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An outline of public finances in the Constitution of the Republic of Tunisia in comparison with Polish solutions

Zarys finansów publicznych w Konstytucji Republiki Tunezyjskiej w porównaniu z rozwiązaniami polskimi

Abstract. This article analyses constitutional regulations concerning public finances in the Republic of Tunisia and compares them with solutions implemented in the Republic of Poland. The text is particularly focused on taxes and procedure for adopting the budget act. A section on taxes points out, among other things, a restrictive wording of Article 15 of the Tunisian Constitution and compares it with the more general provisions of the Polish Constitution. A section on budget compares a dynamic and timely Tunisian procedure, which is based on organic laws with the special Polish procedure for adopting the budget act, which includes mechanisms to discipline the parliament and other authorities.

Keywords: public finances; Constitution; Tunisia; Poland; taxes; budget law.

Streszczenie. Niniejszy artykuł analizuje regulacje konstytucyjne dotyczące finansów publicznych w Republice Tunezji w porównaniu z rozwiązaniami przyjętymi w Rzeczypospolitej Polskiej, ze szczególnym uwzględnieniem podatków i procedury uchwalania ustawy budżetowej. W części poświęconej podatkom zwrócono uwagę między innymi na restrykcyjne sformułowanie artykułu 15 Konstytucji Tunezji i porównano je z bardziej ogólnymi przepisami Konstytucji RP. W części poświęconej budżetowi porównano dynamiczną i terminową procedurę tunezyjską opartą na ustawach organicznych ze specjalną polską procedurą uchwalania ustawy budżetowej, która obejmuje mechanizmy dyscyplinujące parlament i inne organy.

Słowa kluczowe: finanse publiczne; Konstytucja; Tunezja; Polska; podatki; ustawa budżetowa.

1. Introduction

Basic regulations concerning public finances are usually laid down in the most important legal act in a given country, i.e. mainly in the constitution. Public finances are often governed by a few provisions which, in terms of details, refer to statutes. This is no different in Tunisia – Tunisian norms are outlined in the Constitution of the Republic of Tunisia of 25 July 2022[1].

This study aims at analysing the most important provisions on public finances in the Constitution of the Republic of Tunisia and compares them with the Polish solutions from the Constitution of the Republic of Poland of 2 April 1997[2]. The study examines provisions that directly concern public finances, whether in terms of revenue or expenditure (in substantive and procedural terms). Provisions that indirectly concern public finance will not be analysed, e.g. Article 18 of the Constitution of the Republic of Tunisia, according to which the state has to provide unem-

1 Text of the Constitution of the Republic of Tunisia based on: *Constitution of the Republic of Tunisia*, translated by T. Chauvin, Sejm Library – *Constitutions of the World*, Warszawa 2024 (hereinafter referred to as the “Constitution”).

2 Dz.U. [Polish Journal of Laws] of 1997, nr [No] 78, poz. [item] 483, with subsequent amendments (hereinafter referred to as the “Constitution of the Republic of Poland”).

ployed persons with all legal and material means necessary to create development projects, or Article 43:

1. Health is a right of every human being.
2. The state shall provide every citizen with preventive and curative health care and the means necessary to ensure the safety and adequate quality of health services.
3. The State guarantees free health care to persons without support or with insufficient means of subsistence.
4. It also guarantees the right to social security on the terms laid down by law.

The primary research method used in this article is the dogmatic-legal method. The most important literature on the subject will also be used.

2. Taxes

According to Article 15 of the Constitution of the Republic of Tunisia, "The payment of taxes and participation in public charges is the duty of every person, under the principles of justice and equity. Any evasion of taxes is considered a crime against the state and society."

The obligation to pay taxes and fees is based on the principles of justice and fairness. Importantly, tax evasion is a crime. The Constitution of the Republic of Tunisia states that failure to fulfil one's tax obligations is an act against the state and society.

