



SPECIAL REPORT

Municipal taxation and other topics

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(The Report relies on the work and contribution of many senior investigators)

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SUMMARY

The Greek Ombudsman depicts in this Special Report a series of problems observed in the field of local government of first degree (municipalities). These problems mainly arise from the exercise of their economic activities but also, to a large extent, from the inadequate supervision regarding the regulatory acts issued by them. It also makes recommendations destined to simplify the regulatory framework, strengthen the control of legality carried out by the supervisory bodies, ensure sound and transparent financial management and improve the relations between municipalities and citizens.

The complex and unclear legal framework governing the imposition and collection of the main regular municipal taxes is the top negative finding of this Report. The non-uniform implementation of the relevant legislation by all municipalities causes frequent and serious disputes regarding the legality of the acts that impose the said taxes and inevitably leads to the inability of municipalities to meet their contractual and/or non-contractual financial obligations, as their regular funding is not sufficient. At the same time, the prolonged delay in the appointment of Legality Auditors and operation of the Independent Supervisory Bodies, combined with the inadequate, at present, supervision exercised by the Decentralized Administration, allows the enforcement of regulatory acts of debatable legality, as decisions of municipal councils which raise issues of violation of the principles of legality, proportionality, equality and even sound financial management are frequently put into effect.

The Ombudsman considers that these issues need to be resolved promptly, both at central and local government level, particularly in view of the critical economic conditions of the country and the general degradation of municipal services. Remedying the weaknesses of the current legal framework is more than necessary, as this constitutes the decisive factor in ensuring the financial autonomy of municipalities and in strengthening their credibility, while it ultimately acts in favour of citizens' rights.

In particular, the Ombudsman recommends:

- Immediate activation of Legality Auditors and Independent Supervisory Bodies, in order to fully restore the legality control of local government acts by a standard supervisory mechanism.

- The issuance of a special act by the supervisory authorities, in order to avoid the implementation of any debatable, in terms of legality, regulatory and individual acts.
- Monitoring, by the General Secretaries of the Decentralized Administrations, of the implementation of their decisions to secure the municipalities' compliance.
- Enabling the provisions on disciplinary liability in cases of improper cooperation of the municipalities with the supervisory bodies.
- Enabling disciplinary control by the Minister of Interior, wherever the supervisory bodies do not exercise the provided disciplinary control over the elected parties.
- Staffing the municipal financial services with fully trained personnel charged with the task to impose and collect municipal taxes.
- The establishment of legal guarantees for imposing compensatory fees (e.g. mandatory legal assessment of the proposal for the imposition of these fees) and control of the provisions which empower the imposition of the said fees.
- The replacement of the legislative framework concerning the imposition of cleaning and lighting fees with a simpler and clearer framework; or else the simplification and clarification of the legislation in force, regarding the compensatory character of these fees, the taxable area and the liability of the owners and users of the real estate.
- Giving incentives for recycling of waste through the applied pricing policy of the municipalities regarding lighting and cleaning fees.
- The decoupling of the electricity connection process of real estate from the municipal tax imposition procedure.
- The harmonization of the laws for the Cleaning and Lighting Fees, the Tax of Electrified Areas and the Real Estate Fee with the decisions of the Council of State, which ruled on the unconstitutionality of power outage in case of non-fulfillment of tax obligations.
- Reviewing the imposition terms of the Real Estate Fee, given the rather vague legal framework, or replacing it with another type of revenue of equivalent value.
- The replacement or reformation of the regulatory framework that governs the imposition of cemeteries charges.
- Reviewing the Operation Regulations of Cemeteries to avoid disproportionate charges in relation to the services provided, discrepancies amongst different municipalities and unequal treatment of registered citizens and non-registered citizens.
- Reviewing the strict and rigid framework for administrative penalties for law violations concerning municipal taxes based on the principle of proportionality.
- Regulating the liability of municipalities to enter the HC (Highway Code) fees in the accounts within three years from the date the offence took place.
- Replacing the traffic ticket acquisition with one which could be placed firmly on the vehicle so that citizens become aware of the offence and exercise timely the right of objection.
- The establishment of the right of the HC "offender" to pay half the fine within a certain period from the date of receiving the first notification sent by the municipality, if the citizen is not already aware of the fine.
- Reviewing and clarifying the legislative framework regarding the statutory limitation of the municipalities' demands, in line with the case law of the Council of State.

- The issuance of a circular addressed to all municipalities, in order to adopt a uniform process and provide sufficient time for applications and notices regarding the recruitment of staff to cover emergency needs.
- The activation by the municipalities of the existing out of court settlement provisions. Avoiding the use of this mechanism often cancels the satisfaction of citizens' fair and reasonable economic demands, as they eventually fall back under the weight of litigation cost.
- The amendment of Article 32(3) of Law 1080/1980, in order to allow the lodging of an appeal before the Amicable Settlement Committee, taking into account the consequences deriving from the lodge of an administrative appeal.
- The payment of the municipalities debts, based on objective criteria, to achieve equal treatment of all those who deal with them.
- Making full use of the "DIAFANEIA" (TRANSPARENCY) Programme so that municipalities can make public all payment tables with the beneficiaries, in order to ensure full transparency regarding the payment process followed.

The simplification and clarification of the existing legislative framework and its uniform application by all municipalities, the strengthening of the legality control of municipal acts, as well as the expansion of the ways in which disputes with citizens are resolved, through an out of court settlement, are of great importance. The combination of all the above can ensure adequate funding, transparent and sound financial management, the strengthening of the credibility of municipalities and finally the protection of the citizens' rights.