DOI: https://doi.org/10.53486/cike2023.66

UDC: 336.143.21:061.1EU

BUDGET BALANCE WITHIN THE CONSTITUTIONAL FRAMEWORK OF THE MEMBER STATES OF THE EUROPEAN UNION

VEACESLAV ZAPOROJAN
PhD, Associate Professor
Academy of Economic Studies of Moldova,
Chisinau, Republic of Moldova,
zaporojan.veaceslav@ase.md
ORCID ID: 0000-0002-8906-9789

Abstract: The constitutional regulation of the budgetary balance requirements, from the lack of numerical fiscal rules to the institutional constraints regarding the rationalization of decision-making processes and budgetary procedures within the European Union, varies in different member states. It depends on the economic situation and the economic context both nationally and internationally. Classical constitutionalism aims at the established limits of political power through the supreme norms of the constitution, it becomes insufficient for the establishment of legal norms to limit economic excesses.

The constitutional norms set further limits, a fact that sets limits to the budget decision-making process and public spending. The economic requirement of the budget balance is taken over at the constitutional level in the EU member states, it is applied through the internal legal regulation based on the constitutional norms according to the European legislation. In the perspective of the accession of the Republic of Moldova to the EU, the legislation of the Union cannot be implemented immediately in the national constitutional framework, especially the budgetary one. The European regulatory package required member states to form institutions modelled after the Fiscal Council in Germany, specialized in formulating macroeconomic forecasts and monitoring compliance with the budget balance established by the European Union, coordinated by the European Fiscal Board, mandated to independently evaluate the implementation of the Stability and Growth Pact.

Keywords: constitutional framework, budget, budget balance, constitutional regulation, constitutionalism, european legislation

JEL Classification: K10, K15, K23, K33, O52

Introduction

"The leading role in the system of regulating the state economy, creating a favorable financial environment for the rapid development of market relations, ensuring economic balance in the economy belongs to the budget."[8] Budgetary balance is a principle in the field of legislation, including constitutional ones, which compels the competent public authorities to prepare and adopt the state budget by establishing a balance of revenues and expenses, which is desired to be identical. The lack of identity status or balance determines the nomination of the budget as **deficit**, when the expenses are higher in relation to the income, or surplus, when the income is already higher in relation to the **expenditure**. The draft budgets are drawn up and later adopted using the controlled deficit character. According to the theory of classical finance, the concept of budget balance represents the total coverage of expenses made in each budget year from the acquired revenues, focusing on the development and adoption of balanced budgets and the subsequent maintenance of the balance between revenues and expenses during the budget year. In the opinion of economic researchers "At the initial stage of perfecting the budget system, the annuality and the balance of the budget were inextricably linked, resulting in a stable balance in the parameters of the preparation of the annual budget". [7]

The aspect of the budgetary balance was mentioned by the authors by the fact that over the years because " the budgetary policy defines the conception and actions of the state regarding public revenues and expenditures, the means of mobilizing the receipts, the types and sizes of expenditures through which it is possible to directly intervene in the case of instability, or for recovery. The macroeconomic stabilization of the country was ensured with the help of a balanced fiscal and budgetary policy, promoted by the state."[9]

The normative bases of the creation of the state economy, the improvement of the favorable financial system for the development of market relations, ensuring the economic balance in the economy belong to the national budget. "The budget is a direct link of market relations and at the same time an important instrument for the implementation of state policy."[14, p.668]

The budgetary balance in the normative framework of the European Union

This rule of the controlled deficit is consolidated in the community space by the Treaty on stability, coordination and governance within the Economic and Monetary Union (popularly known as the Fiscal Pact)[1], which obliges the member states to a global budget deficit of 3%. According to the preamble to this treaty "the need to facilitate the adoption of measures in the framework of the procedure applicable to the excessive deficits of the European Union with regard to the member states whose currency is the euro and whose expected or actual public deficit exceeds the level of 3% of the gross domestic product , at the same time considerably strengthening the objective of the respective procedure, namely that of encouraging and, if necessary, obliging a member state to reduce the deficit that could be identified;" The preamble also identified the budget balance and based on the rule that establishes the importance of the budget balance within the European Union by "the need for governments to maintain solid and sustainable public finances and to prevent the evolution of the public administration deficit to an excessive level is of vital importance for guaranteeing the stability of the euro area as a whole and that, therefore, it is necessary to introduce specific rules, including a "balanced budget rule" and an automatic mechanism for carrying out the necessary corrective actions;"[1]

Budgetary discipline, based on the above, is manifested in the budgetary economic system based on the budget balance. This balance can be achieved at the organizational level by establishing for the public authorities some limits, either decisional for the moment of drawing up or executing the budget, or economic for the limitation of periodic economic actions taken from the market economy and implemented in a budget already adopted for a calendar year .