In 2018, an article was published on an impact of fiscal policy in Tunisia on poverty reduction. According to authors, two conclusions for developing countries can be drawn from a study conducted in Tunisia. First, fiscal programmes must be designed to increase redistribution to reduce inequality and poverty. In particular, taxes should play a key role in reducing inequality, even with excessive tax burdens, to balance additional transfers. Second, countries should increase the effectiveness of programmes by better targeting vulnerable groups. This includes targeting sub-sectors, reviewing the criteria for allocating cash transfers, and, more importantly, addressing the unequal distribution of education and health benefits across and within income categories[3].

In 2021, the literature pointed out that taxes are one of the main components of state revenue in most countries. Among these countries is Tunisia, where 87% of the state's basic resources come from tax revenues[4].

Before the Constitution came into force, researchers pointed out that consumption taxes were unfair because they effectively burdened consumers. They were based on a single rate. As a result, looking at an income of households, they were borne to a greater extent by poor households than wealthy households, and were effectively regressive taxes. They were, thus, the most unfair fiscal instruments[5].

The literature in 2015 also pointed out that the Tunisian tax system had undergone significant structural reforms over the past few decades. Nevertheless, its structure has some serious flaws and shortcomings that affect the performance of the entire Tunisian economy. Moreover, the tax system continues to underperform in some fundamental respects, affecting the rest of the economy. Finally, the structure of the Tunisian tax system has some significant shortcomings. First, compared to its international competitors, Tunisia has a high marginal effective tax rate for companies. Tunisia also has several tax and financial incentives for companies, which have probably led to a significant part of economic activity in offshore companies and contributed to significant revenue losses. Finally, Tunisia has imposed high personal income tax rates, particularly on wages. However, although income tax and wage tax rates are high, revenue from these taxes does not appear to be excessively high by international standards. This finding suggests that it is likely that there is a high degree of informality in labour tax payments, which is consistent with significant amounts of tax evasion and avoidance and the widespread perception that

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3 N. Jouini, N. Lustig, A. Moummi, A. Shimeles, *Fiscal policy, income redistribution, and poverty reduction: evidence from Tunisia,* "Review of Income and Wealth" 2018, Series 64, No 1, p. 246.

4 N. Mahfoudh, I. Gmach, *The Effects of Fiscal Effort in Tunisia: An Evidence from the ARDL Bound Testing Approach,* "Economies" 2021, No 9(4), p. 1.

5 A. Bouzaiene, *Tax justice in Tunisia: An ideal crushed by debt policies,* Friedrich-Ebert-Stiftung, Tunisia 2021, p. 3.

tax rates are high. Furthermore, this evidence suggests that rates could be reduced, perhaps even significantly, without a significant budgetary impact. Reducing the overall tax burden and rationalising the wage tax system, while shifting the focus towards indirect taxes, is important for supporting better economic performance, including in particular higher job creation rates, as the total tax burden on labour (personal income tax plus social security contributions paid by the employer and the employee) is falling[6].

The literature also indicates that since 1988, the Tunisian tax system has undergone a significant reform in a context of structural changes in various economic and financial sectors. The reform affected all types of taxes. It allowed for the creation of a modern tax system characterised by broadening the tax base, rationalisation of tax benefits and granting greater guarantees to taxpayers in terms of tax control and proceedings. One of the main objectives of the Tunisian fiscal system is to find the necessary resources for the efficient functioning of the state. Fiscal policy can regulate economic activity by modifying the fiscal effort required of taxpayers or by taking the form of fiscal incentives to reduce the tax burden while increasing consumption, investment and employment[7].

Article 15 of the Constitution of the Republic of Tunisia appears to be a very restrictive provision, while the Tunisian tax system is quite specific. Statutory regulations provide taxpayers with many opportunities to mitigate the “threatening” wording of Article 15. It is popular for taxpayers to use statutory tax solutions, which are referred to as tax optimisation. In case of entrepreneurs, the primary goal of tax optimisation is to create company value, which is directly related to both planning and the quality of company management. Managers seek strategies to reduce tax burdens in order to generate tax benefits after tax refunds[8].

