of taxes that remains in the competences of local government. There is no dilemma that the tax system, in both competences of local and central government, in comparison with central and local economic development strategies is not harmonized and synchronized based to the economic development requirements. Consequently we consider the government policies implement, whether

central or local, not only are not harmonized, balanced and synchronized but are created in that form that every time create for central government a greater field action in relation with the local government. This is because still prevails the logic that the country budget must be more relaxed and second the municipalities must plan and develop a very limited budget but supported in branches and economical activities that are considered a priority for the local development. This situation is unacceptable and uncertain of how institutions and experts are not more involved in this segment that really is holding back the local economic development and indirectly the country development.

Essential reasons and causes for fiscal decentralization prevention

Undoubtedly the central government has the obligation to analyze and project the budget and fiscal but always preserving the country macroeconomic stability. Based on the argument for economic - financial system stability, the government controls almost all taxes and fees.

As in many transition countries also to us, the government expenditure is a growing problem. The difficult economic situation, from a part, and municipality financing requirements of municipalities' obligations from the other side, continually push the central government abuse with functions of allocation, distribution and stabilization to ensure effective services. According to us and based to the approach of authors and theoreticians, prevails the opinion that the difficulties and the weaknesses in the country fiscal system are related with the role of the government in market framework, the absence of an institutional culture (especially 1989 – 2007), and the communist mentality inherited for a very active state in the role of conservator that gives "a reason" to the politicians to not renounce from their influence and to not permit a bigger autonomy to the local governments. It is obvious that this is achieved through the assignment of a modest liability to the local institutions over the incomes and a very large financial dependence from the central budget which makes controversial the term *local self-governance*. Such fiscal systems as unfortunately transfers – grants of the central government to the local government certainly bring to vertical and horizontal inequality. The numbers in our country as in other countries prove the above sayings that the grants are not suitable incomes resources for the local governments. On this basis we consider that the economic situation is sad and is the last time that economic development strategies must be in accordance with local development strategies. This means that within this strategy must be accorded also the budget through fiscal and distribution policies, giving more economic power and institutional competences to local government.

Decentralization and fiscal competences delegation

The decentralization can not exist only in political field, but must be associated with fiscal (financial) decentralization. The fiscal decentralization authorizes the local governments to collect directly and through intergovernmental grants the fiscal incomes. Considering

²⁷⁹ Taxes legislation of Kosova – 2nd Edition / Edition of Tax Administration of Kosova

²⁸⁰ Detailed information in <http://mef-rks.org/>.

²⁸¹ <http://www.oek-kcc.org/modules/news/files/Ecurite%20Ekonomike%202008%20%20OEK%20final11.pdf>

²⁸² <http://www.mef-rks.org/index.php/sq/komunikata-per-media/393-komunikata-per-media>

²⁸³ Public treasury – toward an efficient and transparent management of municipalities budget/ Edition of KIPRED institution, Prishtina march 2011

that the last one is bigger and more important (in actual level of decentralization in many developed countries and developing countries in transition) have had to represent the principal financial resources for local governments²⁸⁴. Furthermore, when those are transferred from central government, the responsibility level is higher and the central government is more interested in monitoring performance and expenditure allocation, that in local government incomes (local taxes and fees). Intergovernmental Grants, as a rule are the biggest income resources in municipalities in centralized countries (not federal). The intergovernmental grants certainly enable the central government to have a control over the fiscal system, and in the mean time offer financial support and the illusion of financial independence for sub-national government level, mostly the local government level. With general taxes is not the same think. These taxes are destined to a common fund and after, depending from expenditure policies; the resources will be distributed for the final use. One of the aspects of this expenditure policy is the distribution of incomes from the central government to local government level.²⁸⁵

Intergovernmental fiscal transfers are in different forms and very often are a problem to determine their better combination in way to result the better income policy. There are good and not very good reasons for the presentation of fiscal decentralization. A well designed fiscal decentralization can no be politically dominated, even can be (and very often it is) politically initiated. The relative political authority of an interest group (pressing) initiates the fiscal decentralization process, and often to influence by choosing the forms and decentralization instruments but this is not the main factor to evaluate the fiscal decentralization success.²⁸⁶

An "ideal" fiscal decentralization is a combination of incomes resources of local government and the intergovernmental transfer's incomes. This form means the fact that principally the gathered incomes can be used by local government independently (within the limits foreseen by law), while in last case; the local government is responsible to central government, which is responsible for the use of these fiscal resources. Local government original incomes (local taxes, fees), usually have been represented as a payment for certain services provided by local government.