The current legal situations within state formations have established clear economic ceilings, designated as "golden rules".

Being not only an economic, but also a monetary Union of 27 states, for the coordination of budgetary matters in the European Union, a legal organization is established according to its evolution. The legal organization in the budgetary field is established by means of this budgetary balance. The legal character of the budgetary balance was established by the Stability and Growth Pact of 1997, which for the formation of the economic and monetary union was introduced as part of the third stage. After the introduction of the single currency, the European Union states implemented the Pact to guarantee the maintenance of healthy public finances. The pact was formed within the European Union on the basis of a European Council Resolution [2], Regulation of the same institution [3], five other European Union regulations adopted in 2011, a directive, the fiscal pact of 2012 and two subsequent regulations of 2013. Being not only an economic, but also a monetary Union of 27 states, for the coordination of budgetary matters in the European Union, a legal organization is established according to its evolution. The legal organization in the budgetary field is established by means of this budgetary balance. The legal character of the budgetary balance was established by the Stability and Growth Pact of 1997, which for the formation of the economic and monetary union was introduced as part of the third stage. After the introduction of the single currency, the European Union states implemented the Pact to guarantee the maintenance of healthy public finances. The pact was formed within the European Union on the basis of a European Council Resolution [2], Regulation of the same institution [3], five other European Union regulations adopted in 2011, a directive, the fiscal pact of 2012 and two subsequent regulations of 2013.

The fiscal pact entered into force on January 1st, 2013 for the consolidation of fiscal discipline in the euro area, through the "balanced budget" rule and the automatic correction of the mechanism. The fiscal pact concluded between 25 states established in the European Union the golden rule known among economists, necessary to be included as a legal norm in the national system at the constitutional level.

The principle of budget balance at the initial stage was seen as a total balance, but according to some authors, "over time, a number of states gave up applying the principle of budget balance in practice, elaborating and presenting deficit budgets to the parliament for approval." [7] The golden rule consists in the rigid formation of a balanced budget, where the budget deficit cannot exceed the limit of 0.5% of the Gross Domestic Product (GDP). The lifeline of this golden rule for states is the situation if the public debt is below 60% of GDP, when the budget deficit can go up to 1%.

The constitutional framework of budgetary balance in the member states of the European Union

The constitutionalist I. Guceac, analyzing the economic system as a trend specific to contemporary constitutionalism, noted that "Constitutions formulate certain requirements regarding the content of the budget law. It must respond to the principles of fullness, moderation, durability, balance." [13, p. 23]

Constitutions as fundamental laws must multilaterally regulate all stages of the process of adoption in parliament of the state budget law and ending with the procedure of its confirmation. Along with this, only some constitutions regulate the nominated stages more broadly. The rule of budget balance, following the example of Germany from those exposed, is expressly regulated in the treaties and primary legislation of the European Union. This legislation at the level of the European Union can be interpreted as acts at the level of the constitutions of the member states of the Union. The domestic legal framework, however, regulates in most states much more flexible procedures for the ratification of international treaties for accession in relation to the procedures for the adoption and revision of national constitutions. The mentioned legal and constitutional procedures are the reason for not revising the constitutions to include the requirement of budget balance in the supreme law of the states. " ... several states have preferred to give normative expression to the institutional constraints resulting from the obligation to rationalize decision-making processes and budgetary procedures. ... the main difficulty encountered". [6, p. 211]

The establishment in the constitutions of the member states of the European Union of the concrete rules regarding the budget balance proceeds more and more in relation to the initial stage in 2011. In the opinion of the author E.S.Tănăsescu "the main difficulty encountered is to transpose evolutionary economic notions, which depend not only by the national and international context, but also by the economic situation".[6]

This finding formed our conclusion, according to which the constitutional regulation of budget balance requirements, from the lack of numerical fiscal rules to the institutional constraints regarding the rationalization of decision-making processes and budgetary procedures within the European Union, varies in different member states. It depends on the economic situation and economic context both nationally and internationally.