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6 J. Alm, *Analyzing and reforming Tunisia’s tax system,* “CEQ Working Paper” No 34, Tulane University 2015, p. 2.

7 C. Terzi, A. El Ammari, A. Bouchrika, *Optimal Taxation and Economic Growth in Tunisia: Short and Long Run Analysis,* “Journal of Reviews on Global Economics” 2018, vol. 7, p. 157.

8 S. Assidi, K. Aliani, M. A. Omri, *Tax optimization and the firm’s value: Evidence from the Tunisian context,* “Borsa Istanbul Review” 2016, vol. 16, issue 3, p. 177.

The equivalent of Article 15 in the Constitution of the Republic of Tunisia is Article 84 of the Constitution of the Republic of Poland. According to Polish law, everyone is obliged to bear public burdens and benefits, including taxes, as specified by law. However, this provision does not refer to justice. It also does not indicate that a breach of tax obligations is a criminal offence (separate laws regulate this). Similar regulations – generally defining tax obligations – exist in constitutions of several other European countries – Bulgaria, Croatia, Cyprus, Romania[9].

Article 84 of the Polish Constitution expresses the principle of universal obligation to bear public burdens and make public contributions, including taxes. The legislative authority has a far-reaching discretion in shaping tax law. Universal taxation means that taxes should be levied on everyone, because everyone should contribute to meeting common needs[10].

Article 84 is significant for implementing financial and tax issues in Poland. This provision, interpreted in conjunction with Article 217 of the Polish Constitution, gives rise to two fundamental principles of tax law: universality and statutory exclusivity for taxes[11].

The imposition of taxes in Poland is one of the fundamental powers of the parliament. This right is closely linked to the beginning of a parliamentarism and a limitation of monarchical power in favour of representative assemblies. For this reason, constitutional provisions on the imposition of taxes have been incorporated into the constitutions of some countries[12].

According to Article 217 of the Constitution of the Republic of Poland, the legislator's competence in the field of taxation includes determining the essential elements of the tax, i.e. the entities, objects and rates of taxation, as well as the rules for granting relief and remission and the categories of entities exempt from taxation[13].

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9 A. Bień-Kacała, J. Wantoch-Rekowski, *Commentary on the Constitution of the Republic of Poland – Articles 84 and 217,* Warszawa 2022, p. 13–14.
10 Z. Ofiarski, *Tax Law,* Warszawa 2006, p. 39.
11 W. Miemiec [in:] W. Miemiec (ed.), *Public Finance Law with Case Studies and Questions*, Warszawa 2018, p. 42.
12 A. Bień-Kacała, J. Wantoch-Rekowski*, op. cit.,* p. 58.
13 Ibidem, pp. 74–75.

3. The law as the appropriate legal form for regulating financial matters

Following the French model, Tunisian law distinguishes between organic and ordinary laws. The Assembly of People's Representatives adopts draft organic laws by an absolute majority of its members, and draft ordinary laws by a majority of the members present, provided that this majority represents at least one third of the members of the Assembly (Article 79 of the Constitution)[14].

Pursuant to Article 75 of the Constitution, acts concerning, *inter alia*, the budget are adopted in the form of organic laws. However, acts relating to, among others, the following issues are adopted in the form of ordinary laws:

1. the determination of the basis for the assessment of taxes and contributions, their rates and collection procedures,
2. currency issuance,
3. loans and financial obligations of the state,
4. public finances, budget implementation and approval of development plans.

The Constitution of the Republic of Poland does not differentiate between laws and "more important" laws than others.