Local governments commitment for fiscal decentralization

The municipalities leaders must become more conscious and persistent for the real decentralization process as a democratization instrument. Based on abovementioned, is the last time, that the decentralization process includes primarily the tax legislation in Kosova. These changes should have directly impacts in local government competences. Is essential that at least the municipalities,

particularly those who have planned strategies and other forms for tourism development activities should be allowed to plan, create, collect and manage the local incomes through a tax system that includes taxes, local taxes, tariffs and charges, propriety taxes, income taxes, tourism taxes, municipality taxes, membership fees in accordance with tourism rules and tariffs for municipalities street utilization and not classified in capital territory.

Surely, the decision taking for the determination of the taxes obligation must be based in the really local incomes. The important thing for the function of this local fiscal system will be the operation of monitoring institutions, collection, obligatory collection and penalization. Because of the importance and the sensibility of this issue, the mandatory collection procedure defined by law for tax administration, as collecting of taxpayer's funds, payments form taxpayer's propriety confiscation, propriety mortgage, the proposal for issuing temporary prohibition can be used by local institutions.

It would be possible that central and local government create a legal basis (sub legal act of cooperation memorandums) for taking inspection measures in accordance with the law, adjusting of taxpayer's register, preparing periodical reports for local incomes and other activities within the jurisdiction in this field.

The role of central government in fiscal decentralization

From the fiscal point of view, a not motivated local government, could be a sabotage resource, they may see as an obstacle the fiscal support of the central government, as a support of local community interests (seen by the politicians as a voting community and not as responsible citizens community). For this reason a local fiscal government must think for local interests and for the interests of a wider community. In other words, if state's work are going well then it would create more possibilities and spaces for local government to increase the funds and realize a better performance. The partnership, between central and local government, is better then the passivity, disinterment or the continuous opposition of local government. The financial or fiscal control should be legal, should be not used as political fighting instrument between the opponents of central and local government, but as useful information resource to define the necessary correction²⁸⁷.

The local governments, every time complain for a incomplete funding and other limited delegated function or the grants are not sufficient to cover at least the personnel salaries. Therefore, the delegation of other functions, sometimes may be a decentralization method but if are not supported by a specific budget for their costs than can easily be transformed in a local budget problem.

The central government, usually defends its position by arguing that the same amount of money, were sufficient to offer services before the responsibilities were transferred to the local level and the decentralization however should

²⁸⁴ Fiscal Decentralisation and Grant Transfers In Transition Countries: A Critical Perspective - The Network of Institutes and Schools of Public Administration in Central and Eastern Europe

²⁸⁵ Same report

²⁸⁶ Same report

²⁸⁷ Crook, R. the J. Manor (1998), *Democracy and Decentralization in South Asia and West Africa: Participation, Accountability and Performance*, Cambridge: Cambridge University Press

bring profit, efficiency and savings. The thing that the local government can not often amend is the impossibility to spend the same amount of money as the tax administration before and also the payments delay. Furthermore there are cases that the government "juggles" with the released dates, because of the inflation – for the major part of last decade, the inflation rate was under the evaluation of official forecasts, this is a fact that the government use to "save" something from the conditioned grants.

Consequently, is quite common, that local government "subsidize" the delegated functions, from their incomes, or with unconditional grants incomes, supposed to support the local functions. To improve the situation, except the division of general government grant, the Ministry of Finances in cooperation with the municipalities and through the compilation and updating of legal framework must regulate and consolidate a flexible and multifunctional fiscal system in way that the financing of municipal budgets will be based in economic specific conditions of municipality area.

The local government is financed by a mix of proper incomes (principally by local taxes defined within the limits permitted by law), the distribution of collected incomes in the municipality area from national taxes and grants of central government.

Based on these aims, the central and local institutions, by proper competences, should allocate the grants in municipalities through such instruments – special grants. In the legislative plan, based also in advanced fiscal legislation systems, is easy realizable the allocation of the budget through the following grants:

- a) General grants – common;
- b) General grants – conditioned;
- c) Grants with specific aims;
- d) Specific grants for local government investments;
- e) Equalization grants
- f) Etc....