The golden rule of budget balance can be equated to the one established in Germany by eight constitutional norms [4], which start with the way of managing the budget within the federation and the states, ending with the limits of loans. Studying the German Constitution, in order to present the increased constitutional attention that has been given to the German budgetary system, we will note this fact only from the titles of the rules: Chapter X Finances; Art. 104a. Distribution of expenses – responsibility of the financial system; Art. 104b. Financial assistance for investments; Art. 105. Distribution of powers regarding fiscal laws; Art. 106. Distribution of fiscal revenues and profit obtained from fiscal monopolies; Art. 106a. Federal allocations for local public transport; Art. 106b. The part that belongs to the Länder from the motor vehicle tax; Art. 107. Distribution of fiscal revenues - financial equalization of the lands - additional allocations; Art. 108. Financial administration of the Federation and the states - financial courts; **Art. 109. Budget management within the Federation and the lands; Art. 109a. Budget emergencies; Art. 110. The federal budget; Art. 111. Management of the temporary budget; Art. 112. Extra-budgetary expenses; Art. 113. Increase in expenses; Art. 114. Presentation and auditing of accounts; Art. 115. Loan limits.** [4]

Comparing the constitutional regulations regarding the budget, studied from the German Constitution, we come to the conclusion that in some member states of the European Union, even the possible national legal framework does not regulate in such detail some aspects regarding the procedure applied to the elaboration, adoption and application of the rules regarding the state budget. Only the study of the Romanian Constitution [10] through: art. 137 – The financial system; Art. 138 – The national public budget; and art. 139 – Taxes, fees and other contributions; proves this fact to us at the constitutional level, although in 2003 the Constitution of Romania was revised to present a constitutional aspect to the process of accession to the European Union, a process that will be carried out in the Republic of Moldova in the near future.

Classic constitutionalism aims at the established limits of political power through the supreme norms of the constitution, it becomes insufficient for establishing legal norms to limit economic excesses. The constitutional norms set additional limits, a fact that sets limits to the budget decision-making process and public spending. The economic requirement of the budget balance is taken over at the constitutional level in the EU member states, it is applied through the internal legal regulation based on the constitutional norms according to the European legislation.

In the perspective of the accession of the Republic of Moldova to the EU, the legislation of the Union cannot be implemented immediately in the national constitutional framework, especially in the budgetary one. The European regulatory package required the member states to form institutions modeled on the Fiscal Council in Germany, specialized in formulating macroeconomic forecasts and monitoring compliance with the budgetary balance established by the European Union, coordinated by the European Fiscal Council, mandated to independently evaluate the implementation of the Stability Pact and growth.

Comparatively, in the Republic of Moldova the Constituent Assembly adopted in the Constitution only two constitutional norms regulating the budget system: art. 131 National Public Budget and 132 Fiscal System.[5] The rule of budgetary balance at the constitutional level is established in art. 131 of the Constitution, especially in paragraph (4), according to which "Any legislative proposal or amendment that involves the increase or decrease of budget revenues or loans, as well as the increase or decrease of budget expenses may be adopted only after they are accepted by the Government." [5]

Conclusion

As a result of the European integration within the European Union, the budget systems of the member states will require a unification to coordinate the national budget systems with the budget system of the European Union. Member state quality for several states will direct the development of national legislation of some states, which will implement the need to revise the constitution. As part of this revision process, "the texts of the constitutions in force contain many of the ideas and conceptions developed by the history of humanity regarding the rules that must guide the state in establishing the methods of revenue collection and control over the expenditure of state funds."

Studying the constitutional regulatory aspects of the principle of budget balance, we reach a conclusion similar to that of Smith, who "prefigured in a synthetic way the two great modern theories of taxation: taxation according to the "ability-to-pay" and taxation based on the principle "benefit", thus integrating in his analysis both parts of any state budget: public revenues and public expenses."[11] The constitutional analyzes carried out in the present study are relevant especially for the constitutional reforms carried out in post-communist societies over two decades ago. For the Republic of Moldova, the analysis carried out is important in order to correctly coordinate in the future a new constitutional reform necessary in the process of accession to the European Union.