Several provisions of the Constitution of the Republic of Poland, including Articles 216 and 218, indicate important issues that must be regulated by statute. Article 216 states that:

1. Financial resources for public purposes shall be collected and spent as specified by statute.
2. The acquisition, disposal and encumbrance of real estate, shares or stocks, and the issue of securities by the State Treasury, the National Bank of Poland or other state legal persons shall be carried out in accordance with the rules and procedures laid down by statute.
3. The establishment of a monopoly shall be effected by statute.

[14] *Constitution of the Republic of Tunisia*, trans. T. Chauvin, Sejm Library – *Constitutions of the World*, Warszawa 2024, p. 29.

4. The State shall take out loans and grant financial guarantees and sureties under the rules and procedures laid down by statute.
5. No loans may be taken out or financial guarantees or sureties granted if, as a result, the public debt exceeds 3/5 of the gross domestic product. The method of calculating the gross domestic product and the public debt shall be specified by statute.

In turn, according to Article 218, an organisation of the State Treasury and a manner of managing the assets of the State Treasury shall be specified by an act.

Therefore, the Constitution of the Republic of Tunisia and the Constitution of the Republic of Poland use the same legislative technique – they indicate the subject matter and oblige the legislator to regulate it in detail by means of an act.

4. Budgetary and financial regulations

In the previous Constitution of the Republic of Tunisia (of 2014), budgetary issues were regulated, *inter alia*, in Article 66, which laid down a few precise requirements concerning the budgetary process, leaving most of the details to an organic budget law. The Constitution and the organic law have jointly defined the formal budgetary process[15] .

Currently, budgetary and financial regulations are contained in a very extensive Article 78 of the Constitution. Only revenues and expenditures provided for in the organic budget law may be included in an ordinary law.

The People's Assembly adopts a draft law on public finances and a draft law on the implementation of the budget in accordance with the provisions of the organic budget law. This demonstrates the high status of these legal acts.

The draft public finance bill is submitted to the People's Assembly no later than 15 October. It must be adopted no later than 10 December.

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15 I. Weipert-Fenner, *Budget politics and democratisation in Tunisia: The loss of consensus and the erosion of trust,* "Mediterranean Politics" 2025, vol. 30, No 1, p. 160.

Within two days of its adoption, the President of the Republic may refer the draft law back to the People's Assembly for reconsideration. In such a case, the People's Assembly shall meet for reconsideration within three days of exercising the right of referral.

Within three days of the adoption of the act by the People's Assembly after its reconsideration or after its referral for reconsideration or after the expiry of the referral period, which has not been used, the President of the Republic, one-third of the members of the People's Assembly, or one-third of the members of the National Council of Regions and Districts may submit a request to the Constitutional Court regarding the constitutionality of the public finance law. The Court shall decide within five days of receiving the request.

Suppose the Constitutional Court finds that the law is inconsistent with the Constitution. In that case, it shall forward its ruling to the President of the Republic, who shall then forward it to the President of the People's Assembly and the President of the National Council of Regions and Districts within two days of the Constitutional Court's ruling date. The People's Assembly and the National Council of Regions and Districts shall adopt the draft within three days of receiving the Constitutional Court's ruling.

If the draft law is found to conform with the Constitution or is adopted after being referred back for reconsideration or after the expiry of the deadline for such referral or the submission of a request for a review of its conformity with the Constitution, the President of the Republic shall promulgate the draft public finance law within two days. In any case, promulgation may not take place later than 31 December.

Suppose the draft public finance bill is not adopted by 31 December. In that case, it may enter into force regarding the expenditure provided for renewable quarterly instalments based on a decree. Revenue shall be collected in accordance with the laws in force.

Article 84 Constitution of the Republic of Poland is also essential, according to which drafts of the state budget and regional, district and national development plans shall be submitted to the National Council of Regions and Districts to ensure balance between regions and districts.

Article 84 also stipulates that the public finance law and development plans are approved only by a majority of the members present in each of the two chambers, provided that this majority constitutes at least one third of the members of each chamber.

Article 85 grants the Council of Regions and Districts powers to carry out controls and hold to account in matters relating to the implementation of the budget and development plans.