If it's considered useful, the financing of municipality's specific development projects, eg. tourism and environment, this could be realized with the grant for particular aim or with the grant specific aim.

In addition of the multifunctional grants system the government institutions in the fiscal and financial policies must review the possibility of partial increase of VAT. According to the partial increase of VAT is meant that the actually VAT of 16% became VAT 2, for a value of 1% and this not in all the territory of Kosova but only in those areas and places that are being developed in the plan of tourism and environment. This amount called VAT 2, will be transferred in municipality budget and shall be invested directly to the areas and municipalities where is collected.

The processing, analyzing, suitability, combination possibility and their arrangement initially must be regulated by legal dispositions and other sub legal acts in terms of their implementation and preliminarily by economists and finance experts.

Conclusion

Kosova should be oriented in the construction of an economy system according the requirements of an open economy toward European and Global market, prudent

legal policies and economy liberalization in a near future. This must be an economic system that creates an appropriate environment for the integration of Kosova's economy, respectively stimulating the local product in the region and further. The local economic development is not limited only by the government grants and the creating of local fiscal system but also from the sensitization of taxpayers and by creating a fiscal culture in general that will directly influence in country economic development and in a higher standard of life. The fiscal policy in the Republic of Kosova must be in proportionate with the open economy principles; this is a criterion that makes possible the incorporation with country's contemporary micro and macro development objectives. The fiscal policies should be developed as a mix between governmental agencies, fees and taxes, to influence in stabilizing way to the taxpayers and to the Budget of the Republic of Kosova, respectively stimulating the foreign investments, economic development, economic growth and creating workplaces, as new fiscal resources, that in the same time creates opportunities for long-term economic and budget sustainability.

The decentralization can be meaningful only if it is associated with fiscal decentralization. This is the requirement for successful decentralization. The local governments can not accomplish their functions if they don't have the necessary material and other necessary resources. With their capacities to realize these functions, the accountability issues will inevitably appear. Normally, the local governments possess a limited budget. The local incomes base is very tight (inappropriate or unobtainable) and the sub-national governments are dependent from intergovernmental transfers. These transfers require as well administrative and economic costs, but are necessary in most countries, especially in transition and in development countries. The fiscal transfers may be one of the intergovernmental fiscal cooperation forms, but the central government is suspicious about the capability of local/regional government to manage these funds (delegated or not) effectively and efficiently way. This represents a problem especially for the delegated budget of ministries, allocated to their regional offices, which are under the prudent observation of local elected functionaries. The resistance to the delegation, conducted by government functionaries is one of the main reasons, because the financial decentralization of the local public government and the reforms to construct capacities for local/regional incomes increasing possibility have been left behind other reforms of ex-communist societies.

The fiscal intergovernmental transfers have many different forms and very often is a problem defining the best combination and resulting as the best incomes policy. There are good and not very good reasons to present the fiscal decentralization. A good projected fiscal decentralization could not be politically dominated even though may be (normally it is) politically initiated. The relative political power of a determinate interests group (pressing) can initiate the fiscal decentralization process, and often influences in electing forms and decentralization instruments, but it is not the key factor for the evaluation of

the fiscal decentralization success. A good model of fiscal decentralization takes into consideration these criteria: Vertical Equity, Externalities and Administrative Justification

In theoretical and scientific plan the regionalization and power decentralization are considered key factors for the social-economical development. The western countries have applied the decentralization because this process enables the reduction of expenditures for public services. For countries in development the decentralization is the most effective form of governance. For post-communist countries the decentralization helps the democratization and market economy. For the African countries the decentralization supports to pass from monism in pluralism and alleviate the poverty. In decentralized Asiatic countries – has been empowered the civil society and the individual, the local government has changed the traditional governance form.

The international comparative researches have proved that the decentralization results are depending from the political

cooperation between central and local governments. Very often the similar decentralization schemes produce results completely different. The researches have proved that the decentralization is not an easy process of partial power and finances transformation from the central government to local government but is a coordination of works between central and local government. The most important conclusion of this study proves that the decentralization in some countries helped in reaching successes and in alleviating the poverty. In reaching this success is a result of close partnership between the central and local governments. As a result of this the decentralization should be a flexible process that enables the dynamic development in central and local level. For a successful process of decentralization is necessary a large participation of the institutions and citizens; the functions of central level, important for the country, should not be decentralized; the decentralization should be financially supported.

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