The improvement of the constitutional balance in the Republic of Moldova is necessary to further develop our perspective of joining the European Union. In this aspect, "appreciating its role in economic development, based on the analysis of economic performances, the promoted macroeconomic policy, the highlighting of influencing factors and the determination of public priorities."[12] Economist Paul Leroy Braulieu specified, that "the first step in drawing up a policy budgeting is the drawing up of a list "of forecasting the revenues to be achieved, the expenses to be incurred".[9] In the perspective of the integration of the Republic of Moldova into the European Union, it is necessary to establish as an economic vector that the budgetary policy results from the national public budget. The national public budget is the main means by which public revenues are formed and public expenditures are made.

REFERENCES:

1. Treaty on stability, coordination and governance within the economic and monetary union. Available: https://www.consilium.europa.eu/media/20391/st00tscg26-ro-12.pdf
2. Resolution of the European Council on the Stability and Growth Pact Amsterdam, 17 June 1997. Disponibil: https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A31997Y0802%2801%29

3. Regulation (EC) no. 1466/97 of the Council of July 7, 1997 on strengthening the supervision of budgetary positions and the supervision and coordination of economic policies. Available: https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A31997R1466
4. German Constitution art.109, 109a, 110, 111, 112, 113, 114, 115. Available: https://constitutii.files.wordpress.com/2013/02/germania.pdf
5. 5. Constitution of the Republic of Moldova from 07-29-1994. Published: 29-03-2016 in Official Gazette No. 78 art. 140.
Available:https://www.legis.md/cautare/getResults?doc_id=136130&lang=ro
6. TĂNĂSESCU, Simina Elena. Budgetary balance: normative and institutional impact: effects on the protection of fundamental rights. Bucharest: Hamangiu Publishing House 2015. ISBN 978-606-27-0481-0. 212 p.
7. ILIADI, Gheorghe, DODON, Svetlana. Bazele teoretice privind echilibrul bugetar şi conceptele moderne de programare a lui = Theoretical basis of budget balance and modern concepts of its programm. In: Economie şi Sociologie. 2011, nr. 4, pp. 28-33. ISSN 1857-4130.
8. CUCIREVII, Vladimir. Analiza influenţei lărgirii bazei fiscale asupra veniturilor bugetului. In: Economic growth in conditions of internationalization = Creşterea economică în condiţiile internaționalizării : international scientific and practical conference, VI-th edition, october 20-21, 2011, Chisinau. Chisinau: IEFS, 2011, vol. II, pp. 206-211. ISBN 978-9975-4176-7-9.
9. PERCIUN, Rodica, ŞEPTELICI, Viorica, TIMUŞ, Angela. Analiza politicii bugetare a Republicii Moldova. In: Economic growth in conditions of internationalization = Creşterea economică în condiţiile internaționalizării : international scientific and practical conference, VI-th edition, october 20-21, 2011, Chisinau. Chisinau: IEFS, 2011, vol. II, pp. 291-297. ISBN 978-9975-4176-7-9.
10. Romanian Constitution. Avalaible: https://www.constitutiaromaniei.ro/textul-integral/
11. POPA Cristian-Ion. Pentru revizuirea Constituţiei economice. Revista POLIS, ©Facultatea de Ştiinţe Politice şi Administrative, Volum III, Nr. 3(9), 2015, Serie nouă Universitatea „Petre Andrei" din Iaşi, ISSN 12219762, p.191-203.
Disponibil: https://revistapolis.ro/pentru-revizuirea-constitutiei-economice/
12. JELIMALAI, Denis. The budgetary balance in the context of the development of budgetary policies". GENERAL ECONOMY, Chisinau 2019. p.32-35. Available: https://ibn.idsi.md/sites/default/files/imag_file/Echilibru%20bugetar%20in%20contextul%20elaborarii%20politicilor%20bugetare.pdf
13. GUCEAC, Ion. Fundamentarea constituțională a sistemului economic – tendință proprie constituționalismului contemporan. „Economic growth in conditions of globalyzation: welfare and social inclusion" Volume I. Chișinău: 2019. p.17-25. Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/17-25_2.pdf
14. CUCIREVII Vladimir. Analiza influenţei lărgirii bazei fiscale asupra veniturilor bugetului. "Economic growth in conditions of internationalization". Chișinău, 2011 Disponibil: http://dspace.ince.md/jspui/bitstream/123456789/2020/1/Analiza_influentei_largirii_bazei_fiscale_asupra_veniturilor_bugetului.pdf