Financial and budgetary regulations in the Constitution of the Republic of Tunisia are very detailed. The "dynamics" of the legislative process, in which deadlines are set in days (usually several) rather than weeks or months, is also noteworthy.

Although the Constitution of the Republic of Poland does not divide laws into organic and ordinary laws, it specially refers to budget law, i.e. it introduces regulations that apply only to it. This is an exception to the rule.

Article 221 of the Constitution of the Republic of Poland stipulates that the legislative initiative in the field of the budget act, the provisional budget act, amendments to the budget act, the act on incurring public debt and the act on granting financial guarantees by the state rests exclusively with the Council of Ministers. This restriction on legislative initiative applies only to budgetary and budgetary-financial matters.

According to Article 222 of the Constitution of the Republic of Poland, the Council of Ministers shall submit a draft budget act for the following year to the Sejm at least three months before the beginning of the budget year. In exceptional cases, it is possible to submit the draft later.

Articles 223 and 224 limit the powers of the Senate and the President. The Senate may adopt amendments to the budget bill within 20 days of its submission to the Senate. For other bills, this period is 30 days. In turn, the President of the Republic signs the budget act or the provisional budget act presented by the Marshal of the Sejm within 7 days. The provision of Article 122(5) of the Constitution of the Republic of Poland does not apply to the budget act and the act on the provisional budget, which means that the President cannot refer the act back to the Sejm for reconsideration – he does not have the so-called right of veto.

Article 224(2) also “disciplines” the Constitutional Tribunal in a way – if the President of the Republic of Poland refers a budget act or a provisional budget act to the Constitutional Tribunal for review of its constitutionality before signing it, the Tribunal shall rule on the matter no later than within two months of the date of submission of the request to the Tribunal.

It is also important that if, within four months of the date of submission of the draft budget act to the Sejm, it is not submitted to the President of the Republic for signature, the President of the Republic may, within 14 days, order the Sejm to be dissolved (Article 225).

It should also be mentioned that, according to Article 226, the Council of Ministers shall, within five months of the end of the budget year, submit to the Sejm a report on the implementation of the budget act, together with information on the state of the national debt. The Sejm shall consider the report submitted and, after consulting the Supreme Audit Office, shall adopt, within 90 days of the report’s submission date to the Sejm, a resolution granting or refusing to grant a vote of approval to the Council of Ministers.

Of course, the Tunisian and Polish solutions in budgetary and financial regulations are different, but what they have in common is their “special” treatment by both constitutions.

5. Summary

An analysis of constitutional regulations concerning public finances in the Republic of Tunisia and the Republic of Poland reveals significant differences and common elements.

Regarding taxation, the Constitution of the Republic of Tunisia defines tax evasion as a crime against the state and society, distinguishing it from the Polish solutions, where the tax obligation arises from the law and criminal matters are regulated separately. However, both systems assume universal taxation and consider taxes as the primary source of state revenue.

Despite the restrictive provisions of Article 15, the Tunisian tax system allows for extensive tax optimisation and has undergone significant structural reforms in the past. In Poland, Articles 84 and 217 of the Constitution express the principles of universality and exclusivity of statutory taxation, leaving the legislator considerable freedom in shaping tax law.

In the area of budgetary and financial laws, the Tunisian Constitution distinguishes organic laws, giving them a higher rank than other laws and regulating the procedure for their adoption in detail, with deadlines calculated in days. The aim is to ensure the legislative process's smooth running and avoid delays. In Poland, there is no distinction between organic and ordinary laws. Still, Polish budget law is subject to a special procedure in which the deadlines and powers of the authorities are precisely defined.

In both systems, the government must report on the implementation of the budget, and parliament has the right to evaluate and grant a vote of approval, which is an element of political control. The analysis shows that despite different constitutional traditions, both countries recognise the sphere of taxation and public finances as the foundation for the stable functioning of the state.

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